

FILE NO :	2020/356588
PARTIES :	Amireh FAKHOURI v Secretary for NSW Ministry of Health
DIVISION :	COMMON LAW
DATES :	15.5.24
CORAM :	GARLING J

GARLING J MAKES THE FOLLOWING ORDERS:

ORDERS

Group Member Information

- 1 On or before 17 May 2024, the Defendants are to provide the Plaintiff with the following information for all Group Members (as defined in the Third Further Amended Statement of Claim) and persons who have opted-out of the proceeding (**Opted-Out Group Members**):
 - (a) full name;
 - (b) Stafflink number;
 - (c) postal, residential and email addresses (last known to the Defendants);
 - (d) to the extent that they are reasonably accessible, mobile telephone number/s; and
 - (e) whether the Group Member is part of the class only because of the amended group member definition in [1b.] of the Third Further Amended Statement of Claim (**New Group Member**);

(together, **the Group Member Information**).
- 2 The Defendants are to provide the Plaintiff with the Group Member Information in Excel format with:
 - (a) one row for each Group Member; and
 - (b) one column for each of the following fields:
 - i. first name;
 - ii. last name;
 - iii. Stafflink number;
 - iv. email address;
 - v. second email address (if available);
 - vi. mobile phone number (if available);
 - vii. street address, suburb, state and postcode; and
 - viii. whether the Group Member is a New Group Member.

Email to Group Members

- 3 By 24 May 2024, the First Defendant or her delegate is to send the following email to all Group Members using the email address(es) in the Group Member Information:

Subject line: *Important information about the proposed settlement of the NSW Junior Doctors Class Action against NSW Health*

Body of email:

Dear Doctor,

A settlement has been reached in the NSW Junior Doctors Class Action, which was brought on behalf of current and former junior medical officers for claims to rostered overtime, unrostered overtime, meal breaks, and superannuation. You will soon receive an email and/or text message from Maurice Blackburn Lawyers about the settlement, including about how to participate in it. Please read it carefully. It is not a scam. If you have not received a communication from Maurice Blackburn Lawyers by 27 May 2024, please contact them directly on 1800 318 062 or NSWJuniorDoctors@mauriceblackburn.com.au. Please do not respond to this email.

Settlement notices

- 4 Pursuant to ss 175 and 176 of the *Civil Procedure Act 2005* (NSW) (the Act), the form and content of the settlement notices at:
- (a) Schedule A (**the Settlement Notice**);
 - (b) Schedule B (**the New Group Member Notice**);
 - (c) Schedule C (**the Opted-Out Group Member Notice**); and
 - (d) Schedule D (**the Digital Advertisement**);
- to these orders be approved.
- 5 Pursuant to ss 175 and 176 of the Act, notice is to be given to Group Members as follows, the Plaintiff is to:
- (a) display the Settlement Notice, the New Group Member Notice, and the Opted-Out Group Member Notice (together, **the Notices**) on the website, www.mauriceblackburn.com.au, from the day after these Orders are made until 12 July 2024;
 - (b) cause the Digital Advertisement to be published on the Sydney Morning Herald website by 1 June 2024;
 - (c) distribute by email the:
 - i. Settlement Notice to Group Members (excluding any New Group Members and Opted-Out Group Members);
 - ii. New Group Member Notice to New Group Members; and
 - iii. Opted-Out Group Member Notice to Opted-Out Group Members;by 24 May 2024; and
 - (d) where email delivery is unsuccessful, distribute by post the:
 - i. Settlement Notice to Group Members (excluding any New Group Members and Opted-Out Group Members);
 - ii. New Group Member Notice to New Group Members; and
 - iii. Opted-Out Group Member Notice to Opted-Out Group Members;by 7 June 2024.
- 6 When sending emails pursuant to order 5(c) above, the Plaintiff will use the following subject line: *Important notice from the Supreme Court of NSW – proposed settlement of the NSW Junior Doctors Class Action*.
- 7 Pursuant to s 176 of the Act, the Plaintiff is to distribute the following text message to all mobile telephone numbers included in the Group Member Information by 29 May 2024:

A settlement has been reached in the NSW Junior Doctors Class Action and you may be eligible to participate in it. To do so, you must register with Maurice

Blackburn Lawyers before 12 July 2024. This is not a scam. A notice approved by the Supreme Court of NSW with more information has been sent to your inbox.

- 8 Maurice Blackburn Lawyers may amend any of its contact information (e.g., email, telephone number, and/or website) and/or any typographical errors in the Notices, the Digital Advertisement, or text messages subject to these orders.

Reminder to Group Members

- 9 Pursuant to s 176 of the Act, the Plaintiff will distribute the following text message to all mobile telephone numbers included in the Group Member Information by 28 June 2024:

Reminder. The Court has ordered that to participate in the Junior Doctors Class Action you MUST register by 12 July via Maurice Blackburn Lawyers' website.

- 10 Pursuant to s 176 of the Act, the Plaintiff will re-distribute the Notices in the way described in order 5(c) above, except for:

- (a) the Notices will be sent by email only;
- (b) the Notices will be sent by 28 June 2024; and
- (c) the subject line of the emails will be:

Important reminder regarding the NSW Junior Doctors Class Action

Registration

- 11 Pursuant to ss 173 and/or s 183 of the Act, 12 July 2024 be fixed as the date on or before which any Group Member who wishes to participate in the proposed settlement must register by completing and submitting the online registration form at mauriceblackburn.com.au/juniordoctors.
- 12 For the avoidance of doubt, Group Members who completed and submitted an online registration form at mauriceblackburn.com.au/juniordoctors before the date of this order are taken to have registered pursuant to order 12 above.
- 13 Pursuant to ss 173 and/or s 183 of the Act, any Group Member who does not register in accordance with orders 12 or 13 above, shall remain a Group Member for all purposes of the proceeding, and will be bound by any order approving the proposed settlement, but shall not, subject to any further order, be entitled to receive a distribution from any amount paid in settlement of the proceeding.

Opted-Out Group Members

- 14 Pursuant to s 183 of the Act, any Opted-Out Group Member has leave to withdraw their previously filed opt-out notice by signing and filing a withdrawal of opt-out notice in the form annexed to the Opted-Out Group Member Notice (**Withdrawal of Opt-Out Form**) on or before 12 July 2024.
- 15 If the solicitors for any party receive a notice purporting to be a Withdrawal of Opt-Out Form, they shall file a copy of it in the Registry of the Supreme Court of NSW within seven days after receiving it, and it shall be treated as a Withdrawal of Opt-Out Form received by the Court at the time it was received by the solicitors.
- 16 The solicitors for any party have leave to inspect the Court file and copy any Withdrawal of Opt-Out Forms filed in the Registry of the Supreme Court of NSW.
- 17 For the avoidance of doubt, any Opted-Out Group Member who files a Withdrawal of Opt-Out Form is also required to register pursuant to order 12 above to participate in the proposed settlement.

Opt-out process for New Group Members

- 18 Pursuant to s 162 of the Act, 12 July 2024 be fixed as the date by which a New Group Member may opt-out of this proceeding by signing and filing an opt-out notice in the form annexed to the New Group Member Notice (**Opt-Out Form**).

- 19 If the solicitors for any party receive a form purporting to be an Opt-Out Form, they shall file a copy of it in the Registry of the Supreme Court of NSW within seven days after receiving it, and it shall be treated as an Opt-Out Form received by the Court at the time it was received by the solicitors.
- 20 The solicitors for any party have leave to inspect the Court file and copy any Opt-Out Forms filed in the Registry of the Supreme Court of NSW.
- 21 Pursuant to rule 58.2(2) of the *Uniform Civil Procedure Rules 2005* (NSW), the Plaintiff is to provide the Defendants with a list of New Group Members who have filed and served an Opt-Out Form in accordance with order 17 above by 26 July 2024.

Objections

- 22 Any group member who wishes to oppose the proposed settlement:
- (a) must provide a completed notice of objection in the form contained at Schedule E to these orders (**Objection Notice**) to Maurice Blackburn Lawyers at NSWJuniorDoctors@mauriceblackburn.com.au by 12 July 2024.
 - (b) may attend, or send a representative to attend, the Supreme Court of NSW when the settlement approval application is to be heard and may address the Court with reasons why the proposed settlement should not be approved.
- 23 The Plaintiff is to display the Objection Notice on the website, www.mauriceblackburn.com.au, from the day after these Orders are made until 12 July 2024.
- 24 The Plaintiff is to file and serve copies of any Objection Notices that Maurice Blackburn Lawyers has received pursuant to order 22(a) above by 16 July 2024.

Confidentiality

- 25 Annexure RG-1 to the affidavit of Rebecca Gilsean affirmed 7 May 2024, being the Deed, be marked "Confidential annexure for the purpose of the settlement approval application – not to be accessed except by direction of a Judge or the Court" and be kept confidential until further order.

Other

- 26 Order that the Settlement Approval Application be fixed for hearing on 19 August 2024 at 10am before Garling J (estimate of 1 day).
- 27 Liberty to apply.