

**PLAINTIFFS' CLAIMS & PROPOSED SECOND AND THIRD CROSS
CLAIMS
AET'S PROPOSED ORDERS**

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Equity
Registry	Sydney
Case number	2015/306222

TITLE OF PROCEEDINGS

Plaintiffs	Innes Creighton
Defendants	Australian Executor Trustees Limited ACN 007 869 573

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Equity
Registry	Sydney
Case number	2015/171592

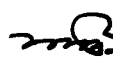
TITLE OF PROCEEDINGS

Plaintiffs	John Smith and Rosemary Smith
Defendants	Australian Executor Trustees Limited ACN 007 869 573

FILING DETAILS

Filed for	Australian Executor Trustees Limited, Defendant
Legal representative	Brad Woodhouse, Corrs Chambers Westgarth
Contact name and telephone	Brad Woodhouse, (02) 9210 6500
Contact email	brad.woodhouse@corrs.com.au

The Court orders that:

- 1 The Notice of Motion filed by Mr Creighton on 29 August 2016 be dismissed.
- 2 The costs of the Notice of Motion filed by Mr Creighton on 29 August 2016 be the defendant's costs in the cause.
- 3 The Notice of Motion filed by Mr Creighton on 27 October 2015 and the Notice of Motion filed by Mr and Mrs Smith on 29 August 2016 be stood over to the next ~~directions hearing referred to in paragraph 16 above.~~ 15 December 2016 

Timetable

- 4 The time for the Plaintiffs to comply with order 18 made on 4 April 2016 (regarding the service of expert reports on which they intend to rely) is extended to on or before 21 October 2016.
- 5 The time for the Defendant to comply with order 19 made on 4 April 2016 (regarding the service of expert reports on which it intends to rely) be extended to on or before 3 March 2017.
- 6 The time for the Plaintiffs to comply with order 20 made on 4 April 2016 (regarding the service of expert reports in reply) be extended to on or before 31 March 2017.
- 7 The time for the Plaintiffs' and Defendant's experts to comply with order 20A made on 4 April 2016 (regarding conferral and preparation of a joint report) be extended to on or before 14 April 2017.
- 8 The time for the Plaintiffs to comply with order 21 made on 4 April 2016 (regarding service of the Plaintiffs' tender bundle) be extended to on or before 9 December 2016.
- 9 The time for the Defendant to comply with order 22 made on 4 April 2016 (regarding service of the Defendant's tender bundle) be extended to on or before 24 March 2017.
- 10 The time for the Plaintiffs to comply with order 23 made on 4 April 2016 (regarding service of a joint tender bundle) be extended to on or before 7 April 2017.

Opt out

- 11 By 7 December 2016, the Plaintiffs shall:
 - a) Endeavour to agree:
 - i. a form of notice (**Smith opt out notice**) proposed to be given to persons who are group members of both proceeding 2015/171592

(Smith proceeding) and proceeding 2015/306222 **(Creighton proceeding)** for the purpose of section 162 of the *Civil Procedure Act 2005 (Act)*;

- ii. a form of notice **(Creighton opt out notice)** proposed to be given to persons who are group members of the Creighton proceeding only for the purpose of section 162 of the Act;
 - b) Serve on each other notices **(further notice)** proposed to be given to persons who are group members of both the Smith proceeding and the Creighton proceeding with the Smith opt out notice, that each Plaintiff(s) which will seek approval of the Court in respect of pursuant to section 175 of the Act;
 - c) Correspond as to any suggestions, omissions and deficiencies as to each other's further notice with the aim of reducing disputation as to the terms of each further notice;
 - d) Endeavour to agree a draft form of order **(form of order)** as to the proposed manner and timing of the giving of:
 - i. the Smith opt out notice, the Creighton opt out notice and the further notices;
 - ii. the selection, appointment and costs of an independent lawyer **(independent lawyer)** for the purpose of assisting persons who are group members of both the Smith proceeding and the Creighton proceeding in making an election as to which proceeding (if any) of which that group member wishes to remain part; and
 - e) Endeavour to agree on the identity of the independent lawyer or provide each other a short list **(short list)** of three candidates for appointment as the independent lawyer.
- 12 By 9 December 2016, the Plaintiffs in the proceeding shall inform the Defendant of the outcome of order 8 and serve on the Defendant the Smith opt out notice (or versions contended for by each Plaintiff as the case may be), the Creighton opt out notice and the further notices.
- 13 By 16 December 2016, the Defendant shall indicate its position as to the Smith opt out notice, the Creighton opt out notice, the further notices, the form of order, and the identity of the independent expert (or the names on the short list as the case may be).

AET's Notices of Motion

14 The Notices of Motion filed by the Defendant on 21 November 2016 in proceedings 2015/306222 and 2015/171592 (**Motions**) be listed for hearing on *15 December* 2016 before Justice Ball.

15 Any party intending to oppose the relief sought in the Motions is to serve, on or before *9 December* 2016, any affidavits on which they propose to rely, in relation to the Motions.

15B The Smith parties serve any proposed amended statement of claim by 4.00 pm on 9 December 2016

General
15B The Coughlin parties serve any proposed amended

~~16 The proceeding is listed for directions on *2017.*~~

17 Liberty to apply on ^{*one*} ~~three~~ days' notice.

statement of claim and supplementary expert reports by 4.00 pm on 14 December 2016.