

Listing Details

Heard at: **08/05/2020**by: **Justice J Ward Chief Judge in Equity;****Supreme Court Sydney**
Supreme Court - Civil

2018/00310118-005

Justice J Ward Chief Judge in Equity

Directions

Komlotex Pty Ltd v AMP LIMITED

08:30 AM

10 MINUTES

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Date of Listing: 08 May 2020 before Justice J Ward Chief Judge in Equity at Supreme Court - Civil, Supreme Court Sydney**Appearances:**AMP LIMITED, Respondent , No Appearance
Komlotex Pty Ltd, Respondent , No Appearance
Wigmans, Marion Antoinette, Applicant , No Appearance**2018/00310118-005 / Notice of Motion Civil - Marion Antoinette Wigmans v Komlotex Pty Ltd /**

This matter is listed for Directions on 11 May 2020 4:30 PM before the Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 10 Minutes

The following hearing dates are vacated:

11 May 2020 04:30 PM

Reason:

ORDERS:

Her Honour, Ward CJ in Eq, makes the following orders:

1. Make orders in accordance with the Orders provided to the Court, as amended, initialled and dated by her Honour today.

Claim Registration

1. Pursuant to sections 61(1) and/or 183 of the Civil Procedure Act 2005 (NSW), orders 11 – 17 made on 12 March 2020 be vacated, and order 4 made on 9 April 2020 be vacated.

2. Any Group Member may, by the Class Deadline (as defined in order 8 below), register their claim by:

a. submitting a completed registration form in a form set out in the opt out and registration notice approved by the Court pursuant to order 17 below (Registration Form) through the 'AMP Shareholder Class Action Claims Registration' webpage established on the website of the plaintiffs' solicitors; or

b. completing a hard-copy Registration Form and returning it to the plaintiffs' solicitors at Level 8, 179 North Quay Brisbane Qld 4000 (New Registered Members).

3. In completing the Group Member Registration Form, and in order to register for the purpose of Order 2 above, each Group Member will be required to submit the information identified in the Group Member Registration Form.

4. A Group Member will be deemed to have complied with Order 2 above if, by the Class Deadline:

a. that Group Member has retained Maurice Blackburn in writing to act for that group member in connection with this proceeding (Existing Registered Group Members); and

b. to the extent they have not already done so, that Group Member provides to Maurice Blackburn the same information as New Registered Group Members are required to submit pursuant to Order 3 above.

5. By 4:00pm AEDT on 1 September 2020, the Plaintiffs must deliver to the solicitors for the Defendant (in electronic form), a de-identified version of the information referred to in order 3 in respect of each of the Existing Registered Group Members and New Registered Group Members.

Evidence and Opt Out Orders

6. Order 1 made on 9 April 2020 be amended such that by 4.00pm on 1 September 2020 the Plaintiffs serve any material on quantum and materiality upon which it intends to rely at mediation on a without prejudice basis.

7. Order 2 made on 9 April 2020 be amended such that by 4.00pm on 28 October 2020 the Defendant serve any material on quantum and materiality upon which it intends to rely at mediation on a without prejudice basis.

8. Order 3 made on 9 April 2020 be amended such that by 4.00pm (AEDT) on 28 July 2020 (Class Deadline) be fixed as the date on or before which a Group Member (as defined in the Amended Commercial List Statement) may opt out of the proceeding.

Opt-Out Notice and Registration Form procedure

9. Orders 5-14 made on 9 April 2020 are vacated.

10. Pursuant to s 176(1) of the Civil Procedure Act 2005 (NSW) (the Act), the form and content of the notice (Notice to Group Members) in Schedule A and the abridged notice (Abridged Notice) in Schedule B be approved.

11. Pursuant to s 183 of the Act, the notice set out in Schedule C to this Motion that is a modification of Form 115 (Opt Out Notice) be approved for this proceeding for the purpose of r 58.2(1) of the Uniform Civil Procedure Rules 2005 (NSW) (UCPR).

12. Pursuant to s 176(2) of the Act, notice is to be given to group members by no earlier than 18 May 2020 and no later than 4pm on 25 May 2020 according to the following procedure:

a. the plaintiffs are to display the Notice to Group Members and Opt Out Notice on the plaintiffs' solicitor's website, www.mauriceblackburn.com.au, continuously until the Class Deadline;

b. the plaintiffs are to deliver the Notice to Group Members and the Opt Out Notice to the contact email address where an email is available, or failing that, by ordinary mail, to each group member who is a client of the plaintiffs' solicitors or whom they are otherwise aware;

c. the defendant is to cause the Notice to Group Members and the Opt Out Notice to be sent to each person or entity listed in the defendant's share register as having purchased shares in the defendant between 10 May 2012 and 13 April 2018 inclusive, such notices to be sent by email where an email address is available, or failing that, by ordinary mail;

d. the plaintiffs are to cause an advertisement in the terms of the Abridged Notice (Schedule B) to be published in the legal notices or equivalent section in one weekly day edition of The Australian Financial Review.

notices or equivalent section in one week day edition of The Australian Financial Review.

13. The defendant will provide to the plaintiffs an estimate of the disbursement costs of the defendant in complying with Order 12(c) above, and the costs shall be paid by the plaintiffs in the first instance but shall be costs in the cause.

14. Pursuant to s 162(2) of the Act and r 58.2(1) of the UCPR, any group member who wishes to opt out of this proceeding must, on or before the Class Deadline, deliver an Opt Out Notice to the Registry of the New South Wales Supreme Court.

15. If, on or before the Class Deadline, the solicitors for any party receive a notice purporting to be an opt out notice referable to this proceeding, those solicitors are to file such notice in the Registry of the Supreme Court of New South Wales within 7 days of receiving it and the notice shall be treated as an Opt Out Notice received by the Court at the time when it was received by the solicitors.

16. The solicitors for the plaintiffs and the defendant be granted leave to inspect the Court file and to copy any opt out notices filed by group members.

17. The form and content of the Registration Form referred to in order 2 above, be approved in the form of Schedule D to this Motion, which will replace the Registration Form approved in the orders of 9 April 2020.

18. The Notice to Group Members, the Abridged Notice, the Opt Out Notice and the Registration Form approved pursuant to Orders 10, 11 and 17 above, may be amended by the plaintiffs before they are emailed, posted, displayed or published in order to correct any website or email address or telephone number or other non- substantive error.

19. Mediation in this matter is to be conducted by 11 December 2020, or such later date as the Court orders. In the absence of agreement by the parties as to a mediator, the mediation shall be conducted by a person to be appointed by the Court.

20. The parties have liberty to apply on 48 hours' written notice.

The Court notes that:

21. In the event that the proceedings settle at any time between the first day of the mediation (being the mediation referred to in Order 19 above) and the first to occur of the following:

a. the date which is 6 months after the first day of that mediation; and

b. the first day of the hearing on liability in these proceedings,

then the parties intend to apply to the Court for an order that any Group Member who by the Class Deadline does not opt out and who is not a New Registered Group Member or Existing Registered Group Member will not receive any benefit pursuant to the settlement. (ID 49929542)