

IN THE SUPREME COURT OF VICTORIA  
COMMERCIAL COURT  
GROUP PROCEEDINGS LIST

S ECI 2021 04360

**BETWEEN:**

WILLIAM LAY and another (according to the attached Schedule)

Plaintiffs

- and -

NUIX LIMITED (ACN 117 140 235) and others (according to the attached Schedule)

Defendants

**ORDER**

JUDGE:

The Honourable Justice Nichols

DATE MADE:

12 February 2026

ORIGINATING PROCESS:

Writ filed on 19 November 2021

HOW OBTAINED:

At the hearing of the Plaintiff's application by summons to amend their Further Amended Consolidated Statement of Claim (FACSOC) on 6 February 2026

ATTENDANCE:

K Burke S.C. with J Page and T Rawlinson of counsel for the plaintiffs

J Entwistle of counsel for the First Defendant

N De Young K.C. with J Findlay of counsel for the Second Defendant

P Knowles S.C. for the Third Defendant

OTHER MATTERS:

- A. Senior counsel for the Plaintiffs indicated at the hearing of the Plaintiffs' summons that the Plaintiffs would attend to the wording of, and/or provide further and better particulars to, paragraphs [43], [44], [49E], [49F], [54A], [55], [74A], [79B], [79C], [79D], [84A], [84B] and [84C] of the proposed Second Further Amended Consolidated Statement of Claim (2FACSOC) exhibited to the Fifth Affidavit of Jonathan Wertheim sworn 2 February 2026.
- B. Senior counsel for the Plaintiffs confirmed that the Plaintiffs will not make an application for discovery based on matters arising from the 2FACSOC, but reserve their rights in relation to matters arising from defences and further evidence.



- C. By his counsel, the Third Defendant has indicated he will not be serving separate expert evidence and will rely upon the expert evidence filed by the First Defendant.
- D. This Order is authenticated by the Judge of the Court pursuant to Rule 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2025 (Vic)*.

### **THE COURT ORDERS THAT:**

#### **Pleading Amendment**

1. The Plaintiffs have leave to file and serve their 2FACSOC by **23 February 2026** incorporating those further amendments, and providing the additional particulars, as indicated by senior counsel for the Plaintiffs during the hearing of the Plaintiffs' summons on 6 February 2026, and the Schedule referred to at paragraph [11] of the Plaintiffs' reply submissions dated 6 February 2026.
2. The First Defendant and Second Defendant are to file and serve their defence to the 2FACSOC by **16 March 2026**.
3. The Plaintiffs are to file and serve any reply by **30 March 2026**.
4. The Plaintiffs pay the Defendants' costs thrown away by reason of their amendments to their FACSOC.

#### **Previous Timetabling Orders Vacated**

5. Orders 12 to 19 of the orders made on 28 October 2024, as extended by Orders 5 to 12 of the orders made on 15 October 2025, are vacated.
6. Order 2 of the orders made 9 December 2025 is vacated.

#### **Reply Lay Evidence**

7. The First Defendant and Second Defendant are to file and serve any lay witness statements in reply on which they intend to rely at trial by **23 April 2026**.

#### **Third Defendant**

8. The Third Defendant is to file and serve any:
  - (a) Defence to the 2FACSOC;
  - (b) lay witness statements on which the Third Defendant intends to rely at trial; and
  - (c) a list of documents the Third Defendant presently intends to tender at trial, by **24 April 2026**.

#### **Expert Evidence**

9. Each Defendant is to file and serve any expert evidence on which they intend to rely at trial by **22 May 2026**.
10. The Plaintiffs are to file and serve any expert evidence in reply on which they intend to rely at trial by **26 June 2026**.
11. Each of the parties' expert witnesses who have provided an expert report on a subject matter is to confer with the other parties' expert witnesses who have provided an expert report on the same or similar subject matter (each conferral being a **Conclave**) by **14 July 2026**.
12. Each Conclave referred to in Order 11 above is to be conducted in the absence of the parties and their employees or agents (including legal representatives).



13. The participants in each Conclave referred to in orders 11 and 12 above are to produce a joint report setting out the matters in relation to which they agree and disagree, and where there is disagreement, explaining the reasons for disagreement, in accordance with the Expert Witness Code of Conduct (Form 44A) cl 6–7.
14. The joint reports are to be provided to the parties, and filed and served by the Plaintiffs by **14 July 2026**.

**Proposed SOAF and Chronology**

15. The parties are to confer, and the Plaintiffs are to send an email to the Associates to the Honourable Justice Nichols, by **8 July 2026**, attaching:
  - (a) a Statement of Agreed Facts, which:
    - (i) lists facts that are agreed between the parties; and
    - (ii) identifies facts that are proposed by one or more parties to be agreed, but which are not agreed between the parties;
  - and/or
  - (b) an Agreed Chronology, which lists agreed facts.

**Submissions**

16. The Plaintiffs are to file and serve an outline of submissions by 4.00pm on **16 July 2026**.
17. The Defendants are to file and serve an outline of submissions by 4.00pm on **23 July 2026**.

**Trial Date**

18. The date in Order 21 of the orders made on 28 October 2024, being the date of commencement of the initial trial, is varied to **3 August 2026**.

**Other matters**

19. Costs, other than the costs referred to in Order 4 above, are reserved.
20. Liberty to apply.

DATE AUTHENTICATED: 12 February 2026



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**THE HONOURABLE JUSTICE NICHOLS**

**SCHEDULE OF PARTIES**



S ECI 2021 04360

**BETWEEN:**

WILLIAM LAY	First Plaintiff
DANIEL JOSEPH BATCHELOR	Second Plaintiff
- v -	
NUIX LIMITED (ACN 117 140 235)	First Defendant
MACQUARIE CAPITAL (AUSTRALIA) LIMITED (ACN 123 199 548)	Second Defendant
DANIEL PHILLIPS	Third Defendant