

Order NOT Entered

IN THE FEDERAL COURT OF AUSTRALIA
NEW SOUTH WALES DISTRICT REGISTRY
GENERAL DIVISION

No: (P)NSD499/2011

SEAN FOLEY
Plaintiff

GUNNS LIMITED ACN 009 478 148
Defendant

ORDER

JUDGE: Justice Emmett

DATE OF ORDER: 8 July 2011

WHERE MADE: Sydney

BY CONSENT, THE COURT ORDERS THAT:

Pleading Issues and Motions

1. By 4pm on 18 July 2011, the solicitors for the applicant to identify in writing to the solicitors for the respondent any particulars of the Defence to be provided.
2. By 4pm on 12 August 2011, the solicitors for the respondent to write to the solicitors for the applicant in response to any letter sent pursuant to paragraph 1 of these orders.

Discovery

3. Discovery of documents be given in electronic format in accordance with the Electronic Discovery Protocol set out in **Schedule A** dated and initialled by Emmett J.

4. By 4pm on 19 August 2011, the respondent give discovery (as an initial tranche of discovery) of the categories of documents listed in **Schedule B** dated and initialled by Emmett J.
5. By 4pm on 19 August 2011, the applicant give discovery of the categories of documents listed in **Schedule C** dated and initialled by Emmett J.
6. On or before 30 September 2011, the parties meet to confer on the content, mode and timing of the second tranche of discovery that may be required, and seek to reach agreement as far as possible on those issues.

Opt Out

7. Pursuant to s 33J of the *Federal Court of Australia Act 1976 (Cth)* (**the Act**), 4.00 pm on 30 September 2011 be fixed as the time and date before which a group member may opt out of this proceeding.
8. The form and content of the notice, a copy of which is at **Schedule D** dated and initialled by Emmett J, be approved for the purposes of s 33Y of the Act as the notice that must be given to group members under s 33X(1)(a) of the Act.
9. By no later than 4.00 pm on 29 July 2011, the Opt Out Notice be sent by or on behalf of the applicant by ordinary post or email to all Group Members, being those group members who entered into a funding agreement with IMF (Australia) Ltd before 20 April 2011.
10. The applicant's solicitors:
 - (a) cause to be posted on the applicant's solicitors' website www.mauriceblackburn.com.au ; and
 - (b) cause to be available for inspection at the offices of Maurice Blackburn the Application, Amended Statement of Claim, and Defence filed in this proceeding.
11. The District Registrar of the New South Wales District Registry of the Federal Court of Australia:

- (a) cause to be posted on the Federal Court website;
- (b) cause to be available for inspection at the District Registry of the Federal Court in Sydney, Canberra, Melbourne, Brisbane, Adelaide, Perth, Hobart and Darwin

the Application, Amended Statement of Claim, and Defence filed in this proceeding.

- 12. If the solicitors for any party receive, on or before 30 September 2011, a notice purporting to be an opt out notice referable to this proceeding, the solicitors file the notice in the New South Wales District Registry of the Federal Court of Australia within seven days after receipt, and the notice shall be treated as an opt-out notice received by the Court at the time it was received by the solicitors.
- 13. By 4.00 pm on 1 August 2011, the applicant's solicitors file, in a sealed envelope marked "*Confidential List of Group Members – Not to be opened without leave of the Court or a Judge*", a list of the Group Members.
- 14. The applicant's solicitors and the respondent's solicitors have leave to inspect the Court file and to copy any Opt-Out Notices filed by any group member.

Other

- 15. This proceeding be listed for further directions on Friday, 7 October 2011 or such other date as is convenient to the Court.
- 16. Liberty to apply on two day's notice be granted.
- 17. Costs be reserved.

Date that entry is stamped:

Deputy District Registrar