

OUTCOME DETAILS

**Supreme Court - Civil
at Supreme Court Sydney
on 5 July 2021**

2019/00193556-001 / Summons: Kerry Michael Quirk v Suncorp Portfolio Services Limited in its capacity as trustee for the Suncorp Master Trust

This matter is listed for Directions (Commercial) on 17 September 2021 9:45 AM before the Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 5 Minutes

I make the orders in the document entitled Short Minutes of Order dated today's date and placed with the papers.

Justice D Hammerschlag

Signed

Date

Form 44 (version 3)
UCPR 36.1A**SHORT MINUTES OF ORDER****COURT DETAILS**

Court	Supreme Court of New South Wales
Division	Equity Division
List	Commercial List
Registry	Sydney
Case number	2019/193556

TITLE OF PROCEEDINGS

Plaintiff	Kerry Michael Quirk
First Defendant	Suncorp Portfolio Services Limited in its capacity as trustee for the Suncorp Master Trust
Second Defendant	Geoffrey Edward Summerhayes
Third Defendant	Sean Carroll

FILING DETAILS

Filed for	Kerry Michael Quirk, Plaintiff
Filed in relation to	Plaintiff's claim
Legal representative	Bill Petrovski, William Roberts Lawyers
Legal representative reference	701900167
Contact name and telephone	Ding Pan (02) 9552 2111
Contact email	SSFclassaction@williamroberts.com.au

TERMS OF ORDER MADE BY THE COURT

Notices

1. The Court pursuant to section 175(5) of the *Civil Procedure Act 2005* (NSW) (the **Act**), fixes 3 September 2021 (**Deadline**) as the date before which a Class Member (as defined in the Amended Commercial List Statement) (**Class Member**) may object to leave being granted to the Plaintiff to file the proposed Further Amended Summons in the form set out in Schedule C to these orders (**Proposed Further Amended Summons**) and the proposed Further Amended Commercial List Statement in the form set out in Schedule D to these orders (**Proposed Further Amended Commercial List Statement**).
2. Pursuant to sections 175 and 176 of the Act:
 - a. the form and content of the notice set out in Schedule A to these Orders is approved (**Notice of Proposed Amendments**);
 - b. the form and content of the notice set out in Schedule B to these Orders is approved (**Newspaper Notice**); and
 - c. notice of the terms as set out in the Notice of Proposed Amendments, and the Newspaper Notice are to be given to Class Members in accordance with these Orders.

Distribution of the Notices

3. The Notice of Proposed Amendments may be amended by the Plaintiff before it is displayed or published in order to correct any website or email address or telephone number or other non-substantive error or matter.
4. By no later than 9 July 2021, the Plaintiff is to cause the Proposed Further Amended Summons and the Proposed Further Amended Commercial List Statement to be displayed or published on the William Roberts Lawyers' website www.williamroberts.com.au (**WR Website**), and to remain for the period to the Deadline.
5. By no later than 9 July 2021, William Roberts Lawyers, on behalf of the Plaintiff, is to cause the Notice of Proposed Amendments to be displayed on the WR Website and to remain for the period to the Deadline.

6. By no later than 9 July 2021, William Roberts Lawyers, on behalf of the Plaintiff, is to cause the Newspaper Notice to be published in at least one (1) major newspaper publication that is in circulation in metropolitan areas in each capital city of each State and Mainland Territory of Australia.
7. By no later than 9 July 2021 and for the period to the Deadline, the Registrar of the Supreme Court of New South Wales shall cause the Notice of Proposed Amendments to be posted on the Supreme Court of New South Wales website.
8. By no later than 9 July 2021 and for the period to the Deadline:
 - a. the Registrar of the Supreme Court of New South Wales shall cause a copy of these orders (including all schedules hereto) and the Notice of Proposed Amendments to be posted on the Supreme Court of New South Wales website; and
 - b. William Roberts Lawyers is to make available the Proposed Further Amended Summons and Proposed Further Amended Commercial List Statement to be inspected by Class Members between 9am and 5pm at their offices in Sydney, Melbourne and Brisbane by pre-arranged appointment.

Objections

9. Pursuant to section 183 of the Act, any Class Member who wishes to object to leave being granted to the Plaintiff to file the Proposed Further Amended Summons or the Proposed Further Amended Commercial List Statement must, before the Deadline, deliver a Notice of Objection (as set out in Annexure 1 to the Notice in Schedule A) (**Objection Notice**) to the Registrar of the Supreme Court of New South Wales.
10. If, on or before the Deadline, the solicitors for any party to the proceeding or the litigation funder LCM Operations Pty Ltd (ACN 616 451 033) (**LCM**) receive a notice purporting to be an Objection Notice referable to this proceeding, the solicitors or LCM must file the notice with the Registry of the Supreme Court of New South Wales within 7 days after receipt, and the form shall be treated as an Objection Notice received by the Court at the time it was received by the solicitors or LCM.
11. The solicitors for the Plaintiff and each Defendant have leave to inspect the Court file and copy any Objection Notice filed in the Registry of the Supreme Court of New South Wales.

Hearing

12. The plaintiff's application to file the Proposed Further Amended Summons and Proposed Further Amended Commercial List Statement be listed on [a date suitable to the Court].

17 September 2021

Other

13. The costs of and incidental to the Plaintiff's application to file the Proposed Further Amended Summons and the Proposed Further Amended Commercial List Statement, including costs of and incidental to the procedure set out in Orders 4 to 11 above, are costs in the cause.

14. The parties have liberty to apply on three days 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.

SCHEDULE A

SUNCORP SUPER CLASS ACTION

NOTICE OF PROPOSED AMENDMENTS

(Supreme Court of New South Wales Proceedings numbered 2019/193556)

WHY IS THIS NOTICE IMPORTANT?

This is an important notice issued by the Supreme Court of New South Wales

The Plaintiff has proposed to make amendments to clarify that Suncorp products known as "risk-only products" are not the subject of this Suncorp Super Class Action.

If you did not hold a "risk-only" product with Suncorp during the Relevant Period, you do not need to do anything in relation to this notice as the proposed amendments do not affect you.

If you held a "risk-only" product with Suncorp during the period 1 July 2013 to 21 June 2019 (**Relevant Period**), you may:

1. **do nothing**; or
2. **object** to the proposed amendments by 3 September 2021 (4.00PM (Sydney time)), by completing the Notice of Objection at Annexure 1 (**Notice of Objection**) and filing it with the Supreme Court of New South Wales.

If you are unsure whether you did hold a "risk-only" product with Suncorp during the Relevant Period, you may contact William Roberts Lawyers by sending an email to SSFclassaction@williamroberts.com.au, calling their offices in Sydney 02 9552 2111, Melbourne 03 9321 9111 or Brisbane 07 3894 0780, or seek your own legal advice without delay.

SOME THINGS YOU SHOULD KNOW ABOUT THE CLASS ACTION

1. As you may know, a class action has been commenced in the Supreme Court of New South Wales by Kerry Michael Quirk (**Mr Quirk**) on his own behalf and on behalf of all persons who are "**Class Members**" against Suncorp Portfolio Services Limited, as trustee of the Suncorp Master Trust (**Suncorp**), and also against Geoffrey Edward Summerhayes and Sean Carroll, who were directors of Suncorp.
2. The class action seeks compensation (that is, money) from Suncorp, Mr Summerhayes and Mr Carroll in relation to certain fees charged by Suncorp to Class Members' superannuation account(s) and certain payments made by Suncorp to Financial Services Providers (including financial advisers).
3. The solicitors running the case are William Roberts Lawyers. A company named LCM Operations Pty Ltd (**LCM**) is funding the case.
4. Whether the class action wins or loses, the Class Members are not, and will not be, liable for any "out of pocket" legal costs by remaining in this class action.
5. If the class action wins (and the money compensation is recovered by judgment or settlement), one order which the Court may make is to distribute the legal and funding

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If you held a "risk-only" product with Suncorp during the period 1 July 2013 to 21 June 2019 (**Relevant Period**), you may:

1. **do nothing**; or
2. **object** to the proposed amendments by 3 September 2021 (4.00PM (Sydney time)), by completing the Notice of Objection at Annexure 1 (**Notice of Objection**) and filing it with the Supreme Court of New South Wales.

If you are unsure whether you did hold a "risk-only" product with Suncorp during the Relevant Period, you may contact William Roberts Lawyers by sending an email to SSFclassaction@williamroberts.com.au, calling their offices in Sydney 02 9552 2111, Melbourne 03 9321 9111 or Brisbane 07 3894 0780, or seek your own legal advice without delay.

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3. The solicitors running the case are William Roberts Lawyers. A company named LCM Operations Pty Ltd (**LCM**) is funding the case.
4. Whether the class action wins or loses, the Class Members are not, and will not be, liable for any "out of pocket" legal costs by remaining in this class action.
5. If the class action wins (and the money compensation is recovered by judgment or settlement), one order which the Court may make is to distribute the legal and funding

expenses equally among all persons who have benefitted from the class action. The effect of any such order, if made, would be that all Class Members who benefit from the recovery of the compensation will contribute, from the money compensation recovered, an equal percentage of their compensation to pay the expenses and pay reasonable litigation funding charges to LCM and William Roberts Lawyers (for legal costs not paid to them by LCM). If there is insufficient recovery to cover the legal and funding expenses, Class Members will not be required to pay the difference.

WHAT ARE THE PROPOSED AMENDMENTS?

6. The Plaintiff proposes to make changes to the Amended Summons (**Proposed Further Amended Summons**) and the Amended Commercial List Statement (**Proposed Further Amended Commercial List Statement**), to clarify that compensation is not sought in this class action in respect of fees charged by, or payments made by, Suncorp that are only in respect of products known as "risk-only" products.
7. A copy of the Proposed Further Amended Summons and Proposed Further Amended Commercial List Statement:
 - a. can be found on William Roberts Lawyers' web site at:
<https://www.williamroberts.com.au/Class-Actions/Suncorp-Super-Class-Action>;
and
 - b. can be inspected between 9am and 5pm at the offices of William Roberts Lawyers in Sydney, Melbourne and Brisbane by pre-arranged appointment, contact details for which are available from www.williamroberts.com.au or by calling (02) 9552 2111.

What are "risk-only" products?

8. A "risk-only" product is a life risk insurance product (within the meaning of s963B(1)(b)(i) of the *Corporations Act 2001* (Cth) (**Corporations Act**)) which has no investment component or balance and is not either:
 - a. a group life policy for members of a superannuation entity; or
 - b. a life policy for a member of a default superannuation fund within the meaning of s963B(1)(b)(ii) of the Corporations Act.
9. If you are unsure whether you did or did not hold a "risk-only" product with Suncorp during the Relevant Period, you may contact William Roberts Lawyers by sending an email to SSFclassaction@williamroberts.com.au, calling their offices in Sydney 02 9552 2111, Melbourne 03 9321 9111 or Brisbane 07 3894 0780, or seek your own legal advice without delay.

HOW DO THE PROPOSED AMENDMENTS AFFECT ME?

If you held no "risk-only" product in the Relevant Period

10. You are not affected by the proposed amendments if you did not hold any "risk-only" product during the Relevant Period and you do not need to do anything.

If you only held "risk-only" products in the Relevant Period

11. If you only held a "risk-only" product with Suncorp during the Relevant Period (that is, if, other than "risk-only products", you held no other products with Suncorp during the Relevant Period), you will not be a Class Member in this class action if the proposed amendments are made.
12. If you are not a Class Member of this class action, any rights you may have will not be affected by the outcome of this class action. You may commence your own proceedings, if you wish to do so, and you should seek your own legal advice in relation to whether you have a claim to commence separate legal proceedings.

If you held both "risk-only" products and non "risk-only" products in the Relevant Period

13. If you held both "risk-only" products, and non "risk-only" products with Suncorp in the Relevant Period, the proposed amendments:
 - a. will not affect whether or not you are a Class Member; but
 - b. will clarify that compensation is not sought for you in respect of fees charged or payments made by Suncorp that are only in relation to "risk-only" products.

OPTIONS FOR CLASS MEMBERS WHO HELD "RISK-ONLY" PRODUCTS DURING THE RELEVANT PERIOD

Option 1 – Do nothing

14. If you do not wish to object to the proposed amendments, you do not need to do anything.

Option 2- Object to the proposed amendments

15. If you held a "risk-only" product during the Relevant Period, you may object to the proposed amendments if you wish to do so.
16. To object to the proposed amendments, you need to complete the below "Notice of Objection" contained at **Annexure 1**, and then return it to the Registrar of the Supreme Court of New South Wales at the address on the form. The Notice of Objection must reach the Registrar by no later than **4:00pm (Sydney time) on 3 September 2021**, otherwise it will not be effective.

ANNEXURE 1

NOTICE OF OBJECTION

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Equity Division
List	Commercial List
Registry	Sydney
Case number	2019/193556

TITLE OF PROCEEDINGS

Plaintiff	Kerry Michael Quirk
First Defendant	Suncorp Portfolio Services Limited in its capacity as trustee for the Suncorp Master Trust
Second Defendant	Geoffrey Edward Summerhayes
Third Defendant	Sean Carroll

FILING DETAILS

Filed for:
(Name of person objecting)

Legal representative:
(If applicable)

Legal representative reference:
(If applicable)

Contact name and telephone:

Contact email:

NOTICE OF OBJECTION

Name of person objecting

Address of person objecting

I....., a Class Member in these representative proceedings, object to leave being granted for the Plaintiff to file the Proposed Further Amended Summons

and the Proposed Further Amended Commercial List Statement in the proceedings for the following reasons:

Please indicate whether you intend to give or lead evidence in support of your objection:

- I intend to give or lead evidence in support of my objection.
- I do not intend to give or lead evidence in support of my objection.

Please indicate whether you intend to appear at the hearing of the application (your objection will be before the Court whether you choose to appear at the hearing or not):

- I intend to appear at the hearing.
- I do not intend to appear at the hearing.

SIGNATURE

Signature of legal representative

Signature of or on behalf of
person objecting if not legally
represented

Capacity

.....
(eg solicitor, authorised officer of person objecting,
person objecting)

Date of signature

NOTICE TO PERSON OBJECTING

You must, within the time specified in the notice to Class Members:

- 1 file this form in the registry of the court at the address below, or in the manner provided in the notice to Class Members; and
- 2 serve a copy of this form on the representative party at the address, or in the manner provided, in the notice to Class Members.

REGISTRY ADDRESS

Street address	Supreme Court of NSW Law Courts Building, Queen's Square 184 Phillip Street Sydney NSW 2000
Postal address	Supreme Court of NSW GPO Box 3 Sydney NSW 2001
Telephone	1300 679 272

SCHEDULE B

NEWSPAPER NOTICE

Suncorp Super Class Action – Notice of Objection Deadline

A class action was commenced in 2019 against Suncorp Portfolio Services Limited in its capacity as trustee of the Master Trust (Suncorp) and also against certain former directors of Suncorp (Supreme Court of NSW Proceedings number 2019/193556).

The class action claims compensation (that is, money) because of certain charges made by Suncorp to Class Member superannuation accounts.

The Plaintiff proposes to make changes to the Amended Summons and Amended Commercial List Statement, including to clarify that Suncorp products known as "risk-only products" are not the subject of the Suncorp Super Class Action.

A "risk-only" product is a life risk insurance product (within the meaning of s963B(1)(b)(i) of the *Corporations Act 2001* (Cth)) which has no investment component or balance and is not either:

- (a) a group life policy for members of a superannuation entity; or
- (b) a life policy for a member of a default superannuation fund within the meaning of s963B(1)(b)(ii) of the *Corporations Act 2001* (Cth).

You may be affected by the proposed amendments if you are a class member in the class action and you held a "risk-only" product during the period 1 July 2013 to 21 June 2019.

The Court has ordered that an important notice be issued to class members affected by this notice advising them about their right to object to the proposed amendments. This notice can be obtained from:

- www.williamroberts.com.au
- <http://www.supremecourt.justice.nsw.gov.au/> or
- By contacting William Roberts Lawyers, solicitors for the plaintiff by emailing them at SSFclassaction@williamroberts.com.au; or telephoning them at their offices in Sydney 02 9552 2111, Melbourne 03 9321 9111 or Brisbane 07 3894 0780.

SCHEDULE C
PROPOSED FURTHER AMENDED SUMMONS

SCHEDULE D
PROPOSED FURTHER AMENDED COMMERCIAL LIST STATEMENT

