

# OUTCOME DETAILS

**Supreme Court - Civil  
at Supreme Court Sydney  
on 4 October 2019**

**2017/00193375-001 / Summons: TW McConnell Pty Ltd ACN 000 217 890 as trustee for the McConnell Superannuation Fund v SURFSTITCH GROUP LIMITED**

This matter is listed for Motion (Commercial List) on 25 October 2019 9:15 AM before the Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 5 Minutes

This matter is listed for Directions (Commercial) on 25 October 2019 9:45 AM before the Supreme Court - Civil at Supreme Court Sydney.

Estimated duration: 5 Minutes

This matter is listed for Motion (Commercial List) on 6 December 2019 9:15 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 which I have initialled, dated today's date and placed with the papers.

The proceedings are stood over to the directions list on 25th October 2019

Short Minutes of Order

Settlement Approval Application

1. By 4.00pm on 23 October 2019 the Plaintiff is to file and serve a Notice of Motion seeking:

(a) settlement approval of the settlement agreement entered into between the parties to the proceedings on or about 24 September 2019 (Settlement) (Settlement Approval Application);

(b) orders in respect of any proposed opt out notice and procedure (Opt Out Process) and any proposed registration of, and notices to, group members in respect of the Settlement (Registration);

(c) any common fund or other appropriate costs orders (Costs);

(d) a timetable in respect of the service of evidence and submissions in respect of the Settlement Approval Application; and

(e) any other ancillary or related relief related to, respect of, or arising from, the Settlement.

2. The relief sought in respect of the Opt Out Process be listed for hearing on 25 October 2019.

3. The relief sought in respect of the balance of the Settlement Approval Application, including as Costs, be listed for hearing on 6 December 2019.

Contradictor

4. Guy Donnellan, of the New South Wales Bar, be appointed as contradictor (Contradictor) in respect of the Settlement Approval Application.

5. The costs of the Contradictor be paid by the Plaintiffs in the first instance in this proceeding and 2017/347082 (Nakali Proceedings), and such costs be the Plaintiff's costs in each proceeding to be assessed as part of the Settlement Approval Application.

#### Costs Referee

6. Elizabeth Mary Harris, be appointed as cost referee in relation to assessing the reasonableness of the Plaintiff's costs sought in respect of the Settlement Approval application.

#### Plaintiff's Notice of Motion dated 3 July 2018

7. The Plaintiff's notice of motion dated 3 July 2018 (as amended on 1 November 2018) is dismissed (Plaintiff's Notice of Motion).

8. There be no order as to costs in respect of the Plaintiff's Notice of Motion.

#### Further directions

9. The proceeding is stood over until 25 October 2019 for directions and appearances of the parties on 4 October 2019 is dispensed with.

#### Deed Administrators' Application

10. The Court notes that the Deed Administration of the First Defendant intend to file an application under section 90-15 of the Insolvency Practice Schedule seeking directions that they would be justified in entering into and performing the Settlement Agreement.

11. Directs that any such application be served on the parties to these proceedings, and to be listed in the Commercial List and be heard concurrently with the application for Settlement Approval Application in proceedings 2017/193375 and 2017/347082.

#### Liberty to apply

12. The parties have liberty to apply on 48 hours' notice.

Justice D Hammerschlag

Signed

Date