

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: 11/03/2025 4:12:11 PM AEDT
Date Accepted for Filing: 11/03/2025 4:28:36 PM AEDT
File Number: VID289/2025
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v
AUSTRALIANSUPER PTY LTD (ACN 006 457 987)
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: Melbourne
Division: General

Australian Securities and Investments Commission

Plaintiff

AustralianSuper Pty Ltd (ACN 006 457 987)

Defendant

A. DETAILS OF APPLICATION

This application is made under sections 1101B(1), 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**).

For the purposes of this application:

AFSL means AustralianSuper's Australian Financial Services Licence numbered 233788.

ASIC means the Australian Securities and Investments Commission.

AustralianSuper means the defendant, AustralianSuper Pty Ltd as trustee of the AustralianSuper Superannuation Fund.

Concise Statement means the Concise Statement dated 11 March 2025 accompanying this originating process.

Relevant Period means 1 July 2019 to 18 October 2024.

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission (the Plaintiff)		
Prepared by (name of person/lawyer)	Catherine Macrae		
Law firm (if applicable)	MinterEllison		
Tel	+61 3 8608 2061	Fax	+61 3 8608 1000
Email	catherine.macrae@minterellison.com; vanessa.lamborn@minterellison.com		
Address for service	Collins Arch, 447 Collins Street, Melbourne 3000 VIC		



C. ORDERS SOUGHT

On the facts stated in the Concise Statement, the plaintiff seeks the following orders against the defendant:

The following declarations pursuant to s 1317E of the Corporations Act and/or section 21 of the Federal Court Act:

1. A declaration that AustralianSuper contravened section 912A(1)(c) of the Corporations Act by failing to pay benefits as soon as practicable after members' deaths as required by s 34(1) of the *Superannuation Industry (Supervision) Act 1993* (Cth) and reg 6.21(1) of the *Superannuation Industry (Supervision) Regulations 1994* (Cth) on 752 occasions.
2. A declaration that AustralianSuper contravened sections 912A(1)(a) and 912A(5A) of the Corporations Act by failing to do all things necessary to ensure that financial services covered by its AFSL were provided efficiently, honestly and fairly in the Relevant Period.

D. PECUNIARY PENALTIES

3. 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.

E. OTHER ORDERS

4. Orders under section 1101B(1) of the Corporations Act requiring AustralianSuper, within such time and in such manner as the Court sees fit, to:
 - (a) publish, by form, means and channels to be determined by the Court, at its own expense, an adverse publicity notice disclosing the contraventions declared in this proceeding and the circumstances giving rise to those contraventions;
 - (b) have in place appropriate systems, policies and procedures to ensure that it processes death benefit claims within reasonable time frames; and
 - (c) provide ASIC with a written report of an independent expert confirming AustralianSuper's compliance with paragraph 4(b) above.
5. An order that the defendant pay ASIC's costs.
6. Such further or other orders as the Court considers appropriate.



Date: 11 March 2025

Catherine Macrae

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MinterEllison Lawyers
Solicitors for the plaintiff
Signed by Catherine Macrae, Partner

This application will be heard by the Federal Court of Australia at Owen Dixon Commonwealth Law Courts Building, 305 William Street, Melbourne, Victoria at am/pm on

F. NOTICE TO DEFENDANT(S) (IF ANY)

TO: AUSTRALIANSUPER PTY LTD

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.

G. FILING

Date of filing:

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Registrar

This originating process is filed by MinterEllison for the plaintiff.



H. SERVICE

The plaintiff's address for service is:

447 Collins Street, Melbourne VIC 3000

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