

Form 2 (version 3)

Rule 6.2

**FURTHER AMENDED COMMERCIAL LIST STATEMENT**

**(filed pursuant to leave granted by The Honourable Justice Einstein on 6 May 2009)**

**COURT DETAILS**

Court	Supreme Court of New South Wales
Division	Equity Division
List	Commercial List
Registry	Sydney Registry
Case number	50092 of 2005

**TITLE OF PROCEEDINGS**

Plaintiff	Jeffrey Alan Kernahan
First defendant	ACN 003 135 475 Pty Ltd (formerly known as LifeTrack Management Ltd (ACN 003 135 475)) (in its own capacity and as trustee of the LifeTrack Superannuation Fund, the AM Pooled Superannuation Trust, the AM Pooled Superannuation Trust No 1, the AM Pooled Superannuation Trust No 5)
Number of defendants	4

**FILING DETAILS / ADDRESS FOR SERVICE**

Filed for	Plaintiff
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**VENUE**

Listed for directions at Sydney on ~~20 August 2008~~ 16 October 2009

## A. NATURE OF THE DISPUTE

1. The plaintiff sues on his own behalf and on behalf of persons whose claims give rise to a substantial common issue of law and fact (**group members**) being persons who invested monies with public offer superannuation funds or a pooled superannuation trust of which the first defendant (**LML**) was the trustee.
2. The plaintiff and group members:
  - a. during the period 9 June 1999 to 28 September 2001 (**Relevant Period**);
  - b. invested and maintained their investment in one or a combination of sub-funds which invested exclusively in endowment life insurance policies (**traded policies**) which had been sold by the original policy holder (**Traded Policies Funds**);
  - c. invested and thereafter maintained their investment in Traded Policies Funds in reliance upon contravening conduct of LML and/or the second defendant, the parent company of LML (**AMCL**), being contravening conduct which commenced in 1996 and in which the third and fourth defendants also engaged or further or alternatively, were involved;
  - d. by and/or because of the contravening conduct of LML, ~~and/or~~ AMCL, the third and/or fourth defendants have suffered loss.

## B. ISSUES LIKELY TO ARISE

It is anticipated that the following issues are likely to arise in this proceeding:

1. Whether LML, ~~and/or~~ AMCL, the third and/or fourth defendants engaged in conduct in contravention of a statutory norm prohibiting misleading and deceptive conduct.
2. Whether LML issued regulated documents or authorised the issue of regulated documents ~~engaged in conduct in~~ contravention of section 162 of the *Superannuation Industry (Supervision) Act 1993* (Cth) (**SIS**).

