



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

Case: S ECI 2020 03365
S ECI 2020 03365
Filed on: 16/09/2024 02:04 PM

B E T W E E N

DANIEL CHRISTIAN O'BRIEN STEELE CRAWFORD

Plaintiff

and

AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD (ACN 005 357 522)
(and others according to the Schedule attached)

Defendants

FURTHER AMENDED REPLY

~~(amended pursuant to orders made 2 August 2022)~~
Pursuant to order 4 made by Dixon J on 30 August 2024

Date of Document:	<u>16 September 2024</u>	Solicitors Code:	564
	8 February 2020 <u>September 2022</u>		
Filed on behalf of:	The Plaintiff	DX:	N/A
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As to the Amended Defence of the First Defendant to the Second Further Amended Statement of Claim dated ~~21 December 2020~~ 11 September 2024, the Plaintiff joins issue with the whole of the Defence and says further:

1. as to paragraphs 8(b), 11(b), 12(b)(ix), 22(b)(i) and (iii), 61(c)(iv) and (v) and 71(d):
 - (a) at all material times the Car Loan Process was part of a staged sales process whereby:
 - (i) the Plaintiff and Group Members selected the automobile;
 - (ii) the Plaintiff and Group Members and the Dealer negotiated the price of the automobile, any extras to be purchased, and the value of any trade-in;
 - (iii) the Dealer sold the automobile to the Plaintiff and Group Members;

- (iv) any negotiation between the Dealer Business Manager and the Plaintiff and Group Members on the terms of the Car Loan did not commence until after step (ii) or, alternatively, step (iii) above;
 - (v) Car Loan Offers were not submitted by the Dealer Business Manager to the First Defendant until after the Plaintiff and Group Members had agreed to the terms of the Car Loan and had signed the Car Loan Offer;
 - (vi) from the Plaintiff's and Group Members' perspective, the Dealer Business Manager was in complete control of the Car Loan negotiation with the First Defendant;
- (b) the effect of the staged sales process pleaded in subparagraph (a) above was that:
- (i) the Dealers sold the automobile and the Car Loan to the Plaintiff and Group Members as a package;
 - (ii) once the staged sales process was underway, the Plaintiff's and Group Members':
 - (A) ability to negotiate the Car Loan;
 - (B) ability to give effect to their preferences in negotiations with the Dealer Business Manager; and
 - (C) available "options and ...opportunity" in relation to the Car Loan;were limited or precluded; and
 - further, or alternatively
 - (iii) the Plaintiff and Group Members were unable in a practical sense to take out a Car Loan with a credit provider other than the one that was proffered and recommended by the Dealer Business Manager.

2. As to paragraph 48(b)(i), in respect of any Group Member whose cause of action:

(a) is governed by the law of New South Wales, Victoria, Queensland, Tasmania or the Australian Capital Territory and accrued more than six years prior to the commencement of this proceeding; or

(b) is governed by the law of the Northern Territory and accrued more than three years prior to the commencement of this proceeding.

the limitation period applicable to the action for relief from the consequences of mistake is postponed until the Group Member first discovered the mistake/s, or could with reasonable diligence have discovered the mistake/s, in accordance with the following (as applicable):

(c) section 56(1) of the *Limitation Act 1969* (NSW);

(d) section 27(c) of the *Limitation of Actions Act 1958* (Vic);

(e) section 38(1)(c) of the *Limitation of Actions Act 1974* (Qld);

(f) section 32(1)(c) of the *Limitation Act 1974* (Tas);

(g) section 34(1) of the *Limitation Act 1985* (ACT);

(h) section 43(1) of the *Limitation Act 1981* (NT).

Dated: ~~8 February 20 September 2021~~ 16 September 2024

J STOLJAR

D J FAHEY

L COLEMAN

S HOGAN

Maurice Blackburn Lawyers

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Maurice Blackburn Lawyers
Solicitors for the Plaintiff

SCHEDULE OF PARTIES

DANIEL CHRISTIAN O'BRIEN STEELE LEE CRAWFORD

Plaintiff

-and-

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ACN 005 357 522)

First Defendant

MACQUARIE BANK LIMITED (ACN 008 583 542)

Second Defendant

~~MACQUARIE LEASING PTY LTD (ACN 002 674 982)~~

~~Third Defendant~~