

OUTCOME DETAILS

**Supreme Court - Civil
at Supreme Court Sydney
on 22 September 2023**

**2016/00086790-001 / Statement of Claim: Australian Retirement Group Pty Limited v
The Commonwealth Bank of Australia Limited**

HH makes orders in terms of paragraphs 1 to 8 and 10 of the plaintiffs' notice of motion filed on 19 September 2023.

Plaintiffs' Notice of Motion

1 An order that leave be granted to the Plaintiffs to file in Court an amended form of the Further Amended Statement of Claim filed on 13 July 2016 with paragraph 2 amended to insert the words "but were not subsequently rehabilitated" at the end of subparagraph 2(i) after the words "division of BankWest".

2 An order that pursuant to s 176(1) of the Civil Procedure Act 2005 (NSW) (the Act), the form and content of the notice contained within annexure "A" to these orders be approved (Notice to Group Members).

3 An Order that pursuant to s 183 of the Act, that the notice set out at Schedule A to the Notice to Group Members that is a modification of Form 115 be approved for this proceeding for the purpose of r 58.2(1) of the Uniform Civil Procedure Rules 2005 (NSW) (UCPR) (Opt Out Notice).

4 An Order that pursuant to s 162 of the Act, that 4:00pm (AEDT) on 31 October 2023 be fixed as the date before which a group member may opt out of the proceeding (Opt Out Date).

5 An Order that pursuant to s 176 of the Act, on or before 30 Sep 2023, the Plaintiffs' solicitors are to provide copies of the Notice to Group Members and Opt Out Notice to group members by:

a. delivering copies to the last known contact email addresses of any group member and to whom an opt out notice was served for the purposes of these proceedings, pursuant to the Court's orders of 26 August 2022, or failing that, by ordinary mail, to the mailing address of each borrower and guarantor that responded to the opt out notice that was served pursuant to the Court's orders of 26 August 2022 and by providing a mailing address but without providing an email address;

b. causing electronic copies to be made available on the website <http://www.ha!partners.com.au> and the Facebook group "Bankwest Class Action".

6 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 Opt Out Date, (31 October 2023), serve on the solicitors for the Plaintiffs a notice in the form of the Opt Out Notice annexed as "A" to these orders above.

7 If, on or before the Opt Out Date, the solicitors for the Plaintiffs receive a notice from a group member purporting to be an opt out notice referable to this proceeding, the solicitors for the Plaintiffs must file such notice with the Registry of the Supreme Court of New South Wales and serve such notice on the Defendant within seven (7) days of receipt.

8 The solicitors for the Plaintiffs and the Defendant respectively be granted leave to inspect the Court file and to copy any Opt Out Notices or purported opt out notices.

9 Not made.

10 That the costs of this notice of motion be costs in the proceedings.

Acting Chief Judge in Equity M Ball

Signed

Date