

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

S ECI 2024 01683

**BETWEEN:**

**ELWYN GONSALVEZ & ORS (according to the Schedule attached)**

Plaintiffs

- and -

**EMERGENCY SERVICES SUPERANNUATION BOARD**

Defendant

**ORDER**

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**JUDGE:** The Honourable Justice Watson

**DATE MADE:** 21 February 2025

**ORIGINATING PROCESS:** Writ filed 11 April 2024

**HOW OBTAINED:** At the hearing on 21 February 2025

**ATTENDANCE:** Mr A Willoughby of counsel for the plaintiffs  
Mr C O H Parkinson KC for the defendant  
Ms C Siapkas for Alstom Transport Australia Pty Ltd and Regional Rolling Stock Maintenance Company Pty Limited  
Mr S McGrath for the National Heavy Vehicle Regulator  
Ms S Cheligoy of counsel for UGL Pty Limited, UGL Rail Pty Ltd and UGL Rail Services Pty Ltd

**OTHER MATTERS:**

- A. For the purposes of these orders, each of the following entities is an “**Employer**”:
1. Downer EDI Rail Pty Ltd (ABN 92 000 002 031);
  2. Jacobs Group (Australia) Pty Ltd (ACN 001 024 095);
  3. John Holland Group Pty Ltd (ABN 37 050 242 147);
  4. John Holland Pty Ltd (ABN 11 004 282 268);
  5. John Holland Rail Pty Ltd (ABN 61 009 252 653);
  6. John Holland QLD Pty Ltd (ABN 67 133 069 280);
  7. National Heavy Vehicle Regulator (ABN 48 557 596 719);
  8. Pacific National NSW Pty Ltd (ABN 83 099 150 688);
  9. Pacific National Bulk Rail Pty Ltd (ABN 58 075 295 644)
  10. Pacific National Services Pty Ltd (ABN 48 052 134 362);
  11. UGL Pty Limited (ABN 85 009 180 287);
  12. UGL Rail Pty Ltd (ABN 30 097 323 852);
  13. UGL Rail Services Pty Ltd (ABN 58 000 003 136);
  14. V/Line Corporation (ABN 91 273 289 190); and
  15. Victorian Rail Track Corporation.



- B. This order is signed by the Judge pursuant to Rule 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015* ('Rules')

**THE COURT ORDERS THAT:**

1. Orders 6, 9 and 13 of the orders made on 5 August 2024 be vacated.
2. Order 1 of the orders made on 18 November 2024 be vacated.
3. Pursuant to rule 84.03 of the Rules the matter of appropriate further categories of discovery to be given by the defendant is referred to Judicial Registrar Baker.
4. In default of agreement of further categories of documents to be discovered by the defendant in the proceeding, the parties shall attend a conference before Judicial Registrar Baker on 29 April 2025 to facilitate discussion between the parties concerning the further categories of discovery to be given by the defendant.
5. To the extent categories of discovery are unable to be agreed pursuant to Order 4 of these orders, the parties file any applications for discovery by 4:00pm on 7 May 2025.
6. By 4:00pm on 7 May 2025, the parties are to produce to the Court the agreed form and content of orders for the notification to group members of the proceeding and of their right to opt-out.

**Mediation**

7. The parties are to attend a mediation not before 14 July 2025 and by no later than 1 August 2025.

**Non-party discovery**

8. By 4:00pm on 22 April 2025, each Employer discover to the plaintiffs:
  - (a) documents recording the contact details (including, where available, the name, residential and mailing address, phone number and email address) of each person currently or formerly employed by an Employer who is (or was) a member of the Transport Superannuation Fund; and
  - (b) with respect to each person currently or formerly employed by an Employer who is (or was) a member of the Transport Superannuation Fund, documents that record or evidence:
    - (i) whether the person performs shift work; or




- (ii) whether the person performed shift work before the cessation of their employment with the Employer; or
  - (iii) the period(s) during which the person performed shift work; or
  - (iv) the current or any previous terms of the person's employment (including, without limitation, any enterprise bargaining agreement applicable to the person); or
  - (v) the details of the remuneration paid to a person currently employed by an Employer within the last three years (or, in the case of a former employee, in the last three years of employment); or
  - (vi) communications between the Employer and the defendant in respect of the person (including, without limitation, documents evidencing or recording whether any remuneration paid to the person was included or excluded from the person's salary as reported to the Defendant).
9. By 4:00pm on 22 April 2025, Alstom Transport Australia Pty Ltd (ABN 68 165 157 451) and Regional Rolling Stock Maintenance Company Pty Limited (ABN 31 088 510 614) (collectively, **Alstom**) discover to the plaintiffs:
- (a) documents recording the contact details (including, where available, the name, residential and mailing address, phone number and email address) of each person currently or formerly employed by Alstom who is (or was) a member of the Transport Superannuation Fund; and
  - (b) with respect to each person currently or formerly employed by Alstom who is (or was) a member of the Transport Superannuation Fund, documents that record or evidence:
    - (i) whether the person performs shift work; or
    - (ii) whether the person performed shift work before the cessation of their employment with Alstom; or
    - (iii) the period(s) during which the person performed shift work; or
    - (iv) the current or any previous terms of the person's employment (including, without limitation, any enterprise bargaining agreement applicable to the person); or



- (v) the details of the remuneration paid to a person currently employed by Alstom within the last three years (or, in the case of a former employee, in the last three years of employment).
10. The plaintiffs are to bear each Employer's and Alstom's reasonable costs of compliance with these orders.
11. Liberty to apply.
12. Costs are reserved.

**DATE AUTHENTICATED:** 21 February 2025

  
**THE HONOURABLE JUSTICE WATSON**



**SCHEDULE OF PARTIES**

**S ECI 2024 01683**

**ELWYN GONSALVEZ**

First Plaintiff

**SEBASTIANO FERRARO**

Second Plaintiff

**BASIL SEVENTIS**

Third Plaintiff

**- AND -**

**EMERGENCY SERVICES SUPERANNUATION  
BOARD**

Defendant

