

# OUTCOME DETAILS

**Supreme Court - Civil  
at Supreme Court Sydney  
on 26 August 2022**

**2016/00086790-001 / Statement of Claim: Australian Retirement Group Pty Limited v  
The Commonwealth Bank of Australia Limited**

**THE COURT ORDERS:**

1. Pursuant to s 176(1) of the Civil Procedure Act 2005 (NSW) (the Act), the form and content of the notice set out at Annexure A to these orders be approved (Notice to Group Members).
2. Pursuant to s 183 of the Act, the notice set out at Schedule A to the Notice to Group Members that is a modification of Form 115 be approved for this proceeding for the purpose of r 58.2(1) of the Uniform Civil Procedure Rules 2005 (NSW) (UCPR) (Opt Out Notice).
3. Pursuant to s 162 of the Civil Procedure Act 2005 (NSW) (the Act), 4:00pm (AEDT) on 31 December 2022 be fixed as the date before which a group member may opt out of the proceeding (Opt Out Date).
4. On or before 28 October 2022, the Defendant's solicitors are to provide the Plaintiff's solicitors with a list of names of the borrowers and guarantors in respect of the small business loans written by Bankwest prior to 19 December 2008 and that were planned into the Credit Asset Management Department of Bankwest, ("CAM") between 12 December 2008 and 1 October 2012, and that were not subsequently rehabilitated.
5. Until further order, the list provided in accordance with order 4 above and any information contained in it shall not be disclosed to any other person except:
  - a. an employed solicitor of Hall Partners;
  - b. any barrister retained by or on behalf of the Plaintiffs in this Proceeding;
  - c. any person who holds a position as administrative or support staff to the persons referred to in (a) and (b) above; and
  - d. any Judge of the Court and his or her staff in connection with the Proceedings.
6. Pursuant to s 176 of the Act, on or before 25 November 2022, the Plaintiffs' solicitors are to provide copies of the Notice to Group Members and Opt Out Notice to group members by:
  - a. delivering copies to the contact email address, or failing that, by ordinary mail, to each borrower and guarantor identified in the document provided pursuant to order 4 above for whom a postal or email address is available; and
  - b. causing electronic copies to be made available on the website <http://www.hallpartners.com.au> and the Facebook group "Bankwest Class Action".
7. Pursuant to s 162(2) of the Act and r 58.2(1) of the UCPR, any group member who wishes to opt out of this proceeding must, on or before the Opt Out Date, serve on the solicitors for the Plaintiffs a notice in the form of the Opt Out Notice.
8. If, on or before the Opt Out Date, the solicitors for the Plaintiffs receive a notice from a group member purporting to be an opt out notice referable to this proceeding, the solicitors for the Plaintiffs must file such notice with the Registry of the Supreme Court of New South Wales and serve such notice on the Defendant within seven (7) days of receipt.
9. The solicitors for the Plaintiffs and the Defendant respectively be granted leave to inspect the Court file and to copy any Opt Out Notices or purported opt out notices.
10. The parties are to confer as to the appropriate form of mediation of the proceeding and the identity of the mediator by 21 October 2022.
11. The parties are to participate in a mediation by 17 March 2023.

12. The Plaintiff's Notice of Motion is otherwise dismissed with the intent that the costs of the motion filed by the Plaintiff on 15 June 2022 be costs in the proceedings.
13. List the matter for directions on 24 March 2023 before the Commercial List Judge.
14. Grant the parties liberty to apply on short notice.

**2016/00086790-010 / Notice of Motion Civil - Australian Retirement Group Pty Limited v The Commonwealth Bank of Australia Limited**

**THE COURT ORDERS:**

1. Pursuant to s 176(1) of the Civil Procedure Act 2005 (NSW) (the Act), the form and content of the notice set out at Annexure A to these orders be approved (Notice to Group Members).
2. Pursuant to s 183 of the Act, the notice set out at Schedule A to the Notice to Group Members that is a modification of Form 115 be approved for this proceeding for the purpose of r 58.2(1) of the Uniform Civil Procedure Rules 2005 (NSW) (UCPR) (Opt Out Notice).
3. Pursuant to s 162 of the Civil Procedure Act 2005 (NSW) (the Act), 4:00pm (AEDT) on 31 December 2022 be fixed as the date before which a group member may opt out of the proceeding (Opt Out Date).
4. On or before 28 October 2022, the Defendant's solicitors are to provide the Plaintiff's solicitors with a list of names of the borrowers and guarantors in respect of the small business loans written by Bankwest prior to 19 December 2008 and that were planned into the Credit Asset Management Department of Bankwest, ("CAM") between 12 December 2008 and 1 October 2012, and that were not subsequently rehabilitated.
5. Until further order, the list provided in accordance with order 4 above and any information contained in it shall not be disclosed to any other person except:
  - a. an employed solicitor of Hall Partners;
  - b. any barrister retained by or on behalf of the Plaintiffs in this Proceeding;
  - c. any person who holds a position as administrative or support staff to the persons referred to in (a) and (b) above; and
  - d. any Judge of the Court and his or her staff in connection with the Proceedings.
6. Pursuant to s 176 of the Act, on or before 25 November 2022, the Plaintiffs' solicitors are to provide copies of the Notice to Group Members and Opt Out Notice to group members by:
  - a. delivering copies to the contact email address, or failing that, by ordinary mail, to each borrower and guarantor identified in the document provided pursuant to order 4 above for whom a postal or email address is available; and
  - b. causing electronic copies to be made available on the website <http://www.hallpartners.com.au> and the Facebook group "Bankwest Class Action".
7. Pursuant to s 162(2) of the Act and r 58.2(1) of the UCPR, any group member who wishes to opt out of this proceeding must, on or before the Opt Out Date, serve on the solicitors for the Plaintiffs a notice in the form of the Opt Out Notice.
8. If, on or before the Opt Out Date, the solicitors for the Plaintiffs receive a notice from a group member purporting to be an opt out notice referable to this proceeding, the solicitors for the Plaintiffs must file such notice with the Registry of the Supreme Court of New South Wales and serve such notice on the Defendant within seven (7) days of receipt.
9. The solicitors for the Plaintiffs and the Defendant respectively be granted leave to inspect the Court file and to copy any Opt Out Notices or purported opt out notices.
10. The parties are to confer as to the appropriate form of mediation of the proceeding and the identity of the mediator by 21 October 2022.
11. The parties are to participate in a mediation by 17 March 2023.
12. The Plaintiff's Notice of Motion is otherwise dismissed with the intent that the costs of the motion filed by the Plaintiff on 15 June 2022 be costs in the proceedings.
13. List the matter for directions on 24 March 2023 before the Commercial List Judge.
14. Grant the parties liberty to apply on short notice.

Justice J Stevenson

Signed

Date