



Federal Court of Australia

District Registry: New South Wales

Division: General

No: NSD580/2018

RAFFAELE WEBB and others named in the schedule
Applicants

GETSWIFT LIMITED ACN 604 611 556 and another named in the schedule
Respondents

ORDER

JUDGE: JUSTICE LEE

DATE OF ORDER: 04 May 2020

WHERE MADE: Sydney

THE COURT ORDERS THAT:

Expert and Lay Evidence

1. The date for the first respondent to file and serve the lay evidence on which it intends to rely, as set out in order 9(a) of the Orders dated 24 April 2019, be amended to 1 May 2020.
2. The date for the applicant to file and serve any expert evidence, as set out in order 12 of the Orders dated 24 April 2019 be amended to 1 May 2020.
3. The date for the first respondent to file and serve any expert evidence, as set out in order 13 of the Orders dated 24 April 2019, be amended to 26 June 2020.
4. The date for the applicant to file and serve any reply expert evidence, as set out in Order 14 of the Orders of 24 April 2019, be amended to 17 July 2020.
5. Pursuant to s 33ZF and/or 37P(2) of the *Federal Court of Australia Act 1976* (Cth):
 - a. the parties are to arrange a joint conference of the experts relied upon by the plaintiff and first defendant (**Joint Expert Conference**).
 - b. by 4pm on 21 July 2020, the parties are to confer and seek to reach agreement as to the form of questions and directions to be provided for the Joint Expert



Conference and to thereafter file with the Associate to Justice Lee a draft order listing questions which are to be proposed to be dealt with by the Joint Expert Conference with any disputed questions to be the subject of a hearing on a date convenient to the Court after 21 July 2020.

- c. Janet McDonald, of Counsel, is to be appointed as a facilitator of the Joint Expert Conference (**Facilitator**).
- d. The experts relied upon by the plaintiff and first defendant are to:
 - i. attend the Joint Expert Conference on 24 July 2020 and continue the Joint Expert Conference as directed by the Facilitator, until the joint report is complete;
 - ii. address the list of questions as ordered by the Court;
 - iii. provide a joint report addressing the list of questions ordered by the Court and any other matters which in the experts' opinion needs to be addressed;
 - iv. prepare the joint report, to the extent possible, in plain English and which explains the reasoning of the experts in as concise a manner as practicable and which does not incorporate, by reference, sections from prior reports of the Experts in the joint report; and
 - v. provide the joint report to the Court by 31 July 2020, after which time it then will be provided to the parties by the Court.
6. The Joint Expert Conference is to be conducted as follows:
 - a. in accordance with the directions of the Facilitator;
 - b. each Expert must exercise their independent judgment in relation to the Joint Expert Conference, and is not to act upon any instruction or request to withhold or avoid agreement;
 - c. each Expert must endeavour to reach agreement with the other Expert on any issue in dispute between them, or failing agreement, endeavour to identify and clarify, with precision, the basis of disagreement on the issues which are in dispute.



7. The parties and their lawyers are not to attend the Joint Expert Conference and must not have any communication with the Experts in relation to the Joint Conference or the joint report (with the intention that all logistical arrangements as to notification of the details of the Joint Expert Conference are to be made by the Facilitator).

Joint tender bundle, submissions, etc

8. The date for the applicant to serve on the respondents an index to a proposed joint tender bundle, as set out in order 8 of the Orders dated 24 April 2019, be amended to 19 June 2020.
9. The date for the first respondent to file and serve a marked-up index to the proposed joint tender bundle, as set out in order 9(b) of the Orders dated 24 April 2019, be amended to 10 July 2020.
10. The date for junior counsel to confer and attempt in good faith to settle the Submission Template and Agreed Background Facts, as set out in order 16 of the Orders dated 24 April 2019, be amended to 20 July 2020.
11. The date for the parties to provide the Agreed Background Facts document and the agreed Submission Template (or marked up versions of these documents) as set out in order 17 of the Orders dated 24 April 2019, be amended to 24 July 2020.
12. The date for the pre-trial case management hearing, as set out in order 18 of the Orders dated 24 April 2019, be amended to 5 August 2020.
13. The date for the applicant to file and serve his opening submissions, as set out in order 19 of the Orders dated 24 April 2019, be amended to 14 August 2020.
14. The date for the first respondent to file and serve its opening submissions, as set out in order 20 of the Orders dated 24 April 2019, be amended to 28 August 2020.
15. The date for the parties to notify each other of the objections which the notifying party has to material contained in Parts C, D and (other than in relation to any adopted referee report) Part E of the Court Book and, in respect of each objection, the grounds of the objection, as set out in order 24 of the Orders dated 24 April 2019, be amended to 31 August 2020.



16. The date for junior counsel briefed by each party to confer and endeavour to resolve all objections, as set out in order 25 of the Orders dated 24 April 2019, be amended to 4 September 2020.
17. The date for the applicant to file and serve a Consolidated List of Objections, as set out in order 26 of the Orders dated 24 April 2019, be amended to 12 noon on 5 September 2020.

Costs Referee

18. Pursuant to order 8(b) of the Orders dated 20 June 2018, the date for the Costs Referee to finalise the report for the six-month period 1 July 2019 to 31 December 2019 be extended to 15 May 2020.

Notice to Group Members

19. Pursuant to s 33X(5) of the *Federal Court of Australia Act 1976* (Cth) (**Act**), notice (**Notice**) be given to group members of the applicant's intention to seek an order at the conclusion of the Proceeding pursuant to s 33V or s 33Z of the Act in substantively the same terms as order 18 of the Orders made 20 June 2018.
20. Subject to Order 18, by 4 May 2020, the parties provide to the Associate to Justice Lee an agreed proposed form of the Notice.
21. If there is no agreement between the parties as to the form of the Notice, by 11 May 2020 the applicant and the respondents are to exchange and each provide to the Associate to Justice Lee their respective proposed forms of the Notice, together with any evidence and submissions of no longer than 3 pages.
22. The matter be listed for a further case management hearing at 9.30am on 15 May 2020 for the purpose of approving the form and content of the Notice.
23. If the form and content of the Notice is approved by the Court, the Notice be given to the Group Members according to the following procedure:
 - a. by 19 May 2020, the respondents shall instruct their share registry to prepare a list of contact details (including the last known postal address and/or email address) for all security holdings for which securities in GSW were recorded on



the GSW share register as acquired between 24 February 2017 to 19 January 2018 inclusive (**Security Holders**);

- b. by 21 May 2020, the respondents shall cause the Notice to be sent by email to any of the Security Holders who are Group Members who have not filed an opt out notice in this proceeding and that have email addresses recorded on the share register;
- c. to the extent that any such Security Holder does not have an email address recorded on the share register, the respondents shall, by 21 May 2020, cause the Notice to be sent by prepaid ordinary post to that security holder at the address recorded for that person on the share register;
- d. to the extent that any email sent to a Security Holder referred to in Order 22(b) above experiences a delivery failure, the respondents shall cause the Notice to be sent by prepaid ordinary post to that security holder at the address recorded for that person on the share register, within two (2) business days of receiving that delivery failure notice;
- e. from 21 May 2020 to 21 July 2020, the applicant shall cause a copy of the Notice, together with copies of the Amended Originating Application, Further Amended Statement of Claim, Further Amended Defence and these orders to be displayed on the website of the applicant's solicitors, <http://phifinneymcdonald.com/projects>; and
- f. by 21 May 2020 the applicant shall send a copy of the Notice to any group members for whom the applicant has recorded an email address.

24. The costs of distributing the Notice in accordance with Order 22 above shall be paid in the first instance by the applicant, but ultimately be costs in the cause.

Date that entry is stamped: 4 May 2020

Sia Lagos
Registrar



Schedule

No: NSD580/2018

Federal Court of Australia

District Registry: New South Wales

Division: General

Interested Person	DWAYNE CAVAN SHANAHAN PERERA
Applicant	SHAUN MCTAGGART
Applicant	SAMANTHA MCTAGGART
Second Respondent	JOEL MACDONALD