

OUTCOME DETAILS

**Supreme Court - Civil
at Supreme Court Sydney
on 2 December 2022**

**2018/00353304-001 / Summons: Ashita Tomi Pty Ltd as trustee for Esskay Super Fund
v RCR TOMLINSON LTD trading as RCR Tomlinson Ltd**

This matter is listed for Motion (Commercial List) on 4 April 2023 9:15 AM before the Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 5 Minutes

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

Short Minutes of Order

THE COURT ORDERS BY CONSENT

Notice of Proposed James Settlement

1 The form and content of the:

- (a) notice set out at Schedule A to these orders (James Settlement Notice);
- (b) covering email set out at Schedule B to these orders (Covering Email);

are approved for the purposes of sections 175(4) and 176(1) of the Civil Procedure Act 2005 (NSW) (the Act).

2 The James Settlement Notice and Covering Email, as approved pursuant to Order 1 above, may be amended before they are emailed, posted, displayed or published in order to correct any website or email address or telephone number or other non-substantive error.

Distribution of Proposed Settlement Notice

3 Pursuant to section 176(2) of the Act, notice is to be provided to Group Members (as defined in the Amended Commercial List Statement filed on 6 March 2020) in accordance with the procedure set out in orders 4 to 7 below.

4 Continuously throughout the period from 23 January 2023 to 27 February 2023 the James Settlement Notice will be:

- (a) posted on the website of Omni Bridgeway at www.omnibridgeway.com/rcr;
- (b) posted on the "Solar Farms (RCR Tomlinson) Class Action" section of the class actions page of the website of the Supreme Court of New South Wales; and
- (c) available for inspection at the Sydney Registry of the Supreme Court of New South Wales.

5 By 16 January 2023, for the purposes of notifying Group Members of the James Settlement, the Plaintiffs are to:

(a) engage Computershare Limited to act as the independent agent (the Mail House) in respect of the distribution of the Covering Email; and

(b) provide the Mail House with a list of shareholders who opted out of the Proceeding in accordance with the orders made 7 December 2020.

6 By 20 January 2023, the Mail House to prepare a list of shareholders who:

(a) acquired RCR Securities during the period 28 December 2016 to 12 November 2018 (inclusive); and

(b) who did not opt out of the Proceeding; and

(c) for whom an email address is held,

(RCR Shareholder Register).

7 By no later than 23 January 2023 the solicitors for the Plaintiffs shall cause the Mail House to send to each shareholder on the RCR Shareholder Register the Covering Email.

8 The costs of and incidental to orders 4 to 7 above be paid initially by the Plaintiffs as costs in the cause.

Group Member objections to the James Settlement

9 On, or before 4:00pm AEDT on 27 February 2023 any Group Member who intends to oppose the James Settlement (Objector) must complete and return to the solicitors for the Plaintiffs a copy of a Notice of Objection appearing at Schedule A to the James Settlement Notice (and any supporting material) and state the grounds on which they oppose the James Settlement.

10 By 6 March 2023 the solicitors for the Plaintiffs are to provide to the Third Defendant a copy of all Notices of Objection and any supporting material that was returned pursuant to order 9 of these Orders.

11 By 6 March 2023, the solicitors for the Plaintiffs shall:

(a) deliver to the Associate a copy of all materials submitted by Objectors in accordance with order 9 above: or

(b) alternatively, where no materials have been submitted by Objectors in accordance with order 12 above, deliver to the Associate and serve on the Third Defendant, an affidavit made by the Plaintiffs' solicitors deposing to that fact.

12 Any Objector who has complied with order 9, may attend the hearing of the Final Approval Motion (as that term is defined in Order 15 below) in person and seek leave to be heard for that purpose, but must use reasonable endeavours to notify the solicitors for the Plaintiffs of their intention to do so, in writing, 14 days before the hearing of the Final Approval Motion.

Timetabling of Final Approval Hearing

13 By 13 March 2023 the Plaintiffs are to file and serve any further evidence and written submissions in support of the Notice of Motion filed on 25 November 2022 seeking approval of the settlement with the Third Defendant.

14 By 20 March 2023 the Third Defendant is to file and serve any evidence and submissions in relation to the Notice of Motion.

15 The Notice of Motion be listed for hearing on 4 April 2023 (Final Approval Motion).

General

16 Not made.

17 Liberty to apply.

Justice M Ball

Signed

Date

SCHEDULE A

NOTICE OF PROPOSED JAMES SETTLEMENT

THIS NOTICE IS VERY IMPORTANT AND IS ISSUED PURSUANT TO AN ORDER OF THE SUPREME COURT OF NEW SOUTH WALES – PLEASE READ IT CAREFULLY

Why is this notice important?

1. The Supreme Court of New South Wales has ordered that notice be given to Group Members of the matters set out in this notice. You should read this notice carefully.
2. You are being sent this notice because you may be a Group Member in the RCR Class Action.
3. The Plaintiffs have agreed to settle the RCR Class Action as against the Third Defendant, Mr Bruce Maxwell James, subject to the approval of the Court (**James Settlement**). The Plaintiffs' claims against the First Defendant, RCR Tomlinson Ltd (in liquidation) (**RCR**) and the Second Defendant, Mr Paul Joseph Dalglish will continue.
4. Please read this notice carefully as it may affect your legal rights.
5. If there is anything in this notice that you do not understand, you should contact Omni Bridgeway, whose contact details are set out below or alternatively seek your own legal advice. Any questions you have about this notice should not be directed to the Court.

What is the RCR Class Action?

6. The RCR Class Action was commenced in the Supreme Court of New South Wales by the lead plaintiffs (**Plaintiffs**) against RCR and two of its former directors and Chief Executive Officers, namely Mr Dalglish and Mr James (collectively, the **Defendants**) on behalf of persons ("**Group Members**") who, during the "Relevant Period", acquired:
 - a. an interest in RCR shares, including as part of the 2017 Capital Raising and/or 2018 Capital Raising; and/or
 - b. long exposure to RCR Shares by entering into equity swap confirmations in respect of the RCR Shares for a period extending beyond 28 August 2018.
7. For the purpose the settlement of the RCR Class Action against Mr James, the "Relevant Period" is 28 December 2016 to 12 November 2018 inclusive.

8. The Plaintiffs allege that, during the Relevant Period, RCR breached its continuous disclosure obligations, and the Defendants engaged in misleading or deceptive conduct. Further, the Plaintiffs allege that a prospectus issued by RCR on 28 August 2018 contained misleading and deceptive statements. The misleading conduct that is the subject of the proceeding concerns disclosures made about the performance and prospects of RCR's solar projects business (**alleged misconduct**).
9. As set out above, the Plaintiffs have agreed to settle the Plaintiffs' claims against Mr James on the basis that the proceeding against Mr James will be dismissed, subject to the Court's approval.
10. The James Settlement will **not** impact upon the Plaintiffs' and Group Members' claims to recover damages and compensation for losses they claim were caused by the alleged misconduct of RCR and/or Mr Dagleish as described in paragraph 8 above.
11. The Defendants deny the Plaintiffs' allegations and are defending the claims.

Am I a Group Member?

12. You are a Group Member in the RCR Class Action if you acquired an interest in RCR Shares as described in paragraphs 6 and 7 above, and:
 - a. you suffered loss or damage by, or which resulted from, the alleged conduct of the Defendants described above; and
 - b. you did **not** opt out of the RCR Class Action, by completing and submitting an opt out notice which was distributed to Group Members in February 2021.
13. If you are unsure as to whether or not you are a Group Member, you should contact Omni Bridgeway, whose contact details are set out below (see section: "**What if I have further questions?**"). Alternatively, you may wish to seek your own legal advice.

The James Settlement

14. The proposed terms of the James Settlement are:
 - a. the Plaintiffs' and Group Members' claims against Mr James in the RCR Class Action are to be dismissed, and the Plaintiffs and Group Members are to release Mr James from any claims arising from, connected with, or related to the RCR Class Action;
 - b. Mr James and the Plaintiffs will otherwise bear their own costs of the current proceeding against Mr James;
 - c. Mr James waives any entitlement to the security for costs paid into Court, pursuant to the orders made 15 August 2019 by the Honourable Justice Hammerschlag.

15. The James Settlement is subject to Court approval. Group Members have a right to be heard on the question of whether the James Settlement should be approved by the Court.
16. If you oppose any of the terms of the James Settlement, you can object to the settlement by completing and submitting a “Notice of Objection” which appears at **Schedule A** to this Notice.
17. The deadline for Group Members to object to the James Settlement is **4:00pm AEDT on 27 February 2023** Any “Notice of Objections” received after this deadline will not be accepted.
18. If you do **not** oppose the James Settlement **you are not required to do anything in response to this notice.**
19. The Court will hold a public hearing to decide whether the settlement is appropriate. The hearing will be held at the Supreme Court of New South Wales, Law Courts Building, Queen's Square, 184 Phillip Street, Sydney, NSW 2000. It is not necessary for Group Members to attend this hearing. If, however, you do wish to attend the hearing, please contact Omni Bridgeway for details of when the hearing will take place. Alternatively, we recommend that you check the RCR Class Action website regularly for updates at <https://www.omnibridgeway.com/rcr>. As the terms of the James Settlement include no orders as to costs, the Court will not award or make any assessment of compensation for Group Members, nor consider whether the costs of the RCR Class Action are fair and reasonable at that time.
20. In the event that the claims against RCR and/or Mr Dalgleish are successfully settled at mediation, a separate settlement approval hearing will be held to determine whether that settlement, and any legal costs or funding commission, are fair and reasonable.

What if I have further questions?

21. If you have further questions about this notice, or the RCR Class Action, please contact Omni Bridgeway (one of the Funders) using the following contact details:

Website: www.omnibridgeway.com/rcr

Email: rcrclassaction@omnibridgeway.com

Tel: 1800 016 464

Post: Omni Bridgeway
RCR Shareholder Class Action
PO Box Z5106
Perth WA 6831

22. You can also direct any questions you may have about the RCR Class Action to Quinn Emanuel, by email, rcrclassaction@quinnemanuel.com, or by phone +61 2 9146 3571.

Please Note: The James Settlement will not affect the outcome of your claim for compensation against RCR and Mr Dagleish.

ANNEXURE A

RCR CLASS ACTION

NOTICE OF OBJECTION TO PROPOSED SETTLEMENT

The person identified below:

1. is a Group Member in Ashita Tomi Pty Ltd & Ors v RCR Tomlinson Ltd (In Liq) & Ors, NSWSC 2018/00353304 (the **RCR Class Action**); and
2. wishes to object to the proposed settlement agreed between the Plaintiffs and the Third Defendant, Mr Bruce Maxwell James.

A. Details of Objector

Full Name:

Registered owner of RCR Shares:

Telephone number:

Postal address:

Email address:

HIN/SRN:

Signed:

Date:

B. Grounds of objection

My objection to the proposed James Settlement is for the following reasons *[set out in the space below any submissions you wish to make, attach additional pages if necessary]*:

C. Evidence and submissions

Any Group Member who has provided written notice of an objection to the proposed James Settlement, and who wishes to rely on:

- (a) any evidence in support of their objection; and/or;
- (b) any written submissions in support of their objection (in addition to those submissions referred to at paragraph B above),

should serve on Quinn Emanuel that evidence and/or submissions (together with this completed form) by no later than [insert date].

D. Attendance at settlement approval hearing

I intend to appear before the Court at the hearing.

[If you intend to appear, please complete the following]:

I will appear on my own behalf

I will be represented by a lawyer: Name and contact email of lawyer:

.....

I do not intend to appear, but wish for my submissions to be considered in my absence

The Group Member has also registered as a group member: Yes / No (circle one)

The Group Member has read the “Notes for Objectors” below: Yes / No (circle one)

Notes for Objectors: By the Court’s orders made on [insert date], the deadline to object to the James Settlement is [insert date]. Objectors are required to complete and submit a copy of this form, together with any written submissions and any affidavit evidence to Omni Bridgeway by:

Email: rcrclassaction@omnibridgeway.com

Post: Omni Bridgeway
RCR Class Action
PO Box Z5106
Perth WA 6831

SCHEDULE B

Covering Email

Dear Group Member

RE: RCR Class Action – Notice of Proposed Settlement with the Third Defendant

This email contains important information that may affect your legal rights. Please read it carefully and consider your options.

You are receiving this correspondence because you may be a Group Member in a shareholder class action filed in the Supreme Court of New South Wales against against RCR Tomlinson Ltd (in liquidation) (**RCR**) and two of its former directors and Chief Executive Officers, namely Mr Paul Joseph Dalglish and Mr Bruce Maxwell James (**RCR Class Action**).

The Plaintiffs have agreed to settle the RCR Class Action as against the Third Defendant, Mr James, subject to the approval of the Court (**James Settlement**). The Plaintiffs' claims against the First Defendant, RCR and the Second Defendant, Mr Dalglish will continue.

The Notice of Proposed Settlement (James Settlement Notice) includes information about:

1. how to determine whether you are an eligible group member; and
2. if you are an eligible group member, your right to object to any terms of the proposed James settlement.

The deadline to object to the proposed James Settlement is **4:00pm AEDT on 27 February 2023**.

You can access a copy of the **James Settlement Notice** here: www.omnibridgeway.com/rcr, or on the Supreme Court Website at https://www.supremecourt.justice.nsw.gov.au/Pages/sco2_classaction/Solar-Farms-Class-Actions.aspx

Alternatively, you can request a copy of the James Settlement Notice by emailing Omni Bridgeway (one of the Funders of the RCR Class Action) by email, rcrclassaction@omnibridgeway.com; or by telephone 1800 016 464.

This communication has been made pursuant to Court orders made [insert date].