



Federal Court of Australia
District Registry: New South Wales
Division: General

No: NSD580/2018

RAFFAELE WEBB
Applicant

GETSWIFT LIMITED ACN 604 611 556 and another in the schedule
Respondent

ORDER

JUDGE: JUSTICE MURPHY

DATE OF ORDER: 02 February 2023

WHERE MADE: Melbourne

OTHER MATTERS The Court notes that Order 9 of the orders made on 19 November 2021, which reads as follows:

9. Subject to any further order of the Court, pursuant to s 33V of the [*Federal Court of Australia Act 1975 (Cth)*], any Group Member who by the Class Deadline has not registered in accordance with the manner provided for in these orders and is not otherwise deemed to be a Registered Group Member (**Unregistered Group Member**):
 - (a) will remain a Group Member for the purposes of this proceeding, including for the purpose of being bound by any judgment in this proceeding (save for any person who has opted out of the proceeding); and
 - (b) shall not, without leave of the Court, be permitted to seek any benefit pursuant to any settlement of this proceeding,

(Class Closure Order).

THE COURT ORDERS THAT:

Confidentiality

1. Until further order, pursuant to ss 37AF and 37AG(1)(a) of the *Federal Court of Australia Act 1976 (Cth)* (**Act**), and in order and to prevent prejudice to the proper



administration of justice, the material identified in the Schedule of Confidential Material annexed to these orders and marked “Annexure A” is:

- (a) to be treated as confidential;
- (b) to be sealed on the Court file in envelopes marked “*Not to be opened except by leave of the Court or a Judge*”;
- (c) not to be published or made available and any electronic version thereof is to be treated in an analogous fashion;
- (d) not to be disclosed to any person other than:
 - (i) the Court;
 - (ii) the Applicant and its legal representatives; and
 - (iii) Therium Litigation Finance A IC (**Therium**) and its legal representatives; and
- (e) not to be disclosed to the Respondents or their legal representatives, other than to the extent that the material identified in Annexure A has previously been disclosed to them in the course of the proceeding.

Approval of Settlement

2. Pursuant to ss 33V and 33ZF of the Act, settlement of the proceeding upon the terms set out in the Settlement Deed dated 19 August 2021 executed by the Applicant, the Respondents, GetSwift Technologies Limited (GTL), Therium, and Phi Finney McDonald Pty Ltd (**PFM**) (**Settlement Deed**), and the Settlement Distribution Scheme (and any annexures thereto) exhibited to the affidavit of Timothy Michael Luke Finney dated 20 December 2022 (**Settlement Distribution Scheme**) (together, **the Settlement Documents**) be approved.
3. Pursuant to s 33ZF of the Act, the Court authorises the Applicant *nunc pro tunc* for and on behalf of persons who meet the definition of “Group Member” in the third further amended statement of claim filed on 19 February 2021 and who have not opted out of the proceeding (**Group Members**) to enter into and give effect to the Settlement Documents and the transactions contemplated for and on behalf of Group Members.



4. Pursuant to ss 33ZB and 33ZF of the Act, the persons affected and bound by the settlement of the proceedings be the Applicant, the Respondents, and the Group Members.
5. Pursuant to s 33ZF of the Act, the Group Members identified as Late Registrants 1 to 12 in the affidavit of Timothy Michael Luke Finney affirmed 20 December 2022 to be treated as Registered Group Members.
6. Pursuant to s 33V(2) and 33ZF of the Act, Mr Paul Zawa of PFM be appointed administrator of the Settlement Distribution Scheme (**Administrator**) and is to act in accordance with the rules of the Settlement Distribution Scheme, subject to any direction of the Court.
7. Pursuant to ss 33V and 33ZF of the Act, and for the purposes of the Settlement Distribution Scheme, the following distributions from the settlement sum be approved:
 - (a) \$100,000 to PFM for the Applicant's legal costs and disbursements on a solicitor and own client basis, incurred in connection with the conduct of the proceeding on its own behalf and on behalf of all Group Members, including the costs of obtaining settlement approval and administering the Settlement Distribution Scheme;
 - (b) \$6,130 to the Applicant for his time and expenses incurred in prosecuting the proceeding in the interests of Group Members; and
 - (c) \$393,870 to Therium for part of the contingent component of the insurance premium for adverse costs insurance payable by Therium.
8. Upon the making of the distributions as set out in Order 7 above, the proceeding be dismissed with no order as to costs.

Date that entry is stamped: 3 February 2023

Sia Lagos
Registrar



Schedule

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Division: General

Second Respondent JOEL MACDONALD



Annexure A

SCHEDULE OF CONFIDENTIAL MATERIAL

	# DOCUMENT	CONFIDENTIAL INFORMATION
	Confidential opinion	
1	Confidential opinion of Timothy Finney dated 20 December 2022, being Annexure TMLF-10:702 – 739.	Whole
	Evidence	
2	Annexure TMLF-9:63, to the Affidavit of Timothy Finney affirmed 11 February 2022, being one group member's Notice of Objection	Part (Group Member contact details only)
3	Annexure TMLF-10:449 – 461, being an email from the Federal Court of Australia New South Wales District Registry to the parties, regarding Opt Out Notices received in the proceeding	Part, pages 451 to 458 (only personal identifying information of individuals who filed opt out notices other than their names)