

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
COMMERCIAL COURT

S CI 2011

IN THE MATTER OF TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION) (ACN 092 311 469) AND TIMBERCORP LIMITED (IN LIQUIDATION) (ACN 055 185 067)

**TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION)
(ACN 092 311 469) IN ITS CAPACITY AS RESPONSIBLE
ENTITY OF THE MANAGED INVESTMENT
SCHEME LISTED IN SCHEDULE 1 AND ORS
ACCORDING TO THE SCHEDULE**

First Plaintiff

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 17 February 2011
Filed on behalf of: the Plaintiffs

Prepared by:

ARNOLD BLOCH LEIBLER

Lawyers and Advisers

Level 21

333 Collins Street

MELBOURNE 3000

Solicitor's Code: 54

DX 38455 Melbourne

Tel: 9229 9999

Fax: 9229 9900

Ref: 011551197

(Bridget Slocum - bslocum@ab.com.au)

This is the exhibit marked "MAK-2" now produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit on 17 February 2011.

MEAGAN LOUISE GROSE

Arnold Bloch Leibler

Level 21, 333 Collins Street

Melbourne 3000

An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

Before me: 

Exhibit "MAK-2"

**Originating motion dated 23 September 2010 filed in
Supreme Court Proceeding SCI 2009 4280**

Filed on behalf of the Plaintiffs

ARNOLD BLOCH LEIBLER

Lawyers and Advisers

Level 21

333 Collins Street

Melbourne 3000

ABL/1383024v1

DX 38455 Melbourne

Tel: 9229 9999

Fax: 9229 9900

Ref: 011551197

(Bridget Slocum)

MAK-2

Form 5C

Rules 5.02(2), 45.05(2)(b)

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
COMMERCIAL COURT**

No. SC1 2010 5187

BETWEEN:

**BOSI SECURITY SERVICES LIMITED (A.C.N. 009 413 852) as trustee for
AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
(A.C.N. 005 357 522) and BOS INTERNATIONAL (AUSTRALIA) LIMITED
(A.C.N. 066 601 250) and WESTPAC BANKING CORPORATION (A.C.N. 007 457 141)**
Plaintiff

and

**MACQUARIE BANK LIMITED (A.C.N. 008 583 542) & ORS (according to the attached
Schedule)**
Defendants

ORIGINATING MOTION

Date of document: 23 September 2010
Filed on behalf of: The Plaintiff
Prepared by:
Blake Dawson
Level 26
181 William Street
MELBOURNE VIC 3000

Solicitor's Code: 53
DX: 187
Tel: (03) 9679 3000
Fax: (03) 9679 3111
Ref: RWM CHFE
Attention: Mr R McClymont
Email: ross.mcclymont@blakedawson.com

TO THE DEFENDANTS

TAKE NOTICE that this proceeding by originating motion has been brought against you by the plaintiff for the relief or remedy set out below.

IF YOU INTEND TO DEFEND the proceeding you must attend before the Court at the time and place named in the summons served with this originating motion.

FILED 23 2010

.....
Prothonotary

THIS ORIGINATING MOTION is to be served within one year from the date it is filed or within such further period as the Court orders.

THE PLAINTIFF SEEKS THE FOLLOWING ORDERS:

1. Pursuant to Rule 45.05 of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic) the requirements of Rules 5.03(1) and 8.02 are dispensed with.
2. Pursuant to Rule 45.05 of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic) the plaintiff has leave to proceed by originating motion in Form 5C.
3. A declaration that the Plaintiff is entitled to be paid \$351,368.00 (together with any accrued interest) by the Third Defendant (**Allianz**) in respect of the refund of premiums due to the Second Defendant (**Timbercorp**) under the plantation insurance policy number TIMB 2758-0809 dated 29 September 2008 issued by Allianz to Timbercorp.
4. Alternatively to paragraph 3, a declaration that the Plaintiff is entitled to be paid \$351,368.00 (together with any accrued interest) by Timbercorp in respect of the refund of premiums due to Timbercorp under the plantation insurance policy number TIMB 2758-0809 dated 29 September 2008 issued by Allianz to Timbercorp.
5. A declaration that the Plaintiff is entitled to be paid \$135,542.80 (together with any accrued interest) by Allianz in respect of the proceeds of the claim for fire fighting expenses and the cost of removing debris, made under the plantation insurance policy number TIMB 2758-0809 dated 29 September 2008 issued by Allianz to Timbercorp, in respect of the fire which occurred on 29 January 2009 on Branton Treefarm.
6. Alternatively to paragraph 5, a declaration that the Plaintiff is entitled to be paid \$135,542.80 (together with any accrued interest) by Timbercorp in respect of the proceeds of the claim for fire fighting expenses and the cost of removing debris, made under the plantation insurance policy number TIMB 2758-0809 dated 29 September 2008 issued by Allianz to Timbercorp, in respect of the fire which occurred on 29 January 2009 on Branton Treefarm.
7. A declaration that the Plaintiff is entitled to be paid \$34,367.54 (together with any accrued interest) by the First Defendant (**Macquarie**) in respect of the refund of premiums due to Timbercorp under the public liability policy number 10M 1997059 03 dated on or around 1 October 2008 issued by CGU to Timbercorp.

8. Alternatively to paragraph 7, a declaration that the Plaintiff is entitled to be paid \$34,367.54 (together with any accrued interest) by Timbercorp in respect of the refund of premiums due to Timbercorp under the public liability policy number 10M 1997059 03 dated on or around 1 October 2008 issued by CGU Insurance Limited to Timbercorp.
9. An order that Allianz, alternatively Timbercorp, pay the Plaintiff:
 - (i) \$351,368.00 (together with any accrued interest); and
 - (ii) \$135,542.80 (together with any accrued interest).
10. An order that Macquarie, alternatively Timbercorp, pay the Plaintiff \$34,367.54 (together with any accrued interest).
11. An order that Macquarie pay the Plaintiff's costs of the proceeding.

DATE 23 September 2010

Blake Dawson

Blake Dawson

Solicitors for the Plaintiff

1. Place of trial – Melbourne.
2. This originating motion was filed for the plaintiff by Blake Dawson, of Level 26, 181 William Street, Melbourne VIC 3000.
3. The address of the plaintiff is Level 27, 45 Clarence Street, Sydney NSW 2000.
4. The address for service of the plaintiff is at the offices of Blake Dawson, of Level 26, 181 William Street, Melbourne VIC 3000.
5. The address of the first defendant is ~~at its solicitors, Turks Legal, Level 29, Angel Place, 123 Pitt Street, Sydney, NSW, 2000.~~ *Level 13, 25 National Circuit
Forrest, ACT. 2603*
6. The address of the second defendant is ~~at its solicitors Arnold Bloch Leibler, Level 21, 333 Collins Street, Melbourne, Victoria, 3000.~~ *Level 13, 461 Bourke St
Melbourne, VIC. 3000*
7. The address of the third defendant is Level 12, 2 Market Street, Sydney, NSW, 2000.

SCHEDULE

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL AND EQUITY DIVISION
COMMERCIAL COURT**

No.

BETWEEN:

**BOSI SECURITY SERVICES LIMITED (A.C.N. 009 413 852) as trustee for
AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED
(A.C.N. 005 357 522) and BOS INTERNATIONAL (AUSTRALIA) LIMITED
(A.C.N. 066 601 250) and WESTPAC BANKING CORPORATION (A.C.N. [])**

Plaintiff

and

MACQUARIE BANK LIMITED (A.C.N. 008 583 542)

First Defendant

and

TIMBERCORP LIMITED (IN LIQUIDATION) (A.C.N. 055 185 067)

Second Defendant

and

ALLIANZ AUSTRALIA INSURANCE LIMITED (A.C.N. 000 122 850)

Third Defendant