

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 6/10/2021 12:23:29 AM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)
File Number: NSD616/2021
File Title: WESTPAC BANKING CORPORATION ABN 33 007 457 141 & ANOR v
FORUM FINANCE PTY LIMITED & ORS
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF
AUSTRALIA



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

Dated: 6/10/2021 3:09:26 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 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 59
Rule 29.02(1)

Affidavit

No. NSD 616 of 2021

Federal Court of Australia
District Registry: NSW
Division: General

Westpac Banking Corporation and another
Applicant

Forum Finance Pty Ltd ACN 153 301 172 (In Liquidation) and others according to the Schedule

Respondents

Affidavit of: **Rocco Vincenzo Panetta**
Address: Level 6, 111 Elizabeth Street, Sydney NSW 2000
Occupation: Solicitor
Date: 5 October 2021

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Rocco Vincenzo Panetta sworn on 6 July 2021.	1 to 48	1 to 7
2	Exhibit "RVP-01", being copy of bundle of documents		1 to 14
3	Exhibit "RVP-02", being a confidential exhibit		1

[Handwritten signature]

Filed on behalf of (name & role of party) Rocco Vincenzo Panetta, Non Party
 Prepared by (name of person/lawyer) John Richard Paul Hunt, lawyer for Rocco Vincenzo Panetta, Non Party
 Law firm (if applicable) Hunts.Law
 Tel 13 000 48687 Fax 02 8569 1050
 Email p.hunt@huntslaw.com.au
 Address for service (include state and postcode) Hunts.Law, Suite 202, 272 Pacific Highway, Crows Nest NSW 2065

I Rocco Vincenzo Panetta of Level 6, 111 Elizabeth Street, Sydney NSW 2000, solicitor say on oath:

1. I am formerly the solicitor for the Second Respondent ("**Mr Papas**").
2. In making this affidavit, I do not intend, nor do I have instructions to waive any client legal privilege of Mr Papas with respect to communications between him and me.
3. Exhibited to this affidavit is a paginated bundle of documents marked exhibit 'RVP-01' (**RVP-01**) containing documents to which I refer throughout this Affidavit.
4. Exhibited to this affidavit is a confidential exhibit marked exhibit 'RVP-02' (**RVP-02**).

Background

5. I am an Australian Legal Practitioner within the meaning of *Legal Profession Uniform Law* having been admitted to practice in 1999 in the Supreme Court of NSW and the Federal and High Courts of Australia.
6. As an Australian Legal Practitioner I am obliged to keep confidential the information given to me by my clients unless there is an exception to that obligation. Further, I am obliged to ensure that confidential information provided to me by my clients or former clients is not disclosed in accordance with the obligations set out in Rule 9 of the *Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015*.

Australian Mobile Number for Mr Papas

7. I met Mr Papas in 2012 or 2013 when his company sold me a printer. It was at that time that Mr Papas provided me with a mobile phone number by which I could contact him ("**Australian Mobile Number**").
8. Between about 2013 and November 2020, I had no contact with Mr Papas via the Australian Mobile Number or any other point of contact.
9. For a short period of time in about November / December 2020 and in late June 2021 until early July 2021 Mr Papas and I communicated with each other using the Australian Mobile Number.

Acting for Mr Papas

10. On 1 July 2021 I commenced acting as the solicitor for Mr Papas in these proceedings (Number NSD 616 of 2021) (the "**proceedings**"). I caused to be filed a Notice of Address for Service in the proceedings on that date.

11. On 8 July 2021 I filed a Notice of Acting in the proceedings.

Email address

12. On 2 July 2021, and in the course of my retainer as solicitor for Mr Papas, Mr Papas provided to me an email address to use to correspond with him in relation to the proceedings. That email address is the email address deposed to in paragraphs 8, 11 and 12 of the affidavit of Caitlin Maria Murray sworn 2 October 2021.
13. The email address identified in Ms Murray's affidavit is the only personal email address I have for Mr Papas. There were two other email addresses used by Mr Papas of which I am aware with the domains forumgroup.com.au and iugis.com ("**Company Email Addresses**"). I have not received emails from the Company Email Addresses since the commencement of the proceedings. It is my understanding the Company Email Addresses are recorded in the material currently held by the liquidators of the respondent companies.

Greek Phone Number

14. On 2 July 2021, and in the course of my retainer as solicitor for Mr Papas, Mr Papas provided to me a phone number with the country code +30 which I understand to be for phone numbers issued in Greece (the "**Greek Phone Number**"). Aside from the Australian Mobile Number and the Greek Phone Number I have no other telephone number for Mr Papas.
15. Mr Papas provided the Greek Phone Number to me on the express condition that I was not to disclose that phone number to any other person.
16. The details of the Greek Phone Number are exhibited to me at page 1 of Exhibit RVP-02 over which I respectfully seek that confidentiality orders be made.

Email, Telephone, WhatsApp, Signal, Microsoft Teams and Zoom

17. From the date Mr Papas provided to me the Greek Phone Number, Mr Papas and I have communicated with each other using it primarily via the telephone network and via a messaging platform known as WhatsApp.
18. Mr Papas also requested I use a messaging application called Signal. I communicated with Mr Papas via Signal for a short time only.



19. The contact details by which I communicated with Mr Papas via both WhatsApp and Signal platforms was via a user account and the Greek Phone Number was used for that purpose. Because of the nature of the messaging platforms, and the use by Mr Papas of the Greek Phone Number, there was no user name or other electronic address by which I communicated with him on those platforms.
20. On or about 2 July 2021 I created a group chat on the WhatsApp platform which included myself, a barrister and the Greek Phone Number by which I contacted Mr Papas. I labelled that group chat "Legal Advice Bill Papas".
21. Other than email, the telephone service, WhatsApp and Signal, I communicated with Mr Papas alone and in conference with counsel over Microsoft Teams and Zoom using his email address, which, as I depose above is the same email address deposed to in paragraphs 8, 11 and 12 of the affidavit of Caitlin Maria Murray sworn 2 October 2021.

Last Known Address of Mr Papas

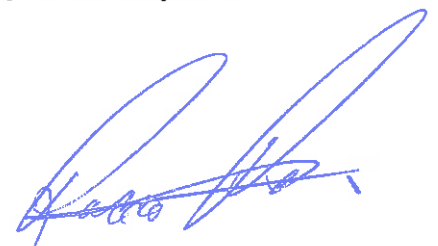
22. The last known address I have for Mr Papas is 23 Margaret Street, Rozelle NSW 2039.

Resources of the Applicant

23. On 15 July 2021 I read the affidavit of Caitlin Maria Murray filed in the proceedings and observed that the Applicant and their solicitors are able to obtain a substantial amount of information about Mr Papas, including addresses in Greece. I am not aware of Mr Papas' address or addresses in Greece.

Potential Criminal Proceedings

24. On 15 July 2021 I read the affidavit of Vincent Damiano filed in the proceedings. From reading Mr Damiano's affidavit, I understood, among other things, that on 30 June 2021 Mr Damiano reported to New South Wales police a fraud against the Applicant.
25. Since 15 July 2021 I have read a number of media articles which refer to an investigation of Mr Papas by the NSW Police.
26. On the basis of the matters to which I depose in the two paragraphs immediately above, I am concerned that, if the Greek Phone Number is read in open court, or provided to the Applicant without strict orders as to its confidentiality, that Mr Papas' right to the presumption of innocence will be placed in jeopardy and he may be the subject of harassment by media outlets.



Ceasing to Act for Mr Papas

27. On 20 September 2021 I served Mr Papas with a Notice of Intention to Cease to Act dated 7 September 2021 which I prepared in accordance with Rule 4.05 *Federal Court Rules 2011*. I served that Notice by email to the email for Mr Papas identified in the affidavit of Ms Murray. In the same email I provided Mr Papas with a Notice of Ceasing to Act dated 16 September 2021.
28. On 27 September 2021 I filed the Notice of Ceasing to Act by electronic filing.
29. I considered that from the point of filing of the Notice of Ceasing to Act that I was no longer the solicitor for Mr Papas and no longer acted for him in the proceedings.
30. On 27 September 2021 I received from the registry a sealed copy the Notice of Ceasing to Act. A copy the sealed Notice of Ceasing to Act is at pages 3 to 4 of Exhibit CMM-15.
31. On 29 September 2021 at 9.10 a.m. I sent the sealed Notice of Ceasing to Act by email to Mr Sommer of Minter Ellison, the solicitors for the applicant in the proceedings. The Notice of Ceasing to Act contains the last address of Mr Papas as known to me. A copy of the email from me to Mr Sommer is at pages 1 to 2 of Exhibit CMM-15.

After Ceasing to Act for Mr Papas

32. Since ceasing to act for Mr Papas:
 - (a) Mr Papas has attempted to contact me approximately five times via WhatsApp using the Greek Telephone Number;
 - (b) On 3 October 2021 I accepted a WhatsApp call from Mr Papas and told him that I no longer act for him and cannot speak with him about the proceedings; and
 - (c) I have no intention of corresponding with Mr Papas further in relation to the proceedings.

Correspondence Prior to Case Management Hearing on 1 October 2021

33. On 29 September 2021 at 2.03 p.m. Mr Sommer sent me an email. A copy of the email from Mr Sommer to me is at page 1 of Exhibit CMM-15.
34. On 30 September 2021 at 10.16 a.m. Mr Sommer sent me the listing for the case management hearing set down for 1 October 2021. A copy of the email from Mr Sommer to me is at pages 1 to 3 of Exhibit RVP-01.



35. Both the communications sent to me by Mr Sommer on 29 and 30 September 2021 were sent to me after I had sent to Mr Sommer the filed Notice of Ceasing to Act.
36. On 30 September 2021 at 7.40 p.m. I was copied on correspondence to the Associate for Justice Lee. A copy of that email is at pages 6 to 7 of Exhibit CMM-15. The email was not directed to me. I read the email and the affidavit of Ms Murray which was attached to it. On reading Ms Murray's affidavit, I was made aware for the first time that the Applicant's solicitors had an issue of not having an address for Mr Papas. This was the first time the Applicant had indicated it may raise an issue with the Court about Mr Papas' address.
37. On 30 September 2021 at 8.16 p.m. I responded to the 29 September 2021 email from Mr Sommer. A copy of that email is at page 5 of Exhibit CMM-15.
38. On 30 September 2021 at 8.41 p.m. I sent a further email asking Mr Sommer to bring my emails to the attention of the Court as I am not a party to the proceedings and I am no longer acting for Mr Papas in the proceedings. A copy of that email is at page 6 of Exhibit CMM-15.
39. On 1 October 2021 at 10.12 a.m. Mr Sommer sent me an email with submissions concerning an application for Orders against me to have me re-file a Form 8 of Notice of Ceasing to Act with details which I do not have. A copy of that email is at pages 4 to 11 of Exhibit RVP-01.
40. On 1 October 2021 at 10.32 a.m. Mr Sommer sent me a further email with submissions concerning an application for Orders against me to have me re-file a Form 8 of Notice of Ceasing to Act with details which I do not have. A copy of that email is at page 13 of Exhibit CMM-15.
41. On 1 October 2021 at 11.21 a.m. I sent an email to all parties in the proceedings stating my position, which included the information that I did and did not have, and asking for my correspondence to be provided to the Court. A copy of that email is at pages 14 to 15 of Exhibit CMM-15.
42. On 1 October 2021 at 11.46 a.m. I was invited by Mr Sommer to appear and "explain" my email in Court. A copy of that email is at page 14 of Exhibit CMM-15. I did not respond to the email as the position was clear in my earlier email. It was not apparent to me that I was required to appear before this Honourable Court on that day and I intended no disrespect to the Court by not appearing at that time.




- 43. Further, on the afternoon of 1 October 2021 I was required to attend upon a close relative of mine who had a medical episode which required my complete attention until later that evening. During that afternoon I did not answer calls or look at emails as I was unable to do so.
- 44. On 2 October 2021 at 7.51 a.m. Mr Sommer sent to me by email a copy of the Orders made by the Court about being granted the right to file an Interlocutory Application. A copy of that email is at page 21 of Exhibit CMM-15.
- 45. On 2 October 2021 at 3.08 p.m.
 - (a) in response I sent an email seeking to resolve the subject matter being agitated in the Interlocutory Application, a copy of that email is at page 12 of Exhibit RVP-01;
 - (b) at precisely the same time as I sent the email, Minters served the Application and Affidavit in support on me, a copy of the email I received is at page 13 of Exhibit RVP-01.
- 46. On 3 October 2021 at 12.14 p.m. I sent an email stating that because the Application had been served, it would modify any response I give. A copy of that email is at page 14 of Exhibit RVP-01.

Confidential Exhibit

- 47. It appears to me having read the material from the Application that the only information I have which the Applicant does not have is the Greek Phone Number and in respect of which I consider myself bound by confidentiality not to provide unless an exception applies.
- 48. I have placed the Greek Phone Number in an envelope marked confidential which is Exhibit RVP-02.

Sworn by the deponent
 at Crows Nest
 in NSW
 on 5 October 2021
 Before me:

)
)
)
)
)



 Signature of deponent



 Signature of witness

John Richard Paul Hunt, Solicitor

Exhibit Certificate

No. NSD 616 of 2021

Federal Court of Australia

District Registry: NSW

Division: General

Westpac Banking Corporation & Anor

Applicants

Forum Finance Pty Ltd (in Liquidation) ACN 153 301 172 & Ors

Respondents

This is the exhibit marked 'RVP-01' now produced and shown to Rocco Vincenzo Panetta at the time of swearing his affidavit on 5 October 2021



John Richard Paul Hunt, Solicitor

Filed on behalf of (name & role of party)	Rocco Vincenzo Panetta, Non Party		
Prepared by (name of person/lawyer)	John Richard Paul Hunt, lawyer for Rocco Vincenzo Panetta, Non Party		
Law firm (if applicable)	Hunts.Law		
Tel	13 000 48687	Fax	02 8569 1050
Email	p.hunt@huntslaw.com.au		
Address for service (include state and postcode)	Hunts.Law, Suite 202, 272 Pacific Highway, Crows Nest NSW 2065		

Paul Hunt

Subject: FW: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [SEC=OFFICIAL] [ME-ME.FID6264995]

From: Anthony Sommer <Anthony.Sommer@minterellison.com>
Date: 30/9/21 10:16 am (GMT+10:00)
To: "Goldberg, Tyler" <Tyler.Goldberg@allens.com.au>, "Haystead, Tom" <thaystead@jonesday.com>, "Dobson, Roger" <rdobson@jonesday.com>, "Yiasemides, Maria" <myiasemides@jonesday.com>, "Shanahan, Lucy J." <lshanahan@jonesday.com>, "Brycki, Jessica I." <jbrycki@jonesday.com>, "Byrne, Corey M." <cbyrne@jonesday.com>, "Prinsloo, Kirsty" <Kirsty.Prinsloo@allens.com.au>, "Prestwich, Chris" <Chris.Prestwich@allens.com.au>, Ian.Bolster@ashurst.com, matthew.youssef@ashurst.com, "Leen, Delano" <delano.leen@dentons.com>, justin.kang@dentons.com, b.quan@cornwalls.com.au, A.Lee@cornwalls.com.au, "Morris, Olivia" <Olivia.Morris@allens.com.au>, Sazz.Nasimi@madgwicks.com.au, Melissa.Passarelli@madgwicks.com.au>, Candy Nelson <Candy.Nelson@madgwicks.com.au>, billpapas07@gmail.com, Rocco Panetta <r.panetta@panetta.com.au>
Cc: Caitlin Murray <Caitlin.Murray@minterellison.com>, Michael Hughes <Michael.Hughes@minterellison.com>, Simon Brandis <Simon.Brandis@minterellison.com>, Andrew Clarke <Andrew.Clarke@minterellison.com>, Kate Cockburn <Kate.Cockburn@minterellison.com>, Alana Galasso <Alana.Galasso@minterellison.com>
Subject: FW: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [SEC=OFFICIAL] [ME-ME.FID6264995]

Dear Colleagues

Please see the below communication from the Associate to Lee J.

Regards

Anthony Sommer
Senior Associate
T +61 2 9921 4182 M +61 431 058 780
anthony.sommer@minterellison.com
MinterEllison Governor Macquarie Tower 1 Farrer Place Sydney NSW 2000
minterellison.com **Follow us on LinkedIn and Twitter**

From: Associate LeeJ <Associate.LeeJ@fedcourt.gov.au>
Sent: Thursday 30 September 2021 10:01 AM
To: Alana Galasso <Alana.Galasso@minterellison.com>; PROJECT OLYMPUS <PROJECTOLYMPUS@minterellison.com>; Sazz Nasimi <Sazz.Nasimi@madgwicks.com.au>
Subject: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [SEC=OFFICIAL]

OFFICIAL - Business related email

Dear Practitioners

I refer to the above proceeding listed for a case management hearing before his Honour Justice Lee at 12 noon tomorrow, 1 October 2021. I confirm that the case management hearing will proceed via MS Teams (the link for which is located below and may be forwarded to counsel and any client representatives):

[Click here to join the meeting](#)

Further, it has come to the Court's attention that the case management hearing listed at 9.30am on 20 October 2021 (which was vacated by order 9 of the orders dated 22 September 2021) had a broad function of bringing all of the Related Proceedings back before his Honour following the filing of evidence in chief.

His Honour has therefore determined that the case management hearing listed on 20 October 2021 should remain. An order relisting the proceeding on this date will be incorporated into any orders that flow from the case management hearing tomorrow.

His Honour directs that the solicitors for Westpac provide this communication to all interested parties so that: (1) they may appear at the case management hearing tomorrow, should they so wish; and (2) for clarification about the case management hearing on 20 October 2021.

Finally, could the parties please, by 5pm today, provide the names of counsel who will appear.

Yours faithfully

Emerson Hynard | Associate to the Hon. Justice M B J Lee
Federal Court of Australia | Law Courts Building, Queens Square, Sydney NSW 2000

t: +61 2 8099 8493 | e: Associate.LeeJ@fedcourt.gov.au

IMPORTANT INFORMATION, PLEASE READ

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Sensitive: Legal

3.

Paul Hunt

Subject: RE: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [SEC=OFFICIAL] [Allens-File-DMS.FID2091065] [ME-ME.FID6264995]

Attachments: Submissions for 1 October - FINAL.pdf; 01.10.21 - NSD6162021 SMO.DOCX; Marcus Sinclair LLP v Your Lawyers Ltd [2021] UKSC 32; [2021] 3 WLR 598.pdf

Importance: High

From: Anthony Sommer <Anthony.Sommer@minterellison.com>
Date: 1/10/21 10:12 am (GMT+10:00)
To: Associate LeeJ <Associate.LeeJ@fedcourt.gov.au>
Cc: "Prinsloo, Kirsty" <Kirsty.Prinsloo@allens.com.au>, Caitlin Murray <Caitlin.Murray@minterellison.com>, Michael Hughes <Michael.Hughes@minterellison.com>, Simon Brandis <Simon.Brandis@minterellison.com>, Andrew Clarke <Andrew.Clarke@minterellison.com>, Kate Cockburn <Kate.Cockburn@minterellison.com>, "Haystead, Tom" <thaystead@jonesday.com>, Alana Galasso <Alana.Galasso@minterellison.com>, "Goldberg, Tyler" <Tyler.Goldberg@allens.com.au>, "Dobson, Roger" <rdoobson@jonesday.com>, "Yiasemides, Maria" <myiasemides@jonesday.com>, "Shanahan, Lucy J." <lshanahan@jonesday.com>, "Brycki, Jessica I." <jbrycki@jonesday.com>, "Byrne, Corey M." <cbyrne@jonesday.com>, "Prestwich, Chris" <Chris.Prestwich@allens.com.au>, Ian.Bolster@ashurst.com, matthew.youssef@ashurst.com, "Leen, Delano" <delano.leen@dentons.com>, justin.kang@dentons.com, b.quan@cornwalls.com.au, A.Lee@cornwalls.com.au, "Morris, Olivia" <Olivia.Morris@allens.com.au>, Sazz.Nasimi@madgwicks.com.au, Melissa Passarelli <Melissa.Passarelli@madgwicks.com.au>, Candy Nelson <Candy.Nelson@madgwicks.com.au>, billpapas07@gmail.com, Rocco Panetta <r.panetta@panetta.com.au>, "Forum (Allens)" <ForumAllens@allens.com.au>, Christopher Nehme <cnehme@fortislaw.com.au>, Pierre Safi <pjsafi@fortislaw.com.au>, Roy Hanna <rhanna@fortislaw.com.au>, Ramsha Sulaman <ramsha@fortislaw.com.au>
Subject: RE: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [SEC=OFFICIAL] [Allens-File-DMS.FID2091065] [ME-ME.FID6264995]

Dear Associate

We refer to the emails below.

This is a share file link to the court book for today's hearing: <https://share.minterellison.com/w/f-ecd1cb35-3195-4fd8-ba1e-964b5aba02c2>

Please find attached for ease of reference:

1. a copy of Westpac's submissions;
2. draft short minutes of order proposed by Westpac; and
3. a copy of *Harcus Sinclair LLP v Your Lawyers Ltd* [2021] UKSC 32; [2021] 3 WLR 598, which is referred to in the submissions.

Document 1 and 2 are included in today's court book. We confirm that a hard copy of the court book will be provided to Chambers shortly.

We note that the solicitors for the parties and interested persons are copied to this email.

Yours faithfully

Anthony Sommer

Senior Associate

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anthony.sommer@minterellison.com

MinterEllison Governor Macquarie Tower 1 Farrer Place Sydney NSW 2000

minterellison.com **Follow us on LinkedIn and Twitter**

From: Anthony Sommer

Sent: Thursday 30 September 2021 07:40 PM

To: 'Associate LeeJ' <Associate.LeeJ@fedcourt.gov.au>

Cc: 'Prinsloo, Kirsty' <Kirsty.Prinsloo@allens.com.au>; Caitlin Murray

<Caitlin.Murray@minterellison.com>; Michael Hughes <Michael.Hughes@minterellison.com>; Simon

Brandis <Simon.Brandis@minterellison.com>; Andrew Clarke <Andrew.Clarke@minterellison.com>; Kate

Cockburn <Kate.Cockburn@minterellison.com>; 'Haystead, Tom' <thaystead@jonesday.com>; Alana

Galasso <Alana.Galasso@minterellison.com>; 'Goldberg, Tyler' <Tyler.Goldberg@allens.com.au>;

'Dobson, Roger' <rdobson@jonesday.com>; 'Yiasemides, Maria' <myiasemides@jonesday.com>;

'Shanahan, Lucy J.' <lshanahan@jonesday.com>; 'Brycki, Jessica I.' <jbrycki@jonesday.com>; 'Byrne,

Corey M.' <cbyrne@jonesday.com>; 'Prestwich, Chris' <Chris.Prestwich@allens.com.au>;

'Ian.Bolster@ashurst.com' <Ian.Bolster@ashurst.com>; 'matthew.youssef@ashurst.com'

<matthew.youssef@ashurst.com>; 'Leen, Delano' <delano.leen@dentons.com>; 'justin.kang@dentons.com'

<justin.kang@dentons.com>; 'b.quan@cornwalls.com.au' <b.quan@cornwalls.com.au>;

'A.Lee@cornwalls.com.au' <A.Lee@cornwalls.com.au>; 'Morris, Olivia' <Olivia.Morris@allens.com.au>;

'Sazz.Nasimi@madgwicks.com.au' <Sazz.Nasimi@madgwicks.com.au>; 'Melissa Passarelli'

<Melissa.Passarelli@madgwicks.com.au>; 'Candy Nelson' <Candy.Nelson@madgwicks.com.au>;

'billpapas07@gmail.com' <billpapas07@gmail.com>; 'Rocco Panetta' <r.panetta@panetta.com.au>; 'Forum

(Allens)' <ForumAllens@allens.com.au>

Subject: RE: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [SEC=OFFICIAL] [Allens-File-DMS.FID2091065] [ME-ME.FID6264995]

Dear Associate

We refer to our email below.

Please find attached the following further documents on which Westpac will rely at tomorrow's hearing:

- Affidavit of Caitlin Maria Murray sworn 30 September 2021 and Exhibit CMM-13 which can be downloaded from this link: <https://share.minterellison.com/w/f-78d26305-84a5-4aee-99bd-6e2998e1b1ea>
- An extract of Exhibit CMM-10 to the affidavit of Ms Murray sworn 25 August 2021, being pages 770-772.

We would be grateful if these documents are brought to his Honour's attention prior to the hearing.

Yours faithfully

Anthony Sommer

Senior Associate

T +61 2 9921 4182 M +61 431 058 780

anthony.sommer@minterellison.com

MinterEllison Governor Macquarie Tower 1 Farrer Place Sydney NSW 2000

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From: Anthony Sommer

Sent: Thursday 30 September 2021 05:05 PM

To: 'Prinsloo, Kirsty' <Kirsty.Prinsloo@allens.com.au>; Associate LeeJ <Associate.LeeJ@fedcourt.gov.au>

Cc: Caitlin Murray <Caitlin.Murray@minterellison.com>; Michael Hughes <Michael.Hughes@minterellison.com>; Simon Brandis <Simon.Brandis@minterellison.com>; Andrew Clarke <Andrew.Clarke@minterellison.com>; Kate Cockburn <Kate.Cockburn@minterellison.com>; Haystead, Tom <thaystead@jonesday.com>; Alana Galasso <Alana.Galasso@minterellison.com>; Goldberg, Tyler <Tyler.Goldberg@allens.com.au>; Dobson, Roger <rdobson@jonesday.com>; Yiasemides, Maria <myiasemides@jonesday.com>; Shanahan, Lucy J. <lshanahan@jonesday.com>; Brycki, Jessica I. <jbrycki@jonesday.com>; Byrne, Corey M. <cbyrne@jonesday.com>; Prestwich, Chris <Chris.Prestwich@allens.com.au>; Ian.Bolster@ashurst.com; matthew.youssef@ashurst.com; Leen, Delano <delano.leen@dentons.com>; justin.kang@dentons.com; b.quan@cornwalls.com.au; A.Lee@cornwalls.com.au; Morris, Olivia <Olivia.Morris@allens.com.au>; Sazz.Nasimi@madgwicks.com.au; Melissa Passarelli <Melissa.Passarelli@madgwicks.com.au>; Candy Nelson <Candy.Nelson@madgwicks.com.au>; billpapas07@gmail.com; Rocco Panetta <r.panetta@panetta.com.au>; Forum (Allens) <ForumAllens@allens.com.au>

Subject: RE: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [SEC=OFFICIAL] [Allens-File-DMS.FID2091065] [ME-ME.FID6264995]

Dear Associate

We refer to the emails below.

Jeremy Giles SC, James Arnott and Catherine Hamilton-Jewell will appear for Westpac Banking Corporation and Westpac New Zealand Limited, the applicants in NSD616/2021 (together, **Westpac**).

Please find attached the following documents on behalf of Westpac to be relied upon at the hearing tomorrow:

- A document summarising Westpac's claims against the respondents in NSD616/2021, as requested by his Honour at the last hearing on 22 September 2021; and
- Affidavit of Jason Ireland affirmed 29 September 2021 and Exhibit JI-2.

We will provide draft short minutes of order proposed by Westpac, written submissions and further affidavit evidence separately.

Yours faithfully

Anthony Sommer

Senior Associate

T +61 2 9921 4182 M +61 431 058 780

anthony.sommer@minterellison.com

MinterEllison Governor Macquarie Tower 1 Farrer Place Sydney NSW 2000

minterellison.com **Follow us on LinkedIn and Twitter**

From: Prinsloo, Kirsty <Kirsty.Prinsloo@allens.com.au>

Sent: Thursday 30 September 2021 10:47 AM

To: Associate LeeJ <Associate.LeeJ@fedcourt.gov.au>

Cc: Caitlin Murray <Caitlin.Murray@minterellison.com>; Michael Hughes

<Michael.Hughes@minterellison.com>; Simon Brandis <Simon.Brandis@minterellison.com>; Andrew Clarke <Andrew.Clarke@minterellison.com>; Kate Cockburn <Kate.Cockburn@minterellison.com>;

Haystead, Tom <thaystead@jonesday.com>; Alana Galasso <Alana.Galasso@minterellison.com>; Anthony Sommer <Anthony.Sommer@minterellison.com>; Goldberg, Tyler <Tyler.Goldberg@allens.com.au>;

Dobson, Roger <rdobson@jonesday.com>; Yiasemides, Maria <myiasemides@jonesday.com>; Shanahan, Lucy J. <lshanahan@jonesday.com>; Brycki, Jessica I. <jbrycki@jonesday.com>; Byrne, Corey M.

<cbyrne@jonesday.com>; Prestwich, Chris <Chris.Prestwich@allens.com.au>; Ian.Bolster@ashurst.com;

matthew.youssef@ashurst.com; Leen, Delano <delano.leen@dentons.com>; justin.kang@dentons.com;

b.quan@cornwalls.com.au; A.Lee@cornwalls.com.au; Morris, Olivia <Olivia.Morris@allens.com.au>;

Sazz.Nasimi@madgwicks.com.au; Melissa Passarelli <Melissa.Passarelli@madgwicks.com.au>; Candy Nelson <Candy.Nelson@madgwicks.com.au>; billpapas07@gmail.com; Rocco Panetta

<r.panetta@panetta.com.au>; Forum (Allens) <ForumAllens@allens.com.au>

Subject: RE: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia

Proceedings No. NSD616/2021 [SEC=OFFICIAL] [ME-ME.FID6264995] [Allens-File-DMS.FID2091065]

Dear Associate

7

Nick Kidd SC will be appearing for the Liquidators.

Kind regards

Kirsty

Kirsty Prinsloo
Managing Associate, Allens
DL [+61 2 9230 4735](tel:+61292304735) M [+61 420 347 183](tel:+61420347183)

From: Haystead, Tom <thaystead@jonesday.com>
Sent: Thursday, 30 September 2021 10:44 AM
To: Associate LeeJ <Associate.LeeJ@fedcourt.gov.au>
Cc: Caitlin Murray <Caitlin.Murray@minterellison.com>; Michael Hughes <Michael.Hughes@minterellison.com>; Simon Brandis <Simon.Brandis@minterellison.com>; Andrew Clarke <Andrew.Clarke@minterellison.com>; Kate Cockburn <Kate.Cockburn@minterellison.com>; Alana Galasso <Alana.Galasso@minterellison.com>; Anthony Sommer <Anthony.Sommer@minterellison.com>; Goldberg, Tyler <Tyler.Goldberg@allens.com.au>; Dobson, Roger <rdobson@jonesday.com>; Yiasemides, Maria <myiasemides@jonesday.com>; Shanahan, Lucy J. <lshanahan@jonesday.com>; Brycki, Jessica I. <jbrycki@jonesday.com>; Byrne, Corey M. <cbyrne@jonesday.com>; Prinsloo, Kirsty <Kirsty.Prinsloo@allens.com.au>; Prestwiche, Chris <Chris.Prestwiche@allens.com.au>; Ian.Bolster@ashurst.com; matthew.youssef@ashurst.com; Leen, Delano <delano.leen@dentons.com>; justin.kang@dentons.com; b.quan@cornwalls.com.au; A.Lee@cornwalls.com.au; Morris, Olivia <Olivia.Morris@allens.com.au>; Sazz.Nasimi@madgwicks.com.au; Melissa Passarelli <Melissa.Passarelli@madgwicks.com.au>; Candy Nelson <Candy.Nelson@madgwicks.com.au>; billpapas07@gmail.com; Rocco Panetta <r.panetta@panetta.com.au>
Subject: RE: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [SEC=OFFICIAL] [ME-ME.FID6264995]

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Dear Associate,

We refer to the case management hearing before his Honour Justice Lee at 12:00 noon tomorrow, 1 October 2021.



Emma Beechey of counsel will be appearing for the Applicant, SMBC L&F, in Proceeding No. NSD 681 of 2021.

Kind regards

Tom Haystead

Associate

JONES DAY® - One Firm WorldwideSM

Aurora Place

Level 41, 88 Phillip Street

Sydney, NSW 2000 Australia

Office +61.2.8272.0737

From: Anthony Sommer <Anthony.Sommer@minterellison.com>

Sent: Thursday, 30 September 2021 10:16 AM

To: Goldberg, Tyler <Tyler.Goldberg@allens.com.au>; Haystead, Tom <thaystead@jonesday.com>; Dobson, Roger <rdobson@jonesday.com>; Yiasemides, Maria <myiasemides@jonesday.com>; Shanahan, Lucy J. <lshanahan@jonesday.com>; Brycki, Jessica I. <jbrycki@jonesday.com>; Byrne, Corey M. <cbyrne@jonesday.com>; Prinsloo, Kirsty <Kirsty.Prinsloo@allens.com.au>; Prestwich, Chris <Chris.Prestwich@allens.com.au>; Ian.Bolster@ashurst.com; matthew.youssef@ashurst.com; Leen, Delano <delano.leen@dentons.com>; justin.kang@dentons.com; b.quan@cornwalls.com.au; A.Lee@cornwalls.com.au; Morris, Olivia <Olivia.Morris@allens.com.au>; Sazz.Nasimi@madgwicks.com.au; Melissa Passarelli <Melissa.Passarelli@madgwicks.com.au>; Candy Nelson <Candy.Nelson@madgwicks.com.au>; billpapas07@gmail.com; Rocco Panetta <r.panetta@panetta.com.au>

Cc: Caitlin Murray <Caitlin.Murray@minterellison.com>; Michael Hughes <Michael.Hughes@minterellison.com>; Simon Brandis <Simon.Brandis@minterellison.com>; Andrew Clarke <Andrew.Clarke@minterellison.com>; Kate Cockburn <Kate.Cockburn@minterellison.com>; Alana Galasso <Alana.Galasso@minterellison.com>

Subject: FW: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [SEC=OFFICIAL] [ME-ME.FID6264995]

**** External mail ****

Dear Colleagues

Please see the below communication from the Associate to Lee J.

Regards

9

Anthony Sommer

Senior Associate

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anthony.sommer@minterellison.com

MinterEllison Governor Macquarie Tower 1 Farrer Place Sydney NSW 2000

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From: Associate LeeJ <Associate.LeeJ@fedcourt.gov.au>

Sent: Thursday 30 September 2021 10:01 AM

To: Alana Galasso <Alana.Galasso@minterellison.com>; PROJECT OLYMPUS
<PROJECTOLYMPUS@minterellison.com>; Sazz Nasimi <Sazz.Nasimi@madgwicks.com.au>

Subject: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [SEC=OFFICIAL]

OFFICIAL - Business related email

Dear Practitioners

I refer to the above proceeding listed for a case management hearing before his Honour Justice Lee at **12 noon tomorrow, 1 October 2021**. I confirm that the case management hearing will proceed via MS Teams (the link for which is located below and may be forwarded to counsel and any client representatives):

[Click here to join the meeting](#)

Further, it has come to the Court's attention that the case management hearing listed at 9.30am on 20 October 2021 (which was vacated by order 9 of the orders dated 22 September 2021) had a broad function of bringing all of the Related Proceedings back before his Honour following the filing of evidence in chief.

His Honour has therefore determined that the case management hearing listed on 20 October 2021 should remain. An order relisting the proceeding on this date will be incorporated into any orders that flow from the case management hearing tomorrow.

His Honour directs that the solicitors for Westpac provide this communication to all interested parties so that: (1) they may appear at the case management hearing tomorrow, should they so wish; and (2) for clarification about the case management hearing on 20 October 2021.

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Finally, could the parties please, by **5pm today**, provide the names of counsel who will appear.

Yours faithfully

Emerson Hynard | Associate to the Hon. Justice M B J Lee
Federal Court of Australia | Law Courts Building, Queens Square, Sydney NSW 2000

t: +61 2 8099 8493 | e: Associate.LeeJ@fedcourt.gov.au

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Website: <https://www.allens.com.au> | Office locations: <https://www.allens.com.au/offices> | Partner contacts: <https://www.allens.com.au/experts>

Alana Galasso

From: Rocco Panetta <r.panetta@panetta.com.au>
Sent: Saturday 2 October 2021 03:08 PM
To: Anthony Sommer
Cc: Caitlin Murray; Michael Hughes; Alana Galasso; 'Samuel Crowder'
Subject: RE: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [Allens-File-DMS.FID2091065] [SEC=OFFICIAL] [ME-ME.FID6264995]

Dear Mr Sommer

We confirm receipt of the attached Orders.

We are currently preparing additional correspondence to send to you with a view to resolving this matter and to avoid both parties incurring further unnecessary costs.

We will send that correspondence later this afternoon/evening.

Kind regards

Rocco Panetta

PANETTA LAWYERS

Level 6, 111 Elizabeth St
Sydney NSW 2000
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M: +61 406 888 999
F: +61 2 8572 9992

r.panetta@panetta.com.au
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Alana Galasso

From: Alana Galasso
Sent: Saturday 2 October 2021 03:08 PM
To: r.panetta@panetta.com.au
Cc: PROJECT OLYMPUS; 'samuel.crowder@panetta.com.au'
Subject: RE: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [ME-ME.FID6264995]
Attachments: Interlocutory Application dated 2 October 2021 (sealed).PDF; Affidavit of Caitlin Maria Murray sworn 2 October 2021 (sealed).PDF; Exhibit CMM-15 to the Affidavit of Caitlin Maria Murray sworn 2 October 2021 (sealed).PDF

Dear Mr Panetta

Please find attached, by way of service, sealed copies of the following:

- Interlocutory Application dated 2 October 2021;
- Affidavit of Caitlin Maria Murray sworn 2 October 2021; and
- Exhibit CMM-15 to the Affidavit of Caitlin Maria Murray sworn 2 October 2021.

Please note that this matter is listed for hearing at 9.30am on 6 October 2021.

Kind regards
Alana

Alana Galasso
Lawyer
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13

Alana Galasso

From: Rocco Panetta <r.panetta@panetta.com.au>
Sent: Sunday 3 October 2021 12:14 PM
To: Alana Galasso
Cc: PROJECT OLYMPUS; samuel.crowder@panetta.com.au
Subject: RE: Westpac Banking Corporation v Forum Finance Pty Ltd & Ors – Federal Court of Australia Proceedings No. NSD616/2021 [ME-ME.FID6264995]

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Alana

We confirm receipt of the application. This modifies our email sent to Mr Sommer yesterday afternoon who I presume is cc'd under "Project Olympus".

We are considering our position and will reply in due course.

Kind regards

Rocco Panetta

PANETTA LAWYERS

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Sydney NSW 2000
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M: +61 406 888 999
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Exhibit Certificate


Federal Court of Australia
District Registry: NSW
Division: General

No. NSD 616 of 2021

Westpac Banking Corporation & Anor
Applicants

Forum Finance Pty Ltd (in Liquidation) ACN 153 301 172 & Ors
Respondents

This is the Confidential exhibit marked 'RVP-02' now produced and shown to Rocco Vincenzo Panetta at the time of swearing his affidavit on 5 October 2021


John Richard Paul Hunt, Solicitor

Filed on behalf of (name & role of party)	Rocco Vincenzo Panetta, Non Party		
Prepared by (name of person/lawyer)	John Richard Paul Hunt, lawyer for Rocco Vincenzo Panetta, Non Party		
Law firm (if applicable)	Hunts.Law		
Tel	13 000 48687	Fax	02 8569 1050
Email	p.hunt@huntslaw.com.au		
Address for service (include state and postcode)	Hunts.Law, Suite 202, 272 Pacific Highway, Crows Nest NSW 2065		

[Version 3 form approved 02/05/2019]