

OUTCOME DETAILS

**Supreme Court - Civil
at Supreme Court Sydney
on 1 September 2021**

2019/00193556-001 / Summons: Kerry Michael Quirk v Suncorp Portfolio Services Limited in its capacity as trustee for the Suncorp Master Trust

This matter is listed for Directions (Commercial) on 22 October 2021 9:45 AM before the Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 5 Minutes

The following hearing dates are vacated:

17 Sep 2021 09:45 AM

Reason: By Consent

I make the orders in the document entitled Short Minutes of Order which I have initialled, dated today's date and placed with the papers.

Short Minutes of Order

Discovery

1. Pursuant to rule 21.2(1)(a) of the Uniform Civil Procedure Rules 2005 (NSW) (Rules), the First Defendant is to give discovery of the following categories of documents:

a. the product terms applicable in the period from 1 January 2003 to 21 June 2019 for each of the products identified in Schedule 1 of the Schedule to the Orders of the Court dated 5 July 2021 in relation to common questions;

b. in respect of the Second and Third Defendant, documents that record their:

i. Terms of employment with any entity in the Suncorp Group;

ii. Terms of appointment as directors of Suncorp;

iii. Duties and responsibilities within the Suncorp Group.

2. The First Defendant is to give discovery pursuant to Order 1 above:

a. by providing a first tranche of discovery by 20 August 2021;

b. by 10 September 2021:

i. providing any further discovery; and

ii. serving a verified list of documents in accordance with rules 21.3 and 21.4 of the Rules in accordance with the discovery protocol previously agreed between the parties (Discovery Protocol); and

c. electronically, in accordance with the Discovery Protocol, including by serving a copy of all discovered documents, other than wholly privileged documents to be set out in the verified list and which are in its possession, custody or power.

3. Pursuant to rule 21.2(1)(a) of the Rules, the Second Defendant and Third Defendant are to give discovery of the following category of documents:

a. in respect of the Second and Third Defendant, documents that record their:

i. Terms of employment with any entity in the Suncorp Group;

ii. Terms of appointment as directors of Suncorp;

iii. Duties and responsibilities within the Suncorp Group.

4. In giving discovery pursuant to Order 3 above and Order 6 below, the Second Defendant and Third Defendant are to only give discovery of documents in their possession that have not and will not be otherwise discovered by the First Defendant.

The Court notes that any versions of documents to be discovered by the First Defendant but have been marked up by either of the Second or Third Defendant, or form an attachment to (or a part of) another document not otherwise discovered by the First Defendant, will be discovered by the Second and Third Defendant.

5. The Second Defendant and Third Defendant are to give discovery pursuant to Order 3 above by 10 September 2021:

a. by serving a verified list of documents in accordance with rules 21.3 and 21.4 of the Rules in accordance with the Discovery Protocol; and

b. electronically, in accordance with the Discovery Protocol, including by serving a copy of all discovered documents, other than wholly privileged documents to be set out in the verified list and which are in its possession, custody or power.

6. Pursuant to rule 21.2(1)(a) of the Rules, the Defendants are to give discovery of any documents relevant to the Common Questions appearing in the Schedule to the orders made on 5 July 2021, excluding, in respect of the First Defendant, documents it has already discovered or that it has filed and served by it in response to interrogatories pursuant to Order 1 of the orders of 27 August 2021.

Note: discovery under this order does not extend to documents relevant to the defence pleaded in their Amended Commercial List Responses that they acted honestly and, having regard to all the circumstances of the case, ought fairly be excused. The question of discovery in this respect is reserved.

7. The Defendants are to give discovery pursuant to Order 6 above:

a. by 8 October 2021;

b. by serving a verified list of documents in accordance with rules 21.3 and 21.4 of the Rules in accordance with the Discovery Protocol; and

c. electronically, in accordance with the Discovery Protocol, including by serving a copy of all discovered documents, other than wholly privileged documents to be set out in the verified list and which are in its possession, custody or power.

Other matters

8. The parties to consult regarding a timetable for the filing and service of lay and expert evidence by 15 October 2021 with consent minutes or position papers to be provided to the Court by 21 October 2021.

9. The listing of the matter for hearing on 17 September 2021 be vacated.

10. The matter be listed for directions at 9.45 am on 22 October 2021.

11. Liberty to apply on three days' written notice.

Justice D Hammerschlag

Signed

Date