

# OUTCOME DETAILS

**Supreme Court - Civil  
at Supreme Court Sydney  
on 8 November 2019**

**2018/00353304-001 / Summons: Ashita Tomi Pty Ltd as trustee for Esskay Super Fund  
v RCR TOMLINSON LTD trading as RCR Tomlinson Ltd**

This matter is listed for Directions (Commercial) on 28 February 2020 9:45 AM before the Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 5 Minutes

I make the orders in the document entitled Proposed Orders which I have initialled, dated today's date and placed with the papers.

The proceedings are stood over to the directions list on 28th February 2020.

Parties have liberty to apply on three days' notice.

Proposed Orders

Pleadings

1. By 5 December 2019, the first defendant is to file and serve an amended Commercial List Response.
2. By 19 December 2019, the plaintiffs are to serve any request for particulars of the first defendant's amended Commercial List Response.
3. By 6 February 2020, the first defendant is to respond to any request for particulars made in accordance with Order 2.
4. By 20 February 2020, the plaintiffs are to file and serve any Reply to the first defendant's amended Commercial List Response.
5. The proceedings be listed for further directions on 28 February 2020.
6. Liberty to apply on three days' notice. Common fund order
7. Pursuant to section 183 of the Civil Procedure Act 2005 (NSW) and/or section 23 of the Supreme Court Act 1970 (NSW), and subject to further order of the Court, upon Resolution (as defined in the Funding Terms annexed to the Orders made by this Court on 15 August 2019 and the application filed by the plaintiffs on 6 November 2019) the plaintiffs and group members shall pay from any Resolution Sum (as defined in the Funding Terms) the amounts referred to in paragraphs 8, 9 and 37 of the Funding Terms, prior to any distribution to plaintiffs and group members, in accordance with the Funding Terms.
8. Order 7 is subject to the provision of an undertaking by each of the plaintiffs, Quinn Emanuel Urquhart and Sullivan, Burford and IMF to each other and to the Court in the terms set out at Annexure A to these Orders, such undertakings to be given within seven days of the making of these Orders.

9. The hearing listed for 15 November 2019 be vacated.

Annexure "A"

## FORM OF UNDERTAKING

Supreme Court of New South Wales  
Registry: Sydney  
No. 2018/00353304

Ashita Tomi Pty Ltd, CJMcG Pty Ltd and Jorge Mayer  
Plaintiffs

(a) RCR Tomlinson Limited (ACN 008 898 486), Paul Joseph Dalglish and Bruce Maxwell  
James

Defendants

### (b) UNDERTAKING

Burford Asia Investments Pte. Ltd OR IMF Bentham Limited, acting in its capacity as the investment manager and agent for each of IMF Bentham Limited (Fund 2) Pty Ltd (ACN 621 682 504) and IMF Bentham Limited (Fund 3) Pty Ltd (ACN 621 682 460) OR Ashita Tomi Pty Ltd, CJMcG Pty Ltd and Jorge Mayer OR Quinn Emanuel Urquhart & Sullivan undertakes to the other of Burford Asia Investments Pte. Ltd AND IMF Bentham Limited, acting in its capacity as the investment manager and agent for each of IMF Bentham Limited (Fund 2) Pty Ltd (ACN 621 682 504) and IMF Bentham Limited (Fund 3) Pty Ltd (ACN 621 682 460) AND Ashita Tomi Pty Ltd, CJMcG Pty Ltd and Jorge Mayer AND Quinn Emanuel Urquhart & Sullivan and to the Court to comply with [its OR her/his] obligations under the Funding Terms (being Annexure A to the Orders dated 15 August 2019) and the terms of order 1 of those orders, and to submit irrevocably to the jurisdiction of the Court.

Signature:

Capacity:

On behalf of: Burford Asia Investments Pte. Ltd AND IMF Bentham Limited, acting in its capacity as the investment manager and agent for each of IMF Bentham Limited (Fund 2) Pty Ltd (ACN 621 682 504) and IMF Bentham Limited (Fund 3) Pty Ltd (ACN 621 682 460) AND Ashita Tomi Pty Ltd, CJMcG Pty Ltd and Jorge Mayer AND Quinn Emanuel Urquhart & Sullivan

Date of signature:

**2018/00353304-005 / Notice of Motion Civil - Ashita Tomi Pty Ltd as trustee for Esskay Super Fund v RCR TOMLINSON LTD trading as RCR Tomlinson Ltd**

The hearing listed for 15 November 2019 be vacated.

**2018/00353304-005 / Notice of Motion Civil - Ashita Tomi Pty Ltd as trustee for Esskay Super Fund v RCR TOMLINSON LTD trading as RCR Tomlinson Ltd**

The following hearing dates are vacated:

15 Nov 2019 09:15 AM

Reason: By Consent

Other Reason: See Hammerschlag J orders of 8 November 2019

Justice D Hammerschlag

Signed

Date