

## SHORT MINUTES OF ORDER

### COURT DETAILS

Court	<b>SUPREME COURT OF NEW SOUTH WALES</b>
Division	<b>EQUITY</b>
Registry	<b>SYDNEY</b>
Case number	2015/171592

### TITLE OF PROCEEDINGS

Plaintiffs	<b>JOHN SMITH AND ROSEMARY SMITH</b>
Defendant	<b>AUSTRALIAN EXECUTOR TRUSTEES LIMITED ACN 007 869 794</b>

### FILING DETAILS

Filed for	<b>John Smith and Rosemary Smith, Plaintiffs</b>
Legal representative	Douglas Raftesath, Meridian Lawyers
Legal representative reference	
Contact name and telephone	Douglas Raftesath (02) 9018 9978
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### ORDERS

#### THE COURT ORDERS that:

#### Notice of commencement

1. Pursuant to s.176(1) of the Civil Procedure Act 2005 ("Act") the form and content of the notice set out in Annexure A to these orders be approved as a notice to advise group members of the commencement of the proceeding (Notice of Commencement).
2. The Plaintiffs shall cause the Notice of Commencement to be sent by pre-paid ordinary post and/or email to the last known mailing or email addresses held by the Plaintiffs' solicitors in respect of each group member by no later than 31 July 2015.

## **Pleadings**

3. The Defendant is to file and serve its Defence on the Plaintiffs by no later than 18 September 2015.
4. The Plaintiffs are to serve any Reply on the Defendant by no later than 25 September 2015.

## **Opt-out**

5. By 9 October 2015, the parties shall endeavour to agree:
  - (a) form and content of a draft opt out notice for the purposes of s.162 of the Act;
  - (b) draft orders with respect to the proposed manner and timing of the giving the opt out notice for the purposes of s.162 of the Act;
  - (c) information as to the anticipated costs of giving the opt out notice in the manner proposed;
  - (d) a draft order as to the payment of costs of giving the opt out notice if not to be borne by the Plaintiffs.
6. By 16 October 2015, the Plaintiffs:
  - (a) if the matters referred to in order 5 above have been agreed, deliver to the Associate to Ball J the parties' consent orders; or
  - (b) if the matters referred to in order 5 above have not been agreed, file and serve any notice of motion and supporting affidavit in respect of any of the matters in order 5(a) to 5(d) above, returnable before Ball J on 23 October 2015.

## **Evidence**

7. The Plaintiffs are to serve on the Defendant any lay affidavit evidence on which they intend to rely by 23 October 2015.
8. The Defendant is to serve on the Plaintiffs any lay affidavit evidence on which they intend to rely by 11 December 2015.

9. The Plaintiffs are to serve on the Defendant any expert affidavit evidence on which they intend to rely by 4 March 2016.
10. The Defendant is to serve on the Plaintiffs any expert affidavit evidence on which they intend to rely by 29 April 2016.
11. The Plaintiffs are to serve on the Defendant any evidence in reply by 27 May 2016.

**Tender Bundles**

12. By 1 July 2016, the Plaintiffs are to serve on the Defendant a disk or storage device containing an electronic copy of documents that the Plaintiffs propose to tender at trial together with an electronic index of those documents (Plaintiffs' Bundle). Electronic documents in the Plaintiffs' Bundle shall be in multiple page PDF, print enabled, text searchable format.
13. The electronic index to the Plaintiffs' Bundle must:
  - (a) adequately describe the documents that the Plaintiffs propose to rely on at trial;
  - (b) be hyperlinked to multiple page PDF, print enabled, text searchable format copies of the documents; and
    - (i) contain the following fields:
    - (ii) document date or estimated date;
    - (iii) unique document identification number;
    - (iv) document type;
    - (v) document title;
    - (vi) author/from;
    - (vii) recipient/to.
14. By 5 August 2016, the Defendant is to serve on the Plaintiffs a disk or storage device containing an electronic copy of documents that the Defendants propose to tender at trial together with an electronic index of those documents

(Defendant's Bundle). Electronic documents in the Plaintiffs' Bundle shall be in multiple page PDF, print enabled, text searchable format.

15. The electronic index to the Defendant's Bundle must:
  - (a) adequately describe the documents that the Defendant proposes to rely on at trial;
  - (b) be hyperlinked to multiple page PDF, print enabled, text searchable format copies of the documents; and
  - (c) contain the following fields:
    - (i) document date or estimated date;
    - (ii) unique document identification number;
    - (iii) document type;
    - (iv) document title;
    - (v) author/from;
    - (vi) recipient/to.
16. By 4:00pm on 26 August 2016, the Plaintiffs are to serve, on a disk or storage device, an electronic index and electronic copy of all documents proposed to be tendered by the parties at the trial, including Plaintiffs' Bundle, the Defendant's Bundle and any additional documents the Plaintiff requires (the Tender Bundle), such index to be organised in chronological order as far as is practicable and to be duly paginated and hyperlinked to the multiple page PDF, print enabled, text searchable format copies of the documents (the Consolidated Index).
17. By 4:00pm on 16 September 2016, the Plaintiffs are to provide to the Associate to Ball J, on a disk or storage device, an electronic copy of the Consolidated Index and the Tender Bundle, together with two printed and bound copies of the Consolidated Index and Tender Bundle.

**Final Hearing**

18. Pursuant to s.183 of the Act there be a trial of all issues raised by the pleadings including the claim for damages by the Plaintiffs, except for the individual damages claims by other group members.
19. The proceeding is provisionally listed for hearing before Ball J on Monday 26 September 2016 for a period of 6 weeks.

**Other**

20. The proceeding be listed before Ball J for directions on 23 October 2015 at 9:30am.
21. The parties have liberty to apply on 3 days' notice.