

OUTCOME DETAILS

**Supreme Court - Civil
at Supreme Court Sydney
on 18 March 2021**

2017/00340824-001 / Statement of Claim: Louise Haselhurst v Toyota Motor Corporation Australia Limited trading as Toyota Australia

This matter is listed for Directions (Commercial) on 26 March 2021 9:45 AM before the Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 5 Minutes

VERDICT ORDER OR DIRECTION

His Honour makes the orders in the document entitled Short Minutes of Order which have been initialled, dated today's date and placed with the papers.

SHORT MINUTES OF ORDER

The orders entered on 15 March 2021 are varied as follows:

Notice to Produce

1. The Plaintiffs notice to produce dated 28 January 2021 be stood over to the case management conference on 26 March 2021.

Evidence

2. Orders 2 and 3 of the orders entered on 10 December 2020 in each of the Takata Proceedings are varied such that the Defendants in the Takata Proceedings are to:

- a. serve any further lay evidence by 19 March 2021; and
- b. serve any further expert evidence supplementary to Mr Kevin Maikis' report in the Nissan proceedings by 26 March 2021.

3. Order 3 of the orders entered 10 December 2020 is varied such that the Plaintiff is to serve any expert reports in respect of liability and quantum in reply on which he intends to rely by 30 April 2021.

4. Evidence served in this proceeding is evidence in each of the Takata Proceedings.

Conferral of experts

5. On or before 7 May 2021, the following expert witnesses are to confer:

- a. Michelle Baddeley, Christopher Pleatsikas and Denise Martin; and
- b. Robert Renz, Gabriel da Silva, Kevin Maikis and Thomas Klapotke.

6. On or before 12 May 2021, the following expert witnesses are to provide to the Court and the parties a joint report setting out the points of agreement, and of difference remaining, between them the reasons therefore:

- a. Michelle Baddeley, Christopher Pleatsikas and Denise Martin; and
- b. Robert Renz, Gabriel da Silva, Kevin Maikis and Thomas Klapotke.

Court Book

7. By no later than 9 April 2021, each party must notify each other party in writing of any documents not referred to in any affidavit or expert report that party proposes should be included in the Court Book.

8. By no later than 19 April, each party shall advise each other party in writing:

- a. which of the specified additional documents may be included in the Court Book by consent;
- b. whether the authenticity of any document, and if so which, is disputed; and
- c. insofar as any document (already included and/or proposed to be included) may not be included in the Court Book by consent the grounds for the objection to its inclusion.

9. By no later than 26 April 2021, the Plaintiff must file and serve a Court Book in electronic form and two hard copies containing, in chronological order:

- a. all documents referred to in any affidavit or expert report; and
- b. all documents notified for inclusion in accordance with paragraph 6 of these orders.

10. The Court Book referred to in paragraph 9 of these orders is to include an index indicating documents the tender of which is agreed and, in relation to the documents as to which there is no agreement, which documents they are and whether lodged on behalf of the plaintiff or on behalf of any other party to the proceedings and, if so, which party.

Affidavits

11. On or before 22 April 2021, each party shall file and serve a folder of all affidavits, statements and reports to be relied upon at trial with an index setting out in alphabetical order:

- a. the name of the deponent or maker of the statement or report;
- b. the date of the affidavit, statement or report; and
- c. a short statement identifying the role of the deponent or the maker of the statement or report.

12. The parties shall, by notice in writing to the other party, state whether they propose to object to the whole or any part of any document, affidavit or expert report and the grounds for the objections:

- a. in the case of evidence served in accordance with paragraph 2 of these orders, by 5 May 2021;
- b. in the case of all other evidence on or before 22 April 2021.

13. By 26 April 2021, junior counsel for the Plaintiff and Defendant are to confer with a view to resolving by consent as many objections as they can.

14. By 30 April 2021, a final list of unresolved objections (other than in respect of evidence served in accordance with paragraph 2) is to be sent by delivery to the trial Judge's Associate or, if the identity of the trial Judge is unknown at the time for compliance, by delivery to the List Judge's Associate.

Opening submissions

15. On or before 28 April 2021, the parties shall each file and serve a short outline of submissions; a statement of the real issues for determination; a list of authorities; and a chronology of relevant events.

16. Liberty to apply on two days' notice and generally.

Other

17. Unless otherwise ordered by the Court or agreed between the parties, each of the parties to the Takata Proceedings are entitled to access the following materials in Takata Proceedings in which they are not a party, with such access to be limited to counsel and solicitors:

- a. material in the Court Book;
- b. filed lay and expert evidence;
- c. written submissions;
- d. documents recording objections to witness or documentary evidence;
- e. lists of authorities, aide memoires, and chronologies of relevant events; and
- f. any other documents filed or served in a Takata proceedings.

18. The proceedings be listed for a further case management conference on 26 March 2021.

THE COURT NOTES THAT:

1. The plaintiffs agreement to paragraph 3 of these orders is subject to her receipt and review of the evidence served in accordance with paragraph 2 and of certain documents requested by the plaintiff from the defendant in proceeding number 2017/00340824.

2. The defendant's agreement to paragraph 4 of this order is without prejudice to its right to seek to have that order vacated or varied on 26 March 2021.

In these orders "Takata Proceedings" means:

- a. 2017/00340824 Louise Haselhurst v Toyota Motor Corporation Australia Limited t/as Toyota Australia
- b. 2017/00353017 Kimley Whisson v Subaru (Aust) Pty Limited;
- c. 2017/003713526 Akuratiya Kularathne v Honda Australia Pty Limited;
- d. 2018/00009'555 Owen Brewster v BMW Australia Limited;
- e. 2018/00009565 Jaydan Bond v Nissan Motor Co (Australia) Pty Limited;
- f. 2018/00042244 Camilla Coates v Mazda Australia Pty Limited;
- g. 2018/00322648 Philip Dwyer v Volkswagen Group Australia Pty Limited t/a Volkswagen Australia,

Justice D Hammerschlag

Signed

Date