

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
GROUP PROCEEDINGS LIST

S ECI 2020 01535

BETWEEN:

NERITA SOMERS & ORS
(according to the attached Schedule)

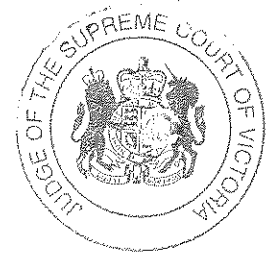
Plaintiffs

-and-

BOX HILL INSTITUTE & ANOR
(according to the attached Schedule)

Defendants

ORDER



JUDGE: The Honourable Justice John Dixon
DATE MADE: 29 November 2022
ORIGINATING PROCESS: Writ filed 26 March 2020
HOW OBTAINED: Summons filed 13 September 2022
ATTENDANCE: J T Rush KC with M W Guo of counsel, for the plaintiffs
B Quinn KC and M Hooper, for the first defendant
R Zambelli of counsel for the second defendant
OTHER MATTERS: Paragraph 21 of this order is made pursuant to s 33ZF of the Act to prevent prejudice to the proper administration of justice.

THE COURT ORDERS THAT:

1. The settlement of the proceeding between the plaintiffs and the first defendant is approved on the terms set out in the Deed of Settlement (**Deed**) and Settlement Scheme (**Scheme**) exhibited to the affidavit of Andrew Alexander Grech dated 13 September 2022.
2. The plaintiffs are authorised *nunc pro tunc* for and on behalf of the Group Members (being those persons who meet the definition of 'Group Member' in the Amended Statement of Claim and who did not file an opt out notice) to enter into and give effect to the Settlement Documents and the transactions contemplated for and on behalf of Group Members.
3. The settlement of the proceeding between the plaintiffs and the second defendant is approved.

4. The costs order dated 28 May 2021 is set aside.
5. The plaintiffs pay the second defendant's costs of the plaintiff's summons dated 28 May 2021, fixed in the sum of \$15,000.
6. The plaintiffs have leave to discontinue the proceedings as against the second defendant.
7. The plaintiffs have no further liability under r 63.15 of the *Supreme Court (General Civil Procedure) Rules 2015 (Vic)* to pay any costs to the second defendant.
8. The persons affected and bound by the settlements of the proceeding as against each defendant are the plaintiffs, the defendants, the group members and Gordon Legal Pty Ltd.
9. The report of the special (costs) referee, Catherine Mary Dealehr, dated 15 November 2022 is adopted.
10. For the purposes of the Settlement Scheme, approved pursuant to paragraph 1 of these orders, the following distribution from monies paid under the settlement are approved:
 - (a) \$4,623,835.14 for the plaintiff's legal costs and disbursements (referred to as the 'Legal Costs Sum' in the Settlement Documents);
 - (b) \$20,000 for the first plaintiff's claim for compensation for time spent and/or expenses incurred in the interests of prosecuting the proceedings on behalf of group members as a whole;
 - (c) \$15,000 for the second plaintiff's claim for compensation for time spent and/or expenses incurred in the interests of prosecuting the proceedings on behalf of Group Members as a whole;
 - (d) \$15,000 for the third plaintiff's claim for compensation for time spent and/or expenses incurred in the interests of prosecuting the proceedings on behalf of Group Members as a whole;
 - (e) \$15,000 for the fourth plaintiff's claim for compensation for time spent and/or expenses incurred in the interests of prosecuting the proceedings on behalf of Group Members as a whole;
 - (f) \$15,000.00 to be paid to the second defendant pursuant to this order; and
 - (g) \$49,277.25 for the costs of the special referee, Catherine Mary Dealehr.
11. Mr Andrew Grech, partner of Gordon Legal, is appointed the scheme administrator.
12. Subject to her consent, I appoint Catherine Mary Dealehr as costs referee. The costs of



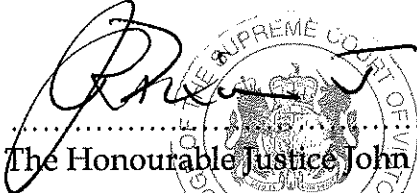
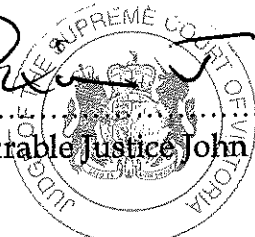
the costs referee are part of the costs of the scheme administration and shall be paid by the scheme administrator on invoice out of the Resolution Sum.

13. Gordon Legal shall render an invoice at reasonable intervals, as agreed with the costs referee, for the scheme administrator's costs for performing its functions under the scheme and provide the invoice to the costs referee.
14. As soon as reasonably practicable, the costs referee shall confer with Andrew Grech and any other person the costs referee considers appropriate, and then determine the best method to assess the reasonableness of the scheme administrator's costs for performing its functions under the scheme on an ongoing basis.
15. The costs referee shall certify whether in her opinion, invoiced administration costs are reasonable and proportionate and calculated in accordance with the court's reasons when approving the settlements and the scheme administrator shall file such certified invoices with the Court.
16. Should the scheme administrator contest any certification, he shall file a short written submission with the certified invoice and direct it to judges' chambers, and the Court will decide whether to approve such costs on the papers.
17. On certification, costs may be paid by the scheme administrator to Gordon Legal from the Resolution Sum.
18. The scheme administration costs are capped at \$3,250,000 (including the costs of refereeing and certification).
19. Within 14 days of the anticipated date of completion of the scheme, the scheme administrator shall file and serve the confidential report contemplated by cl 4.29 of the Deed and, further, reporting the total administration costs incurred and paid under the scheme.
20. Within 14 days of the date of the final payment being made, the scheme administrator shall file and serve the final report contemplated by cl 4.30 of the Deed and shall apply for an order that the proceeding is dismissed.
21. The following documents:
 - (a) The unredacted affidavit of Andrew Grech dated 13 September 2022;
 - (b) The unredacted affidavit of Andrew Grech dated 10 November 2022,are confidential, not to be published or made available or disclosed to any person or entity except by order of a judge.
22. All *inter partes* costs orders in the proceeding save for paragraph 5 of this order are

vacated.

23. Liberty is reserved to the parties and to the costs referee to apply to the Court in respect of any issue arising in relation to the administration of the Settlement Scheme.
24. The deadline for filing opt-out notices in this proceeding is extended for Corey Hawkins until 20 October 2022 and he is declared to have opted out of the proceeding.
25. The deadline for filing a notice of reinstatement of group member in this proceeding is extended until 28 October 2022 for the following group members and/or they are hereby reinstated:
 - (a) Thomas Matthews;
 - (b) Mertan Basri;
 - (c) Kieran Braddish.
26. The claims received after the deadline in this proceeding for the following group members are hereby accepted:
 - (a) Lorna Schirmer;
 - (b) Leonard Buckley;
 - (c) Zuber Oberoi;
 - (d) MD Musa Abedin;
 - (e) Darren Goodwin; and
 - (f) Joshua Bridger.

DATE AUTHENTICATED: 29 November 2022


The Honourable Justice John Dixon


SCHEDULE OF PARTIES

S ECI 2020 01535

BETWEEN:

NERITA SOMERS

First Plaintiff

ADEL HASSANEIN

Second Plaintiff

MATTHEW LAMONT

Third Plaintiff

FELIX OULDANOV

Fourth Plaintiff

-and-

BOX HILL INSTITUTE

First Defendant

GOBEL AVIATION PTY LTD

Second Defendant

