

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 24/02/2021 3:14:10 PM AEDT 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 - Form 15 - Rule 8.01(1)
File Number:	NSD137/2021
File Title:	CHUBB INSURANCE AUSTRALIA LIMITED (ABN 23 001 642 020) v PHILIP WALDECK
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



A handwritten signature in blue ink that reads 'Sia Lagos'.

Dated: 26/02/2021 12:23:28 PM AEDT

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.

Form 15  
Rules 8.01(1); 8.04(1)



## Originating application

No. of 2021

Federal Court of Australia  
District Registry: New South Wales  
Division: Commercial and Corporations

### **Chubb Insurance Australia Limited (ABN 23 001 642 020)**

Applicant

### **Mr Philip Waldeck**

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:** Level 17, Law Courts Building, 184 Phillip Street, Queens Square, Sydney, New South Wales 2000

Date:

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

Filed on behalf of (name & role of party) Chubb Insurance Australia Limited (ABN 23 001 642 020), Applicant

Prepared by (name of person/lawyer) \_\_\_\_\_

Law firm (if applicable) Wotton + Kearney

Tel 02 8273 9900

Fax (02) 8273 9901

Email Adam.Chylek@wottonleanrey.com.au; Matthew.Foglia@wottonkearney.com.au

**Address for service** Level 26, 85 Castlereagh Street, Sydney, NSW, 2000  
(include state and postcode)



### **Details of claim**

On the grounds stated in the statement of claim, accompanying affidavit or other document prescribed by the Rules, the Applicant claims:

1. A declaration that policy no. EPM0018480 issued by the Applicant to the Respondent does not respond to the claim for indemnity by the Respondent the subject of complaint no. 721608 made to the Australian Financial Complaints Authority.
2. In the alternative, a declaration that the appropriate counter-factual for the purposes of the Trend in the Business definition in policy no. EPM0018480 issued by the Applicant to the Respondent may take into account the presence and effect of COVID-19 other than in respect of the Insured Damage.

### **Applicant's address**

The Applicant's address for service is:

Place: Level 26, 85 Castlereagh Street, Sydney, NSW, 2000

Email: Adam.Chylek@wottonkearney.com.au; Matthew.Foglia@wottonkearney.com.au

The Applicant's address is Grosvenor Place, Level 38, 225 George Street, Sydney, NSW, 2000

### **Service on the Respondent**

It is intended to serve this application on the following Respondent:

Mr Philip Waldeck

Date: 24 February 2021

A handwritten signature in black ink, appearing to be 'A. Chylek', written over a horizontal dotted line.

Signed by Adam Chylek, Wotton + Kearney  
Lawyer for the Applicant