



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD1812/2017

GREGORY JOHN LENTHALL and others named in the Schedule
Applicants

WESTPAC BANKING CORPORATION ABN 33 007 457 141 and another named in the
Schedule
Respondents

ORDER

JUDGE: JUSTICE LEE

DATE OF ORDER: 08 May 2018

WHERE MADE: Sydney

THE COURT ORDERS THAT:

1. The Orders made on 15 March 2018 (and amended on 6 April 2018) be amended as follows:

(a) By 4 pm (Sydney time) on 7 May 2018, the applicants are to file and serve on the respondents and on each group member who received a notice in accordance with the timetable as amended on 6 April 2018 and who has given a Notice of Intention to Object (First Tranche of Objecting Group Members):

- i. Any evidence on which it proposes to rely, other than any confidential exhibits; and
- ii. Written submissions

in relation to the Common Fund Application.

(b) By 4 pm (Sydney time) on 21 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 of the First Tranche of Objecting Group Members:

- i. Any evidence on which they propose to rely; and
- ii. Written submissions

in relation to the Common Fund Application.



(c) By 4 pm (Sydney time) on 21 May 2018, each of the First Tranche of Objecting Group Members to file and serve on the applicants and the respondents:

- i. Any evidence on which they propose to rely; and
- ii. Written submissions

in relation to the Common Fund Application.

(d) By 4 pm (Sydney time) on 25 May 2018, the applicants are to file and serve on the respondents and on each of the First Tranche of Objecting Group Members:

- i. Any evidence in reply, other than any confidential exhibits; and
- ii. Any written submissions in reply

in relation to the Common Fund Application.

2. By 4 pm (Sydney time) on Monday 7 May 2018, the respondents are to provide the Court and Computershare (the agreed third party 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), a supplementary list of 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 contained in paragraph 9 of the Further Amended Statement of Claim filed 9 April 2018 and who did not form part of the list provided to the Court on 23 March 2018 (Supplementary Group Members).
3. The solicitors for the respondents are to instruct Computershare to cause the distribution of the Common Fund Notice (in the revised form annexed to these Orders and marked "A") (Revised Notice) by 10 May 2018, to be sent to the email addresses (to the extent that such addresses have been provided) referred to in the list of Supplementary Group Members.
4. To the extent that there is not an email address recorded in the list of the Supplementary Group Members, the respondents are to instruct Computershare to send the Revised Notice by prepaid ordinary post to the customer at the address recorded for that customer listed in the list of Supplementary Group Members.
5. To the extent that any email referred to in Order 3 above experiences a delivery failure, the respondent shall cause Computershare to send the Revised Notice by prepaid



ordinary post to that customer at the address recorded for that customer in the list of Supplementary Group Members.

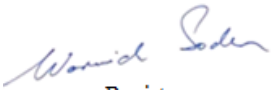
6. The solicitors for the respondents are to instruct Computershare to inform the solicitors of the responses to any notices that are returned to Computershare undelivered.
7. The solicitors for the applicants have liberty to apply for access to the list of Supplementary Group Members, giving the respondents 3 days' written notice of such application, for the purpose of the applicants discharging their role as representatives for the group members;
8. The costs of providing a copy of the Revised Notice to Supplementary Group Members using email or postal addresses as provided for in Order 3 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.
9. On or before 4 pm on 18 May 2018 any Supplementary Group Member who wishes to be heard in respect of the Common Fund Application (Supplementary Objecting Group Member) 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 Revised Notice.
10. The parties have leave to inspect the Court file and copy any Notice of Intention to Object filed pursuant to Order 9 above.
11. On or before 4 pm on 18 May 2018, the applicants are to file and serve on the Supplementary Objecting Group Members:
 - (a) Any evidence on which it proposes to rely, other than any confidential exhibits; and
 - (b) Written submissionsin relation to the Common Fund Application.
12. On or before 4 pm on 21 May 2018, the respondents, if they wish to be heard in relation to the Common Fund Application, file and serve on the Supplementary Objecting Group Members:
 - (a) Any evidence on which it proposes to rely; and
 - (b) Written submissions



in relation to the Common Fund Application.

13. On or before 4 pm on 24 May 2018, any Supplementary Objecting Group Member, 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.
14. On or before 4 pm on 25 May 2018, the applicants file and serve on the respondents and on the First Tranche of Objecting Group Members and the Supplementary Objecting Group Members:
 - (a) Any evidence in reply, other than any confidential exhibits; and
 - (b) Any written submissions in reply.in relation to the Common Fund Application.
15. At the time of service of the applicants' evidence and written submissions in relation to the Common Fund Application on each of the First Tranche of Objecting Group Members, the applicants to advise each such group member of amended Orders 1(b), (c) and (d) above.
16. Any confidential exhibits prepared by the applicants are to be served in accordance with the timetable on the solicitors for the respondent and any solicitors instructed by an objecting group member. Subject to any further application, access to any confidential exhibits is to be restricted to the external solicitors, counsel and legal consultants.
17. At the time of service of the applicants' evidence and written submissions in relation to the Common Fund Application on each of the First Tranche of Objecting Group Members and the Supplementary Objecting Group Member, the applicants are to advise each such group member of order 16.

Date that entry is stamped: 9 May 2018


Registrar



Schedule

No: NSD1812/2017

Federal Court of Australia
District Registry: New South Wales
Division: General

Second Applicant SHARMILA LENTHALL

Third Applicant SHANE THOMAS LYE

Fourth Applicant KYLIE LEE LYE

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



NOTICE TO GROUP MEMBERS FEDERAL COURT OF AUSTRALIA

WESTPAC LIFE INSURANCE CLASS ACTION NSD 1812 / 2017

1. Why is this notice important

A class action has been commenced in the Federal Court of Australia by Mr Gregory Lenthall, Mrs Sharmila Lenthall, Mr Shane Lye and Mrs Kylie Lye against Westpac Banking Corporation (**Westpac**) and Westpac Life Insurance Services Limited (**Westpac Life**).

The action relates to the conduct of Westpac in offering life (and related) insurance products to its customers through financial planners employed by the Westpac Group, with those policies to be provided by Westpac Life, which is a wholly-owned subsidiary of Westpac. Westpac and Westpac Life are defending the action.

The Federal Court has ordered that this notice be published.

You have been identified as a potential Group Member. You should read this notice carefully. If there is anything in it that you do not understand, you should seek legal advice.

2. What is a class action?

A class action is an action that is brought by one or a small number of people (**Applicant** or **Applicants** – in this case Mr and Mrs Lenthall and Mr and Mrs Lye on behalf of a class of people (**Group Members** – this may include you) against another person (**Respondents** – in this case Westpac and Westpac Life) in circumstances in which the Applicants and the Group Members have similar claims.

Group Members in a class action **are not** individually responsible for the legal costs associated with bringing the class action. In a class action, only the Applicants are responsible for the costs.

3. Are you a Group Member?

You are a Group Member in the Westpac Life Insurance Class Action if, on or after 12 October 2011 you:

- (a) Were given advice by Westpac, through its financial advisers in Westpac Financial Planning (including BT Advice, St George Financial Planning, Bank of Melbourne Financial Planning or Bank SA Financial Planning), on insurance and the premiums payable on that insurance; and
- (b) Obtained from Westpac Life policies of insurance by reason of that advice.



If you are unsure whether or not you are a Group Member, you should contact the Applicants' lawyers, Shine Lawyers, via email on wpac@shine.com.au or seek your own legal advice without delay.

4. How is the class action being funded?

The Applicants in the action have entered into Funding Agreements with JustKapital Litigation Pty Ltd (**JKL**) which provide for JKL to pay the Applicants' legal costs of the action, to indemnify the Applicants in respect of any adverse costs orders which may be made against the Applicants in the action, and to provide any security for adverse costs in the action.

Under the terms of the Funding Agreements (which do not bind you) there is to be paid out of any settlement or judgment sum in favour of the Group Members, prior to any distribution to them, the following:

- (a) The cost of the action paid by JKL in funding the action;
- (b) An amount equal to 30% of the settlement or judgment amount as a commission to JKL; and
- (c) The costs of the action incurred by Shine Lawyers which have not been paid by JKL.

No Group Member other than the Applicants have entered into a Funding Agreement with JKL to date.

5. Court Approved Funding Terms

The Applicants have applied to the Court for orders seeking to make you bound by similar arrangements as if you had signed the Funding Agreement. If approved, this will lead to Court-approved 'Funding Terms', such that in the event of a successful outcome in the action (either by way of settlement or judgment), the settlement or judgment sum recovered for all Group Members will be used, before any distribution to Group Members, to:

- (a) Reimburse JKL for the costs paid by JKL in funding the action which the Court considers fair and reasonable in all the circumstances;
- (b) Pay JKL a commission which will be fixed at a later time by the Court but which will be no more than 30% (35% on appeal) of the settlement or judgment sum and which the Court considers fair and reasonable in all the circumstances; and
- (c) Pay Shine Lawyers the costs incurred by them in the action which have not been paid by JKL but which the Court considers fair and reasonable in all the circumstances.

No Group Member will be liable to pay any amount of money to JKL unless and until there is a successful outcome in the action, and then (subject to any other order the Court may make) the above amounts payable to JKL and Shine Lawyers will be deducted from the settlement or judgment sum before the balance is distributed to Group Members.



The Applicants' application for the Court to approve "Funding Terms" has been listed for hearing before the Federal Court in Sydney on **29 and 30 May 2018 at 10:15am**.

6. What do you need to do?

(a) If you wish to object to the Court approving the "Funding Terms"

If you wish to oppose the Court approving the "Funding Terms" (see Section 5 above) then you:

- should, on or before **4pm on Friday 18 May 2018** notify the Court of the Group Member's desire to be heard by filing the "Notice of Intention to Object" in the form attached and marked "**A**" attached to this notice;
- should, on or before **4pm on Monday 24 May 2018** file with the Court any evidence and any written submissions on which the Group Member proposes to rely; and
- are encouraged to attend the hearing at **10.15am on Tuesday 29 and 30 May 2018**.

The names and addresses of all the Group Members who have returned a completed Notice of Intention to Object form may be provided to both the Applicants' and Respondents' lawyers and may be provided to the Court.

(b) If you do not object to the Court approving the "Funding Terms"

You do not need to do anything.

Any Group Member who does not wish to remain as a Group Member in the action will at some point be given appropriate notice enabling them to opt out of the action.

7. Where can you obtain copies of relevant documents?

Copies of relevant documents, including the current pleadings may be obtained by:

- (a) Downloading them from <https://www.shine.com.au/service/class-actions/westpac-class-action>; or
- (b) Inspecting them between 9am and 5pm at one of the offices of Shine Lawyers by prior appointment to be made by emailing wpac@shine.com.au.

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Shine Lawyers via email to wpac@shine.com.au or seek your own legal advice.



FORM A

NOTICE OF INTENTION TO OBJECT

No. NSD 1812 / 2017

Federal Court of Australia
District Registry: Sydney
Division: General

Gregory John Lenthall
First Applicant

Sharmila Lenthall
Second Applicant

Shane Lye
Third Applicant

Kylie Lye
Fourth Applicant

Westpac Banking Corporation ABN 33 007 457 141
First Respondent

Westpac Life Insurance Services Limited ABN 31 003 149 157
Second Respondent

TO: Registrar of the Federal Court of Australia, Level 17 – 22, Law Courts Building,
Queens Square (184 Philip Street), Sydney, New South Wales

Name of Group

Member:.....

Address:.....

Email

address:.....

If you are legally represented; please fill out the following:

Lawyer who is representing

you:.....

Name of Law

Firm:.....

Address:.....



Email

Address:.....

I am a Group Member in these proceedings and I wish to be heard on the Applicants' interlocutory Application filed 23 March 2018.

because:.....
.....
.....
.....
.....

Please indicate whether you intend to give or lead evidence in support of your objection:

- I intend to give or leave evidence in support of my objection
- I do not intend to give or lead evidence in support of my objection

Please indicate whether you intend to appear at the hearing of the application (your objection will be before the court whether you choose to appear at the hearing or not)

- I intend to appear at the hearing
- I do not intend to appear at the hearing

Date:

Signature:

Name of person signing notice:.....