



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID1252/2019

**KATHERINE PRYGODICZ** and others named in the schedule  
Applicant

**COMMONWEALTH OF AUSTRALIA**  
Respondent

### **ORDER**

**JUDGE:** JUSTICE MURPHY

**DATE OF ORDER:** 07 September 2020

**WHERE MADE:** Melbourne

#### **THE COURT ORDERS THAT:**

##### **Case Management Hearing**

1. The proceeding is listed for a case management hearing on 16 September 2020 at 9.30 am.

##### **Interlocutory Applications – Discovery**

2. By 4 September 2020, the Applicants file and serve any further application for further and better discovery from the Respondent.
3. By 4.00 pm on 9 September 2020, the Respondent provide discovery of the documents identified at paragraphs 13 (a), 13 (b) and 15 of Annexure A, together with all documents that it is able to discover under Category 14, by that time.
4. The Respondent will provide discovery of the balance of documents identified in Annexure A that have not been already discovered under Order 3 by 4.00 pm on 16 September 2020.

##### **Second Further Amended Statement of Claim**

5. The Applicants' application for leave to file and serve their second further amended statement of claim dated 12 August 2020 (2FASOC), together with the further



particulars to the 2FASOC dated 26 August 2020, is adjourned to the next case management hearing.

### **Trial Preparation Orders**

6. The dates of the trial preparation orders at orders 4 to 12 inclusive of the orders of 19 June 2020 are varied as follows:

### **Joint List of Factual and Legal Issues**

- (a) By 10 September 2020 the Applicants to prepare and provide to the Respondent a list of the factual and legal issues in the matter. By 11 September 2020 the Respondent is to add any further issues to this list. The Applicants to file a joint list of factual and legal issues immediately thereafter.
- (b) By 12 September 2020 the Applicants to file a template for written submissions that has been agreed with the Respondent comprising a framework within which each party can set out its written submissions on each of the factual and legal issues identified in the list.
- (c) The template for written submissions will substantially form the framework of any opening written submissions to be made. The template will be added to and updated as evidence is heard, and likely varied as the positions taken by the parties change. In its updated and varied form, it will substantially form the framework of any closing written submissions. The Court will assume that it is only the factual and legal issues raised in the template for written submissions that it is required to consider, and that the parties do not rely on any other matter.

### **Other Trial Preparations**

- (d) By 10 September 2020 the Applicants are to provide to the Respondent a draft index to the Court Book.
- (e) By 14 September the Respondent is to provide to the Applicants any revised index to the Court Book.
- (f) By 15 September 2020 the Applicants to file a Court Book.
- (g) By 18 September 2020 the parties to file a joint book of authorities.



- (h) By 4.00 pm 15 September 2020 the Applicants to file their written submissions in accordance with the template.
- (i) By 4.00 pm on 17 September 2020, the Respondent to file its written submissions in accordance with the template.

7. Costs reserved.

8. Liberty to apply.

Date that entry is stamped: 10 September 2020

*Sia Lagos*  
Registrar



**Schedule**

No: VID1252/2019

Federal Court of Australia  
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Second Applicant	ELYANE PORTER
Third Applicant	STEVEN FRITZE
Fourth Applicant	FELICITY BUTTON
Fifth Applicant	SHANNON THIEL
Sixth Applicant	DEVON COLLINS



## **Annexure A—further discovery**

### *AAT Email Chain*

13. The following documents identified or referred to in CTH.2000.0008.1516:
- a. each of the 142 ‘set aside’ decisions referred to in the 5 June 2018 email;
  - b. the analysis or sampling (however described) conducted by the Appeals Branch of the Department as referred to in Craig Storen’s email dated 5 June 2018;
  - c. correspondence sent or received during the period 4 June 2018 to 4 September 2018 by Ms Harfield (General Manager of Information, Debt and Appeals) or Mr Storen (General Manager Customer Compliance) relating to the results of the analysis or sampling referred to in category 13

### *The ‘Please delete’ Email Chain*

14. The following documents identified or referred to in CTH.2000.0001.8113:
- a. [not pressed]
  - b. any notes of the discussions between Marcus Markovic and Malisa Golightly of the discussions referred to in the email chain the previous (Saturday) evening;
  - c. any data collated or prepared by the respondent in answer to Marcus Markovic’s request for data referred to in the email dated Sunday 8 January 2018 at 12:45 pm;
  - d. any ‘draft acknowledgement’ or ‘acknowledgement’ prepared by the Respondent as referred to in the email dated Sunday 8 January 2017 at 11:11 am.
  - e. all documents prepared in advance of, and for use in ‘tomorrow’s meeting’ as referred to in the email dated Sunday 8 January 2017 at 11:11 am;
  - f. the ‘PowerPoint presentation’ referred to in the email dated Sunday 8 January 2017 at 11:11 am;
  - g. any response prepared by Respondent (including any draft responses) to the Minister’s request for information and/or data set out in the email dated 8 January 2017 at 4:09 am;



- h. a copy of the 'Peter Martin column in FAIRFAX' referred to in the email dated 8 January 2017 at 4:09 am;
- i. any 'media plan' as referred to in the email dated 8 January 2017 at 4:09 am
- j. any 'copies of the letters you requested from Malisa during your phone call this morning' as referred to in the email of 7 January 2017 at 8:10 am.

*Pilot Documents*

15. All documents that:

- a. describe the implementation or operation of, or contain the results of, the 'two stage pilot in 2014' as referred to in CTH.1000.0007.3534
- b. describe the implementation or operation of, or contain the results of, the 'two stage pilot in 2015' as referred to in CTH.1000.0007.6632
- c. contain the 'analysis' conducted in 'late 2014' as referred to in CTH.1000.0007.2065.