



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

No: NSD1908/2016

GAVIN SMITH and others named in the schedule
Applicant

DEPARTMENT OF DEFENCE and another named in the schedule
Respondent

ORDER

JUDGE: JUSTICE JAGOT

DATE OF ORDER: 09 October 2018

WHERE MADE: Sydney

THE COURT ORDERS THAT:

Further amended Statement of Claim

1. The Applicants are granted leave to amend the date of "~~15 May 2017~~ 17 November 2017" at paragraphs 1(a)(iii), 1(b)(iii) and 1(c)(iii) of the Second Further Amended Statement of Claim filed on 17 November 2017 to "30 September 2018".
2. The Applicants file and serve a Third Further Amended Statement of Claim reflecting the amendment by **11 October 2018**.
3. Any additional group member who is included within the description of the group by reason of the amendment not have the benefit of having their rights relate back to the date of the original filing of the proceedings.

Evidence

4. The Respondent to notify the Applicants of the types of experts they propose to engage and the issues to which that evidence will be directed by **30 October 2018**.
5. Any expert evidence of Professor Phillippe Grandjean and Professor Jennifer Field filed in NSD1155/ 2017 (*Bradley James Hudson & ors v Commonwealth*) to be taken as filed in these proceedings.



Evidence in related proceedings

6. Any document discovered in this proceeding is to be taken as discovered in proceeding NSD1388/2018 (*Kirsty Jane Bartlett & Anor v Commonwealth of Australia*) (**Bartlett Proceedings**).
7. Any document discovered in the Bartlett Proceedings is to be taken as discovered in this proceeding.

Case management

8. The proceedings be listed for a case management hearing at 9:30am on **5 March 2019**.
9. Each party has liberty to apply on 2 days' notice.


Hearing date

10. Order 1 of the Orders dated 14 February 2018 be amended as follows:

An initial trial of the Applicants' claims in these proceedings NSD 1908/2016 (**Smith proceedings**) be provisionally fixed for hearing at the same time as the initial trial set down (in separate orders) in proceedings NSD1155/ 2017 (*Bradley James Hudson & ors v Commonwealth*) (**Hudson proceedings**) and proceedings NSD1388/2018 (*Kirsty Jane Bartlett & Anor v Commonwealth*) (**Bartlett proceedings**), in the following periods:

- a. 12 August 2019 to 30 August 2019;
- b. 2 September 2019 to 18 October 2019; ~~and~~
- c. 4 November 2019 to 15 November 2019; and
- d. 18 November 2019 to 20 December 2019.

Date that entry is stamped: 9 October 2018


Registrar



Schedule

No: NSD1908/2016

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Second Applicant	KIM SMITH
Third Applicant	ANN AND LINDSAY CLOUT SMSF PTY LTD ACN 154 516 006
Fourth Applicant	ANN CLOUT
Fifth Applicant	LINDSAY CLOUT
Sixth Applicant	JOHN ARTHUR HEWITT
Seventh Applicant	CHANTEL WALKER
Eighth Applicant	MARSHALLS TRANSPORT PTY LTD
Ninth Applicant	NICHOLAS MARSHALL
Tenth Applicant	MELISSA MARSHALL
Respondent	COMMONWEALTH OF AUSTRALIA (DEPARTMENT OF DEFENCE)