

BETWEEN:

DAIMIN NATHAN

First Plaintiff

TANIA NATHAN

Second Plaintiff

- and -

MACQUARIE LEASING PTY LTD (ACN 002 674 982)

Defendant

ORDER

JUDGE: The Honourable Justice Harris

DATE MADE: 12 May 2025

ORIGINATING PROCESS: Writ filed on 14 October 2020

METHOD OBTAINED: By consent

ATTENDANCE: Not applicable

OTHER MATTERS: A. This order is signed by the Judge pursuant to Rule 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015*.

B. This order is made 'on the papers' pursuant to r 59.07 of the Rules. The Court was satisfied that the parties who are to be bound consent to the terms of this order and all the relevant correspondence has been placed on the Court file.

THE COURT ORDERS BY CONSENT THAT:

Registered Group Members

1. Any person who completed and submitted the online registration form on Maurice Blackburn's webpage www.mauriceblackburn.com.au/flex by 11 October 2024 is deemed to have registered to participate in the proposed settlement of this proceeding (**Registered Group Members**).
2. Any group member who is not a Registered Group Member is an **Unregistered Group Member**.



Group Member Data

3. By no later than 16 May 2025, the defendant will provide to the plaintiffs an Excel spreadsheet containing the following information in relation to each group member to the extent that information is available to the defendant:
- (a) names and last known contact details at as 2 August 2023, including email addresses and mobile numbers;
 - (b) date of birth;
 - (c) car loan contract number;
 - (d) car to which the car loan relates;
 - (e) date on which the car loan was entered into;
 - (f) amount financed;
 - (g) interest rate of the car loan;
 - (h) term of the car loan;
 - (i) amount of interest payable in respect of the car loan;
 - (j) base rate applicable to the car loan; and
 - (k) date on which the car loan ended or was terminated;
- (together, the **Group Member Data**).

Notice of proposed settlement

4. Pursuant to ss 33X(4) and 33Y(1) of the *Supreme Court Act 1986* (Vic) (**the Act**), the form and content of the notice of proposed settlement (**Notice**), email correspondence to group members (**Correspondence**) and newspaper advertisement (**Advertisement**) set out in Annexures A, B and C to these orders are approved.
5. Pursuant to s 33Y(2) of the Act, the Notice is to be distributed to group members and published in accordance with the following procedure.
- (a) The solicitors for the plaintiffs shall:
 - i. between 19 May 2025 and 22 May 2025 (the **Notice Date**), and during business hours, distribute the Notice by email to Registered Group Members under the cover of the Correspondence using the email addresses for Registered Group Members held by them;



- ii. engage and instruct Computershare to send the Notice under the cover of the Correspondence by email from a “no-reply” email address between 19 May 2025 and the Notice Date, and during business hours, to Unregistered Group Members for whom there is an email address in the group member information provided by Macquarie to Computershare pursuant to order 1(b) made by Nichols J on 20 July 2023 (as set out in *Fox v Westpac*; *O’Brien v ANZ*; *Nathan v Macquarie* [2023] VSC 414); and
 - iii. emails sent pursuant to orders 5(a)(i) and 5(a)(ii) above will use the subject line: *Court Notice regarding Macquarie Leasing Flex Commissions Class Action (S ECI 2020 03924)*.
- (b) The solicitors for the plaintiffs shall cause the Notice to be posted on its website from 19 May 2025 to 19 June 2025 (the **Deadline**).
- (c) The Commercial Court Registry of the Supreme Court of Victoria (the **Registry**) shall cause the Notice to be posted on the Supreme Court of Victoria website from 19 May 2025 to the Deadline.
- (d) The solicitors for the plaintiffs shall cause the Advertisement to be published in quarter-page format once in each of the following newspapers between 19 May 2025 and the Notice Date:
- i. The Australian;
 - ii. The Age;
 - iii. The Sydney Morning Herald;
 - iv. The Herald Sun;
 - v. The Daily Telegraph;
 - vi. The Courier Mail;
 - vii. The West Australian;
 - viii. The Adelaide Advertiser;
 - ix. The Mercury; and
 - x. The Northern Territory News.
- (e) The solicitors for the plaintiffs may amend any typographical errors in the Notice, Correspondence, or Advertisement or any contact information (e.g., email, telephone number, and/or website) without any further approval of the Court.



- (f) If the Notice is amended pursuant to order 5(e) above, the Notice is to be provided to the Registry by 4pm on the day five days prior to the Notice Date.
- (g) The costs of and incidental to the sending of the Notice, including any work conducted by Computershare for this purpose, shall be paid by the plaintiffs.

Settlement Distribution Scheme

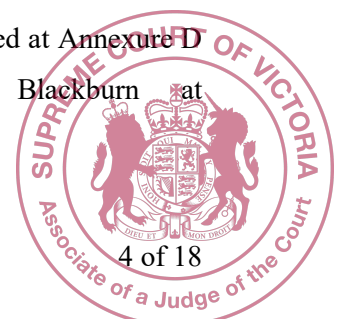
- 6. By the Notice Date, the solicitors for the plaintiffs shall display the proposed settlement distribution scheme on their website until the Deadline.

Further registrations

- 7. Pursuant to s 33ZG of the Act, the Deadline be fixed as the date by which any Unregistered Group Member who wishes to participate in the proposed settlement must register by completing and submitting a registration form using the online portal available on Maurice Blackburn's website or by contacting Maurice Blackburn by telephone and providing the information necessary to complete a registration form.
- 8. For the purposes of order 7 above, a separate registration form must be completed for each Unregistered Group Member who wishes to participate. If the form is completed by a representative of that person, or a person's representative makes a request by telephone to complete a registration form, the basis on which the representative is authorised to complete the form must be identified on the registration form, or in the case of telephone registration, provided to Maurice Blackburn in writing.
- 9. Pursuant to ss 33ZB and/or 33ZF of the Act, any group member who is not deemed to be registered in accordance with order 1 above, or has not registered in accordance with order 7 above, shall remain a group member for all purposes of the proceeding, and will be bound by any order approving the proposed settlement, but shall not, subject to any further order, be entitled to receive a distribution from any amount paid in settlement of the proceeding.
- 10. For the avoidance of doubt, failure by a group member to provide all the information requested on the registration form will not render the group member's registration invalid, provided the group member is identifiable as such based on the information provided.

Objections

- 11. Pursuant to s 33ZF of the Act, any group member who wishes to oppose the proposed settlement:
 - (a) must provide a completed notice of objection in the form contained at Annexure D to these orders (**Objection Notice**) to Maurice Blackburn at macquarieflexCA@mauriceblackburn.com.au by 13 June 2025.



- (b) may attend, or send a legal representative to attend, the Supreme Court of Victoria when the settlement approval application is heard and may address the Court with reasons why the proposed settlement should not be approved.
12. The solicitors for the plaintiffs shall display the Objection Notice on their website from the Notice Date until 13 June 2025.
13. The solicitors for the plaintiffs shall send the following email to any person who has given them an Objection Notice within two business days of their receipt of the Objection Notice:
- Subject line: *Receipt of objection notice in the Macquarie Leasing flex commissions class action*
- Body of email:
- Dear Group Member,*
- We confirm receipt of your objection notice. This means that you have objected to the Court approving the proposed settlement in the Macquarie Leasing flex commissions class action.*
- This objection notice is separate from registering to participate in the class action.*
- The Court will consider objections but may still approve the proposed settlement. If you wish to participate in the proposed settlement, if approved, you must register on Maurice Blackburn's website or by phoning 1800 318 063 by 19 June 2025. If you have already registered to participate in the class action, there is no need for you to do so again.*
14. The solicitors for the plaintiffs are to file and serve copies of any Objection Notices that they have received pursuant to order 11(a) above by the Deadline.
15. The solicitors for the plaintiffs are to file and serve, with the Objection Notices referred to in order 14 above, a list of each of the Objection Notices received by it. The list should identify in addition to the names of the persons giving the Objection Notices:
- (a) whether evidence or submissions were provided with the Objection Notices; and
- (b) whether the persons have identified in the Objection Notices that they wish to attend the settlement hearing.

Legal costs referee

16. The solicitors for the plaintiffs are to make enquiries as to a potential costs referee and notify the defendants and the Court of the nominated person by 16 May 2025.



17. Pursuant to s 33ZF of the Act and/or r 50.01 of the *Supreme Court (General Civil Procedure) Rules 2015* (Vic) (**Rules**), the costs referee nominated pursuant to order 16 above is appointed as a special referee (**Referee**) for the purpose of conducting an inquiry (**Reference**) and preparing a report to the Court (**Report**) as to the Referee's estimate of the reasonable costs that are likely to be incurred during the settlement administration process.
18. The Reference will commence forthwith and:
- (a) the Referee is to consider and implement the Reference without undue formality or delay to enable a just, efficient and cost-effective resolution of the Reference;
 - (b) the Referee may give such directions and make such further or other enquiries for the purposes of the Reference as the Referee considers reasonable having regard to the terms of the Reference and the objective in order 18(a) above;
 - (c) any directions given by the Referee to any party for the purposes of the Reference shall be mandatory for the party (subject to other orders of the Court);
 - (d) the information provided by any party to the Referee shall, upon that party's request, be treated by the Referee as confidential and not be disclosed to any other party; and
 - (e) the Referee and parties have liberty to seek directions with respect to any matter arising in the Reference upon 24 hours' notice to each other party.
19. By 2 July 2025, the Referee shall deliver the Report to:
- (a) the Court; and
 - (b) with such redactions as may be appropriate having regard to Order 18(d) above, to the solicitors for the plaintiffs,
- but shall not deliver the Report to the defendant.
20. The costs of and incidental to the appointment of the Referee and the conduct of the Reference shall be paid as part of the administration costs (as defined in the settlement distribution scheme to be approved by the Court).

Evidence

21. Save for any affidavits or submissions (or parts thereof) in respect of which confidentiality orders will be sought (**Confidential Affidavits and Submissions**), by 11 July 2025, the plaintiffs are to file and serve any affidavits and submissions in relation to their application for orders approving the settlement pursuant to s 33V(1) and (2) of the Act and for related orders (the **Settlement Approval Application**).



22. By 11 July 2025, the plaintiffs are to provide any Confidential Affidavits and Submissions on which they propose to rely in support of the Settlement Approval Application to the chambers of her Honour Justice Harris, by email marked “Confidential affidavit and/or submissions for purpose of settlement approval application – not to be accessed except by direction of a Judge or the Court”.
23. By 25 July 2025, the defendant may file and serve any evidence and/or submissions in relation to the Settlement Approval Application, in the event it wishes to do so.

Liberty to apply

24. The parties have liberty to apply on three business days’ notice to each other party.

DATE AUTHENTICATED: 12 May 2025



THE HONOURABLE JUSTICE HARRIS

