



Federal Court of Australia

District Registry: Queensland

Division: Fair Work

No: QUD17/2022

MARC MOTION and others named in the schedule
Applicants

QANTAS AIRWAYS LIMITED ACN 009 661 901 and others named in the schedule
Respondents

ORDER

JUDGE: JUSTICE DOWNES

DATE OF ORDER: 24 January 2022

WHERE MADE: Brisbane

THE COURT ORDERS THAT:

1. The Court notes the undertaking to the Court by the Respondents attached and marked "A".
2. Pursuant to rule 9.05 of the *Federal Court Rules 2011* (Cth) (the '**Rules**'), the persons referred to in Schedule 1 to this order be joined as respondents to the proceeding.
3. The Applicants have leave, by 4.00 pm on Tuesday 25 January 2022, to file and serve an amended originating application reflecting the joinder of the Respondents the subject of paragraph 2.
4. Pursuant to rule 30.01 of the Rules and section 37P(2) of the *Federal Court of Australia Act 1976* (Cth), the question whether each applicant is entitled to any and if so which of the declaratory relief sought in paragraphs 3, 4, 5 and 6 of the Originating Application ('**Liability Question**') be determined separately and prior to any other issue in the proceeding.
5. The proceeding be set down for hearing on the Liability Question on a date convenient to the Court after 25 February 2022 with an estimate of four days.



6. By 4.00 pm on Friday 28 January 2022, the Applicants are to file and serve Points of Claim in relation to the Liability Question.
7. By 4.00 pm on Friday 4 February 2022, the Respondents are to file and serve Points of Defence in relation to the Liability Question.
8. By 4.00 pm on Friday 11 February 2022, the Applicants are to file and serve:
 - a. any additional affidavit evidence upon which they intend to rely in relation to the Liability Question; and
 - b. an outline of submissions in relation to the Liability Question.
9. By 4.00 pm on Friday 18 February 2022, the Respondents are to file and serve:
 - a. any affidavit evidence upon which they intend to rely in relation to the Liability Question; and
 - b. an outline of submissions in relation to the Liability Question.
10. By 4.00 pm on Wednesday 23 February 2022, the Applicants are to file and serve:
 - a. any responsive affidavit evidence upon which they intend to rely in relation to the Liability Question; and
 - b. any responsive outline of submissions in relation to the Liability Question.
11. The Applicants' interlocutory application filed 21 January 2022 is dismissed.
12. The proceeding be referred to the National Operations Registrar for allocation to a docket judge.
13. Costs of the Applicants' interlocutory application filed 21 January 2022 are reserved.
14. There be liberty to apply on 48 hours' notice.



THE COURT NOTES THAT:

1. Depending on when trial dates are allocated, the parties may confer and request variation of the filing dates of the Points of Claim, Points of Defence, affidavit material and submissions.

Date that entry is stamped: 24 January 2022

Sia Lagos
Registrar



Schedule

No: QUD17/2022

Federal Court of Australia
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Second Applicant	NATASHA JONES
Third Applicant	TAMMARA RICHARDS
Fourth Applicant	GLENN RICHARDS
Fifth Applicant	TIM HANNA
Sixth Applicant	RENEE STAFFORD
Seventh Applicant	TRACEY MARSHALL
Eighth Applicant	TRENT REDDING
Ninth Applicant	JUDITH GAWNE
Tenth Applicant	ANNA FERRIGNO
Eleventh Applicant	RAGHEDA JACOB
Twelfth Applicant	LAUREN KEAMY
Thirteenth Applicant	JEFFREY TORBEY
Fourteenth Applicant	PHILIP KASSEL
Fifteenth Applicant	ANNA-MARIE MELI
Sixteenth Applicant	TINA CINQUE
Seventeenth Applicant	LUKE HALLAM
Eighteenth Applicant	MARIA PINTARIC
Nineteenth Applicant	PHILIPP LANDERER
Twentieth Applicant	JESSE PRAGER
Twenty First Applicant	ALAN DANA
Twenty Second	ROBERT MOFFATT



Applicant

Twenty Third Applicant ALAN DAVISON

Twenty Fourth Applicant ROBERT ROSATI

Second Respondent JETSTAR AIRWAYS PTY LTD ACN 069 720 243

Third Respondent EXPRESS FREIGHTERS AUSTRALIA PTY LTD ACN 003 613 465

Fourth Respondent QANTAS GROUND SERVICES PTY LTD ACN 137 771 692

Fifth Respondent QANTAS FREIGHT ENTERPRISES PTY LTD ACN 128 862 108

Sixth Respondent EASTERN AUSTRALIA AIRLINES PTY. LIMITED ACN 001 599 024

Seventh Respondent SUNSTATE AIRLINES (QLD) PTY. LIMITED ACN 009 734 703

Eighth Respondent JETSTAR GROUP PTY LIMITED ACN 003 901 353



Schedule 1

Eastern Australia Airlines Pty. Limited ACN 001 599 024

Sunstate Airlines (Qld) Pty. Limited ACN 009 734 703

Jetstar Group Pty Limited ACN 003 901 353



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Noting that the matters in paragraphs 2 and 3 below apply in lieu of any Applicant giving the usual undertaking as to damages, each Respondent undertakes to the Court in respect of each Applicant employed by it that:

1. It will not terminate the employment of that Applicant on account of non-compliance with the Qantas Group COVID-19 Vaccination Policy (**'Policy'**) until the determination of the question of Liability in this proceeding or earlier order;
2. Provided that nothing in this undertaking precludes any Respondent from taking any other step in relation to an Applicant's non-compliance with the Policy, including:
 - a. communicating a decision to terminate an Applicant's employment on account of non-compliance with the Policy (subject to the determination of the question of liability in this proceeding); and
 - b. consequent upon such a decision, placing that Applicant on leave without pay; and
3. If the Court determines that in respect of any Applicant it had no entitlement to terminate her or his employment on account of non-compliance with the Policy, the employing Respondent will pay that Applicant any wages not paid as a consequence of her or him being placed on leave without pay by reason of a decision referred to in paragraph 2.