



Federal Court of Australia

District Registry: Victoria Registry

Division: General

No: VID572/2019

**DALE ROBERT ALFORD** and others named in the Schedule  
Applicants

**AMP SUPERANNUATION LIMITED (ACN 008 414 104)** and others named in the  
Schedule  
Respondents

## ORDER

**JUDGE:** JUSTICE BUTTON

**DATE OF ORDER:** 26 March 2025

**WHERE MADE:** Melbourne

### THE COURT ORDERS THAT:

1. For the purpose of these orders, “Group Members” means the Group Members as defined in paragraph 3 of the Applicants’ Further Amended Statement of Claim filed pursuant to leave granted on 9 November 2023.

### Opt Out Notice

2. Pursuant to s 33J of the *Federal Court of Australia Act 1976* (Cth) (**Act**), **4:00pm AEDT on 23 May 2025** be fixed as the date and time before which a Group Member may opt out of this proceeding (**Group Deadline**).
3. Pursuant to ss 33X and 33Y of the Act, the form and content of:
  - a. the opt out notice (**Notice**), which is Annexure A to these orders; and
  - b. the cover email (**Cover Email**) contained within Annexure B to these orders (**Email Distribution Protocol**),

be approved.



4. Pursuant to ss 33X and 33Y of the Act, the Notice be distributed in accordance with the following procedure:
- a. on or before **1 April 2025**, the Applicants shall engage a third party mailing house (**Mailing House**) to undertake the distribution of the Cover Email and Notice;
  - b. by **22 April 2025**, the First Respondent and Second Respondent shall use their best endeavours to compile and provide to the Mailing House an Excel spreadsheet (.xls file) compiled from their business records which contains (to the extent such information is available) the names and best available email addresses of all Group Members to the extent it is capable of identification by the First Respondent (**Known Group Members**);
  - c. by **29 April 2025 (Distribution Date)**, the Applicants shall instruct the Mailing House to send the Cover Email and Notice to all Known Group Members by email, in accordance with the Email Distribution Protocol;
  - d. on or before the Distribution Date, the Applicants shall cause a copy of the Notice to be sent to each Group Member (or where an entity is a Group Member, the principal of that entity) who has, at the date of this order:
    - i. entered into a litigation funding agreement with Harbour Fund III, L.P. and Therium Litigation Finance Atlas AFP IC; or
    - ii. registered their details with Maurice Blackburn and/or Slater & Gordon in the proceeding;
  - e. on or before the Distribution Date, the Applicants shall cause an advertisement in the terms of the Notice to be published in one weekday edition of a national daily newspaper;
  - f. until the Group Deadline, the Applicants shall cause an advertisement in the terms of the Notice to be published on Meta;
  - g. until the Group Deadline, the solicitors for the Applicants are to display the Notice on their websites; and



- h. until the Group Deadline, the Federal Court of Australia is to display the Notice on its website.
- 5. The Notice may be amended by agreement between the parties before it is emailed, displayed or published in accordance with paragraph 4, only in order to correct any non-substantive error which includes any website address, email address or telephone number.
- 6. The Mailing House is to prepare and retain a list of the Known Group Members which contains the following information:
  - a. the email address used to send the Notice to each Known Group Member; and
  - b. whether an Ultimate Delivery Failure (within the meaning of the Email Distribution Protocol) was recorded by the Mailing House with respect to each Known Group Member.
- 7. The costs of and incidental to the procedure set out in paragraph 4 shall be shared equally by the parties (ie with 50% of those costs to be paid by the Applicants and the remaining 50% by the Respondents).

### **Opt Out**

- 8. Pursuant to ss 33J and 33ZF of the Act:
  - a. any Group Member who wishes to opt out of this proceeding must, before the Group Deadline, deliver to the Victorian District Registry of the Court a duly completed opt out notice in the form of Schedule 3 to the Notice;
  - b. if, on or before the Group Deadline, any of the parties to the proceeding or their solicitors receive a notice purporting to be an opt out notice referable to this proceeding, the solicitors must deliver the notice to the Victorian District Registry of the Court within 7 days after receiving the notice, and the notice shall be treated as an opt out notice received by the Court at the time it was received by the solicitors; and



- c. the Applicants' solicitors and the Respondents' solicitors have leave to inspect the Court file and to copy and uplift any opt out notice.

Date orders authenticated: 26 March 2025

*Sia Lagos*  
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



## Schedule

No: VID572/2019

Federal Court of Australia

District Registry: Victoria Registry

Division: General

Second Applicant	SEBASTIAN SMITH
Third Applicant	ANNE COOPER
Fourth Applicant	JODIE MITCHELL
Second Respondent	N.M. SUPERANNUATION PTY LTD (ACN 008 428 322)
Third Respondent	AMP LIFE LIMITED (ACN 079 300 379)
Fifth Respondent	AMP SERVICES LIMITED (ACN 081 143 786)
Sixth Respondent	THE NATIONAL MUTUAL LIFE ASSOCIATION OF AUSTRALASIA LIMITED (ACN 004 020 437)



## ANNEXURE A

### Notice

### OPT OUT NOTICE

### FEDERAL COURT OF AUSTRALIA

#### AMP SUPER FEES CLASS ACTION

*Dale Robert Alford, Sebastian Smith, Anne Cooper and Jodie Mitchell v AMP Superannuation Pty Limited (formerly AMP Superannuation Limited) and others (VID572/2019)*

The Federal Court of Australia has ordered the issue of this notice regarding a class action run by Slater and Gordon and Maurice Blackburn on behalf of current and former AMP superannuation fund members against AMP Superannuation Pty Limited (formerly AMP Superannuation Limited) (**ASL**), N.M. Superannuation Pty Ltd (**NMS**), AMP Life Limited (**AMP Life**), AMP Services Limited (**AMP Services**) and the National Mutual Life Association of Australasia Limited (**NMLA**).

You have been identified as a potential group member whose rights might be affected by this class action.

#### Stay In or Opt Out

1. If you **do not wish to participate** in the class action, then you must “opt out” by 23 May 2025.
2. If you do not “opt out” by 23 May 2025, you will remain as a participant. Accordingly, if you wish to remain a group member in the class action then you do not need to do anything in response to this notice.

If you have any questions after reading this notice, please contact Slater and Gordon by email at [AMP@slaterguson.com.au](mailto:AMP@slaterguson.com.au) or by telephone on 1800 071 827 or seek independent legal advice.

#### 1. What is a class action?

- 1.1. A class action is a Court proceeding brought by the **Applicants** on behalf of themselves and other people with similar claims (**group members**, or sometimes called the **class**) against one or more **Respondents**.
- 1.2. A person becomes a group member automatically if that person meets the criteria for being a group member set out in a court document filed by the Applicants to begin the class action. Although group members are not asked whether they wish to join a class action, they are given an opportunity to get out of the class action, known as opting-out. This notice explains how you opt out, if that is a step you want to take. Before explaining this, the notice gives you some information about the class action, so that you can make an informed decision.

#### 2. The AMP Super Fees Class Action

- 2.1. This class action was commenced by the Applicants against ASL, NMS, AMP Life, AMP Services and NMLA. The claim seeks to recover compensation for group members who (in



summary) hold or held an AMP superannuation account(s), other than a Platform Fund or Mature Product, at any time from:

- a) 1 July 2008 for members of the AMP Superannuation Savings Trust, AMP Retirement Trust, or the Eligible Rollover Fund; or
  - b) 30 March 2011 for members of the Super Directions Fund.
- 2.2. In this class action, the Applicants allege the superannuation fund trustees, ASL and NMS, allowed related entities of the AMP Group to set the fees charged to members and that those internal arrangements were not carried out at an arm's length basis. In light of this, the Applicants allege that ASL and NMS failed to consider whether the fees (and in some instances, returns) were competitive, whether the trustees should have negotiated lower fees on behalf of members, and/or investigated obtaining services from third party providers at more competitive rates. The Applicants allege that, had the trustee respondents complied with their obligations, the fees ultimately paid by AMP superannuation members would have been lower.
- 2.3. The class action alleges that these arrangements amounted to contraventions of the trustees' covenants under the trust deeds, statutory duties and general law obligations (the **AMP Super Fees Class Action**).
- 2.4. The Respondents deny the allegations against them and are defending the claim.

### **3. Group Membership – Stay In or Opt Out**

- 3.1. You are a group member if you satisfy the Group Member Definition contained at Schedule 1 to this Notice. In summary, you are likely to be a group member in the AMP Super Fees Class Action if you hold or held an AMP superannuation account(s), other than a Platform Fund or Mature Product, at any time from:
- a) 1 July 2008 for members of the AMP Superannuation Savings Trust, AMP Retirement Trust, or the Eligible Rollover Fund; or
  - b) 30 March 2011 for members of the Super Directions Fund.

#### **Stay In - automatic**

- 3.2. If you are a group member and **wish to participate** in the AMP Super Fees Class Action, then **you do not need to do anything in response to this notice**. This notice informs you of the steps you must take if you do **not** wish to participate.
- 3.3. If you participate in the class action:
- a) you will be bound by any outcome (such as a settlement or judgment following trial);
  - b) you will be entitled to share in any compensation that is agreed by or ordered against the Respondents, subject to satisfying any requirements designed to prove your eligibility; and
  - c) you will not be able to pursue any individual claim against the Respondents relating to the same or similar event or subject matter, even if any settlement or judgment is not to your satisfaction.



**Will I be liable to pay any other costs if I remain a group member?**

- 3.4. You will not become liable for any legal costs simply by remaining a group member. You will never be required to pay any upfront or out-of-pocket costs in relation to the class action as it progresses in relation to common issues.
- 3.5. The AMP Super Fees Class Action is being jointly funded by two litigation funders – Harbour Fund III, L.P. (**Harbour**) and Therium Litigation Finance Atlas AFP IC (**Therium**). This means that Harbour and Therium have agreed to pay the costs of the class action as it progresses in relation to the common issues. If the class action is unsuccessful, Harbour and Therium have also agreed to meet any order that the Applicants pay the Respondents' costs of the AMP Super Fees Class Action.
- 3.6. In return for funding the class action, Harbour and Therium charge litigation funding fees based on a percentage of the amount recovered in the class action.
- 3.7. Some group members have entered into litigation funding agreements with Harbour and Therium. Their funding agreements contain provisions which require them to pay, in the event that they obtain a favourable judgment or settlement, a funding commission to Harbour and Therium to compensate them for the services they have provided. Some group members have not entered into litigation funding agreements with Harbour and Therium.
- 3.8. The Applicants intend to ask the Court to make a common fund order to approve a distribution of any money recovered by settlement or judgment on terms that the litigation funders be paid an amount the Court considers to be reasonable for funding the proceeding. The Applicants intend to seek a common fund order for an amount of 20% of net proceeds up to a threshold of \$125 million and 10% thereafter. A common fund order, if granted by the Court, may result in all group members\_(including those who have not signed funding agreements with Harbour and Therium) being required to pay a portion of their share of any judgment sum or settlement amount to Harbour and Therium as commission for funding the proceeding.
- 3.9. The total of any amounts deducted from compensation payable to group members for legal costs and funders' commission will never exceed the amount a group member receives in the event of a successful outcome. That is, **you will never be out of pocket by participating in the class action.**
- 3.10. The Court may require you to take further steps in the future to confirm your participation in the AMP Super Fees Class Action or to claim damages. Please carefully review any further notices you receive.
- 3.11. If you are unsure whether or not you are a group member, please contact Slater and Gordon or seek independent legal advice, as soon as possible, but by no later than 16 May 2025. Please note however that Slater and Gordon will not have information about which AMP Fund or Product you were invested in; and its advice will therefore be limited to the options available to you and the class action process more generally.

**Opt Out - optional**

- 3.12. If you are a group member and **do not wish to participate** in the AMP Super Fees Class Action, then you must opt out by no later than 23 May 2025.
- 3.13. The process to opt out is set out at paragraphs 3.15 to 3.17 below.





- 3.14. If you opt out and therefore do not participate in the class action:
- a) you will not be bound by any outcome in the class action;
  - b) you will not be entitled to share in any compensation that is agreed by or ordered against the Respondents in the class action;
  - c) you are free to pursue any individual claim against the Respondents relating to the same or similar event or subject matter, subject to any bars, such as limitation periods, that may prevent you from bringing your own claim. Should you opt out on the basis that you will bring your own separate claim, it is strongly recommended that you seek independent legal advice.
- 3.15. If you opt out, it is unlikely that you will be able to change your mind, and seek to become a group member in the class action again at a later stage.

#### How to opt out

- 3.16. Each group member who wishes to opt out of the AMP Super Fees Class Action should fill out a separate Opt Out form located at Schedule 3 to this notice. If you are opting out on behalf of a company or business, please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner). If you wish to opt out on behalf of more than one group member, complete a separate form for each.
- 3.17. Opt Out forms must be submitted directly to the Victoria District Registry of the Federal Court of Australia:
- a) by post to: The Registrar, Victoria Registry, Federal Court of Australia, 305 William Street, MELBOURNE 3000; or
  - b) by email at [vicreg@fedcourt.gov.au](mailto:vicreg@fedcourt.gov.au)
- before 23 May 2025.
- 3.18. Opt out forms received by the Victoria District Registry of the Federal Court of Australia after 23 May 2025 will not be accepted without leave of the Court and you will be treated as having not responded to this notice (in other words you will remain a group member in the AMP Super Fees Class Action).
- 4. Further information regarding the AMP Super Fees Class Action**
- 4.1. Please consider the above matters carefully, and seek your own legal advice if required.
- 4.2. If you are unsure about anything in this notice, or if you would like to request a copy of documents filed with the Court by the parties in the AMP Super Fees Class Action, please contact Slater and Gordon on by email at [AMP@slatergordon.com.au](mailto:AMP@slatergordon.com.au) or by telephone on 1800 071 827.



## SCHEDULE 1

### 1. GROUP MEMBER DEFINITION

1.1. This definition is taken from paragraph 3 of the Further Amended Consolidated Statement of Claim in the AMP Super Fees Class Action.

1.2. You are a Group Member in the AMP Super Fees Class action if you satisfy at least one of sub-paragraphs 1.2(a)–(f) and paragraph 1.3:

(a) You were at any time between 1 July 2008 and 15 May 2020 inclusive (**ASL Relevant Period**), a member of one or more of the **ASL Impugned Products** (as defined in paragraph 2.1) within the:

- (i) AMP Superannuation Savings Trust (**SST**);
- (ii) AMP Retirement Trust (**ART**); or
- (iii) AMP Eligible Rollover Fund (**ERF**),

(collectively, **ASL Funds**);

OR

(b) You were at any time between 30 March 2011 and the End Date (**NMS Relevant Period**) a member of the Super Directions Fund (**SDF**) within one or more of the **NMS Impugned Products** (as defined in paragraph 2.1);

(alternatively, the **NMS Fund**);

OR

(c) You received payment from an ASL Impugned Product of all or part of the benefits of a deceased person who was during the ASL Relevant Period a member of an ASL Impugned Product at any time during the ASL Relevant Period;

OR

(d) You received payment from an NMS Impugned Product of all or part of the benefits of a deceased person who was during the NMS Relevant Period a member of an NMS Impugned Product at any time during the NMS Relevant Period;

OR

(e) Satisfy both of the following paragraphs:

- (i) you were the spouse of a person who was during the ASL Relevant Period a member of an ASL Impugned Product; and
- (ii) you received a transfer from the ASL Impugned Product of all or part of the member's account in the ASL Fund pursuant to an order or settlement in a *Family Law Act 1975* proceeding or a superannuation agreement within the meaning of Part VIIIB of the *Family Law Act 1975* at any time during the ASL Relevant Period;

OR



(f) Satisfy both of the following paragraphs:

- (i) You were the spouse of a person who was during the NMS Relevant Period a member of an NMS Impugned Product; and
- (ii) You received a transfer from the NMS Impugned Product of all or part of the member's account in the NMS Fund pursuant to an order or settlement in a Family Law Act 1975 proceeding or a superannuation agreement within the meaning of Part VIIIB of the Family Law Act 1975 at any time during the NMS Relevant Period.

**AND**

- 1.3. You are not a Justice, Registrar, District Registrar or Deputy District Registrar of the High Court of Australia or the Federal Court of Australia.

## **2. ASL and NMS Impugned Products**

- 2.1. The products in the table below are ASL Impugned Products or NMS Impugned Products:

<b>Product</b>	
<b>AMP Superannuation Pty Limited (Formerly AMP Superannuation Limited)</b>	
AMP Superannuation Savings Trust	SignatureSuper Corporate
	SignatureSuper Personal
	SignatureSuper Allocation Pension/Term Pension
	SignatureSuper Select
	CustomSuper Employer
	SuperLeader
	AMP Flexible Lifetime – Super
	AMP Flexible Lifetime – Super (Personal)
	AMP Flexible Lifetime – Allocated Pension
	AMP Flexible Lifetime – Term Pension
	AMP Flexible Lifetime (Super and Retirement)
AMP Retirement Trust	AMP Flexible Super - Super
	AMP Flexible Super – Retirement
	Eligible Rollover Fund (ERF)
<b>NM Superannuation Pty Ltd</b>	
Super Directions Fund	Simple Super
	Simple Super Rollover Plan
	Super Directions for Business



	Super Directions for Business Rollover Section
	Tailored Super
	Tailored Super Rollover Plan



## SCHEDULE 2

No: VID572/2019

Federal Court of Australia

District Registry: Victoria Registry

Division: General

Second Applicant	SEBASTIAN SMITH
Third Applicant	ANNE COOPER
Fourth Applicant	JODIE MITCHELL
Second Respondent	N.M. SUPERANNUATION PTY LTD (ACN 008 428 322)
Third Respondent	AMP LIFE LIMITED (ACN 079 300 379)
Fifth Respondent	AMP SERVICES LIMITED (ACN 081 143 786)
Sixth Respondent	THE NATIONAL MUTUAL LIFE ASSOCIATION OF AUSTRALASIA LIMITED (ACN 004 020 437)



### SCHEDULE 3

**Form 21**

**Rule 9.34**

**Opt out form**

**Only complete this form if you wish to opt out of the AMP Super Fees Class Action.**

**By opting out of the AMP Super Fees Class Action you will be excluding yourself from participation in the AMP Super Fees Class Action.**

**No. 572 of 2019**

**Federal Court of Australia**

**District Registry: Victoria**

**Division: General**

**DALE ROBERT ALFORD and others named in Schedule 2.**

**Applicants**

**AMP SUPERANNUATION PTY LIMITED (ACN 008 414 104) and others named in Schedule 2.**

**Respondents**

**To: The Registrar**

**Federal Court of Australia**

**305 William Street, Melbourne VIC, 3000**

**The group member identified below gives notice under section 33J of the *Federal Court of Australia Act 1976* (Cth), that they are opting out of the above representative proceeding.**

**Full name of group member:.....**

**Signed:.....**

**Name of signee (PLEASE PRINT):.....**

**Capacity of signee:.....**

**Date:.....**

**[you are required to also complete and return the next page]**

**Only complete this form if you wish to opt out of the AMP Super Fees Class Action.**



**By opting out of the AMP Super Fees Class Action you will be excluding yourself from participation in the AMP Super Fees Class Action.**

**Group member contact details (PLEASE PRINT):**

**Telephone:.....**

**Email:.....**

**Address:.....**

**ACN/ABN (if a company or trustee):.....**

**Other director name/signature (if a company):.....**

**Solicitor or representative details (if completing form on behalf of group member)**  
**(PLEASE PRINT):**

**Name:.....**

**Capacity:.....**

**Company or firm name (if applicable):.....**

**Telephone:.....**

**Email:.....**

**Address:.....**



**ANNEXURE B**  
**Email Distribution Protocol**

1. The Notice will be sent by email to all Known Group Members. The content of:
  - (i) the subject line of the email shall read: “Notice regarding the AMP Super Fees Class Action”; and
  - (ii) the body of the email shall read:

Dear [name]

A Group action has been commenced against AMP Superannuation Limited, N.M Superannuation Pty Ltd, AMP Life Limited, AMP Services Limited and the National Mutual Life Association of Australasia Limited.

You have been identified as a potential Group Member in the Class Action.

The Federal Court of Australia has ordered that the Notice in this link be distributed to Group Members.
2. The Notice will be sent in the email as a URL linking to a PDF document.
3. The initial delivery attempt for the Notice will be emailed to the Known Group Members between 29 April 2025 and 6 May 2025 in hourly tranches between 10:00am and 4:00pm each day.
4. The Mailing House’s email server(s) will be programmed to make a total of three (3) delivery attempts (if required) over two (2) weeks.
5. If the Mailing House receives notification that an email was, or may not have been, delivered after the three delivery attempts (an **Ultimate Delivery Failure**), then the delivery failure will be recorded.