



Issued: 23 August 2018 12:49 PM

## JUDGMENT/ORDER

### COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Commercial
Registry	Supreme Court Sydney
Case number	2017/00081927

### TITLE OF PROCEEDINGS

First Plaintiff	DSHE Holdings Ltd (receivers and managers appointed)(in liquidation) ACN 166237841
First Defendant	Nicholas Abboud
Second Defendant	Michael Thomas Potts
Number of Defendants	52

### DATE OF JUDGMENT/ORDER

Date made or given	23 August 2018
Date entered	23 August 2018

### TERMS OF JUDGMENT/ORDER

1. HH vacates orders 4 to 6 of the orders made on 20 August 2018.

2. HH makes orders in terms of short minutes of order initialled and dated today's date.

Short Minutes of Order

Terms of Order

In each of Proceeding Nos 2017/81927, 2017/81938 and 2017/294069:

1. Order 9 of the orders made 14 May 2018 (as varied by Orders 11-12 of the orders made 13 July 2018) be vacated.

In Proceeding No 2017/81927:

2. By 24 August 2018, the Cross-Defendants indicate whether they consent to leave to amend being granted in the form of the:

(a) First and Second Defendants' / Fifth and Sixth Cross-Claimants' proposed Further Amended Commercial List Cross-Claim Statements attached to the email from Clayton Utz to Clifford Chance sent at 3.10pm on 17 August 2018 (Abboud and Potts Company Cross-Claims); and

(b) Third to Eighth Defendants' / First to Fourth and Seventh to Eighth Cross-Claimants' proposed Amended Commercial List Cross-Claim Statement attached to the email from Webb Henderson to Clifford Chance sent at 5.54pm on 16 August 2018 (NEDs Company Cross-Claim).

3. In the event that, pursuant to Order 2, the Cross-Defendants consent to leave to amend being granted in the form of the Abboud and Potts Company Cross-Claims and/or the NEDs Company Cross-Claim:

(a) leave be granted to amend the cross-claim pleading/s in the form proposed to the Cross-Defendants, to be filed and served by 27 August 2018; and

(b) the Cross-Defendants' Notice of Motion filed 5 October 2017, and the Fourth and Sixth to Eighth Defendants' / First to Fourth Cross-Claimants' Notice of Motion filed 6 October 2017, be listed for any arguments as to costs at 9am on 30 November 2018.

4. In the event that, pursuant to Order 2, the Cross-Defendants do not consent to leave to amend being granted in the form of the Abboud and Potts Company Cross-Claims and/or the NEDs Company Cross-Claim:

(a) the relevant Defendants / Cross-Claimants file and serve any application for leave to amend in the form proposed to the Cross-Defendants by 7 September 2018;

(b) the Cross-Defendants file and serve any evidence in response by 14 September 2018;

(c) the parties exchange submissions by 23 November 2018;

(d) the moving parties provide a copy of a court book containing the applications, evidence and submissions to the Associate to Ball J by 27 November 2018; and

(e) the application/s be listed for hearing, together with the Cross-Defendants' Notice of Motion filed 5 October 2017, at 9am on 30 November 2018, with the Fourth and Sixth to Eighth Defendants' / First to Fourth Cross-Claimants' Notice of Motion filed 6 October 2017 to be listed for directions at the same time.

In Proceeding No 2017/81938:

5. By 24 August 2018, the Cross-Defendants indicate whether they consent to leave to amend being granted in the form of the First and Second Defendants' / First and Second Cross-Claimants' proposed Further Amended Commercial List Cross-Claim Statements attached to the email from Hall & Wilcox to Clifford Chance sent at 3.29pm on 17 August 2018 (Abboud and Potts Bank Cross-Claims).

6. In the event that, pursuant to Order 5, the Cross-Defendants consent to leave to amend being granted in the form of the Abboud and Potts Bank Cross-Claims:

(a) leave be granted to amend in the form of the Abboud and Potts Bank Cross-Claims, to be filed and served by 27 August 2018; and

(b) the Cross-Defendants' Notice of Motion filed 5 October 2017 be listed for any arguments as to costs at 9am on 30 November 2018.

7. In the event that, pursuant to Order 5, the Cross-Defendants do not consent to leave to amend being granted in the form of the Abboud and Potts Bank Cross-Claims:

(a) the First and Second Defendants / First and Second Cross-Claimants file and serve any application for leave to amend in the form of the Abboud and Potts Bank Cross-Claims by 7 September 2018;

(b) the Cross-Defendants file and serve any evidence in response by 14 September 2018;

(c) the parties exchange submissions by 23 November 2018;

(d) the First and Second Defendants / First and Second Cross-Claimants provide a copy of a court book containing the applications, evidence and submissions to the Associate to Ball J by 27 November 2018; and

(e) the application be listed for hearing, together with the Cross-Defendants' Notice of Motion filed 5 October 2017, at 9am on 30 November 2018.

In Proceeding No 2017/294069:

8. By 22 August 2018, the Second and Third Defendants / First and Second Cross-Claimants serve on the Cross-Defendants their further proposed Amended Commercial List Cross-Claim Statements (Abboud and Potts Findlay Cross-Claims).

9. By 24 August 2018, the Cross-Defendants indicate whether they consent to leave to amend being granted in the form of the Abboud and Potts Findlay Cross-Claims.

10. In the event that, pursuant to Order 9, the Cross-Defendants consent to leave to amend being granted in the form of the Abboud and Potts Findlay Cross-Claims, leave be granted to amend in the form of the Abboud and Potts Findlay Cross-Claims, to be filed and served by 27 August 2018.

11. In the event that, pursuant to Order 9, the Cross-Defendants do not consent to leave to amend being granted in the form of the Abboud and Potts Findlay Cross-Claims:

(a) the Second and Third Defendants / First and Second Cross-Claimants file and serve any application for leave to amend in the form of the Abboud and Potts Findlay Cross-Claims by 7 September 2018;

(b) the Cross-Defendants file and serve any evidence in response by 14 September 2018;

(c) the parties exchange submissions by 23 November 2018;

(d) the Second and Third Defendants / First and Second Cross-Claimants provide a copy of a court book containing the applications, evidence and submissions to the Associate to Ball J by 27 November 2018; and

(e) the application be listed for hearing at 9am on 30 November 2018.

12. By 4pm on 21 August 2018, the Plaintiff in Proceeding No 2017/81927 serve on the First Defendant / Third Cross-Claimant a copy of the materials referred to in the letter from Norton Rose Fulbright to Colin, Biggers & Paisley and Clifford Chance dated 17 August 2018.

13. By 5 October 2018, the First Defendant / Third Cross-Claimant serve any proposed Amended Commercial List Cross-Claim Statement (Liquidator Findlay Cross-Claim) on the Cross-Defendants.

14. By 12 October 2018, the Cross-Defendants indicate whether they consent to leave to amend being granted in the form of the Liquidator Findlay Cross-Claim.

15. In the event that, pursuant to Order 14, the Cross-Defendants consent to leave to amend being granted in the form of the Liquidator Findlay Cross-Claim:

(a) leave be granted to amend in the form of the Liquidator Findlay Cross-Claim, to be filed and served by 15 October 2018; and

(b) the Cross-Defendants' Notice of Motion filed 13 August 2018 be listed for any arguments as to costs at 9am on 30 November 2018.

16. In the event that, pursuant to Order 14, the Cross-Defendants do not consent to leave to amend being granted in the form of the Liquidator Findlay Cross-Claim:

(a) the First Defendant / Third Cross-Claimant file and serve any application for leave to amend in the form of the Liquidator Findlay Cross-Claim by 19 October 2018;

(b) the Cross-Defendants file and serve any evidence in response by 26 October 2018;

(c) the parties exchange submissions by 23 November 2018;

(d) the First Defendant / Third Cross-Claimant provide a copy of a court book containing the applications, evidence and submissions to the Associate to Ball J by 27 November 2018; and

(e) the application be listed for hearing, together with the Cross-Defendants' Notice of Motion filed 13 August 2018, at 9am on 30 November 2018.

In Proceeding No 2018/52431:

17. By 4pm on 21 August 2018, the Plaintiff in Proceeding No 2017/81927 serve on the First Defendant / First Cross-Claimant a copy of the materials referred to in the letter from Norton Rose Fulbright to Colin, Biggers & Paisley and Clifford Chance dated 17 August 2018.

18. By 28 September 2018, the Second and Third Defendants serve on the Cross-Defendants any cross-claims they proposed to file against the 1st to 454th Cross-Defendants (Abboud and Potts Mastoris Cross-Claims).

19. By 5 October 2018, the First Defendant / First Cross-Claimant serve any proposed Amended Commercial List Cross-Claim Statement on the Cross-Defendants (Liquidator Mastoris Cross-Claim).

20. By 12 October 2018, the Cross-Defendants indicate whether they consent to leave to file or amend (as applicable) being granted in the form of, respectively, the Abboud and Potts Mastoris Cross-Claims and/or the Liquidator Findlay Cross-Claim.

21. In the event that, pursuant to Order 20, the Cross-Defendants consent to leave to file or amend (as applicable) being granted in the form of, respectively, the Abboud and Potts Mastoris Cross-Claims and/or the Liquidator Findlay Cross-Claim:

(a) leave be granted to file or amend (as applicable) the cross-claim pleading/s in the form proposed to the Cross-Defendants, to be filed and served by 15 October 2018; and

(b) the Cross-Defendants' Notice of Motion filed 13 August 2018 be listed for any arguments as to costs at 9am on 30 November 2018.

22. In the event that, pursuant to Order 20, the Cross-Defendants do not consent to leave to file or amend (as applicable) being granted in the form of, respectively, the Abboud and Potts Mastoris Cross-Claims and/or the Liquidator Findlay Cross-Claim:

(a) the relevant Defendants / Cross-Claimants file and serve any application for leave to file or amend (as applicable) in the form proposed to the Cross-Defendants by 19 October 2018;

(b) the Cross-Defendants file and serve any evidence in response by 26 October 2018;

(c) the parties exchange submissions by 23 November 2018;

(d) the moving parties provide a copy of a court book containing the applications, evidence and submissions to the Associate to Ball J by 27 November 2018; and

(e) the application/s be listed for hearing, together with the Cross-Defendants' Notice of Motion filed 13 August 2018, at 9am on 30 November 2018.

In all four proceedings:

23. By 4pm on 22 August 2018, any proposed amended cross-claim pleadings served to date on the Cross-Defendants to each of the four proceedings be served by the relevant Cross-Defendants on all parties in Proceeding Nos 2017/81927, 2017/81938, 2017/294069 and 2018/52431.

24. There be liberty to apply on 3 days' notice.

## SEAL AND SIGNATURE



Signature Chris D'Aeth  
Capacity Principal Registrar  
Date 23 August 2018

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document is taken to have been signed if the person's name is printed where his or her signature would otherwise appear.

## FURTHER DETAILS ABOUT Plaintiff(s)

### First Plaintiff

Name DSHE Holdings Ltd (receivers and managers appointed)(in liquidation)  
ACN 166237841  
Address 2 Davidson Street  
CHULLORA NSW 2190  
Telephone  
Fax  
E-mail  
Client reference

### Legal representative for plaintiffs

Name Grant Bonner  
Practicing certificate number 11268  
Address Level 10  
44 Martin Place  
SYDNEY NSW 2000  
DX address  
Telephone 02 9330 8000  
Fax 02 9330 8111  
Email grant.bonner@nortonrosefulbright.com  
Electronic service address grant.bonner@nortonrosefulbright.com

## FURTHER DETAILS ABOUT Defendant(s)

### First Defendant

Name Nicholas Abboud  
Address 15 Hopetoun Street  
MOSMAN NSW 2088

### Second Defendant

Name Michael Thomas Potts  
Address 43 Meadow Rise  
Lydney Gloucester GL155FJ

United Kingdom

**Third Defendant**

Name Phillip John Cave  
Address 1A Plunkett Street  
KIRRIBILLI NSW 2061

**Fourth Defendant**

Name Robert Murray  
Address 40 The Grove  
MOSMAN NSW 2088

**Fifth Defendant**

Name William Paul Renton Wavish  
Address 3 Baden Road  
KURRABA POINT NSW 2089

**Sixth Defendant**

Name Lorna Kathleen Raine  
Address 24 Hayle Street  
ST IVES NSW 2075

**Seventh Defendant**

Name Robert Ishak  
Address 36 Princess Avenue  
RODD POINT NSW 2046

**Eighth Defendant**

Name Jamie Clifford Tomlinson  
Address 14 Lord Howe Street  
DOVER HEIGHTS NSW 2030

**Ninth Defendant**

Name Julie Michelle Stanley  
Address

**Tenth Defendant**

Name John Bland  
Address

**Eleventh Defendant**

Name Timothy Carberry  
Address

**Twelfth Defendant**

Name Alvaro Ramos  
Address

**Thirteenth Defendant**

Name Graeme John Adams  
Address

**Fourteenth Defendant**

Name Suzanne Archbold  
Address

**Fifteenth Defendant**

Name Tim Richards

Address

**Sixteenth Defendant**

Name

Timothy Geoffrey Maddock

Address

**Seventeenth Defendant**

Name

Xenia Delaney

Address

**Eighteenth Defendant**

Name

Reuben Saayman

Address

**Nineteenth Defendant**

Name

Ronaldus Lambertus Van Beek

Address

**Twentyth Defendant**

Name

Liesbet Ann Spanjaard

Address

**21 st Defendant**

Name

Christopher John Richardson

Address

**22 nd Defendant**

Name

Martin Harry Read

Address

**23 rd Defendant**

Name

Mark Reuter

Address

**24 th Defendant**

Name

Stuart Thomas Ciocarelli

Address

**25 th Defendant**

Name

Paul Wayne Hockridge

Address

**26 th Defendant**

Name

Vikas Khanna

Address

**27 th Defendant**

Name

Paul Thomas Carr

Address

**28 th Defendant**

Name

Weng Yen Ching

Address

**29 th Defendant**

Name

Claudio Cimetta

Address

**30 th Defendant**

Name

Simon Tarte

Address

**31 st Defendant**

Name

Stephen Charles Gustafson

Address

**32 nd Defendant**

Name

Geoffrey William Cowen

Address

**33 rd Defendant**

Name

Geoffrey Gill

Address

**34 th Defendant**

Name

Steven John Simionato

Address

**35 th Defendant**

Name

Jason John Handel

Address

**36 th Defendant**

Name

Declan O'Callaghan

Address

**37 th Defendant**

Name

Michael Andrew Kissane

Address

**38 th Defendant**

Name

Michael Rath

Address

**39 th Defendant**

Name

Karen Rachel Stein

Address

**40 th Defendant**

Name

Brett Todd

Address

**41 st Defendant**

Name

Julian Craig Dolby

Address

**42 nd Defendant**

Name

Robert Kim Arvai

Address

**43 rd Defendant**

Name

Catherine Jane Hill

Address

**44 th Defendant**

Name

Richard Michael Thomas

Address

**45 th Defendant**

Name

Timothy John Gullifer

Address

**46 th Defendant**

Name

Peter James Pagonis

Address

**47 th Defendant**

Name

Michael Damon Cantwell

Address

**48 th Defendant**

Name

Joseph Frank Galea

Address

**49 th Defendant**

Name

Nicolette Louise Ivory

Address

**50 th Defendant**

Name

John Leotta

Address

**51 st Defendant**

Name

Darren James Hall

Address

**52 nd Defendant**

Name

Stephen Huppert

Address