



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD1812/2017

GREGORY JOHN LENTHALL and another named in the schedule
Applicant

WESTPAC BANKING CORPORATION ABN 33 007 457 141 and another named in the
schedule
Respondent

ORDER

JUDGE: JUSTICE LEE

DATE OF ORDER: 15 March 2018

WHERE MADE: Sydney

THE COURT ORDERS THAT:

Pleadings

1. By 4pm on 23 March 2018, the applicants serve on the respondents any proposed further amended statement of claim.
2. If the respondents consent to the applicants filing the proposed further amended statement of claim, by 4pm on 4 April 2018:
 - (a) the applicants be granted leave to file the further amended statement of claim in the form notified to the respondents;
 - (b) the applicants pay the respondents' costs thrown away by reason of the amendment;
 - (c) the respondents file and serve defences to the further amended statement of claim by 4pm on 11 May 2018; and
 - (d) the applicants file and serve any reply to the respondents' defence to the further amended statement of claim by 4pm on 25 May 2018.
3. If the respondents do not consent to the applicants filing the proposed further amended statement of claim, the applicants are to file and serve an interlocutory application (with any supporting affidavit) seeking to amend the amended statement of claim by 4pm on



13 April 2018 with any such application to be returnable before Justice Lee on 29 May 2018 at 10:15am.

Security for costs

4. The applicants and respondents confer in an attempt to reach an agreement on the form and terms of security for costs, and notify the Associate to Justice Lee of any agreement by 4pm on 28 March 2018.
5. If the agreement as to the provision of security for costs cannot be reached, the respondents are to file and serve any interlocutory application (with any supporting affidavit) by 4pm on 6 April 2018, such application to be returnable before Justice Lee on 29 May 2018 at 10:15am.

Other orders

6. Order 4, 5, 9 and 10 of the Orders made on 29 January 2018 be vacated.
7. The matter be listed for further case management at 10.15 am on 29 May 2018.

Common Fund Notice

8. By 4pm on 23 March 2018, the applicants file and serve an interlocutory application for a Court approved common fund order (**Common Fund Application**), with the application to be fixed for hearing at 10.15am on 29 May 2018
9. The parties are to confer on the form of the notice informing group members of the Common Fund Application and are to provide the Associate to Justice Lee with a copy of that notice (or, in the absence of an agreed notice, competing proposed notices) by 4pm on 20 March 2018, with the intention that a notice be approved by the Court (**Common Fund Notice**).
10. The Common Fund Notice be sent to group members according to the following procedure:
 - (a) by 4pm on 23 March 2018, the respondents are to provide to the Court and a third party distribution agent to be agreed between the parties (**Distribution Agent**), a schedule containing, according to the respondents' records (and in so far as such information is able to be retrieved by that date from the respondents' records), the last known names, email addresses and/or postal addresses of persons and entities



who are likely to fall within the terms of the group member definition in paragraph 9 of the amended statement of claim filed on 13 February 2018 (**Group Member contact schedule**);

- (b) the solicitors for the respondents are to instruct the Distribution Agent to cause the distribution of the Common Fund Notice by 30 March 2018, to be sent by email to the email addresses (to the extent that such addresses have been provided) referred to in the Group Member contact schedule;
- (c) to the extent that there is not an email address recorded in the Group Member contact schedule, the respondents are to instruct the Distribution Agent to send the Common Fund Notice by prepaid ordinary post to the customer at the address recorded for that customer as listed in the Group Member contact schedule;
- (d) to the extent that any email referred to in order 10(b) above experiences a delivery failure, the respondent shall cause the Distribution Agent to send the Common Fund Notice by prepaid ordinary post to that customer at the address recorded for that customer in the Group Member contact schedule;
- (e) the solicitors for the respondents are to instruct the Distribution Agent to inform the solicitors of the responses to any notices that are returned to the Distribution Agent undelivered;
- (f) the solicitors for the applicants have liberty to apply for access to the Group Member contact schedule, giving the respondents 3 days' written notice of such application, for the purpose of the applicants discharging their role as representatives for the group members;
- (g) continuously throughout the period from 30 March 2018 to 20 April 2018, the solicitors for the applicants are to display the Common Fund Notice on their website at <https://www.shine.com.au/service/class-actions/westpac-class-action/>;
- (h) continuously throughout the period from 30 March 2018 to 20 April 2018, the Common Fund Notice is to be displayed on the class action page for this proceeding on the website of the Federal Court of Australia and be made available for inspection at the District Registry of the Court in Sydney, Melbourne, Canberra, Brisbane, Adelaide, Perth, Hobart and Darwin;
- (i) the costs of providing a copy of the Common Fund Notice to group members using email or postal addresses as provided for in Order 10(b) and 10(c) above,



be initially paid by the applicants, on the basis that all of those costs will subsequently fall to be dealt with by the Court as part of the costs of the proceedings.

11. By 4pm on 20 April 2018, any group member who wishes to be heard in respect of the Common Fund Application is to notify the Court of the group member's desire to be heard by filing a notice of that intention (**Notice of Intention to Object**) in the form attached to the Common Fund Notice.
12. The parties have leave to inspect the Court file and copy any Notice of Intention to Object filed pursuant to Order 11 above.
13. By 4pm on 20 April 2018, the applicants are to file and serve on the respondents and on each group member who has given a Notice of Intention to Object in accordance with Order 11 above:
 - (a) any evidence on which it proposes to rely; and
 - (b) written submissionsin relation to the Common Fund Application.
14. By 4pm on 7 May 2018, the respondents, if they wish to be heard in relation to the Common Fund Application, file and serve on the applicants and on each group member who has given a Notice of Intention to Object in accordance with Order 11 above:
 - (a) any evidence on which it proposes to rely; and
 - (b) written submissionsin relation to the Common Fund Application.
15. By 4pm on 7 May 2018, any group member who has given a Notice of Intention to Object in accordance with Order 11 above, file and serve on the applicants and the respondents:
 - (a) any evidence on which they propose to rely; and
 - (b) any written submissions on which they propose to relyin relation to the Common Fund Application.
16. By 4pm on 21 May 2018, the applicants file and serve on the respondents and on each group member who has given a Notice of Intention to Object in accordance with Order 11 above:



- (a) Any evidence in reply; and
- (b) Any written submissions in reply
in relation to the Common Fund Application.

Date that entry is stamped: 15 March 2018

Warrick Soden
Registrar



Schedule

No: NSD1812/2017

Federal Court of Australia

District Registry: New South Wales

Division: General

Second Applicant SHARMILA LENTHALL

Second Respondent WESTPAC LIFE INSURANCE SERVICES LIMITED ABN 31
003 149 157