



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD1812/2017

GREGORY JOHN LENTHALL and others named in the schedule
Plaintiffs

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

JUSTKAPITAL LITIGATION PTY LIMITED and another/others named in the schedule
Intervener

ORDER

JUDGE: JUSTICE LEE

DATE OF ORDER: 12 February 2020

WHERE MADE: Sydney

THE COURT ORDERS THAT:

Notices

1. By 19 February 2020, the parties are to each file and serve a draft opt-out notice and any submissions outlining their competing contentions and whether they wish for the form of the notice to be determined on the papers or following oral argument.
2. The matter be fixed for interlocutory hearing at 4pm on 21 February 2020 to determine the parties' competing contentions on the opt-out notice, as referred to in Order 1 above (but such hearing will be vacated in the event that both parties indicate they are content for the matter to be determined on the papers).

Referee

3. The Court varies order 10 of the Orders made on 1 August 2018 and amends that order to read: The Referee is to prepare a draft report on the Relevant Questions which is to be provided to the applicants and the respondents by 1 June 2020.
4. The Court varies order 11 of the Orders made on 1 August 2018 and amends that order to read: The applicants and respondents are to provide in writing to Counsel assisting the Referee (copied to the other party) any comments, limited to three pages and to be directed to errors of fact or patent misapprehensions and not to re-canvas the contentions advanced by the party in the FCR 28.65(7) statement, in accordance in FCR 28.67 by 4pm on 9 June 2020, for consideration by the Referee.



5. The Court varies order 12 of the Orders made on 1 August 2018 and amends that order to read: The Referee is to submit the Report to the Court in accordance with FCR 28.66, addressed to the Associate to Justice Lee on or before 4pm on 17 June 2020.
6. The Court vacates order 17 of the Orders made on 1 August 2018.
7. By 29 June 2020, the parties are to file and serve any submissions advocating an order under FCR 28.67.
8. Any submissions in response to submissions served in accordance with order 7 to be filed and served by 1pm on 7 July 2020.
9. Any proceeding pursuant to FCR 28.67 on the Report is listed for hearing at 10.15am on 10 July 2020.

Pleadings

10. By 27 February 2020, the applicants are to file and serve a third further amended originating application.
11. By 27 February 2020, the applicants are to provide particulars in respect of paragraph 69(j)(i) of the third further amended statement of claim.
12. By 16 March 2020, the respondents are to file and serve a defence to the third further amended statement of claim.

Security for costs

13. By no later than 21 February 2020, the applicants are to provide a response to the respondents' letter dated 11 February 2020.

Discovery

14. By 17 April 2020, the respondents are to file and serve a supplementary verified list of documents in accordance with FCR 20.17.
15. By 29 June 2020, the applicants are to file and serve any submissions in relation to the adequacy of the respondents' discovery.
16. By 1pm on 7 July 2020, the respondents are to file and serve any submissions in response to submissions served in accordance with order 15.
17. Any application in relation to the adequacy of the respondents' discovery be fixed for hearing at 10.15am on 10 July 2020.

Evidence

18. Orders 18 to 23 of the orders dated 1 August 2018 be vacated.
19. By 12 June 2020, the applicants are to file and serve any lay and expert evidence upon which they intend to rely (other than any evidence from an actuary, and any evidence relating to an account of profits).
20. By 12 June 2020, the applicants are to serve on the respondents a tender bundle of all documents the applicants intend to tender in chief in respect of expert evidence at the hearing of the applicants' claim, subject to any supplementation which is necessary having regard to any further discovery given as a consequence of the hearing of contemplated in order 17.



Trial

21. The proceeding is listed for trial commencing on 10 May 2021, on an estimate of 3 weeks.

Date that entry is stamped: 14 February 2020

Sia Lagos
Registrar



Schedule

No: NSD1812/2017

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Division: General

Second Plaintiff	SHARMILA LENTHALL
Third Plaintiff	SHANE THOMAS LYE
Fourth Plaintiff	KYLIE LEE LYE
Second Defendant	WESTPAC LIFE INSURANCE SERVICES LIMITED ABN 31 003 149 157
Intervener	JUSTKAPITAL LITIGATION PTY LIMITED