

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 30/09/2020 10:45:25 AM 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 process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
File Number:	VID645/2020
File Title:	AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v ALLIANZ AUSTRALIA INSURANCE LIMITED & ANOR
Registry:	VICTORIA 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: 30/09/2020 3:39:11 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.



Originating Process

No. VID of 2020

Federal Court of Australia
District Registry: Victoria
Division: General

Australian Securities and Investments Commission

Plaintiff

Allianz Australia Insurance Limited (ACN 000 122 850) and another
Defendants

A. DETAILS OF APPLICATION

This application is made under ss 912A(1)(a), 912A(1)(c) and 1041H of the *Corporations Act 2001* (Cth) (**Corporations Act**), ss 12DA, 12DB, 12DF and 12GBA of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) and s 21 of the *Federal Court of Australia Act 1976* (Cth) (**FCA**).

The Plaintiff (**ASIC**) seeks declaratory relief and civil pecuniary penalties against the First Defendant (**Allianz**) and Second Defendant (**AWP**) in respect of misleading or deceptive conduct, failing to ensure financial services were provided efficiently, honestly and fairly, and/or otherwise failing to comply with financial services laws. ASIC alleges that Allianz and AWP engaged in four categories of (mis)conduct. ASIC seeks relief on the basis that – except for one category of breach – Allianz and AWP are liable both as primary wrongdoers and as accessories.

On the facts stated in the Concise Statement, the Plaintiff claims:

1. Declarations pursuant to s 21 of the FCA that Allianz and AWP have contravened ss 12DA, 12DB and 12DF of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**).

Filed on behalf of (name & role of party) The Plaintiff
Prepared by (name of person/lawyer) Nick Kelton
Law firm (if applicable) Australian Securities & Investments Commission
Tel (03) 9280 4787 Fax 1300 729 000
Email nicholas.kelton@asic.gov.au

Address for service Level 7, 120 Collins Street
(include state and postcode) Melbourne VIC 3000



2. Orders pursuant to s 12GBA of the *ASIC Act* that Allianz and AWP pay pecuniary penalties in respect of their contraventions of ss 12DB and 12DF of the *ASIC Act*.
3. Declarations pursuant to s 21 of the FCA that, in contravention of s 1041H of the *Corporations Act 2001* (Cth) (***Corporations Act***), Allianz and AWP engaged in conduct in relation to a financial service that was misleading or deceptive, or likely to mislead or deceive.
4. Declarations pursuant to s 21 of the FCA that, in contravention of s 912A(1)(a) of the *Corporations Act*, Allianz and AWP failed to do all things necessary to ensure that they provided financial services efficiently, honestly and fairly.
5. Declarations pursuant to s 21 of the FCA that, in contravention of s 912A(1)(c) of the *Corporations Act*, Allianz and AWP failed to comply with the financial services laws.
6. Further or in the alternative:
 - (a) declarations pursuant to s 21 of the FCA that Allianz aided, abetted, was directly knowingly concerned in and/or was indirectly knowingly concerned in the contraventions of:
 - i. AWP at paragraphs 1 to 5 above;
 - ii. alternatively, Expedia;
 - (b) in respect of Allianz's involvement, referred to in subparagraph (a) above, in the contraventions of AWP and/or Expedia of ss 12DB and 12DF of the *ASIC Act*, orders pursuant to s 12GBA of the *ASIC Act* that Allianz pay pecuniary penalties.
7. Further or in the alternative:
 - (a) declarations pursuant to s 21 of the FCA that AWP aided, abetted, was directly knowingly concerned in and/or was indirectly knowingly concerned in the contraventions of:
 - i. Allianz at paragraphs 1 to 5 above;
 - ii. alternatively, Expedia;
 - (b) in respect of AWP's involvement, referred to in subparagraph (a) above, in the contraventions of Allianz and/or Expedia of ss 12DB and 12DF and of the *ASIC Act*.



Act, orders pursuant to s 12GBA of the *ASIC Act* that AWP pay pecuniary penalties.

8. Costs.

9. Such further or other orders as this Honourable Court sees fit.

Date: 30 September 2020

A handwritten signature in black ink that reads 'Nick Kelton'.

Nick Kelton

Solicitor for the Australian Securities and Investments Commission

This application will be heard by the Federal Court of Australia at 305 William Street, Melbourne
at on

B. NOTICE TO DEFENDANTS

TO:

ALLIANZ AUSTRALIA INSURANCE LIMITED (ACN 000 122 850)

L 12, 2 Market Street

SYDNEY NSW 2000

AWP AUSTRALIA PTY LTD (ACN 097 227 177)

L 16, 310 Ann St

BRISBANE QLD 4000

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.



Note Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

D. FILING

Date of filing:

.....

Registrar

This originating process is filed by Nick Kelton for the Plaintiff.

E. SERVICE

The plaintiff's address for service is:

Australian Securities and Investments Commission

Level 7, 120 Collins Street

MELBOURNE VIC 3000

It is intended to serve a copy of this originating process on each Defendant.

**SCHEDULE OF PARTIES**

No. of 2020

Federal Court of Australia
District Registry: Victoria
Division: General

Plaintiff

Plaintiff: Australian Securities and Investments Commission

Defendants

First Defendant: Allianz Australia Insurance Limited (ACN 000 122 850)

Second Defendant: AWP Australia Pty Ltd (ACN 097 227 177)

Date: