



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

No. S ECI 2024 01683
Case: S ECI 2024 01683
Filed on: 24/10/2024 11:03 AM

BETWEEN

ELWYN GONSALVEZ

and others named in the Schedule

Plaintiffs

- and -

EMERGENCY SERVICES SUPERANNUATION BOARD

Defendant

REPLY

Date of document:	Solicitors' code: 112125
Filed on behalf of: the Plaintiffs	Tel: +61 3 9603 3000
Prepared by:	Att: James Naughton
Gordon Legal	Email: jnaughton@gordonlegal.com.au
22/ 181 William Street	
Melbourne, Victoria, 3000	

Note: Capitalised terms in this reply have the meaning given to them in the Plaintiffs' statement of claim filed 11 April 2024, unless otherwise indicated.

In response to the Defendant's defence filed 16 September 2024 (**Defence**), save for the admissions contained therein and as set out below, the Plaintiffs join issue with every allegation in the Defence, and say the following by way of reply:

- 1 They object to paragraphs 1(a)(i)-(iii) on the basis that the terms "merged" and "integrated" are vague and embarrassing and under cover of that objection:
 - (a) do not admit the paragraphs; and
 - (b) say further that they rely upon the entirety of the TS Act, the ESS Act, the *Superannuation Acts (Amendment) Act 1996* (Vic), the *State Superannuation Act 1988* (Vic), and the *Superannuation Legislation (Governance Reform) Act 2005* (Vic).

- 2 They admit paragraph 1(c).
- 3 They admit paragraph 1(g).
- 4 They admit paragraph 2(d).
- 5 They admit paragraph 3(d).
- 6 They object to paragraph 15(c) on the basis that the term “merged” is vague and embarrassing and under cover of that objection:
- (a) do not admit the paragraph; and
 - (b) say further that they rely upon the entirety of the TS Act, the ESS Act, the *Superannuation Acts (Amendment) Act 1996 (Vic)*, the *State Superannuation Act 1988 (Vic)*, and the *Superannuation Legislation (Governance Reform) Act 2005 (Vic)*.
- 7 They admit paragraph 17(a).
- 8 They admit paragraph 20(b) and say further that the pension payable to a person to whom section 31(1) of the TS Act applies is determined by reference to the Accrued Retirement Benefit which would have been payable to that person.
- 9 They admit paragraph 20(c).
- 10 They admit paragraph 25(b).
- 11 As to paragraph 27(b), they:
- (a) admit that the Board is subject to the duties imposed by section 6(2) of the ESS Act;
 - (b) otherwise deny the paragraph.

Dated: 24 October 2024

M. P. Costello
A. G. Willoughby
Counsel for the Plaintiffs

SCHEDULE

Sebastiano Ferraro

Second Plaintiff

Basil Seventis

Third Plaintiff