

OUTCOME DETAILS

**Supreme Court - Civil
at Supreme Court Sydney
on 1 July 2019**

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

#

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

#

Justice D Hammerschlag

Signed

Date

Form 44 (version 3)
UCPR 36.1A

ORDERS



COURT DETAILS

Court	Supreme Court of New South Wales
Division	Equity
List	Commercial
Registry	Sydney
Case number	2018/00353304

TITLE OF PROCEEDINGS

Plaintiff **Ashita Tomi Pty Ltd as trustee for Esskay Super Fund**

Defendant **RCR TOMLINSON LTD trading as RCR Tomlinson Ltd
ACN 008 898 486**

PREPARATION DETAILS

Prepared for	Plaintiff
Legal representative	Damian Scattini, Quinn Emanuel
Contact name and telephone	(02) 9146 3500
Contact email	damianscattini@quinnemanuel.com

TERMS OF ORDER MADE BY THE COURT BY CONSENT

Multiplicity Motions

- 1) The Plaintiff in this proceeding and the plaintiffs in proceedings 2019/178541 and 2019/94443 (the **Related Proceedings**) file and serve by 4pm on 12 July 2019:
 - a) any notice of motion that seeks to deal with the overlap between the Related Proceedings (to be referred to together with any motion filed by the defendants in accordance with order 2 below as the **Multiplicity Motions**);
 - b) to the extent any plaintiff in the Related Proceedings proposes to seek a common fund order in due course, a draft of the proposed common fund order, including funding terms; and
 - c) any evidence in chief in support of any Multiplicity Motion.

- 2) The defendants to the Related Proceedings file and serve any notice of motion in relation to the resolution of the multiplicity issue and any evidence upon which they propose to rely in respect of the Multiplicity Motions by 4pm on 22 July 2019.
- 3) The plaintiffs to the Related Proceedings serve any evidence in reply in respect of the plaintiffs' Multiplicity Motions and/or evidence in response to the evidence served in support of the defendants' Multiplicity Motions by 4pm on 26 July 2019.
- 4) By 4pm on 29 July 2019: (a) the parties to the Related Proceedings serve any submissions in chief in respect of the Multiplicity Motions and (b) the defendants serve any evidence in reply in relation to their own Multiplicity Motions.
- 5) The parties to the Related Proceedings serve any submissions in reply in respect of the plaintiffs' Multiplicity Motions by 2pm on 2 August 2019.
- 6) The documents required to be served by these orders are to be served on all parties to the Related Proceedings at the times specified in orders 1 to 5.

Confidentiality Orders

- 7) If a plaintiff in the Related Proceedings contends that any evidence or submissions filed in accordance with orders 1 to 5 above ought to be the subject of an order under s 7 of the *Court Suppression and Non-Publication Orders Act 2010 (NSW)* (the **Act**) (**Claimed Confidential Material**):
 - a. the Claimed Confidential Material shall be provided on an unredacted and redacted basis to the Associate to [Hammerschlag J], together with a draft minute of the orders sought under s 7 of the Act (the **Confidentiality Orders**), which shall specify whether the plaintiff/s seeks orders preventing both the defendants and plaintiffs, or alternatively only the defendants in the Related Proceedings, from accessing the Claimed Confidential Material;
 - b. the Claimed Confidential Material, together with brief submissions on the claimed basis of confidentiality, shall be served on:
 - i. the defendant/s on a redacted basis; and
 - ii. the plaintiffs to the Related Proceedings on a redacted basis, unless the Confidentiality Orders do not seek an order preventing the plaintiffs from accessing the Claimed Confidential Material; and
 - c. in the event that the defendants and/or the plaintiffs in the Related Proceedings dispute any claim for orders under s 7 of the Act in respect of the Claimed Confidential Material, they may exercise the liberty to apply in order 9 below.

Hearing

- 8) The matter be listed for a one day hearing before [Hammerschlag J] at [10]am on 5 August 2019.
- 9) Liberty to apply on 48 hours' notice.

SEAL AND SIGNATURE

Court seal

Signature

Capacity

Date made or given

Date entered

NOTICE

Subject to limited exceptions, no variation of a judgment or order can occur except on application made within 14 days after entry of the judgment or order.