

**IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMERCIAL COURT  
GROUP PROCEEDINGS LIST**

S ECI 2020 03351

BETWEEN

**BENJUMIN HILLMAN**

Plaintiff

- and -

**MAYNE PHARMA GROUP (ACN 115 832 963)**

Defendant

**ORDER**

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**JUDGE:** The Honourable Justice Watson

**DATE MADE:** 19 December 2024

**ORIGINATING PROCESS:** Writ filed 21 August 2020

**HOW OBTAINED:** By the plaintiff's summons dated 1 November 2024

**ATTENDANCE:** Mr W Edwards KC and Ms S Hogan of counsel for the plaintiff  
Mr J Kirkwood SC and Mr M Thomas of counsel for the defendant

**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 BY THAT:**

1. Pursuant to s 33V of the *Supreme Court Act 1986 (Vic)* (the **Act**) settlement of the proceeding, including the dismissal of the claims of the Plaintiff and all group members who have not opted out of the proceeding against the Defendant, on the terms set out in the Deed of Settlement entered into between the Plaintiff, the Defendant, Vannin Capital Operations Limited, Vannin Capital Investments (Australia) Pty Ltd and Phi Finney McDonald Pty Ltd (ACN 618 727 905) executed on 1 July 2024 (**Settlement Deed**) be approved.



2. Pursuant to s 33V of the scheme for distribution of the settlement sum (**Settlement Distribution Scheme**) forming part of annexure CPM 6 to the affidavit of Cameron Peter Myers sworn 26 November 2024 be approved.
3. Pursuant to ss 24 and 33ZF of the Act and reg 63.03 of the *Supreme Court (General Civil Procedure) Rules 2015* (Vic), there be no orders as to costs and all previous orders for costs in the proceeding be vacated with effect from the date of the completion of the administration of the Scheme, being the date on which the final distribution from the Settlement Distribution Fund (as defined in the Settlement Distribution Scheme) is confirmed by the Administrator of the Settlement Distribution Scheme.
4. Upon Final Settlement Approval (as defined in the Settlement Deed):
  - (a) the Defendant is to return the deed of indemnity executed by AmTrust Europe Limited, provided by the Plaintiff as security for the Defendant's costs of the proceeding; and
  - (b) the amount of \$25,000 paid into Court in accordance with order 1 of the orders dated 3 November 2022 be released to the Plaintiff's solicitors, or as they direct.
5. Pursuant to s 33ZB of the Act, the persons affected by these orders are:
  - (a) the Plaintiff,
  - (b) the Defendant, and
  - (c) all group members who have not opted-out.
6. Pursuant to s 33ZF of the Act, Mr Cameron Peter Myers of Phi Finney McDonald 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.

#### **Deductions from Settlement Sum**

7. Pursuant to ss 33V and 33ZF of the Act, for the purposes of the Settlement Distribution Scheme the following amounts may be deducted from the Settlement Sum (as defined in the Settlement Distribution Scheme):
  - (a) \$3,075.00 for the "Plaintiff's Reimbursement Payment";



- (b) \$6,032,291.13 for the “Plaintiff’s Costs and Disbursements”;
- (c) \$9,769,554.61 to Vannin Capital Operations Limited and Vannin Capital Investments (Australia) Pty Ltd for “Funding Commission”, “Funding Charges” and the “Adverse Costs Fee”; and
- (d) up to \$180,000.00 for “Administration Costs”.

**Other**

- 8. Pursuant to s 18(1)(a) of the *Open Courts Act 2013* (Vic) and/or the Court’s inherent jurisdiction, paragraphs 33 (numerical figures only), 34 (numerical figures only), 36 (numerical figures only), 38 (numerical figures only), 39 (numerical figures only) and 44 (numerical figure only) of the affidavit of Thomas John McDonald sworn on 25 November 2024 be confidential and shall not be published or disclosed until final determination of the proceeding without prior leave of the Court to any person or entity other than the Plaintiff and his legal representatives, the Funder and its legal representatives, and the Court.
- 9. Pursuant to s 18(1)(a) of the *Open Courts Act 2013* (Vic) and/or the Court’s inherent jurisdiction, paragraphs 11 (numerical figure only) and 17 of the affidavit of Thomas John McDonald sworn on 25 November 2024 be confidential and shall not be published or disclosed without prior leave of the Court to any person or entity other than the Plaintiff and his legal representatives, the Funder and its legal representatives, and the Court.
- 10. Pursuant to s 18(1)(a) of the *Open Courts Act 2013* (Vic) and/or the Court’s inherent jurisdiction, paragraphs 15 (numerical figure only), 16 (numerical figures only), 17, 18 (all words after “confidential LAF”), 20, 21, 22, 23 (first sentence, all words after “confidential LAF”), 24 (extract of modified clause 3.3(c) of the confidential LAF), 25, and 26 (numerical figures only), 29 (numerical figures and all words in parentheses only), 31 (extract of modified definition in clause 1.1 of the Amended Settlement Distribution Scheme), 32 (numerical figures only), 33 (numerical figure only) and pages 71-92 of annexure CPM-6 of the affidavit of Cameron Peter Myers sworn on 25 November 2024 be confidential and shall not be published or disclosed until final determination of the proceeding without prior leave of the Court to any person or entity other than the Plaintiff and his legal representatives, the Funder and its legal representatives, and the Court.



11. Pursuant to s 18(1)(a) of the *Open Courts Act 2013 (Vic)* and/or the Court's inherent jurisdiction, all words after "final hearing would be" in paragraph 11 and paragraphs 13 (numerical figures only), and 16 (numerical figures only) of the affidavit of Thomas John McDonald affirmed on 11 December 2024 be confidential and shall not be published or disclosed until final determination of the proceeding without prior leave of the Court to any person or entity other than the Plaintiff and his legal representatives, the Funder and its legal representatives, and the Court.
12. Pursuant to s 18(1)(a) of the *Open Courts Act 2013 (Vic)* and/or the Court's inherent jurisdiction, paragraph 8 and paragraph 15 (numerical figures only) of the affidavit of Thomas John McDonald affirmed on 11 December 2024 be confidential and shall not be published or disclosed until further order without prior leave of the Court to any person or entity other than the Plaintiff and his legal representatives, the Funder and its legal representatives, and the Court.
13. Pursuant to s 18(1)(a) of the *Open Courts Act 2013 (Vic)* and/or the Court's inherent jurisdiction, paragraphs 2 (numerical figures only) and 11 (numerical figures only) and footnote 5 (numerical figures only) of the submissions filed on behalf of the Funder on 11 December 2024 be confidential and shall not be published or disclosed until final determination of the proceeding without prior leave of the Court to any person or entity other than the Plaintiff and his legal representatives, the Funder and its legal representatives, and the Court.
14. Pursuant to s 33ZF of the Act, any Group Member named in Annexure A be granted leave to participate in the settlement of the proceeding and be defined as a Registered Group Member as if they had registered their claim by the Opt Out Deadline in accordance with order 9 of the orders of Justice Nichols made on 20 March 2023.
15. Pursuant to ss 33V and 33ZF of the Act, by 4:00pm AEDT on 4 April 2025, the Administrator shall provide to the Court (by way of affidavit provided to the chambers of Justice Watson) a progress update on the administration of the Settlement Distribution Scheme.



**DATE AUTHENTICATED:**

19 December 2024

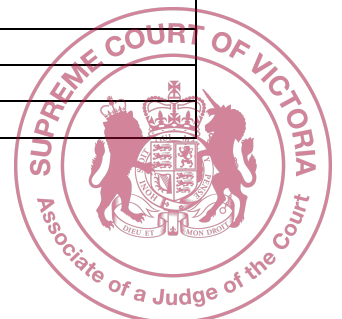


**THE HONOURABLE JUSTICE WATSON**



## Annexure A

Claimant Name
Adeel Tahir
Insync Investments Pty Ltd ATF Weekley Super Fund No 2 A/C
Alexander Barry Newell
Keymar Pty Ltd <Boyce Family S/F A/C>
Andrew Stasis
Andrew William Smith
Miss Jasmine Ashley Huynh & Mr Craig Murray Wilkins
Alma Plus Pty Ltd
Benjamin Lewis
Benjamin Lyons
Wilhelmus Johannus Van Brakel
G & N Lord Superannuation Pty Ltd
Brian And Robyn's Super Fund
Brian Palmer
Perpetual Learning Pty Ltd ATF Perpetual Wealth Super Fund
E/O Brian Edrick Coogan
Bilger Nominees Pty Ltd
Western River Investments Pty Ltd
Alphagen Laboratories Inc
Daniel Edward Lewis
Daniel Lowe
Dennis Bohdan Bodak
Hardmail Pty Ltd
Eva La
Elias Tannous
Erika Macdonald
Konstantinos Tzimokas
Eve Stavrianou
Fiona Ying Bucknall
William Sing Bucknall
818 Investments
Gadffly Pty Ltd <Gadd Family A/C>
Whorouly Pty Ltd Superannuation Account
Garry Hill
Hazel Condon
Bartley Superannuation Fund
Jam Capital Investment Trust
Jennifer Creen And Colin Hood
Jennifer Irene Creen
John Kingsley Rawson
Gavin Frederick Daniels
Bt Portfolio Services Ltd
Rosalind Ann Vian Hinde
Katrina Lewis
Rodney Neville Kitchen and Kay Laraine Kitchen
Noswar Pty Ltd
Landoc Super Fund (Defunct)



<b>Claimant Name</b>
The Chelsea Family Trust
Dale Edward Taylor
Karlberg Pty Ltd
Maribee Pty Ltd ATF Maribee Superannuation Fund
Michael Lewis
Michele Stuart Rautenbach
Michelle Johnson
Mathew Deamer
Alfred Noel Milich
Paul Philip Pinn
Kathryn Elizabeth Costello
Paula Weekley
Penny Price O'Loughlin
Peter William King
Brenston Pty Ltd
Scotch Investments Pty Ltd
Philippa Coward
Dryforde Ptyltd<Deep Water S Fund No 3 A/C>
Kirzy Pty Ltd
Kirzy Pty Ltd <Springdale A/C>
Kirzy Pty Ltd <Springdale No 2 A/C>
Kirzy Pty Ltd <The Hatch Super Fund A/C>/Hatch Eggs Pty Ltd<The Hatch Super Fund A/C>
Somnus Pty Ltd <Somnus Superannuation A/C>
Ram Chander Malhotra and Roji Rani Malhotra
Richard Yik Hung Chu
Robert Joseph Slaviero
Rossgil Superannuation Fund
Howard Trading Co
Russell Howard Pty Ltd <Russell Howard S/F A/C>
Steve Stefanopoulos
Stewart Feguson Fenwick
Susan Karakostas
Yifei Gao

