

IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMERCIAL COURT  
CORPORATIONS LIST

S CI 2014

IN THE MATTER OF BANKSIA SECURITIES LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ABN 45 004 736 458

BETWEEN

ANTHONY GREGORY MCGRATH, JOSEPH DAVID HAYES, MATTHEW WAYNE CADDY AND ROBERT MICHAEL KIRMAN AS RECEIVERS AND MANAGERS OF BANKSIA SECURITIES LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ABN 45 004 736 458

First Plaintiffs

BANKSIA SECURITIES LIMITED (IN LIQUIDATION) (RECEIVERS AND MANAGERS APPOINTED) ABN 45 004 736 458

Second Plaintiff

**AFFIDAVIT OF JOSEPH DAVID HAYES "JH-10"**

Date sworn: 16 December 2015  
Filed on behalf of: The Plaintiffs  
Prepared by:  
**Ashurst Australia**  
Level 26  
181 William Street  
MELBOURNE VIC 3000

Solicitor's Code: 53  
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Attention: Ross McClymont  
Email: ross.mcclymont@ashurst.com

This is the exhibit marked "JH-10" now produced and shown to Joseph David Hayes at the time of swearing his affidavit on 16 December 2015.



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**Exhibit "JH-10"**

Orders made by Justice Ferguson in Class Action

dated 16 May 2014

**IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMERCIAL COURT  
CORPORATIONS LIST**

No. S CI 2012 7185

**BETWEEN:**

**LAURENCE JOHN BOLITHO**

and

**BANKSIA SECURITIES LTD (ACN 004 736 458) & OTHERS  
(according to the attached Schedule)**



Plaintiff

Defendants

**ORDER**

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**JUDGE:** The Honourable Justice Ferguson

**DATE MADE:** 16 May 2014

**ORIGINATING PROCESS:** Writ filed 24 December 2012

**HOW OBTAINED:** On the further return of the Orders of the Honourable Justice Ferguson dated 13 February 2014

**ATTENDANCE:** Mr N O'Bryan SC, with Mr M W L Symons of Counsel for the Plaintiff.

Mr P Crutchfield QC of Counsel for the First Defendant.

Mr I Waller QC, with Mr P Liondas of Counsel for the Third Defendant.

Mr A Kelly QC of Counsel for the Fourth Defendant.

Mr R Peters of Counsel for the Fifth Defendant.

Mr M Connock QC, with Mr D Bennett of Counsel for the Sixth, Seventh, Eighth and Ninth Defendants.

**OTHER MATTERS:** Nil



**THE COURT ORDERS THAT:**

**Mediation**

1. This proceeding be referred to a mediation before Mr Finkelstein QC, such mediation to take place between 21 and 23 July 2014.
2. Subject to the terms of this Order, the solicitor for the First Defendant shall, after consultation with the solicitors for the parties and other interested persons, deliver to the mediator a copy of all pleadings and material documents together with a copy of this order, and take all steps necessary to ensure that the mediation commences as soon as practicable.
3. The mediator not later than 4:00 pm on 31 July 2014 report back to the Court whether the mediation is finished.
4. Subject to any further order, each of the Plaintiff, First Defendant, Third Defendant, Fourth Defendant, Fifth Defendant and Sixth to Ninth Defendants pay one tenth of the costs of the mediation, such costs otherwise to be costs in the proceeding.

**Litigation Funding**

5. The Fifth Defendant's application for orders that on account of the litigation funding agreement made between the Plaintiff and International Litigation Partners Ltd the proceeding be stayed or the Plaintiff be restrained from retaining his current senior



Counsel and solicitors (**Litigation Funding Application**) be made by way of a summons with a supporting affidavit to be filed and served by 20 June 2014 and made returnable on 1 August 2014 for directions.

**Other matters**

6. The proceeding is adjourned for further directions on 1 August 2014.
7. There be liberty to apply.
8. Costs are otherwise reserved.

DATE AUTHENTICATED: 19 May 2014

