

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged:	Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	14/08/2025 8:01:33 AM AEST
Date Accepted for Filing:	14/08/2025 8:55:20 AM AEST
File Number:	VID1039/2025
File Title:	AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v MERCER SUPERANNUATION (AUSTRALIA) LIMITED (ACN 004 717 533)
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



*Sia Lagos*

Registrar

### Important Information

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 date of the filing of the document is determined pursuant to the Court's Rules.



## Originating process

No. VID of 2025

Federal Court of Australia  
District Registry: Victoria  
Division: General

### AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

### MERCER SUPERANNUATION (AUSTRALIA) LIMITED (ACN 004 717 533)

Defendant

#### A. DETAILS OF APPLICATION

This application is made under sections 1317E and 1317G of the *Corporations Act 2001* (Cth) (**Corporations Act**) and section 21 of the *Federal Court of Australia Act 1976* (Cth) (**Federal Court Act**).

The nature of the proceeding is an application for:

- (a) declarations of contravention of civil penalty provisions against the Defendant; and
- (b) orders that the Defendant pay to the Commonwealth a pecuniary penalty.

For the purposes of this application:

**AFSL** means MSAL's Australian Financial Services Licence numbered 235906.

**ASIC** means the Australian Securities and Investments Commission.

**Concise Statement** means the Concise Statement dated ## August 2025 accompanying this originating process.

**MSAL** means the Defendant, Mercer Superannuation (Australia) Limited (ACN 004 717 533).

#### B. ORDERS SOUGHT

On the facts stated in the Concise Statement, the Plaintiff seeks the following orders against the Defendant:

Pursuant to section 1317E of the Corporations Act and/or section 21 of the Federal Court Act:

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission (the Plaintiff)
Prepared by (name of person/lawyer)	Alana Giles
Law firm (if applicable)	Holding Redlich
Tel	+61 03 9321 9996
Email	Alana.Giles@holdingredlich.com
Address for service (include state and postcode)	Level 23, 500 Bourke Street, Melbourne VIC 3000



- 1 A declaration that MSAL's systems for compliance with sections 912DAA(1) and 912DAA(7) of the Corporations Act were deficient during the periods:
  - (a) 1 October 2021 to May 2023;
  - (b) May 2023 to August 2024; and
  - (c) August 2024 to September 2024,and thereby contravened section 912A(1)(c) of the Corporations Act in respect of each period by failing to comply with the financial services laws.
- 2 A declaration that MSAL's systems for compliance with sections 912DAA(1) and 912DAA(7) of the Corporations Act were deficient during the periods:
  - (a) 1 October 2021 to May 2023;
  - (b) May 2023 to August 2024; and
  - (c) August 2024 to September 2024,and thereby contravened sections 912A(1)(a) and 912A(5A) of the Corporations Act in respect of each period by failing to do all things necessary to ensure that the financial services covered by its AFSL were provided efficiently, honestly and fairly.
- 3 A declaration that MSAL contravened sections 912DAA(1) and 912DAA(7) of the Corporations Act by failing to notify ASIC of a reportable situation within 30 days after MSAL first knew that, or was reckless with respect to whether, there were reasonable grounds to believe that a reportable situation had arisen in respect of each of the following eight incidents:
  - (a) INC-0011906;
  - (b) INC-0013541;
  - (c) INC-0017604;
  - (d) INC-0017236;
  - (e) INC-0016363;
  - (f) INC-0016689;
  - (g) INC-0017268; and
  - (h) INC-0019650.



4 A declaration that:

- (a) MSAL contravened section 1308(4) of the Corporations Act by lodging reportable situation reports regarding INC-0011906 with ASIC dated 27 October 2023, 10 May 2024, and 15 November 2024 in circumstances where it knew, or was reckless as to whether, each report was materially false or misleading because of statements made in those documents; or
- (b) MSAL contravened section 1308(5) of the Corporations Act by failing to take all reasonable steps to ensure that the reportable situation reports regarding INC-0011906 dated 27 October 2023, 10 May 2024, and 15 November 2024 were not materially false or misleading because of statements made in those documents.

**C. PECUNIARY PENALTIES**

5 An order pursuant to section 1317G of the Corporations Act that the Defendant pay to the Commonwealth a pecuniary penalty or pecuniary penalties of an amount or amounts to be fixed by the Court in respect of contraventions of:

- (a) sections 912A(1)(a) and 912A(5A) of the Corporations Act, as referred to in paragraph 2 above;
- (b) sections 912DAA(1) and 912DAA(7) of the Corporations Act, as referred to in paragraph 3 above;
- (c) sections 1308(4) or (5) of the Corporations Act, as referred to in paragraph 4 above.

**D. OTHER ORDERS**

6 An order that the Defendant pay the Plaintiff's costs.

7 Such further or other orders as the Court considers appropriate.

Date: 14 August 2025

A handwritten signature in blue ink, appearing to read "Alana Giles", is positioned above a horizontal line.

Signature of Alana Giles, Holding Redlich  
Solicitor for the Plaintiff

This application will be heard by the Federal Court of Australia at [address of court] at [time] [\*am /\*pm] on [date].

**E. NOTICE TO DEFENDANT**

TO: Mercer Superannuation (Australia) Limited (ACN 004 717 533)

Collins Square, Level 15, 727 Collins Street, Docklands VIC 3008

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.

**F. FILING**

Date of filing:

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

This originating process is filed by Alana Giles, Holding Redlich, Solicitor for the Plaintiff.

**G. SERVICE**

The plaintiff's address for service is Level 23, 500 Bourke Street, Melbourne VIC 3000.

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