

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

S ECI 2021 4738

BETWEEN

PAUL LEIGHTON MUMFORD

First plaintiff

and

GAYLE MUMFORD

Second plaintiff

and

EML PAYMENTS LTD

Defendant

ORDER

JUDGE: The Honourable Justice Nichols

DATE MADE: 5 December 2024

ORIGINATING PROCESS: Writ filed 16 December 2021

HOW OBTAINED: By consent

APPEARANCES: Not applicable

OTHER MATTERS: Nil

THE COURT ORDERS BY CONSENT THAT:

Opt Out

- 1 Pursuant to s 33J(1) of the *Supreme Court Act 1986* (Vic) (**Act**), the date by which a Group Member (as defined in paragraph 1 of the Amended Statement of Claim dated 20 December 2022) may opt out of this proceeding be fixed at **4:00pm AEDT on 24 February 2025 (Class Deadline)**.
- 2 Pursuant to s 33J of the Act, and subject to paragraph 1, any Group Member who wishes to opt out of this proceeding must, before the Class Deadline
 - a. complete and submit the 'Opt Out Notice' in the form of **Annexure B of Schedule 1** to this Order by post or email to the Supreme Court of Victoria; or



- b. complete and submit the 'Online Opt Out Notice' through the Supreme Court of Victoria website at: <https://www.supremecourt.vic.gov.au/areas/group-proceedings/eml-payments/opting-out>
- 3 If on or before the Class Deadline the solicitors for any party receive a notice purporting to be an Opt Out Notice referable to this proceeding, the solicitors must provide the notice to the Supreme Court of Victoria within five (5) business days of receipt, and the notice shall be treated as an Opt Out Notice received by the Court at the time it was received by the solicitors.
- 4 The solicitors for any party be granted leave to inspect the Court file and copy any Opt Out Notice filed by Group Members after the Class Deadline.

Notice to Opt Out, Register or Do Nothing

- 5 Pursuant to section 33Y of the Act notice is to be given:
 - a. of Group Members' right to opt out of the proceeding before the Class Deadline; and
 - b. that upon any settlement (subject to Court approval) of this proceeding prior to trial, any Group Member who by the Class Deadline: (i) has not registered (as provided for in orders 11 to 14 below); or (ii) has not opted out in accordance with the Court's Orders, will remain a Group Member for all purposes of this proceeding but shall not, without leave of the Court, be permitted to seek any benefit pursuant to that settlement.
- 6 Pursuant to ss 33X(1)(a) and (5) and 33Y the form of notice to Group Members set out in **Schedule 1** (subject to the following order) be approved for this proceeding (**Notice**).
- 7 The Notice approved pursuant to order 6 may be amended before it is emailed, posted, displayed or published in order to correct any website or email address, telephone number or other non-substantive error.
- 8 Pursuant to section 33Y of the Act the Notice be given according to the following procedure:
 - a. By **20 December 2024**, the defendant shall instruct its share registry provider, Link Market Services, to prepare a list of contact details (including the last known postal address and/or email address) for security holders recorded on the EML share register as having acquired an interest in fully paid ordinary EML shares (**EML**



Securities) at any time during the period from 19 December 2020 to 25 July 2022 inclusive (**Relevant Period**), (including those security holders who no longer hold any EML shares or whose qualifying transactions were recorded on the applicable register within the two-day settlement window following 25 July 2022) (**Confidential Group Member List**).

- b. The defendant shall instruct Link Market Services to, during business hours between **13 January 2025** ('Notice Date') and **15 January 2025**, send the Notice by email to any security holder on the Confidential Group Member List that has an email address recorded on the share register in which the content of:
 - i. the subject line of the email shall read: "IMPORTANT: Class Action Against EML Payments Limited"; and
 - ii. the body of the email shall read "Please click here to read the Supreme Court of Victoria notice regarding the class action against EML Payments Limited".
- c. To the extent that any security holder on the Confidential Group Member List does not have an email address recorded on the share register, the defendant shall instruct Link Market Services to, between **13 January 2025** and **15 January 2025**, send the Notice 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 8(b) above experiences a delivery failure, within five business days of receiving that delivery failure notice, the defendant shall instruct Link Market Services to send the Notice by prepaid ordinary post to that security holder at the address recorded for that person on the share register.
- e. During business hours between **13 January 2025** and **15 January 2025**, the plaintiffs shall cause a copy of the Notice to be sent by email to each Existing Registered Group Member (as defined in order 15 below);
- f. By **13 January 2025**, the plaintiffs shall cause a copy of the Notice, together with copies of the pleadings and these orders to be displayed on the website Shine Lawyers and remain continuously displayed up to and including the Class Deadline.
- g. By **13 January 2025**, the Commercial Court Registry of the Supreme Court of



Victoria shall cause a copy of the Notice to be displayed on the Supreme Court of Victoria website and remain continuously displayed up to and including the Class Deadline.

- 9 If the Notice is amended by the plaintiffs in accordance with paragraph 7 of this Order, the plaintiffs' solicitors shall provide a copy of the amended Notice to the Commercial Court Registry of the Supreme Court of Victoria by **4:00pm** on **6 January 2025**, being 7 days before the Notice Date.
- 10 The disbursement costs of and incidental to the procedure set out in order 8 above be paid in the first instance by the plaintiffs, but ultimately be costs in the cause.

Claim registration information

- 11 Pursuant to sections 33ZF and 33ZG of the Act, any Group Member who wishes to participate in any distribution of any in-principle settlement of this proceeding reached prior to trial (subject to Court approval) must by the Class Deadline:
 - a. complete the online registration process through the Shine Lawyers website at <https://emlpaymentsshareholderclassaction.shine.com.au/Registration>; or
 - b. complete and submit a registration form by post or email to the plaintiffs' solicitors, Shine Lawyers, in the form of **Annexure A of Schedule 1** of this Order; or
 - c. otherwise provide their name and contact information to solicitors for the plaintiffs, Shine Lawyers before the Class Deadline,

(the **Registered Group Members**).
- 12 A Registered Group Member must submit the following information (**Share Trade Data**) as part of the registration process:
 - a. the Group Member's name (or names in the case of joint security holders) and address and/or email address;
 - b. the full name of the registered owner and any relevant Holder Identification Number (**HIN**) or Security Reference Number (**SRN**) or equivalent reference number (if known) in respect of EML Securities held as at close of trade on 18 December 2020 or acquired during the Relevant Period;
 - c. the number of EML Securities held by each Group Member as at close of trade on 18 December 2020 and, if known, the exchange on which they were held;



- d. for each acquisition of EML Securities during the Relevant Period:
 - i. the date of acquisition;
 - ii. the quantity acquired;
 - iii. the exchange on which they were acquired (if known);
 - iv. and the price of the shares acquired; and
 - e. for each sale or disposal of EML Securities during the Relevant Period:
 - i. the date of disposal;
 - ii. the quantity disposed of;
 - iii. the exchange on which they were sold (if known); and
 - iv. the price of the shares sold.
- 13 For the avoidance of doubt, the failure by any group member to provide all of the information required in order 12 above will not render the group member's registration invalid provided the group member is identifiable as such based on the information provided.
- 14 The plaintiffs must submit the following additional Share Trade Data as part of the registration process:
- a. for each acquisition of EML Securities during the Relevant Period:
 - i. the date of acquisition;
 - ii. the quantity acquired;
 - iii. the exchange on which they were acquired (if known);
 - iv. and the price of the shares acquired; and
 - b. for each sale or disposal of EML Securities during the Relevant Period:
 - i. the date of disposal;
 - ii. the quantity disposed of;
 - iii. the exchange on which they were sold (if known); and
 - iv. the price of the shares sold.
- 15 A Group Member who has retained Shine Lawyers to act for that Group Member in connection with this proceeding or who has registered an interest in participating in this



proceeding with Shine Lawyers (**Existing Registered Group Members**), will be deemed to have complied with order 11 provided they provide their Share Trade Data to Shine Lawyers prior to the Class Deadline.

16 Pursuant to ss 33ZF and 33ZG of the Act, subject to further order of the Court, any Group Member who:

- a. is not a Registered Group Member in accordance with orders 11 to 15 above; or
- b. has not opted out of this proceeding by delivering a completed Opt Out Notice in accordance with order 2 above,

shall remain a Group Member for all purposes of this proceeding and shall not, without leave of the Court, be permitted to seek any benefit pursuant to any in-principle settlement (subject to Court approval) of this proceeding reached by trial.

17 By 4pm on **31 March 2025**, the plaintiffs must deliver to the solicitors for the defendant (in electronic form), on a de-identified basis, a list of the Registered Group Members, which list is to contain:

- a. a unique identification number for each Registered Group Member; and
- b. the Share Trade Data listed in order 12c to 12e for each Registered Group Member;
- c. the additional Share Trade Data listed in order 14 for the lead plaintiffs; and
- d. any amendments to that information as notified to Shine Lawyers by that date.

18 The list of Registered Group Members provided in accordance with order 17, and any information contained therein, are to be kept and treated at all times as confidential by:

- a. the defendant's legal advisors;
- b. those officers and employees of the defendant who have conduct of this proceeding on behalf of the defendant;
- c. the defendant's insurers (and their legal advisors); and
- d. experts retained by the defendant in the proceeding.

Mediation

19 The parties are to attend a mediation to be held in Melbourne on 29 May 2025 to be conducted by the Honourable Peter Jacobson KC (**Mediator**).



20 The cost of the Mediator will be jointly borne in equal share by the parties, being 50% by the plaintiffs and 50% by the defendant.

DATE AUTHENTICATED: 5 December 2024



The Honourable Justice Nichols