

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

JUDGE: The Honourable Justice Watson

DATE MADE: 1 July 2025

ORIGINATING PROCESS: Writ filed 11 April 2024

HOW OBTAINED: On the papers

ATTENDANCE: Not applicable

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

THE COURT ORDERS THAT:

Notice to group members and opt out

1. **By 4:00pm on 9 July 2025**, the Defendant produce to the Plaintiffs, a list in electronic form, containing the name, address, email address and phone number (to the extent that such information is available) of all persons who, between 1 December 2005 and 22 April 2018, became former members of the Transport Superannuation Fund (established under the *Transport Superannuation Act 1988* (Vic)) (**Former Fund Member List**).
2. **By 4:00pm on 11 July 2025**, the Plaintiffs shall provide a list in electronic form to a Mailing House, containing the name, address, email address and phone number (to the extent that such information is available), for each member (current or former) of the Transport Scheme who may be a group member as defined in paragraph 5 of the Plaintiffs' statement of claim (**Potential Group Members**).



3. Pursuant to ss 33X and 33Y of the *Supreme Court Act 1986* (Vic) (**the Act**), by **4:00pm** on **18 July 2025**, notice in substantially the form and content set out in **Annexure A (Potential Group Member Notice)**, shall be given to all Potential Group Members according to the following procedure:

(a) The Plaintiffs shall instruct the Mailing House to distribute the Potential Group Member Notice, the Opt Out Notice in the form exhibited to these orders as **Annexure B** together with a covering email in the form exhibited to these orders as **Annexure C** to each Potential Group Member's last known email address (where the Plaintiffs holds such information), as provided by the Plaintiffs pursuant to Order 2. In the event that the Potential Group Member's last known email address is not known to the Plaintiffs or the first email transmission to a Potential Group Member is unsuccessful, the Mailing House shall then cause the Potential Group Member Notice, the Opt Out Notice and the covering email to be sent to the postal address of the Potential Group Member by way of pre-paid post;

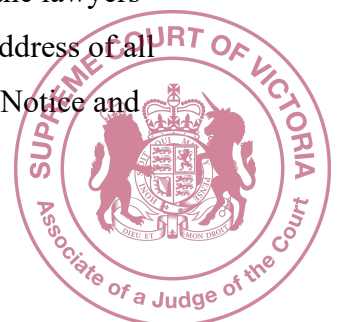
(b) Gordon Legal shall cause a copy of:

- (i) the Potential Group Member Notice;
- (ii) the Opt Out Notice;
- (iii) the Plaintiffs' writ and statement of claim filed 11 April 2024;
- (iv) the Defendant's defence to the statement of claim filed 16 September 2024;
- (v) the Plaintiffs' reply to the Defendant's defence filed 24 October 2024; and
- (vi) each order made in the proceeding to date,

to be available for download from Gordon Legal's website

(<https://gordonlegal.com.au/services/class-actions/esssuper-class-action/>) and shall remain available until the entry of judgment or final orders in the proceeding.

(c) By **4:00pm** on **25 July 2025**, the Mailing House is to provide to the lawyers for the parties a report which lists the names, email address and address of all Potential Group Members to whom the Potential Group Member Notice and



the Opt Out Notice has been sent in accordance with order 3(a), and which identifies in relation to each Potential Group Member:

- (i) the method by which the Potential Group Member Notice and the Opt Out Notice was sent;
 - (ii) the date on which the Potential Group Member Notice and the Opt Out Notice was sent; and
 - (iii) whether distribution attempts failed (to the extent that the Mailing House is aware that the distribution attempt failed).
4. Pursuant to s 33J(1) of the Act, **4:00pm (AEST) on 12 September 2025** be fixed as the date before which a Potential Group Member may opt out of this proceeding.
5. If the solicitors for any party receive a notice purporting to be an opt out notice from a Potential Group Member in the proceeding, the solicitors shall send that notice to the Registry (to the email address shown on the notice, copying in the other party's legal representatives) within seven business days of receiving the notice, and the notice shall be treated as having been received by the Court at the time it was received by the solicitors.
6. Leave is granted to any party to inspect and copy any opt out notice sent to the Registry.
7. By **4:00pm on 19 September 2025**, the Plaintiffs' solicitors shall provide the Defendant's solicitors with a list of Potential Group Members who have opted out of the proceeding.

Confidentiality

8. The lists and report referred to in Order 1, 2, 3(c) and/or 7 above (as applicable) are to be kept confidential by:
 - (a) the parties;
 - (b) the parties' legal representatives in this proceeding; and
 - (c) the Mailing House.
9. Further to Order 8 above, the parties, the parties' legal representatives and the Mailing House must only use the information contained in any list or report referred to in Orders 1, 2, 3(c) or 7 of these Orders for the purpose of responding to inquiries



from Potential Group Members or members of the public in relation to the Group Member Notices, and not for any other purpose.

Further Discovery

10. By **4:00pm** on **11 July 2025** the Plaintiffs produce to the Defendant, copies of the documents that were produced to the Plaintiffs pursuant to orders 8 and 9 of the orders of Justice Watson made on 21 February 2025.
11. By **4:00pm** on **25 July 2025**, the Defendant shall make discovery, by way of affidavit, of the categories of documents set out in **Annexure D** to this order.

Mediation

12. Order 7 of the orders made on 21 February 2025 be vacated.
13. The parties are to attend a mediation not before 3 November 2025 and by no later than 7 November 2025.
14. On or before **25 July 2025**, the parties are to confer in relation to the identity of a mediator, and a timetable for the exchange of pre-mediation information, including position papers of each party.

Other Matters

15. The Potential Group Member Notice may be amended by agreement between the parties before being distributed in order to correct any typographical or other minor errors.
16. If the Potential Group Member Notice is amended by the parties in accordance with order 15, the Plaintiffs' solicitors shall provide a copy of the amended Notice to the Registry by **4:00pm** on **14 July 2025**.
17. Liberty to apply.
18. The costs of and incidental to sending the Potential Group Member Notice and Opt Out Notice (including any disbursements incurred) shall be paid by the Plaintiffs, but on the basis that those costs will be costs in the proceeding.

DATE AUTHENTICATED: 1 July 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

