

**FIRST CROSS CLAIMS
DEFENDANT'S / CROSS-CLAIMANTS' SHORT MINUTES OF ORDER**

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

TITLE OF CROSS-CLAIM

Cross-Claimants	Australian Executor Trustees Limited & Anor
Cross-Defendants	AXIS Speciality Europe SE & Ors

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

TITLE OF CROSS-CLAIM

Cross-Claimants	Australian Executor Trustees Limited & Anor
Cross-Defendants	AXIS Speciality Europe SE & Ors

FILING DETAILS

Filed for	Australian Executor Trustees Limited, Defendant
Legal representative	Mark Wilks, Corrs Chambers Westgarth
Contact name and telephone	Mark Wilks, (02) 9210 6500
Contact email	mark.wilks@corrs.com.au

The Court orders that:

- 1 Orders 3 - 6 of the orders made by the Court on 5 October 2016 be vacated.
- 2 The first and second cross-defendants complete their discovery by 7 December 2016.
- 3 Any proposed further amended first cross-claims be provided to the solicitors for the cross-defendants by ~~14~~^{4.00 pm} December 2016.
- 4 Notification of any objection by the cross-defendants to the proposed further amended first cross-claims be provided to the solicitors for the cross-claimants by 22 December 2016.
- 5 To the extent that there are no objections to the proposed further amended first cross-claims:
 - (a) the further amended first cross-claims be filed and served by 23 December 2016;
 - (b) subject to 8, defences to the further amended first cross-claims be filed by 19 January 2017;
 - (c) any replies be filed and served by 2 February 2017.
- 6 To the extent that there are objections to the proposed further amended first cross-claims, the cross-claimants file and serve notices of motion seeking leave to file the proposed further amended first cross-claims and any affidavits in support by 16 January 2017.
- 7 Any notices of motion filed and served pursuant to 6 above be listed for hearing on ~~a date to be fixed by the Court.~~ 15 December 2016.
- 8 The first cross-defendants' notices of motion for:
 - (a) leave to file defences to the amended first cross-claims; and
 - (b) for discovery from the first and second cross-claimants;
 be listed for hearing on ~~a date to be fixed by the Court.~~ 15 December 2016
- 9 The third and fourth cross-defendants provide discovery of documents in accordance with annexure A and B respectively on or before 21 December 2016.
- 10 The cross-claimants serve their lay evidence on or before 23 December 2016.
- 11 The cross-defendants serve their lay evidence on or before 25 January 2017.

4.00 pm
13

stat

8

12 The cross-claimants serve their expert evidence and lay evidence in reply on or before 22 February 2017.

Annexure A - Categories of documents for discovery from Liberty Mutual Insurance Company

- 1 All documents recording or referring to the provision or potential provision of primary or excess professional indemnity insurance by Liberty Mutual Insurance Company (**Liberty**) and/or any related body corporate for IOOF Holdings Limited (**IOOF**) and/or Australian Executor Trustees Limited (**AET**) in the periods:
 - (a) from 1 August 2010 to 31 December 2011; and
 - (b) from 1 June 2013 to 31 December 2014.

- 2 All documents comprising the guidelines of Liberty and/or any related body corporate recording or referring to the basis upon which Liberty and/or any related corporate body could or should provide primary or excess professional indemnity insurance cover to financial institutions in the Australian market of the same or similar nature to IOOF and/or AET in the period from 1 January 2010 to 30 June 2015.

- 3 All versions of standard financial institutions professional indemnity insurance policy wording for the Australian market issued by Liberty and/or any related body corporate in the period 1 January 2010 to 30 June 2015.

- 4 All financial institutions professional indemnity insurance policy wordings issued by Liberty and/or any related body corporate for any of the following trustees :
 - (c) Equity Trustees Limited;
 - (d) The Trust Company Limited;
 - (e) Perpetual Limited;
 - (f) Sandhurst Trustees Limited;
 - (g) State Trustees Limited; and
 - (h) One Investment Group Limited;

in the period 1 January 2010 to 30 June 2015.

- 5 All documents recording or referring to any claim or potential claim against AET in connection with Provident Capital Limited dated in the period 1 January 2015 to 3 September 2015.
- 6 All documents recording, referring to, or created in connection with the letter from Liberty to Willis Australia Limited dated 14 August 2015 with respect the proceedings brought by Innes Creighton and John and Rosemary Smith against AET.
- 7 All correspondence between AXIS Speciality Europe SE (**AXIS**), Liberty and other excess insurers in relation to the following policies of professional indemnity insurance underwritten by AXIS for IOOF and its subsidiaries:
- (i) policy number 311731 for the period of insurance from 4pm on 14 November 2010 to 4pm on 31 October 2011;
 - (j) policy number 311731 for the period of insurance from 4pm on 30 November 2011 to 4pm on 31 October 2012; and
 - (k) policy number 311731 for the period of insurance from 4pm on 30 November 2014 to 4pm on 30 November 2015,

in relation to the claim or potential claim brought against AET by Innes Creighton and/or John and Rosemary Smith in the period 16 March 2015 to 3 September 2015.

**Annexure B - Categories of documents for discovery from Chubb Insurance
Company of Australia Limited**

- 1 All documents recording or referring to the provision or potential provision of primary or excess professional indemnity insurance by Chubb Insurance Company of Australia Limited (**Chubb**) and/or any related body corporate for IOOF Holdings Limited (**IOOF**) and/or Australian Executor Trustees Limited (**AET**) in the periods:
 - (l) from 1 August 2010 to 31 December 2011; and
 - (m) from 1 June 2013 to 31 December 2014.

- 2 All documents comprising the guidelines of Chubb and/or any related body corporate recording or referring to the basis upon which Liberty and/or any related corporate body could or should provide primary or excess professional indemnity insurance cover to financial institutions in the Australian market of the same or similar nature to IOOF and/or AET in the period from 1 January 2010 to 30 June 2015.

- 3 All versions of standard financial institutions professional indemnity insurance policy wording for the Australian market issued by Chubb and/or any related body corporate in the period 1 January 2010 to 30 June 2015.

- 8 All financial institutions professional indemnity insurance policy wordings issued by Chubb and/or any related body corporate for any of the following trustees :
 - (n) Equity Trustees Limited;
 - (o) The Trust Company Limited;
 - (p) Perpetual Limited;
 - (q) Sandurst Trustees Limited;
 - (r) State Trustees Limited; and
 - (s) One Investment Group Limited;in the period 1 January 2010 to 30 June 2015.

- 4 All documents recording or referring to any claim or potential claim against AET in connection with Provident Capital Limited dated in the period 1 January 2015 to 3 September 2015.
- 5 All documents recording, referring to, or created in connection with the letter from Chubb to Willis Australia Limited dated 14 August 2015 with respect the proceedings brought by Innes Creighton and John and Rosemary Smith against AET.
- 6 All correspondence between AXIS Speciality Europe SE (**AXIS**), Chubb and other excess insurers in relation to the following policies of professional indemnity insurance underwritten by AXIS for IOOF and its subsidiaries:
 - (t) policy number 311731 for the period of insurance from 4pm on 14 November 2010 to 4pm on 31 October 2011;
 - (u) policy number 311731 for the period of insurance from 4pm on 30 November 2011 to 4pm on 31 October 2012; and
 - (v) policy number 311731 for the period of insurance from 4pm on 30 November 2014 to 4pm on 30 November 2015,

in relation to the claim or potential claim brought against AET by Innes Creighton and/or John and Rosemary Smith in the period 16 March 2015 to 3 September 2015.