



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID513/2015

**MONEY MAX INT PTY LIMITED (ACN 152 073 580), AS TRUSTEE FOR THE  
GOLDIE SUPERANNUATION FUND**

Applicant

**QBE INSURANCE GROUP LIMITED (ACN 008 485 014)**

Respondent

**ORDER**

**JUDGE:** JUSTICE MURPHY

**DATE OF ORDER:** 07 November 2016

**WHERE MADE:** Melbourne

**THE COURT ORDERS THAT:**

**Discovery**

1. Order 16 of the Court's order dated 7 December 2015 be varied to extend the time for the Respondent to provide initial discovery in compliance with Order 15 of the Court's order dated 7 December 2015 until 30 November 2016.
2. On or before 30 November 2016, the Respondent file and serve a further list of documents verified by affidavit, pursuant to the Rules, in respect of discovery made in accordance with Orders 14 and 15 of the Court's order dated 7 December 2015.
3. By 30 October 2016, the Respondent is to give discovery to the Applicant of all documents in the period 1 July 2012 to 28 February 2014 that are directly relevant to the issues raised by the pleadings and which are contained in the mail boxes of the following individuals:

Executives

- (a) Douglas Bennett;
- (b) Cynthia Brooks;
- (c) Curt Christofferson;



- (d) Detta Cutright;
- (e) Michael Deal;
- (f) Frank Dunn;
- (g) Richard Fiato;
- (h) Celeska Fredianelli;
- (i) Marvin Goergen;
- (j) Dean Harring;
- (k) Erik Hessefort;
- (l) Ebo Koranteng;
- (m) Ravi Kumar;
- (n) Anders Land;
- (o) Laurie Montanaro;
- (p) Mark Mossman;
- (q) Michael Scala;
- (r) Randall West;

QBE directors

- (s) Frank O'Halloran;
- (t) Belinda Hutchinson;
- (u) Charles Irby;
- (v) Duncan Boyle;
- (w) Irene Lee;
- (x) Isabel Hudson;
- (y) John Graf;
- (z) John Green;
- (aa) Len Bleasel;



- (bb) Marty Becker;
- (cc) Margeret Leung;

QBENA directors

- (dd) Jeff Grange;
- (ee) Bob James;
- (ff) Truett Tate;
- (gg) Bill Kronenberg;
- (hh) Rod Farrell;
- (ii) Anthony Przybyszewski;
- (jj) Harvey Bazaar; and
- (kk) Marc Metcalf.

- 4. On or before 31 March 2017, the Applicant file any application for further discovery.

**Technology Assisted Review**

- 5. On or before 18 November 2016, the Respondent is to provide to the Applicant a report from FTI Consulting and/or the Respondent's solicitors describing with particularity the manner in which the Respondent has applied technology assisted review (**TAR**) for the purposes of giving discovery to the Applicant and the results of the application of TAR, including (without limitation) information as to the following:
  - (a) the nature and technical parameters of the TAR algorithm used;
  - (b) the process for selecting and coding the training set of documents;
  - (c) the process for selecting and coding the validation set of documents;
  - (d) the process for training the algorithm to identify relevant documents for production, including the level of relevance applied;
  - (e) the process for validation and testing, including disclosure of analyses relating to the accuracy, validation or quality of documents produced;



- (f) the number of documents in the complete data set identified as relevant and irrelevant following the application of TAR and, with respect to the relevant documents, the number of documents withheld on the basis of privilege;
  - (g) the search terms applied in conjunction with TAR; and
  - (h) the process followed with respect to potentially privileged documents.
6. On or before 1 December 2016, the solicitors for the parties and their information technology consultants and representatives from FTI Consulting are directed to meet and confer in a bona fide attempt to resolve any disputes in respect of the application of TAR by the Respondent.
7. If the Applicant believes that the report provided by the Respondent in accordance with Order 5 above is not adequate or the parties cannot resolve any dispute in respect of the application of TAR by the Respondent following the meet and confer process, the matter is to be listed for determination by the Court of any issue.

#### **Mediation**

8. Order 10 of the Court's order dated 13 May 2016 with respect to mediation be varied so that mediation of this proceeding be referred to National Operations Registrar Lagos (or a mediator agreed by the parties) such mediation to be commenced as soon as practicable before 30 April 2017. The Registrar be authorised to give directions as to the provision of documents by the parties and as to the attendance of persons at the mediation to facilitate settlement discussions. The Registrar is to inform the Court of the result of the mediation as soon as practicable thereafter.

#### **Previous trial timetable orders**

9. Orders 11 to 23 of the Court's order dated 13 May 2016 be vacated.

#### **Evidence**

10. On or before 30 November 2016, subject to compliance with Orders 1 and 2 above, the Applicant is to provide the Respondent with details of the areas of expertise of any experts from whom it intends to lead evidence, and an outline of the broad topics that they will be addressing, sufficient to allow the Respondent to approach appropriate experts and to have a broad understanding of the case to be advanced.



11. On or before 21 December 2016, the Respondent is to provide the Applicant with:
  - (a) details of the areas of expertise of any experts from whom it intends to lead evidence, and an outline of the broad topics that they will be addressing, sufficient to allow the Applicant to approach appropriate experts in reply and have a broad understanding of the case to be advanced; and
  - (b) the identity of any lay witness from whom it intends to lead evidence.
12. On or before 31 July 2017, the Applicant file and serve its lay evidence in chief (including documentary evidence) and expert evidence in chief.
13. On or before 31 October 2017, the Respondent file and serve its lay evidence in chief (including documentary evidence).
14. On or before 21 December 2017, the Respondent file and serve its expert evidence in chief.
15. On or before 31 May 2018, the Applicant file and serve its expert evidence in reply.

### **Directions**

16. The proceeding be listed for directions on 7 June 2018 for the purpose, inter alia, of:
  - (a) considering, and making orders in relation to, whether all or any part of the trial referred to in Order 21 below (Initial Trial) should proceed as an eTrial;
  - (b) considering, and making orders in relation to, the preparation of a court book, and the filing and service of written outlines of opening submissions, for the purposes of the Initial Trial; and
  - (c) making any other orders which are necessary or convenient for the preparation of the Initial Trial.

### **Joint Expert Conferences**

17. Subject to further order of the trial judge, joint expert conferences shall proceed as follows:
  - (a) on or before 14 June 2018, the parties are to agree questions for joint expert conferences in respect of each aspect of the case which involves expert evidence;



- (b) on or before 13 July 2018, joint expert conferences are to take place on each aspect of the case which involves expert evidence; and
- (c) the experts are to prepare and provide to the parties and the court joint written reports within 14 days of the expert conference.

### **Court Book**

- 18. On or before 20 July 2018, the Applicant is to provide the Respondent, in electronic format, with a draft index of all documents to be included in the court book, consisting of:
  - (a) all documents annexed, exhibited or referred to in all expert reports, and affidavits served by all parties; and
  - (b) any additional documents on which the Applicant proposes to rely at trial.
- 19. On or before 27 July 2018, the Respondent is to provide the Applicant with a list of any additional documents to be included in the court book.
- 20. On or before 3 August 2018, the Applicant is to serve on the Respondent an index to the court book incorporating all documents identified in the index and lists provided pursuant to Orders 18 and 19 above.

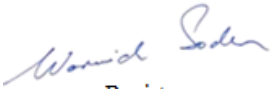
### **Trial**

- 21. The matter be listed for a trial of the Applicant's claim and the common issues referred to in the Applicant's Originating Application dated 9 September 2015, commencing on 13 August 2018, on a present estimated duration of eight weeks, such estimate to be confirmed after service of the parties' evidence.

### **Other**

- 22. Liberty to apply.
- 23. Costs be reserved.

Date that entry is stamped: 8 November 2016

  
Registrar