

**IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMERCIAL COURT  
GROUP PROCEEDINGS LIST**

S ECI 2020 02588

BETWEEN

**LYNDEN IDDLES**  
(and another according to the Schedule)

Plaintiffs

and

**FONTERRA AUSTRALIA PTY LTD (ACN 006 483 665)**  
(and others according to the Schedule)

Defendants

**ORDER**

- BEFORE:** The Honourable Justice Nichols
- DATE MADE:** 11 February 2022
- ORIGINATING PROCESS:** Writ filed 17 June 2020
- HOW OBTAINED:** At case management conference
- APPEARANCES:** Mr Lachlan Armstrong QC and Mr Min Guo for the plaintiffs  
Mr Paul Liondas and Ms Lucy Dawson for the defendants
- OTHER MATTERS:**
1. The Court notes that the parties contemplate that:
    - (a) there will be an initial trial (**initial trial**) of all common issues raised by the pleadings, as well as the plaintiff's personal claim including the existence and quantum of any losses suffered by the plaintiffs, but not including:
      - i. any questions of contravention or liability that are specific to individual group members; or
      - ii. the existence or quantum of any losses suffered by any group member;



- (b) the trial of issues in (a)(i) or (ii) above (**further issues**) will be deferred pending the outcome of the initial trial and further order of the Court; and
- (c) a list of the issues to be determined at the initial trial will be prepared by a date to be fixed.

2. It is anticipated that the initial trial will be set for 14 November 2022 or a date soon after to be determined by the Court.

### **THE COURT ORDERS BY CONSENT THAT:**

#### **Sample Group Members**

1. By **4pm on 11 March 2022** the plaintiffs:

- a) file and serve any lay evidence upon which they intend to rely in respect of the claim of any one group member in respect of whom any individual issue is proposed to be determined at the initial trial (**sample group member**);
- b) give discovery in respect of any such SGM of documents which bear on the assessment of the evidence of the SGM as to questions in the initial trial not covered by the plaintiffs' claim.

#### **Further discovery**

- 2. By **4pm on 18 March 2022** any party seeking further discovery from another party (and 'party' for the purposes of these Orders shall include any SGM) shall serve on each party that request.
- 3. By **4pm on 1 April 2022** any party of whom a request is made pursuant to Order 2 shall serve on each other party a response to any request made.
- 4. By **4pm on 22 April 2022** any party seeking further discovery shall file and serve any application in respect of any unresolved request for further discovery, together with any affidavit material in support and an outline of submissions not exceeding five pages.
- 5. By **4pm on 6 May 2022** any respondent to an application shall file and serve any affidavit material in response to any application pursuant to Order 4 and an outline of submissions not exceeding five pages.
- 6. Any application pursuant to Order 4 shall be heard and determined by Judicial Registrar Steffensen on a date to be notified to the parties by the Associates to Justice Nichols.



### **Lay and experts' evidence**

7. Pursuant to s 65G of the *Civil Procedure Act 2010 (Vic)* (**CPA**) the parties have leave to adduce expert evidence.
8. By **4pm on 1 April 2022** the plaintiffs file and serve any further lay evidence (by the plaintiffs' adviser Mr Crockart or the plaintiffs' accountant) upon which the plaintiffs will rely at the initial trial.
9. By **4pm on 27 May 2022** the defendants file and serve any lay evidence in response to the plaintiffs' lay evidence upon which the defendants will rely at the initial trial.
10. By **4pm on 3 June 2022** the plaintiffs file and serve any expert report upon which they will rely at the initial trial.
11. By **4pm on 29 July 2022** the defendants file and serve:
  - a) any expert report; and
  - b) any lay evidence in response to the plaintiffs' expert evidence, upon which they will rely at the initial trial.
12. By **4pm on 26 August 2022** the plaintiffs file and serve any expert report in reply.

### **Experts' conclave and joint report**

13. By **4pm on 2 September 2022** the parties confer in relation to the appropriateness of any pre-trial conclaves of experts.
14. By **4pm on 9 September 2022** the plaintiffs deliver to the Associates to Justice Nichols any agreed consent orders in relation to pre-trial conclaves.

### **Mediation**

15. By **4pm on 28 February 2022** the parties notify the Associates to Justice Nichols whether they have agreed a mediator for the proceeding, and in default of agreement a mediator shall be appointed by the Court.
16. The proceeding is referred to mediation, to be completed by 5 September 2022.
17. The Mediator may make such directions as to the conduct of the mediation as she or he may consider appropriate, including without limitation directions as to:
  - a) exchanges of position papers by appointed times prior to the mediation; and



b) the persons required to attend the mediation on behalf of any party, its insurer or litigation funder;

and the mediator may at her or his discretion report to the Court any instance of non-compliance by a party with any direction so given.

18. The costs of the mediation in the first instance will be paid equally by the parties (half by the plaintiffs and half by the defendants), but otherwise are reserved.

19. By 12 September 2022, the plaintiffs shall notify the Court whether or not the mediation was successful.

### **Objections to evidence**

20. By **9 September 2022**, the parties exchange objections to evidence.

21. The parties serve a response to each list of objections to evidence by **23 September 2022**.

22. The parties confer to seek to resolve any outstanding objections to evidence by **30 September 2022**.

23. The parties file a joint list of outstanding objections for resolution by the Court by **4pm on 7 October 2022**.

### **Outlines of opening submissions**

24. By **4pm on 17 October 2022**, the plaintiffs file and serve their written opening submissions.

25. By **4pm on 31 October 2022**, the defendants file and serve their written opening submissions.

### **Next Case Management Conference**

26. The matter be listed for a further case management conference (CMC) on the first available date after 16 September 2022.

27. By not later than:

a) 7 business days prior to the CMC the plaintiffs deliver to the defendants a proposed joint position paper outlining the issues to be addressed at the CMC;

b) 5 business days prior to the CMC the defendants deliver to the plaintiffs their response to the proposed joint paper; and

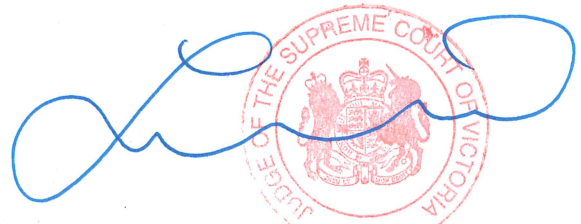


c) 3 business days prior to the CMC the plaintiffs deliver to the Associate to the Honourable Justice Nichols the joint position paper.

28. Liberty to apply.

29. Costs reserved.

**DATE AUTHENTICATED: 17 February 2022**

A handwritten signature in blue ink is written over a red circular seal. The seal features the coat of arms of Victoria in the center, surrounded by the text "JUDGE OF THE SUPREME COURT OF VICTORIA".

**The Honourable Justice Nichols**

**SCHEDULE OF PARTIES**

**LYNDEN IDDLES**

First Plaintiff

and

**GEOFFREY IDDLES**

Second Plaintiff

and

**FONTERRA AUSTRALIA PTY LTD (ACN 006 483 665)**

First Defendant

and

**FONTERRA MILK AUSTRALIA PTY LTD (ACN 114 326 448)**

Second Defendant

and

**FONTERRA BRANDS (AUSTRALIA) PTY LTD (ACN 095 181 669)**

Third Defendant

