

**SUPREME COURT OF NEW SOUTH WALES  
ASSOCIATE'S RECORD OF PROCEEDINGS**

**Class Action**

<b>FILE NO</b> :	<b>2020/356588</b>
<b>PARTIES</b> :	<b>Amireh FAKHOURI v Secretary for NSW Ministry of Health</b>

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**AMENDED SHORT MINUTES OF ORDER:**

**Settlement approval**

- 1 Pursuant to sections 173(1)-(2) and 183 of the Civil Procedure Act 2005 (NSW) (the Act):
  - (a) the settlement is to be approved upon the terms set out in the:
    - (i) deed at Annexure RG-1 to the affidavit of Rebecca Gilsenan filed on 7 May 2024 and marked "Confidential" (Settlement Deed); and
    - (ii) settlement distribution scheme contained in Exhibit RG-1 to the affidavit of Rebecca Gilsenan affirmed on 6 August 2024 (Settlement Scheme);
  - (b) the Settlement Scheme is to be given effect; and
  - (c) the settlement monies advanced by the defendants under the Settlement Deed and Settlement Scheme are to be distributed to Group Members in accordance with the Settlement Scheme, subject to orders 9-10.
- 2 Pursuant to section 183 of the Act or otherwise, the Court authorises the plaintiff *nunc pro tunc* on behalf of the persons identified in paragraph [1b] of the Third Further Amended Statement of Claim filed 9 August, other than such persons who have opted out of the proceeding and have not filed a withdrawal of opt out notice, (Group Members), to enter into and give effect to the Settlement Deed and the transactions contemplated for and on behalf of Group Members.
- 3 Pursuant to section 179(a) of the Act, the persons affected and bound by these orders are the plaintiff, the Group Members, and the defendants.
- 4 From the date on which the final distribution under the Settlement Scheme is confirmed to the Court by the person appointed as administrator of the Settlement Scheme (the Scheme Administrator):
  - (i) the claims in the proceeding as between the plaintiff and defendants be dismissed; and
  - (ii) all outstanding costs orders in the proceeding be vacated.
- 5 There be no order as to costs.

**Registration Deadline**

- 6 The Group Members listed in Schedule A to the affidavit of Rebecca Gilsenan filed 9 August 2024 are deemed to have registered in accordance with Order 11 made on 15 May 2024.
- 7 Where a Group Member commenced but did not complete an online registration form on Maurice Blackburn's website by 12 July 2024, the Scheme Administrator may deem that those Group Members complied with Order 11 made on 15 May 2024.

## Settlement Scheme

- 8 Pursuant to section 183 and/or section 173(2) of the Act, Maurice Blackburn be appointed Scheme Administrator.
- 9 Pursuant to sections 173(2) and 183 of the Act, the following be approved and paid in accordance with the Settlement Scheme:
  - (a) reimbursement payment of \$50,000 to the plaintiff;
  - (b) the plaintiffs' legal costs in the amount of \$9,046,028.25 (inclusive of GST); and
  - (c) future administration costs in the amount of \$7,467,988.58 (inclusive of GST).
- 10 Pursuant to section 173(2) of the Act, the Scheme Administrator has liberty to apply to the Court in relation to any matter arising under the Settlement Scheme

## Confidentiality

- 11 Pursuant to sections 7(b) and 8(1)(a) of the Court Suppression and Non-publication Orders Act 2010 (NSW), until further order or 1 January 2045 (whichever is the earlier) the material contained in the:
  - (a) confidential opinion of Mark Gibian SC and Celia Winnett dated 7 June 2024 (Confidential Exhibit RG-2 to the Affidavit of Rebecca Gilson affirmed 6 August 2024 (RG-2), pp280-312);
  - (b) supplementary confidential opinion of John Sheahan KC and Celia Winnett dated 6 August 2024 (RG-2, pp313-328);
  - (c) expert report of Ms Kerrie Rosati dated 5 August 2024 including her briefing materials (RG-2, pp165-279), annexed to an affidavit of Ms Rosati affirmed the same day;
  - (d) workings regarding the estimated minimum cost of distributing the settlement, exhibited to the second affidavit of Rebecca Gilson affirmed 6 August 2024 (RG-2, pp.146-149), and
  - (e) confidential third affidavit of Rebecca Gilson affirmed 6 August 2024 and its accompanying exhibit (Exhibit RG-3),shall not be published or disclosed without the prior leave of the Court to any person or entity other than the plaintiff, the plaintiff's legal representatives, and the Court.
- 12 Pursuant to sections 7(b) and 8(1)(a) of the Court Suppression and Non-publication Orders Act 2010 (NSW), until further order or 1 January 2045 (whichever is the earlier), the material contained in the PowerPoint presentation regarding the plaintiff's aggregate loss model (RG-2, pp127-145) shall not be published or disclosed without the prior leave of the Court to any person or entity other than the plaintiff, the plaintiff's legal representatives, and the Court – other than, in respect of the defendants and the defendants' legal representatives, to the extent that this material has previously been disclosed to them in the course of this proceeding.
- 13 Order that Orders 11 and 12 are to take effect throughout the Commonwealth of Australia.
- 14 Liberty to apply.