

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 25/06/2021 5:12:46 PM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

### Filing and Hearing Details

Document Lodged:	Originating Application Starting a Representative Proceeding under Part IVA Federal Court of Australia Act 1976 - Form 19 - Rule 9.32
File Number:	VID1085/2017
File Title:	ZONIA HOLDINGS PTY LTD v COMMONWEALTH BANK OF AUSTRALIA LIMITED
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



*Sia Lagos*

Dated: 28/06/2021 12:19:36 PM AEST

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



**Further Amended Originating application starting a representative proceeding under Part IVA of the Federal Court of Australia Act 1976**

No. VID1085 of 2017

Federal Court of Australia  
District Registry: Victoria  
Division: General

**ZONIA HOLDINGS PTY LTD (ACN 008 565 286)**

Applicant

**COMMONWEALTH BANK OF AUSTRALIA (ACN 123 123 124)**

Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

**Time and date for hearing:**

**Place:** Law Courts Building, 184 Phillip Street, Sydney

The Court ordered that the time for serving this application be abridged to

Date:

Signed by an officer acting with the authority  
of the District Registrar

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Filed on behalf of (name & role of party) Zonia Holdings Pty Ltd, Applicant  
Prepared by (name of person/lawyer) Ronald Koo, Maurice Blackburn  
Law firm (if applicable) Maurice Blackburn  
Tel (03) 9605 2769 Fax (03) 9258 9600  
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**Address for service** Level 21, 380 La Trobe Street, Melbourne VIC 3000  
(include state and postcode)



### Details of claim

Terms defined in the ~~Second~~ Third Further Amended Statement of Claim carry the same meaning when used in this Further Amended Originating Application.

On the grounds stated in the accompanying ~~Second~~ Third Further Amended Statement of Claim, the Applicant claims on its own behalf, and on behalf of Group Members:

1. a declaration that the Respondent contravened ASX Listing Rule 3.1 and section 674(2) of the Corporations Act by not informing the ASX immediately of some or all of:
  - (a) the June 2014 Late TTR Information;
  - ~~(aa) the August 2015 Late TTR Information;~~
  - ~~(ab) the September 2015 Late TTR Information;~~
  - (b) the June 2014 IDM ML/TF Risk Assessment Non-Compliance Information;
  - ~~(ba) the August 2015 IDM ML/TF Risk Assessment Non-Compliance Information;~~
  - (c) the June 2014 Account Monitoring Failure Information;
  - ~~(ca) the August 2015 Account Monitoring Failure Information;~~
  - ~~(cb) the September 2015 Account Monitoring Failure Information;~~
  - ~~(d) the ML/TF Risks Systems Deficiency Information;~~
  - (e) the Potential Penalty Information; and/or
  - (f) any combination of two or more items of the information referred to in sub-paragraphs (a) to (e)
  
2. an order pursuant to section 1317HA of the Corporations Act that the Respondent pay to the Applicant and Group Members compensation for damage that resulted from each contravention of section 674(2) of the Corporations Act referred to in paragraph 1 above;
  
3. a declaration that, by reason of the matters pleaded in Section E.2 of the ~~Second~~ Third Further Amended Statement of Claim, the Respondent engaged in conduct in contravention of:
  - (a) section 1041H of the Corporations Act;
  - (b) section 12DA(1) of the ASIC Act;
  - (c) section 18 of the Australian Consumer Law;



4. an order pursuant to:
  - (a) section 1041I of the Corporations Act that the Respondent pay to the Applicant and Group Members compensation for damage suffered by the conduct of the Respondent in contravention of section 1041H of the Corporations Act referred to in paragraph 3(a) above;
  - (b) sections 12GF and/or 12GM of the ASIC Act that the Respondent pay to the Applicant and Group Members compensation for damage suffered by the conduct of the Respondent in contravention of section 12DA(1) of the ASIC Act referred to in paragraph 3(b) above;
  - (c) section 236 of the Australian Consumer Law that the Respondent pay to the Applicant and Group Members compensation for damage suffered by the conduct of the Respondent in contravention of section 18 of the Australian Consumer Law referred to in paragraph 3(c) above;
5. a declaration that, by reason of the matters pleaded in Section D.7 of the ~~Second~~ Third Further Amended Statement of Claim, the Respondent has contravened section 708AA(10) of the Corporations Act;
6. damages payable by the Respondent pursuant to section 1325 of the Corporations Act;
7. such further or other relief as the Court deems fit;
8. interest on any compensation or monetary amount awarded; and
9. costs.

#### **Questions common to claims of group members**

The questions of law or fact common to the claims of the Group Members are:

1. when the Respondent became aware (within the meaning of Listing Rule 19.12) of the information referred to in paragraphs 1(a) to 1(e) in the Details of Claim section above;
2. whether the information referred to in paragraphs 1(a) to 1(f) in the Details of Claim section above was:
  - (a) material information;
  - (b) not generally available,

within the meaning of ASX Listing Rule 3.1 or Chapter 6CA of the Corporations Act that the Respondent was obliged to disclose, but failed to disclose such that the Respondent contravened section 674(2) of the Corporations Act;



3. whether the Respondent contravened section 1041H of the Corporations Act or section 12DA(1) of the ASIC Act or section 18 of the Australian Consumer Law by making, maintaining and/or failing to qualify:
  - (a) the Compliance Representations; and/or
  - (b) the Continuous Disclosure Representation;
4. whether the Respondent contravened s 708AA(10) of the Corporations Act by issuing the Cleansing Notice and not, within a reasonable time after becoming aware of defects in the Cleansing Notice, giving the ASX a notice that set out the information necessary to correct the defects;
5. whether the alleged Market Contraventions had the effect that the price of acquisition for CBA Shares was greater than their true value and/or the market price and/or the Entitlement Offer Price that would have prevailed but for the Market Contraventions and if so:
  - (a) whether statutory compensation is recoverable by the Applicant and some or all of the Group Members;
  - (b) the correct measure of the statutory compensation for which the Respondent may be liable to the Applicant and some or all of the Group Members; and
  - (c) whether any, and if so what, relief other than monetary relief should be granted in favour of the Applicant and some or all of the Group Members.

### **Representative action**

The Applicant brings this application as a representative party under Part IVA of the *Federal Court of Australia Act 1976*.

The Group Members to whom this proceeding relates are persons who are defined in paragraph 1 of the ~~Second~~ Third Further Amended Statement of Claim.

### **Applicant's address**

The Applicant's address for service is:

Place: Level 21, 380 La Trobe Street, Melbourne VIC 3000

Email: RKoo@mauriceblackburn.com.au

The Applicant's address is c/- Maurice Blackburn, Level 21, 380 La Trobe Street, Melbourne VIC 3000



**Service on the Respondent**

It is intended to serve this application on the Respondent.

Date: 25 June 2021 ~~16 July 2019~~

A handwritten signature in black ink, appearing to read "R. Gilsean", with a long horizontal stroke extending to the right.

Signed by ~~Brooke Dellavedova~~ Rebecca Gilsean  
Lawyer for the Applicant