

OUTCOME DETAILS

**Supreme Court - Civil
at Supreme Court Sydney
on 5 April 2023**

**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 Directions (Commercial) on 9 June 2023 10:00 AM before the
Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 3 Minutes

VERDICT, ORDER OR DIRECTIONS

Her Honour, Rees J, makes the following orders and directions:

(1) Pursuant to section 173 of the Civil Procedure Act 2005 (NSW), the settlement of the proceedings as against:

(a) the third defendant is approved on the terms set out in the Deed of Settlement and Release dated 25 November 2022 (James Settlement Deed); and

(b) the second defendant is approved on the terms set out in the Deed of Settlement and Release dated 23 December 2023 (Dalglish Settlement Deed).

(2) Pursuant to section 183 of the Civil Procedure Act 2005 (NSW), the plaintiffs are authorised nunc pro tunc to enter into the James and Dalglish Settlement Deeds for and on behalf of all "Group Members", being those persons who acquired an interest in RCR shares during the period from 28 December 2016 and 12 November 2018, as defined at paragraph 1 of the Amended Summons filed on 6 November 2020.

(3) Pursuant to section 179 of the Civil Procedure Act 2005 (NSW), the persons affected and bound by the James and Dalglish Settlement Deeds are the plaintiffs, the second and third defendants, the Group Members and the funders Omni Bridgeway and Burford Capital.

(4) Pursuant to section 7 of the Court Suppression and Non-Publication Orders Act 2010 (NSW):

(a) paragraphs 40 to 46 of the confidential affidavit of Damian John Scattini affirmed 17 March 2023 (Scattini Affidavit),

(b) Confidential Exhibit DS-1 to the Scattini Affidavit, and

(c) Supplementary Opinion dated 4 April 2023,

are to be kept confidential and are not be disclosed to any person until further order on the grounds that the order is necessary to prevent prejudice to the proper administration of justice.

(5) The plaintiffs' and Group Members' claims as against the second and third defendants are dismissed with no order as to the costs of the proceedings as between the plaintiffs and the second and third defendants.

(6) All prior orders as to costs as between the plaintiffs and second and third defendants are vacated.

(7) List for further directions in the Commercial List at 10am on 9 June 2023.

(8) Liberty to apply on three days' notice.

2018/00353304-006, 2018/00353304-007 / Notice of Motion Civil - Ashita Tomi Pty Ltd as trustee for Esskay Super Fund v Bruce Maxwell James, Notice of Motion Civil - Ashita Tomi Pty Ltd as trustee for Esskay Super Fund v Paul Joseph Dalgleish

This matter is listed for Directions (Commercial) on 9 June 2023 10:00 AM before the Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 5 Minutes

Justice K Rees

Signed

Date