

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating Application Starting a Representative Proceeding under Part IVA
Federal Court of Australia Act 1976 - Form 19 - Rule 9.32

Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)

Date of Lodgment: 29/02/2024 6:22:53 PM AEDT

Date Accepted for Filing: 1/03/2024 11:18:34 AM AEDT

File Number: VID172/2024

File Title: DANIEL MCDONALD v AUSTRALIAN LIFE INSURANCE
DISTRIBUTION PTY LTD (ACN 103 157 811) & ANOR

Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA

Reason for Listing: To Be Advised

Time and date for hearing: To Be Advised

Place: To Be Advised



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 19
Rule 9.32



**Originating application starting a representative proceeding under
Part IVA of the Federal Court of Australia Act 1976**

No. _____ of 2024

Federal Court of Australia
District Registry: Victoria
Division: General

Daniel McDonald

Applicant

Australian Life Insurance Distribution Pty Ltd (ACN 103 157 811) and Anor named in the Schedule

Respondents

To the Respondents

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing: [Registry will insert time and date]

Place: Federal Court of Australia, 305 William Street, Melbourne VIC 3000

Date:

.....
Signed by an officer acting with the authority
of the District Registrar

.....
Filed on behalf of (name & role of party) The Applicant
Prepared by (name of person/lawyer) Craig Allsopp
Law firm (if applicable) Shine Lawyers
Tel (02) 8754 7270 Fax (02) 9267 5650
Email callsopp@shine.com.au
Address for service Shine Lawyers Pty Ltd, Level 6, 299 Elizabeth Street, Sydney NSW 2000
(include state and postcode)



Details of claim

On the grounds stated in the accompanying Statement of Claim, the Applicant claims on their own behalf and on behalf of the Group Members:

1. An order pursuant to s 961M(2) & (4) of the *Corporations Act 2001* (Cth) (**Corporations Act**) that the First Respondent pay compensation to the Applicant and each of the Group Members for loss and damage suffered by them because of:
 - (a) the contraventions of ss 961B(1), 961G(1), 961H and 961J(1) of the Corporations Act by the Brokers; and
 - (b) the First Respondent's contraventions of s 961L of the Corporations Act; including any profits resulting from the contraventions.
2. An order pursuant to:
 - (a) section 1041I(1) of the Corporations Act;
 - (b) section 12GF(1) of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**); further, or alternatively,
 - (c) section 236(1) of Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (**ACL**),that the Second Respondent pay compensation to the Applicant and each of the Group Members for loss and damage suffered by them because of their contraventions of sections 1041H of the Corporations Act, section 12DA of the ASIC Act and, or alternatively, section 18 of the ACL.
3. If a Group Member so elects:
 - (a) a declaration under sections 925A or 925C of the Corporations Act that their MPP or MyPP policy be rescinded, alternatively
 - (b) an order under section 961N of the Corporations Act that their MPP or MyPP policy be declared void.
4. Interest pursuant to s 51A(1) of the *Federal Court Act 1976* (Cth).
5. Costs.
6. Such further or other relief as the Court may deem appropriate.



Questions common to claims of group members

The questions of fact or law common to the claims of the Applicant and the Group Members are set out below. References to paragraphs or sections in the common questions below are cross references to the Applicant's Statement of Claim.

1. whether MPP and MyPP had the features alleged in Section C;
2. what were the commission arrangements between the Respondents, and between any of them and Insurers, in relation to MPP and MyPP;
3. whether the Aussie MPP Sales System had features alleged in paragraph 21;
4. whether the effect of the Aussie MPP Sales System was as alleged in paragraphs:
 - (a) 24
 - (b) 26; and/or
 - (c) 40;
5. whether Brokers, in dealing with customers in relation to MPP and MyPP in accordance with the Aussie MPP Sales System, were giving personal advice within the meaning of s 766B(3) of the Corporations Act;
6. If the answer to (5) is "yes", whether the Brokers were under an obligation to comply with ss 961B(1), 961G(1), 961H(1) and 961J(1) of the Corporations Act in giving personal advice;
7. whether in the circumstances pleaded in Section G.2. Brokers failed to comply with the 'best interest' obligations in s 961B of the Corporations Act;
8. whether in the circumstances pleaded in Section G.3. Brokers failed to warn customers in accordance with s 961H of the Corporations Act;
9. whether in the circumstances pleaded in Section G.4. Brokers failed to give appropriate advice in accordance with s 961G of the Corporations Act;
10. whether in the circumstances pleaded in Section G.5. Brokers failed to give priority to the interests of customers in accordance with s 961J of the Corporations Act;
11. whether ALID failed to take reasonable steps to ensure Broker compliance with ss 961B, 961G, 961H or 961J of the Corporations Act, in contravention of s 961L;
12. whether ALID is responsible for any and if so what loss and damage suffered by Claimants by reason of the matters referred to in (7) to (10) above;
13. whether AHLI is responsible for any, and if so what, loss and damage suffered by Claimants:



- (a) by reason of the matters set out in Section I; further or alternatively
- (b) by reason of the agency alleged in Section G.9;

14. whether AHLI, by themselves or by the Brokers, made any and if so which of the Insurance Advice Representations;
15. whether by the Insurance Advice Representations, AHLI contravened s 12DA of the ASIC Act, s 1041H of the Corporations Act or s 18 of the ACL;
16. if any of ALID or AHLI is liable to compensate the Claimants– what principles govern the measure of compensable loss?

Representative action

The Applicant brings this application as a representative party under Part IVA of the *Federal Court of Australia Act 1976*.

The group members to whom this proceeding relates are all persons who are described in paragraph 2 of the Statement of Claim.

Applicants' address

The Applicants' address for service is:

Place: Level 6, 299 Elizabeth Street, Sydney New South Wales

Email: callsopp@shine.com.au

Service on the Respondents

It is intended to serve this application on all Respondents.

Date: 29 February 2024

A handwritten signature in black ink, appearing to read 'C Allsopp'.

.....
Signed by Craig Allsopp
Lawyer for the Applicant
.....

**Schedule**

No. of 2024

Federal Court of Australia
District Registry: Victoria
Division: General

Respondents

First Respondent Australian Life Insurance Distribution Pty Ltd (ACN 103 157 811)

Second Respondent: Lendi Group Distribution Pty Ltd (ACN 105 265 861)

Date: