



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID918/2018

MATTHEW HALL

Applicant

PITCHER PARTNERS (A FIRM) and others named in the schedule

Respondents

ORDER

JUDGE: JUSTICE BEACH

DATE OF ORDER: 22 June 2022

WHERE MADE: Melbourne

THE COURT ORDERS THAT:

1. Pursuant to ss 33X and 33Y(2) of the *Federal Court of Australia Act 1976* (Cth) (the Act), the form and content of the notice set out in Annexure A to these orders (Notice) is approved as the notice that must be given to group members under s 33X of the Act in respect of the applicant's claim as against the second respondent, Ernst & Young LLP (EYUK Claim Settlement Approval Application).
2. Pursuant to s 33Y(3) of the Act, on or before 29 June 2022, the Notice is to be given to each group member in accordance with the following procedure:
 - (a) Maurice Blackburn shall cause the Notice to be sent to each current registered group member, such Notices to be sent by email where an email address is available, or failing that, by ordinary mail;
 - (b) Maurice Blackburn shall cause a link to the Notice to be posted on Maurice Blackburn's social media accounts;
 - (c) Maurice Blackburn shall cause a copy of the Notice to be placed on its website (<https://www.mauriceblackburn.com.au/class-actions/join-a-class-action/pitcher-partners-class-action/>), together with a copy of:
 - (i) the notice of objection referred to in order 3 below;



(ii) the following documents:

- (A) the second further amended statement of claim dated 14 December 2020,
- (B) the first respondent's defence to the second further amended statement of claim dated 11 February 2021,
- (C) the second respondent's defence to the second further amended statement of claim dated 25 February 2021, and
- (D) these orders;

(and shall cause such materials to remain continuously so displayed or available on its website up to and including the final hearing and determination of the EYUK Claim Settlement Approval Application).

- (d) The Notice and/or the notice of objection may be amended by Maurice Blackburn before they are emailed, posted or displayed (as the case may be) in order to correct any website or email address or telephone number or other non-substantive, typesetting or typographical error.
3. By 4.00 pm (AEDT) on 22 July 2022 any group member who wishes to oppose any aspect of the proposed settlement shall submit a completed notice of objection to proposed settlement in the form of Annexure B to these orders by sending it by email to:
 - (a) the Federal Court Registry at vicreg@fedcourt.gov.au; and
 - (b) Maurice Blackburn at SGH@mauriceblackburn.com.au.
 4. If the parties' solicitors receive a notice which purports to be a notice of objection, they shall provide such notice to the Court within two (2) business days of receipt, and such a notice shall be treated as a notice of objection received by the Court at the time it was received by the solicitors.
 5. The parties' solicitors have leave to inspect the Court file and to copy any notices of objection filed with the Court.
 6. By 4.00 pm on 26 July 2022, the applicant's solicitors shall provide to the second respondent's solicitors a copy of any documents received by them pursuant to orders 3 and 4 above.



7. Save for any affidavit or written submissions in respect of which confidentiality orders will be sought (Confidential Affidavit and Confidential Submissions, respectively), by 4.00 pm on 2 August 2022, the applicant and the second respondent shall file and serve any affidavit(s) and written submissions in relation to the EYUK Claim Settlement Approval Application.
8. By 4.00 pm on 2 August 2022, the applicant is to provide any Confidential Affidavit and/or Confidential Submissions, including in respect of legal costs, on which the applicant proposes to rely in support of the EYUK Claim Settlement Approval Application to the chambers of the Honourable Justice Beach by email marked “Confidential [Affidavit or Submissions] for Purposes of Settlement Approval Application – Not to be Accessed Except by Direction of a Judge or the Court”.
9. The EYUK Claim Settlement Approval Application be listed for hearing at 9.30 am on 5 August 2022.
10. The parties have liberty to apply on 3 days’ notice.

Date that entry is stamped: 22 June 2022

Sia Lagos
Registrar



Annexure A

FEDERAL COURT OF AUSTRALIA
NOTICE OF PROPOSED SETTLEMENT AGAINST EYUK
Matthew Hall v Pitcher Partners & Anor (VID 918 of 2018) (Pitchers Class Action)

PLEASE READ THIS NOTICE CAREFULLY

NOTICE OF PROPOSED SETTLEMENT WITH ERNST & YOUNG LLP (ONLY)

This notice is provided pursuant to orders made by the Federal Court of Australia to inform you about (a) the proposed settlement of a claim against one of the respondents in the above class action and (b) the right to object to the proposed settlement.

You should read this notice carefully, as your legal rights may be affected by the proposed settlement.

What is the class action about?

1. The "Pitchers Class Action" was commenced in the Federal Court of Australia against Slater & Gordon Limited's (SGH) former auditor Pitcher Partners. The Applicant alleged that Pitcher Partners, in SGH's FY2015 audit, failed to identify or communicate risks around the likely impairment of the \$1.1 billion goodwill asset (associated with the acquisition of the UK-based PSD division from Quindell plc). The result of this is alleged to be that SGH's FY15 Financial Report and/or FY15 Appendix 4E were materially misstated. This impairment ultimately occurred six months later in SGH's half-yearly report for FY2016.
2. The Applicant brought the case as a class action on behalf of all persons who (save for some limited exceptions):
 - a. acquired an interest in fully paid ordinary shares in SGH during the period between 30 March 2015 and 24 February 2016; and
 - b. suffered loss or damage by, or which resulted from, the alleged conduct of Pitcher Partners.
3. Subsequently, Pitcher Partners alleged that the UK-based component auditor who performed the UK component of SGH's FY2015 audit, Ernst & Young LLP (EYUK), was also responsible for any failure by Pitcher Partners to identify the impairment of the PSD goodwill asset. EYUK performed the component audit under the supervision of Pitcher Partners, but it was alleged, similarly failed to identify or communicate the risks outlined above and so was partly responsible for any loss caused by the performance of the audit. Given Pitcher Partners' allegations against EYUK, the Applicant also joined EYUK and substantially replicated the allegations against EYUK that Pitcher Partners had made.
4. The Pitchers Class Action proceeded to trial in the Federal Court in November 2021 and concluded in late December 2021. The parties are currently awaiting a judgment to be handed down by the Court.

The proposed settlement

5. This notice is to inform you that following the trial, Pitcher Partners agreed to settle its cross-claim against EYUK, and in the same way the Applicant and EYUK have agreed to settle the claims of the Applicant and group members against EYUK on a "walk away" basis. That is, no compensation is payable by EYUK to the Applicant or group members,



and both parties will bear their own legal costs. Group members are not required to pay any "out of pocket" costs if the proposed settlement is approved.

6. Two important points to note about the proposed settlement:
 - a. **This settlement does not affect the primary claim against Pitcher Partners, which remains on foot.**
 - b. The settlement must now be approved by the Federal Court as being fair and reasonable, and in the interests of group members.
7. SGH's acquisition of the PSD has also been the subject matter of two previous class actions we have run against SGH directly and against SGH's Australian legal advisor, Arnold Bloch Leibler, which have settled:
 - a. *Hall v Slater & Gordon Ltd* VID1213 of 2016 (**SGH Class Action**), which was settled in December 2017 for \$36.5 million alongside SGH's restructuring and the transfer to SGH's lenders of all of SGH's UK assets and 95% of the share capital of the remaining company, which was necessitated by SGH's financial position; and which amount has already been distributed to eligible group members.
 - b. *Hall v Arnold Bloch Leibler (a firm)* VID1010 of 2019 (**ABL Class Action**), which was settled in March 2022 for a total of \$28 million (inclusive of interest and costs). We are currently in the process of settlement administration and distribution for the ABL Class Action and eligible group members, the first distribution from which is expected in about September 2022.
8. Group members should be aware that if the settlement is approved, they will not be able to bring any claim against EYUK in respect of the claims the subject of the class action. As noted above, however, the settlement does not affect group members' primary claims against Pitcher Partners.
9. In agreeing to the proposed settlement with EYUK, the Applicant took into account among other things, the reduced likelihood of a material financial recovery from EYUK in light of Pitchers' settlement of its cross-claim against EYUK and the potential for additional costs to be ultimately borne by the Applicant and group members in the event that the claim against EYUK was unsuccessful and the litigation funder in these proceedings sought to recover any adverse costs payable to EYUK from any judgment in favour of group members in respect of their claims against Pitcher Partners.

Court approval

10. The purpose of this notice is to advise group members of the proposed settlement with EYUK and how it may affect their rights.
11. No further action is required for group members who do not wish to object to the proposed settlement of the claims against EYUK. If you wish to object you may submit a 'Notice of Objection to Proposed Settlement' which is attached to this Notice and is displayed on Maurice Blackburn's website (<https://www.mauriceblackburn.com.au/class-actions/join-a-class-action/pitcher-partners-class-action>), which includes instructions on how to object to the proposed settlement of the claims against EYUK.
12. Group members who submitted an opt out notice prior to the Court-imposed deadline of 8 September 2021 do not need to do anything in response to this notice. Those group members will not be affected by the class action or the proposed settlement with EYUK.



13. The Court will consider whether to approve the proposed settlement on **5 August 2022 at 9.30am**. Group members wishing to object to the settlement may seek to appear at this hearing (and should indicate their intention to do so on the Notice of Objection to Proposed Settlement form attached).

|



Annexure B

Notice of Objection to Proposed Settlement

Complete this form only if you intend to object to the proposed settlement of the ABL Class Action

FEDERAL COURT OF AUSTRALIA

NOTICE OF OBJECTION TO PROPOSED SETTLEMENT

***Matthew Hall v Pitcher Partners & Anor* (VID 918 of 2018) (Pitchers Class Action) NOTICE OF PROPOSED SETTLEMENT WITH ERNST & YOUNG LLP (ONLY)**

To:

- the Federal Court of Australia (vicreg@fedcourt.gov.au); and
- Maurice Blackburn (SGH@mauriceblackburn.com.au).

The person identified below gives notice that they object to the proposed settlement with Ernst & Young LLP in the Pitchers Class Action:

A. DETAILS OF OBJECTOR

Name of Group Member	
Contact name (if different from name of Group Member), and authority to complete this form on Group Member's behalf (e.g. director / secretary of Group Member, lawyer for Group Member)	
Postal address	
Email address	
Telephone number(s)	



B. GROUND(S) OF OBJECTION

The ground(s) for my objection to the proposed settlement are as follows (set out in the space below any submissions you wish to make – you may attach additional pages if necessary):

C. ATTENDANCE AT HEARING ON 5 AUGUST 2022 at 9.30am:

- I do not intend to appear at the settlement approval hearing, but wish for my submission to be considered in my absence
- I do intend to appear at the settlement approval hearing

(please tick one of the above two options)

If you do intend to appear at the settlement approval hearing, please complete the following:

- I will appear on my own behalf
- I will be represented by a lawyer:

.....

D. SIGNING OF NOTICE:

.....
Please sign here
Date:



Schedule

No: VID918/2018

Federal Court of Australia
District Registry: Victoria
Division: General

Second Respondent ERNST & YOUNG LLP

CROSS CLAIM

First Cross Respondent SLATER & GORDON LTD (ACN 097 297 400)

Second Cross Respondent ANDREW ALEXANDER GRECH

Third Cross Respondent KENNETH JOHN FOWLIE

Fourth Cross Respondent IAN ROBERT COURT

Fifth Cross Respondent RAYMOND JOHN SKIPPEN

Sixth Cross Respondent ERICA MAREE LANE

Seventh Cross Respondent RHONDA O'DONNELL

Eighth Cross Respondent WAYNE BROWN

Ninth Cross Respondent ERNST & YOUNG LLP