Federal Court of Australia
District Registry: Victoria
Division: General

No: VID134/2020

ROGER KEMP
Applicant

WESTPAC BANKING CORPORATION ACN 007 457 141 and others named in the schedule
Respondents

ORDER

JUDGE: JUSTICE O'BRYAN

DATE OF ORDER: 25 September 2020

WHERE MADE: Melbourne

THE COURT ORDERS THAT:

Discovery

1. The parties shall comply with the electronic document exchange protocol in Annexure A for the purposes of exchanging documents used in the proceeding, including by way of discovery.
2. On or before 13 November 2020, the applicant is to give discovery of the categories of documents set out in Annexure B, together with a list of documents verified in accordance with r 20.17 of the *Federal Court Rules 2011* (Cth) (the **Rules**).
3. The respondents are to give discovery of the categories of documents specified in Annexure C together with a list of documents verified in accordance with r 20.17 of the Rules, in tranches on the following dates:
   (a) 23 October 2020;
   (b) 13 November 2020;
   (c) 18 December 2020; and
   (d) 12 February 2021.

Opt Out

4. Pursuant to ss 33J and 33ZF of the *Federal Court of Australia Act 1976* (Cth) (**Act**), 4.00 pm AEDT on 27 November 2020 be fixed as the date by which a group member may opt out of this proceeding (**Opt Out Deadline**).

5. Pursuant to ss 33X and 33Y of the Act, the terms of the opt out notice set out in Annexure D (the **Notice**) to these Orders are approved.

6. Pursuant to s 33J of the Act, any group member who wishes to opt out of this proceeding must, before the Opt Out Deadline, deliver a Notice of Opting Out in the form of Schedule A to Annexure D to these orders to the Victorian District Registry of the Court.

7. The Notice may be amended by the solicitors for the applicant before it is published in order to correct any postal, website or email address or telephone number.

8. If, on or before the Opt Out Deadline, the solicitors for any party receive a notice purporting to be an opt out notice referable to this proceeding, the solicitors are to file such notice in the Victorian District Registry of the Court within 14 days of receipt with a notation specifying the date it was received and the notice shall be treated as an opt out notice received by the Court at the time when it was received by the solicitors.

9. The solicitors for the parties have leave to inspect the Court file and to copy any opt out notices filed by group members.

10. Pursuant to ss 33Y and 33ZF of the Act, on or before 17 October 2020:

    (a) the first respondent shall provide a third party mailing house to be agreed between the parties the name, email address, postal address, name of the policy purchased, date of the policy purchased and the date of the cancellation of the policy purchased (if applicable) of any persons known to it who:

        (i) purchased a Westpac Credit Card Protection, Westpac Flexi Loan Protection or Westpac Personal Loan Protection policy, on or after 1 January 2010 (a **Westpac CCI Policy**);

        (ii) has paid a premium for a Westpac CCI Policy (**Premium Paid**); and

        (iii) has not been refunded in full for the Premium Paid or has not successfully claimed more than the Premium Paid amount,

    (**Potential Class Members**);

    (b) the third-party mailing house shall provide the Notice to Potential Class Members:

        (i) by email from a 'no-reply' email address to be agreed between the parties, where an email address is available to the first respondent; or

        (ii) where no email address is available to the first respondent, by prepaid ordinary post at the address recorded by the first respondent for that person; and

        (iii) should the third-party mailing house receive notice of a delivery failure in relation to any email sent, by prepaid ordinary post to that person at the address recorded by the first respondent for that person, within two business days of receiving that delivery failure notice;

(c) the applicant shall cause the Notice to be displayed on the website of the applicant's solicitors until the Opt Out Deadline.

11. The cost of the third-party mailing house engaged to undertake the distribution of the Notice under Order 10 is to be paid in the first instance by the applicant on the basis that those costs will be costs in the proceeding.

Other

12. Costs otherwise be reserved.

13. The proceedings be listed for a further case management hearing at 10.15 am on 26 February 2021.

14. There is liberty to apply on 3 days' notice.

Date that entry is stamped: 25 September 2020

Sia Lagos

Registrar

ANNEXURE A

ROGER KEMP

Applicant

and

WESTPAC BANKING CORPORATION ACN 007 457 141

First Respondent

WESTPAC GENERAL INSURANCE LIMITED ACN 003 719 319

Second Respondent

WESTPAC LIFE INSURANCE SERVICES LIMITED ACN 003 149 157

Third Respondent

ELECTRONIC DOCUMENT MANAGEMENT PROTOCOL

31 July 2020

Contents

Protocol for Electronic Exchange of Discovered Documents

Roger Kemp v Westpac Banking Corporation & Ors (VID134 of 2020)

1 Introduction

This document outlines the protocols for each party to follow for the electronic exchange of discovered documents in the above proceedings. It has been prepared in accordance with (a) Federal Court of Australia Act 1976 (Cth) (b) Part 20 of the Federal Court Rules 2011 (Cth); (c) Part 10 Central Practice Note: National Court Framework and Case Management (CPN-1) and (d) Class Actions Practice Note (GPN-CA).

Initially, documents to be produced on discovery between the parties in the proceedings will be exchanged electronically.

It is important that all parties follow the protocols to minimise document management and technology costs. The primary purpose of the protocols is to ensure that each party can use the same software to view its own discovered documents and those of the other parties'. If the data exchanged does not comply with these protocols, the non-complying party may be asked to re-exchange the data in the appropriate format. This will be done at the cost of the non-complying party.

If reasonably necessary, each party, if requested and entitled, will have the right to inspect the original discovered documents, where such originals exist, subject to any claims of privilege (including any redactions made for that purpose) that the parties have made to the documents. Longer term, parties should be able to provide courtbook documents electronically in the same format as discovery. Note the technology to run an electronic courtroom will be negotiated at the appropriate point in time.

These protocols set out standards, particularly for:

- Format of documents to be exchanged
    - Multi page PDF with optical character recognition (***OCR***) and Native files for non-standard file types; and
    - Ringtail Export
- Document Numbering
- Fields & Data to be Exchanged
- Data & Image Formats and Media for Exchange
- Updating or Adding Additional Data or Images
- Virus Responsibility
- Responsibility for Cost

2 Format of Court documents to be exchanged

All court documents including but not limited to pleadings, affidavits and witness statements are to be exchanged between the parties in both paper and electronic form. Where an exhibit or an annexure to a court document has been discovered in these proceedings, the parties will, if at all possible, refer to that document using the Document ID.

Documents with a court stamp or signature are to be exchanged in Adobe Portable Document Format (***PDF***) showing the stamp and signature. All documents are to be exchanged in both of the following formats:

- Microsoft Word 97 or above; and
- Multi page Adobe PDF version 5.0 or above - read only.

The naming convention of each file should reflect the witness name or pleading and date filed in Court. For example: "Witness Statement for John Smith filed 23 January 2003" or "Statement of Claim filed 10 January 2002".

3 Use of Technology for the Purpose of Discovery

The parties may employ any or all of the following methods of identifying, processing and reviewing documents for the purpose of discovery:

(a) Date filtering;
(b) Keyword searches;
(c) Domain analysis;
(d) Data analytics;
(e) De-duplication;
(f) Email threading;
(g) Near duplicate analysis;
(h) Predictive coding.

In the event that a party intends to use predictive coding, it must liaise with the other party in relation to the methods to be used such that the other party can bring an application if it has any objection to those methods.

4 Indexed Data and Images to be Exchanged

4.1 Electronic Indexes and Images to be Exchanged

Electronic document indexes and images will be exchanged for:

- all wholly non-privileged, non-confidential discoverable documents;
- all partially privileged redacted documents; and
- all confidential or partially confidential and commercially sensitive documents subject to undertakings.

An electronic copy of the list with a subset of the fields will be exchanged. The list should include the following fields:

- Document ID
- Document Title
- Document Type
- Document Date
- Author (includes people and organisation)
- Recipient (includes people and organisation)
- Host Document ID
- Folder and File name

Indexes and images for wholly privileged documents will not be exchanged except that, where they are attached to one or more non-privileged discoverable document(s). In such cases, the following indexed data will be exchanged:

- document ID;
- document Title;

- document date; and
- document type.

In relation to the discovery of confidential documents, each party will provide an index and unredacted image for those confidential documents on a separate CD subject to undertakings. The CD containing the confidential documents will be received on the basis that the contents of the CD will not be discovered to any other party.

5 Image File Format to be Exchanged

5.1 Hard Copy Documents

(a) Black & white images

Multi page PDF with OCR and Native files for non-standard file types.

(b) Coloured Images

Documents should be rendered to PDF in colour if the colour is material to achieving an understanding of the document.

5.2 Electronic Files

Electronic data falls into two major categories: standard and non-standard.

(a) Indexed data

For all electronic data both standard and non-standard (see below), the indexed data should be provided as per the protocols specified in Section 5 below. It is expected that there will be an entry for each file and each attachment and that all compressed files will be uncompressed eg zip files.

(b) Image files

Image files for standard files (which include, for example, emails, word processing files and presentation files) should be provided as specified in Sections 5 and 6 below.

Non-standard files (eg MS Excel or database files) should be made available as follows:

(i) in a commonly viewable native format that is to be agreed by the parties; or

(ii) if (i) is not possible, the parties are to agree on how the files are to be exchanged/accessed/viewed,

(iii) Where the parties agree to exchange the native format of a non-standard file, they should provide a replacement PDF that states "native format provided" or similar. The native file should have an entry in the pages table and the file should be in the directory structure as specified in Section 6.2 below.

(iv) The native format of any document rendered to PDF will be made available upon request, subject to any claims of privilege.

(v) Parties may also choose to agree a list of non-standard file types prior to commencing the data processing exercise.

(vi) Parties should also be aware that some electronic files could have information that automatically updates when opened, which could change the original state of the information. Parties should ensure that the original information is provided for discovery. Examples of situations in which this could occur are fields, dynamic dates or macros that automatically update when a file is viewed or printed.

(vii) PDF files should be exchanged with OCR.

(viii) Colour versions of documents should only be created if it will be of evidential significance to see the colour in a document.

6 Document Numbering

6.1 Numbering Format

Every page of every document should be numbered in the following format:

eg. **PPP.BBB.FFF.PPPP_NN**

Where:

PPP is a party code which identifies the party which has produced the document to the Court. See Appendix A for a list of valid party codes;

BBB is the sequential box reference number. Leading “0”s should be used where the number is less than a 3 digit character. The maximum number of boxes for any single party is 999;

FFF is a 3 digit sequential folder number. Leading "0"s should be used where the number is less than a 3 digit character. The maximum number of folders for any 1 party is 999;

PPPP is a 4 digit sequential page number. Leading "0"s should be used where the number is less than 4 characters. The maximum number of pages in a folder is 9999;

NN is a 2 digit sequential number for inserted pages. If a page is missed in the numbering process and needs to be inserted, a 2 digit sequential number should be used eg "PPP.001.001.0010_01" is a page that has been inserted between pages 10 & 11 in folder 1 for party PPP. This scheme assumes a minimal number of insertions will be made with a maximum of 99 pages being inserted between 2 pages. Inserting pages between inserted pages is not accommodated in this scheme in an effort to keep the document number to a minimal length. If a page is not inserted, this field will not be used so most page numbers will only be 16 characters in length eg "PPP.001.001.0010".

Page numbers should be placed on the top right corner of the page. For landscape pages, the page number should be placed on the bottom right corner in its original orientation so when the page is rotated to portrait it appears in the top right corner.

Page numbers should be placed as close to this position as possible without obscuring any text. If there is insufficient room for the page number without obscuring the text, where possible, the image should be reduced to allow for the page number.

Adhesive notes, as a rule, should not be given a page number. They should be scanned on the page to which they are attached as long as no text is being obscured. If this is not possible, the note should be given a page number, numbered directly after the page to which it was affixed. The page should then be scanned twice, once with the note attached and once without.

7 Format of Indexed Data to be Exchanged

7.1 Ringtail Export Format

Each party will produce indexes of the discovered documents in the Ringtail Export format. Outlined below are the standards to follow for Ringtail Export format.

The indexed data will be exchanged in an Access mdb file named **export.mdb** which contains the four tables that make up the Ringtail export format. They are:

Export – contains the core field information for each document.

Export_Extras – contains additional fields to the core fields for each document.

Parties – contains people and organisation information for each document.

Pages – contains filename information for images that make up each document.

Parties should ensure that the **export.mdb** is validated prior to exchange.

The format of the data in each of the tables is outlined below. Fields that cannot be left blank are marked with an asterisk.

7.2 Export Table

The export table contains the core fields. All other tables are linked to the export table by the Document_ID field.

<table>
<tr><th>Field</th><th>Data Type</th><th colspan="2">Explanation – Document Types and Coding Method and possible values</th></tr>
<tr><td>*Document_ID</td><td>Text, 255</td><td colspan="2">Document ID in accordance with Section 5.</td></tr>
<tr><td>*Host_Reference</td><td>Text, 255</td><td colspan="2">If the Document is an Attachment, this field contains the Document ID of its Host Document. This being the document number on the first page of the Host Document.
Please refer to Appendix E.
For Host Documents and Unattached Documents, this field should be left blank</td></tr>
<tr><td rowspan="9">*Document_Date</td><td rowspan="9">Text, 11</td><td colspan="2">DD-MMM-YYYY</td></tr>
<tr><td>Paper Documents</td><td>Determined on the basis of the Date appearing on the face of the Document</td></tr>
<tr><td>Undated Documents or documents which do not display a year</td><td>Leave field blank</td></tr>
<tr><td>Incomplete Date
(Year Only)</td><td>For example, 01-JAN-YYYY
Entry is also to be made in Estimated Date field</td></tr>
<tr><td>Incomplete Date
Month and Year Only

Day and Month only</td><td>For example,
01-MMM-YYYY,
Entry to be made in the Estimated Date field
Leave blank</td></tr>
<tr><td>Date Range</td><td>If there is a document which covers a period of time or has a number of dates, the earliest date is to be used.
Entry to be made in the Estimated Date field</td></tr>
<tr><td>Emails</td><td>Electronic Metadata – Sent Date</td></tr>
<tr><td>Unsent emails</td><td>Last Saved Date</td></tr>
<tr><td>eFiles</td><td>Electronic Metadata – Last Modified; or
Date appearing on the face</td></tr>
</table>

Field	Data Type	Explanation – Document Types and Coding Method and possible values	
			of the Document
Estimated date	Text, 3	Yes OR No OR Blank	
		Default	No or Blank
		Undated Documents	No or Blank
		Incomplete Date	Yes
		'Yes' should be used in any case where the exact date cannot be ascertained. For example there is a partial date, the date is stamped on (i.e. received stamp), the date has been amended by hand or the only visible date is on the fax track.	
***Document_Type**	Text, 255	Paper Documents	Refer Document Types in Appendix B. – parties to agree on list prior to disclosure
		Electronic Documents (including email, email attachments, loose files etc)	Email; or Email Attachment; or EFile
***Title**	Text, 255	Paper Documents	Determined on the basis of the title appearing on the face of the Document
		Email	Subject Field
		eFiles	Electronic Metadata – File Name including file extension; or determined on the basis of the Title appearing on the face of the Document
***Level_1**		The Party level of the Document ID (see Section 5)	
***Level_2**		The Box level of the Document ID (see Section 5)	
***Level_3**		The Folder level of the Document ID (see Section 5) under which the Searchable Images or Native Electronic Documents are stored.	

7.3 Export_Extras Table

The **Export_Extras** table contains additional fields to those contained in the **Export** table. It is linked to the **Export** table via the **Document_ID**.

Field	Data Type	Explanation
***Document_ID**	Text, 255	Document ID in accordance with Section 4 Note this must match the Document_ID entry in the export table.
***theCategory**	Text, 50	Text OR Date OR Numb OR Bool OR Pick OR Memo
***theLabel**	Text, 255	Custom Field Name
***theValue**	Text, 255	Custom Field Contents (Text OR Date OR Numb OR Bool OR Pick only)
memoValue	Memo	Content of a memo field

theLABEL	theVALUE	theCATEGORY
*Privileged	This field identifies whether a claim of privilege is made over the document. The permissible entries in this field are “Yes”, “No” or “Part” (for partly privileged documents).	PICK
Privilege Basis	This field identifies the basis upon which privilege claims is made. For example Legal Professional Privilege or Without Prejudice Privilege.	PICK
Confidential	This field identifies whether a claim of confidentiality has been made over the document. The permissible entries in this field are "Yes", "No" or "Part" (for partly confidential documents).	PICK
Redacted	This field identifies if the document image contains any redactions. This field should only be exchanged for documents with redactions and the permissible entries in this field are "Yes". Note that native files should not be provided if an electronic document has been redacted. In such cases only a redacted PDF should be exchanged.	PICK

theLABEL	theVALUE	theCATEGORY
Reason for Redaction	If a document has been redacted, this field must be completed. It will need to be used where either: 1 part of a document has been redacted; or 2 an entire document within a document group has been redacted. (A document group is a document that has one or more attachments.) The permissible entries in this field are: **Privileged** (for document redacted on the grounds of privilege). **Confidential** (for documents redacted on the grounds of confidentiality) Parties may also indicate the reason for redacting a particular section of a document on the image, ie, by stamping the redacted section "redacted for privilege" etc. Note that this may be a one to many field.	PICK
Source	The party from whom the documents were obtained	TEXT
Placeholder	"Yes" (Only for documents that have a placeholder)	PICK
File Name	Extracted from the File Name of the electronic file.	TEXT
MD5 Hash	MD5 Hash Value of the document	NUMB
File Type	Extracted from metadata	TEXT

7.4 Pages Table

The **pages** table is used to describe the location of the images. It is linked to the **export** table via the **Document_ID** . There will be an entry in the Pages table for every TIFF page or PDF document that relates to a single Document in the Export table. If single page tiff files are used, there will be 1 entry per page for each document. For multipage PDFs, there will be 1 entry (only) per document.

Field	Data Type	Explanation
***Document_ID**	Text, 255	Document ID in accordance with Section 5. Note this must match the Document_ID entry in the export table.

Field	Data Type	Explanation
***Image_File_Name**	Text, 255	Filename, including extension of each indexed Document **AAA.BBB.FFF.PPPP.pdf** or **AAA.BBB.FFF.PPPP.xxx (where xxx is the native file extension)** is the filename. Leading zeros should be used. **Note** Where a document is to be exchanged in its native format, it will have two filenames; one for the placeholder image and one for the native file. For example, a spreadsheet would be: AAA.BBB.FFF.PPPP.pdf (for the placeholder image); and AAA.BBB.FFF.PPPP.xls (for the native file).
***Page_Label**	Text, 255	PDF or NATIVE
***Page_Num**	Number	**PDF files:** Value of '1' **Non-standard files:** Value of '2'
***Num_Pages**	Number	**PDF files:** Value of 'n'; where n is the number of pages in the PDF documents **Native format files:** Value of '1' for each Native file

7.5 Parties Table

The **parties** table contains people and organisation information for **to** (addressees), **from** (authors), **cc** (copied to), **between** (parties) and **attendees** (present at meetings). It is linked to the **export** table via the **Document_ID**.

Note if there are multiple parties for a single document, there will be multiple entries in this table for that document.

<table>
<tr><th>Field</th><th>Data Type</th><th colspan="2">Explanation</th></tr>
<tr><td>*Document_ID</td><td>Text, 255</td><td colspan="2">Document ID in accordance with Section 4.

Note this must match the Document_ID entry in the export table.</td></tr>
<tr><td rowspan="4">Correspondence_Type</td><td rowspan="4">Text, 255</td><td colspan="2">Correspondence Type (Sent or Received)</td></tr>
<tr><td>Paper Documents</td><td>AUTHOR, RECIPIENT, BETWEEN, ATTENDEES

To be determined on the basis of the face of the Document.</td></tr>
<tr><td>Emails</td><td>AUTHOR, RECIPIENT BETWEEN, ATTENDEES, CC - Extracted from metadata</td></tr>
<tr><td>eFiles</td><td>AUTHOR, RECIPIENT, BETWEEN, ATTENDEES, CC - Extracted from metadata; or

To be determined on the basis of the face of the Document.</td></tr>
<tr><td>*Persons</td><td>Text, 255</td><td colspan="2">People names may be referenced using:
• email addresses (for example, jcitizen@abc.com.au); or
• Surname [space] Initial (for example, Citizen J) where email addresses are not available; or
• by reference to a position (for example, Marketing Manager) where email addresses and Surname, Initial is not available; or
• by reference to an organisation associated with the person where email address, Surname, Initial and Position are not available.

Multiple Recipients will be entered as separate rows in the Parties Table.</td></tr>
</table>

Field	Data Type	Explanation	
		Paper Documents	To be determined on the basis of the face of the Document.
		emails	Electronic Metadata – email addresses or email alias names.
		eFiles	Electronic Metadata – Author value; or may be determined on the basis of the face of the Document (parties to agree approach)
***Organisations**	Text, 255	Paper Documents	Name of organisation who produced the Document as determined on the basis of the face of the Document.
		emails	Data extracted from the Metadata although this is not always reliable (email domain is not always an indicator); or determine the field on the basis of the face of the Document.
		eFiles	Electronic Metadata – Organisation value; or may be determined on the basis of the face of the Document (parties to agree approach)

8 Technical Format of Indexed Data & Images to be Exchanged

8.1 Media of Exchange

MEDIA	FORMAT
Medium	USB, Portable Hard Drive or via Secure File Transfer (SFTP) If Portable Hard Drives are provided, they are to be returned to the producing party as soon as the material has been copied over. Files uploaded to a SFTP must be zipped and encrypted and the password much be shared via a separate email.
Label	The label shall include the following information: 1. Name of proceedings; 2. Disc Number; 3. Date of provision; 4. Description of data and whether it is additional or replacement data

8.2 Technical Format of Indexed Data and Images

MEDIA	FORMAT
Data file type and format	Microsoft Access mdb file. Zip files are acceptable.
File composition	**Multi page PDF files:** 1 file for each document.
Image type & resolution	**Black / white images**: 300 dpi TIFF Subtype: CCITT group IV 2D. **Greyscale**: 8 bit 100 dpi, Greyscale, JPEG with 50% compression **Colour images:** A4 page with colour: 100 dpi, 24 bit colour, JPEG, with 50% compression **Photos**: 100 dpi, 24 bit colour, JPEG, with 50% compression
Directory structure and naming conventions	Image files should be multi page pdf; 1 file per document. The directory structure and filename for each image file should be in the format: **\PPP\BBB\FFF\PPP.BBB.FFF.PPPP_NN.pdf**, where: **PPP** is the directory which is the 3 digit party Id. **BBB** is a sub-directory which is the box number. Leading zeros should be used. **FFF** is a sub-directory which is the folder number. Leading zeros should be used. **PPPP.tif** is the filename. Leading zeros should be used. **Note** If a page is inserted, the filename will be

MEDIA	FORMAT
	PPP.BBB.FFF.PPPP_NN.pdf
Electronic files	All electronic files should be converted to the formats outlined in Section 1 above. However parties should note that where an original document is a native file, the PDF file should be created directly from the native file, rather than from a TIFF image.

9 Updating or Adding Additional Data or Images

9.1 Updating Data/Images

After the initial data and images have been exchanged between parties and if errors are found in the data or images, the responsible party should reissue the entire record that has changed in Ringtail Export format. For images, the entire document should be reissued in the appropriate directory structure. Any updates should be accompanied by a covering letter outlining the Document IDs and the information that has changed.

If errors are found in more than 25% of the exchanged documents, it is the responsibility of the producing party to re-supply all exchange documents upon request of the supplying party.

9.2 Adding Data/Images

If additional data or images are found after initial exchange, they should be issued in the format outlined in these protocols.

Any updates should be accompanied by a covering letter (or email) outlining the affected Document IDs, detailing the information that has been amended and specifying any relevant instructions.

10 Document delimiting and host/attachment determination

The rules set out in Appendix E will be used to delimit documents and determine whether they are coded as a Host, Attachment or Unattached.

11 Document De-duplication

Where appropriate, each party will take reasonable steps to ensure that duplicated documents are removed from the exchange material.

Duplication will be considered at a document group level. That is, all documents within a group will be treated as duplicate if the entire document group is duplicated elsewhere within the collection. An attached document with a group will not be classified as a duplicate if it is merely a duplicate of a stand alone document that is not associated with another group

The following process will be applied before rendering and numbering of the electronic materials.

- Extraction of emails, email attachments and eFiles
- email de-duplication

(a) Technical duplicate definition:

Each file, as it is processed, receives an MD5 hash algorithm. MD5 is an algorithm that is used to verify data integrity through the creation of a 128-bit message digest from data input (which may be a message of any length) that is claimed to be as unique to that specific data as a fingerprint is to the specific individual. Parties will then compare the

MD5 for each document, and if they are the same, they are marked into the database as a duplicate. Because this information is entered into the working database, Parties can then cross reference this information across multiple repositories.

(b) Document Group (email) duplicate definition:

For emails, Parties should convert the email to a MSG version of that email, using the visible metadata (To, From, CC, Subject, Date Sent, Attachments). This "MSG" conversion of the email is given an MD5 hash algorithm and this is used to compare against MD5 hash algorithms for other emails.

The process for de-duplication of email document groups is a combination of meta-data fields extracted from the files, the MD5 hash algorithm and some search criteria rules. The rules are as follows:

- For any file that has not been extracted from an email, a duplicate will be any file that has the same MD5 hash algorithm as another file, otherwise referred to as a "technical duplicate"
- For any converted email with no attachments, a duplicate will be any file that has the same MD5 hash algorithm as another file; and
- For any converted email with attachments, a duplicate will be applied to the whole document group (ie the email and its attachments) ONLY if:
    - The converted email's MD5 hash algorithm IS IDENTICAL to another converted email's MD5 hash algorithm;
    - The number of attachments is the same; and
    - The MD5 hash algorithm for each attachment IS IDENTICAL to the MD5 hash algorithm for each respective attachment.

Only if all if of the above is satisfied will the converted email with lowest Document ID be marked as the unique and its attachments as unique and the other duplicate converted emails and attachments will be marked as duplicates.

12 Exchange of Large Volume Data types

Large volume data types (LVDT) include, but are not limited to:

(a) bespoke or proprietary databases;
(b) bespoke or proprietary data models;
(c) bespoke or proprietary map or diagram systems;
(d) self-executing programs containing non-extractable documents (eg. A Java based multimedia report).

These data types are generally comprised of many individual components and files, which when processed individually are either unable to be managed or the processing removes the interconnectedness required for the data source to function correctly.

If any LVDT documents are required to be produced, the parties will reach agreement on the treatment of them.

13 Privilege Clawback

The parties agree that, subject to this section, any inadvertent discovery of privileged material shall not result in the waiver of any associated privilege nor result in a subject matter waiver of any kind.

If, when reviewing another party's discovered material, it becomes apparent to the receiving party that some of the discovered material may be privileged, the receiving party will:

(a) immediately suspend review of the apparently privileged material;

(b) not make copies of the apparently privileged material; and

(c) as soon as is reasonably practicable and in any event within three business days, notify the producing party of the disclosure of the apparently privileged material.

Upon receipt of a notification made pursuant to this section, the producing party will, as soon as is reasonably practicable and in any event within five business days, either request the return of the apparently privileged material, or confirm that the disclosure of the apparently privileged material was intended. The Parties agree that if the producing party does not provide any response in accordance with this section, the disclosure of the apparently privileged material shall be deemed intended.

Upon receipt of a request for the return of the apparently privileged material, the receiving party will, as soon as is reasonably practicable and in any event within three business days, return the media containing the material to the producing party with confirmation that:

(a) all copies have been destroyed except to the extent that copies may exist by reason of normal backup procedures; and

(b) that the receiving party will not attempt to access any such copies.

Upon return of the media containing the material, the producing party will issue a replacement copy with the privileged material removed or redacted.

14 Virus responsibility

It is the responsibility of the recipient of electronic data to test for viruses.

If data is found to be corrupt, it is the responsibility of the producing party to re-supply the data, free of corruption, within two working days upon receipt of a written request from the receiving party.

15 Cost

It is the responsibility of each party to bear the cost of producing the electronic data as outlined in these protocols subject to any costs order which may ultimately be made in the proceedings.

Schedule 1

Appendix A List of Party Codes

Party Code	Party
KEM	Applicant
CCI	First Respondent
CCI	Second Respondent
CCI	Third Respondent

Schedule 2

Appendix B – Standard Document Types

Type	Examples/Description
Agenda	For Meetings
Agreement	Agreement, contract, guarantee, licence. A Deed does **not** belong to this category.
Company Search	Searches on companies from ASIC and NZ Companies office
Court Document	Transcripts; Pleadings; Affidavit; Statement of Claim; Application; Order
Coversheet	Fax coversheet
Deed	Legal document proving agreement between two or more people, specifically identified as a Deed.
Diagram	Document is identified as a diagram by its title.
Drawing	Includes handwritten drawings, maps, charts, sketches
Efile	Loose electronic files
Email	Electronic Mail which may contain attachments
Email Attachments	Attachments to Electronic Emails
Facsimile	Facsimile
Financial Statement	End of year accounts (eg. Profit & Loss Statement); Annual sales figures, Budget
Form	Standard typed document where additional information is either typed or handwritten text is inserted. Includes application forms
Graph	Pictorial representation of figures such as a pie chart, line chart, column chart; bar graph
Invoice	Official Invoice from bone fide company
Letter	Document in letter format.
List	Schedules of names & addresses, index, project schedule etc.
Media Release	An official statement on a subject which has been provided to the media
Memorandum	Memorandum, Internal or external may require separate fields
Minutes	Minutes of meeting, board minutes
Note	Includes file notes, diary notes, post-it-notes etc
Other	This option is only to be used if a Lawyer needs to provide an appropriate Document Type when reviewing the data.

Type	Examples/Description
Photograph	
Plan	Document is identified as a plan by its title.
Policy	Insurance policy; company policy
Presentation	Powerpoint slide or photographic slide (may require conversion)
Promotional Material	Posters, stickers, flyers
Report	Single or multiple documents displaying a result, finding or conclusion or a document reporting facts and/or opinions including projections and valuations.
Spreadsheet	Excel files
Table	An orderly arrangement of data, normally the data is arranged in columns and rows in a rectangular form.
Transmission Report	Report confirming receipt of facsimile to a displayed number

Schedule 3

Appendix C – Standard Document Container Types

Container Type	Container Description
Directory	An electronic folder or directory on a computer file system that contains electronic files. This includes folders or directories inside an email store.
Compressed File	An Electronic Document that contains one or more compressed Electronic Documents that are considered 'Documents' in their own right and may be extracted to their original size.
Email Store	A single file (or 'email box') containing multiple emails, email attachments and other items such as diary appointments and tasks. The most common email store file types are PST and NSF files.
Diary	A paper based personal calendar containing multiple appointments over a period of time.
Folder	A Physical, Hard Copy Binder containing multiple Paper Documents.
Database	An electronic file that contains data that may be considered to be multiple Documents.

Schedule 4

Appendix D – Document delimiting and host/attachment determination

1. Hard Copy Document Delimiting

- All documents will be delimited as Host, Attachment or Unattached as determined. If there is any doubt as to whether a group of consecutive pages forms one document or several individual documents, the pages will be coded as individual documents.
- Annexures, Attachments and Schedules, which form part of an Agreement, will not be coded as separate documents, but will be considered part of the Agreement.
- Annexures, Attachments and Schedules, which form part of a Report, Financial Report or Annual Report, will not be coded as separate documents, but will be considered part of the Report.
- Annexures Attachments and Schedules, which form part of Legal Documents, including Affidavits, Witness Statements, Pleadings etc will not be coded as separate documents, but will be considered part of the Legal Document.
- Annexures, Attachments and Schedules, which form part of the Minutes of Meetings or Meeting Agenda, will not be coded as separate documents, but will be considered part of the Minutes or Agenda.
- A document will only be delimited as a Host document if it is clearly ascertainable from the face of the document that one or more of the documents immediately following it is an Attachment to it. The Host document must contain a sentence, which mentions either the word enclosed or attached. The Host document must contain the words “enclosed”, “attached”, ‘following” or derivatives thereof. For example, Please find enclosed …., Please find attached …., Enclosed herewith … etc.
- Any document that is not a Host or Attachment document will be considered an Unattached document. If there is any doubt as to whether two documents form a Host and Attachment, they will be delimited as Unattached.
- Any Host Document should be immediately followed by each Attached Document in the order in which the Attached Documents are numbered in their Document ID.
- If a document is interrupted by another unrelated document, the unrelated document and the second half of the original document will not be coded as Attachment to the first half of the original document. These documents will be delimited as three separate Unattached documents.
- Groups of similar documents of the same type (for example, invoices) will not be bundled at the discretion of the parties, but captured as separate document.

2. Electronic Document Delimiting

- Every Document that is attached to or embedded within another Document will be called an Attached Document.
- A Container is not a Host Document for the purposes of this Protocol.
- Attached Documents will have the Document ID of their Host Document in the descriptive field called ‘Host Document ID’.
- Host Documents and Attached Documents are jointly referred to as a ‘Document Group’.
- If a Document is contained within a Container (for example, a single ZIP file) that is attached to an email then the email should be treated as the Host Document and the Document in the Container should be treated as an Attached Document to that Host

Document (that is, the Host Document will be the email and not the Container within which the Document is contained).

- In a Document Group the Host Document will be immediately followed by each Attached Document in the order in which the Attached Documents are numbered in their Document ID.

ANNEXURE B

Terms defined in the Statement of Claim have the same meaning when used in these categories.

No.	Category
1	All documents recording or relating to the applicant's possession or acquisition of, or application for, any consumer credit insurance policy on and from 1 January 2010 other than the Policies issued to the applicant by one or more of the respondents.
2	In relation to the life insurance and total and permanent disability insurance policies issued to the applicant by AMP during the Relevant Period: • Policy schedules and other documents recording the applicant's insurance cover; • Documents recording or relating to the premium paid by the applicant for that insurance cover; • All documents evidencing the terms and conditions of the relevant policies; and • Documents evidencing any cancellation of the relevant policies.
3	All documents recording or relating to the occurrence and content of any telephone conversation between the applicant and any Westpac representative relating to the applicant's Policy, including the telephone conversation referred to in the particulars of paragraphs 35 and 36 of the Amended Statement of Claim dated 17 March 2020.
4	All documents recording or relating to whether, at or after the time when the applicant applied for the applicant's Policy or Flexi Loan, the applicant: (a) was engaged in seasonal or contract work or was hired to complete a specified task or to work for a specified period (including, but not limited to, the applicant's contract(s) of employment in such roles); (b) ceased his engagement in seasonal or contract work, or ceased his employment at the end of the task or period referred to in (a) above; and (c) in the event of (b) above, gained employment subsequently.
5	All documents received by the applicant from any of the respondents during the Relevant Period in relation to the applicant's Policy.
6	All documents evidencing or relating to the applicant's knowledge, belief or understanding concerning the applicant's Policy at any time on or after 7 April 2015.

ANNEXURE C

Terms defined in the Statement of Claim have the same meaning when used in these categories.

Unless otherwise specified, each of the categories is confined to the period from 1 January 2010 to 28 February 2020.

No.	Category
1	<u>Applicant's customer file</u> Any documents comprising the applicant's customer file in his capacity as the holder of the Policy which were not provided in the initial tranche of discovery provided by the respondents on 19 June 2020.
2	<u>Policy and procedure documents</u> Scripts, checklists, training materials, manuals and any other policy/procedure documents of one or more of the respondents or third parties involved in the sale and distribution of the Policies (including without limitation Sykes Financial Services Pty Ltd and Peakbound Holdings) as in force from 1 January 2010 onwards relating to the: a. training of staff in relation to the Policies; b. sale and distribution of the Policies; c. monitoring and quality assurance of staff involved in the sale and distribution of the Policies; d. commissions, rewards and bonuses received by persons in relation to the sale and distribution of the Policies; e. distribution to customers of disclosure documents applicable to the Policies; f. 'Day 2' checking process conducted by one or more of the respondents; g. respondents' hardship policies and practices; h. respondents' policies and practices in relation to customers who die with a credit card, personal loan or flexi loan balance or liability; i. changes to the Policies from time to time; or j. issue of the Policies.
3	<u>Committee, working group and team papers</u> Meeting papers, minutes and records from the committees, working groups and teams identified in paragraph 10 of the affidavit of Christopher Prestwich dated 19 June 2020, the Independent Review into the sale of Consumer Credit Insurance dated 8 October 2018 (**Report**) and any equivalent groups, as they relate to the management and oversight of the sale and distribution of the Policies, which relate to: a. the design of the Policies (including the setting and updating the terms and conditions of the Policies); b. the handling of claims under the Policies; c. the sale and distribution of the Policies by the respondents and third parties (including the decision to cease offering the Policies); d. the claims ratio, loss ratio and combined ratio of the Policies; e. the existence or absence of value, benefits and suitability of the Policies to customers; f. the value and benefits of the Policies to one or more of the respondents; and g. complaints made in respect of the Policies.

4	Template customer correspondence All versions of template letters, emails and electronic messages to customers in relation to the Policies used during the Relevant Period by one or more of the respondents or third parties involved in the sale and distribution of the Policies (including without limitation Sykes Financial Services Pty Ltd and Peakbound Holdings).
5	High level documents regarding value, suitability, sales practices and complaints Documents in the nature of investigations, audits, reports, memoranda, actuarial advice or summaries, dated 1 July 2009 or later relating to: a. the design of the Policies (including the setting and updating the terms and conditions of the Policies); b. the handling of claims under the Policies; c. the sale and distribution of the Policies by the respondents and third parties (including without limitation Sykes Financial Services Pty Ltd and Peakbound Holdings); d. the deep dives, mystery shops and risk reviews undertaken in relation to the Policies; e. any Operational Risk and Compliance CCI Thematic Review relating to the Policies; f. any outlier reports relating to the Policies; g. the decisions to cease offering any of the Policies; h. the claims ratio, loss ratio and combined ratio of the Policies; i. the existence or absence of value, benefits and suitability of the Policies to customers, or to one or more of the respondents; j. complaints made in respect of the Policies; or k. ASIC Reports 256, 361 and 622 in relation to the Policies (including, without limitation, the report described as the Sales Practices Review provided by the respondents to ASIC in March 2017).
6	Documents provided to Deloitte Documents provided to Deloitte for the purposes of: a. its independent review which led to the Report – insofar as they relate to Credit Card Repayment Protection, Flexi Loan Repayment Protection and Personal Loan Protection; b. the report described as the Sales Practices Review provided by the respondents to ASIC in March 2017.
7	Contractual documents and communications a. Contracts and agreements in respect of the sale and distribution of the Policies between Westpac, Westpac Life and Westpac General on the one hand, and any third parties (including without limitation Sykes Financial Services Pty Ltd and Peakbound Holdings) which were involved in the sale, design and/or distribution of the Policies on the other hand. c. Contracts and agreements in respect of the sale and distribution of the Policies between Westpac, Westpac Life and Westpac General.
8	Correspondence and meeting papers with government, regulatory and industry bodies Correspondence with and records of meetings (including minutes) since 1 January 2010 with ASIC, APRA, ACCC, Parliamentary Committees, Australian Banking Association, the Financial Ombudsman Service and Australian Financial Complaints Authority in respect of: a. the absence of value, benefits and suitability of the Policies for customers and the benefit of the

	Policies to customers; b. defects or deficiencies in the manner in which the Policies were being sold to customers, including, without limitation, the notifications of breaches (or potential breaches) to ASIC dated 30 September 2014 and 14 August 2015 in relation to the Policies.
9	<u>Consumer credit insurance premiums and claims paid</u> A document or documents which records the total premiums collected and the total claims paid in relation to each type of Policy (ie Credit Card Repayment Protection, Flexi Loan Repayment Protection and Personal Loan Protection) in each calendar year between 1 January 2010 and 31 December 2019.

ANNEXURE D

FEDERAL COURT OF AUSTRALIA NOTICE

WESTPAC CONSUMER CREDIT INSURANCE CLASS ACTION (VID134/2020)

THIS NOTICE IS IMPORTANT. IT IS NOT A SCAM

PLEASE READ IT CAREFULLY, AS IT MAY AFFECT YOUR LEGAL RIGHTS

WHAT IS THIS NOTICE?

The purpose of this notice is to inform you of a class action that has been commenced in the Federal Court of Australia against Westpac Banking Corporation, Westpac General Insurance Limited and Westpac Life Insurance Services Limited (collectively referred to as **Westpac**).

The action relates to Westpac's sale of three types of 'consumer credit insurance' policies, called Credit Card Repayment Protection, Flexi Loan Repayment Protection and Personal Loan Protection insurance (referred to as **the Policies**). The class action seeks compensation for persons who were sold the Policies and who have paid premiums for the Policies (referred to as **Class Members**).

This Notice has been sent in accordance with orders made by the Federal Court of Australia on 25 September 2020.

WHY AM I GETTING THIS NOTICE?

Westpac's records show that you purchased and paid premiums for an insurance policy relevant to this class action, as follows:

Name of policy	Date policy purchased	Date policy cancelled (if applicable)
[To insert whether Credit Card Repayment Protection / Flexi Loan Repayment Protection / Personal Loan Protection	[date]	[date]

Therefore you may be a Class Member in the Westpac CCI Class Action

If you are a Class Member, you have two options (set out in more detail in **Section 4** below):

1. **Remain a Class Member**, in which case you do not need to do anything in relation to this Notice. You will be eligible to get any compensation or benefit, and will also be bound by the outcome in the class action.

   You can also register your interest and receive updates on the progress of the class action by visiting [hyperlink]. If you register, you will also be directly notified of any settlement or judgment using the contact details you provide.

2. **Opt out** of the class action before the deadline of 4.00pm AEDT on 27 November 2020 in which case you will remove yourself as a Class Member and lose the right to get compensation or benefit through the class action (but will retain your right to pursue compensation on your own).

You should read this Notice carefully, including the further information regarding your options at Section 4 below.

INFORMATION ABOUT THE CLASS ACTION

1. WHAT IS A CLASS ACTION?

A class action is a type of legal proceeding in which the claims of a group of persons (referred to as Class Members) are brought in a single proceeding.

A class action is commenced by one or more persons (the Applicant/s) on behalf of the Class Members. Unless a Class Member opts out (as explained in section 4 below), they are automatically covered by the class action even if they did not take any active steps to join it before it was commenced.

2. WHAT IS THE WESTPAC CCI CLASS ACTION?

The Westpac CCI Class Action was commenced by the Applicant on 28 February 2020 and is being conducted by Slater and Gordon Lawyers.

The class action relates to the sale of three insurance products, which were sold alongside Westpac credit cards, flexi loans and personal loans:

a. Westpac Credit Card Repayment Cover;

b. Westpac Flexi Loan Repayment Cover; and

c. Westpac Personal Loan Protection,

(**Westpac CCI**).

The Applicant alleges that Westpac:

a. engaged in misleading or deceptive conduct (for example, by failing to inform some Class Members that the Policies were optional);

b. caused Class Members to make payments as a result of mistaken beliefs of some class members that the Policies were not optional or provided value;

c. engaged in unconscionable conduct by, among other things, using 'unfair tactics' in arranging the issue of the Policies and not giving Class Members an adequate opportunity to consider whether the Policies were suitable for them; and

d. unlawfully provided personal advice to some Class Members who purchased the Policies in a bank branch or over the telephone after 28 February 2014.

Westpac denies the allegations and are defending the claims.

3. AM I A CLASS MEMBER?

You are a Class Member if:

a. at any time between 1 January 2010 and 30 June 2019, you were issued with a Westpac CCI policy; and

b. you have suffered loss or damage because of the alleged conduct of Westpac (for example, by paying more in premiums and interest than any amount you received in relation to a claim or remediation with respect to that policy).

If you are a Class Member and you acquired your CCI policy or first paid a premium before 28 February 2014, Westpac's position is that it is too late for you to bring your claims in this proceeding. The Applicant disagrees with this position. If the court agrees with Westpac's position, any such claims will fail.

YOUR OPTIONS

4. WHAT ARE MY OPTIONS?

If you are a Class Member, you have two options, which are set out in detail below.

Option 1 – Remain a Class Member

If you qualify as a Class Member and choose this option, you do not need to do anything in relation to this Notice. Your claims will be collectively resolved through the Westpac CCI Class Action. You will remain entitled to participate in any court-ordered damages award in favour of Class Members or any settlement that might be agreed.

If you remain a Class Member, you will be bound by the outcome of the Westpac CCI Class Action. If the action is successful, you will be entitled to share in the benefit of any order, judgment or settlement in favour of the Applicant and Class Members.

If the Westpac CCI Class Action is unsuccessful or is not as successful as you might have wished, you will continue to be bound by the outcome in the Westpac CCI Class Action and will not be able to bring another action against Westpac for the same claim.

Registration

You may wish to register your interest in the class action on Slater and Gordon's website.

You will then receive regular, timely updates on the progress of the Westpac CCI Class Action from Slater and Gordon Lawyers, the lawyers for the Applicant.

You will also be sent any Court Notices, such as this one, directly using the contact details you provide during registration and be directly notified in the event of a judgment or settlement.

You can register for the class action on Slater and Gordon's website at [hyperlink].

Option 2 – Opt out

If you qualify as a Class Member and choose this option, you will cease to be a Class Member of the Westpac CCI Class Action. You will not be entitled to participate in any court-ordered damages award in favour of class members or any settlement that might be agreed.

If you opt out, you will preserve the right to bring your own claims in relation to the allegations covered by the class action (summarised at section 2 above and set out in the statement of claim available for viewing at Slater and Gordon's website). In the event you wish to bring your own claim against Westpac, you should seek your own legal advice about your claim and any applicable time limits on your claim before choosing to opt out.

Class Members (and potential class members) should seek independent legal advice before choosing to opt out. To opt out is to take a serious step – you should not do so unless you understand what it means.

If you wish to opt out, you must send the "Opt Out Notice" form annexed to this Notice at Schedule A and return it directly to the Victorian District Registry of the Federal Court before the Opt Out Deadline on 4:00pm AEDT on 27 November 2020

COSTS AND RELIEF SOUGHT

5. WILL I BE LIABLE TO PAY LEGAL COSTS IF I REMAIN A CLASS MEMBER?

Class Members in the Westpac CCI Class Action are not, and will not be, liable for any "out of pocket" legal costs by remaining in the class action. The costs of running the Westpac CCI Class Action are being covered by Slater and Gordon on a "No Win, No Fee" basis.

If the Westpac CCI Class Action is successful, the Court will be asked to approve the Applicant's reasonable legal costs and those approved costs may be deducted on a pro rata basis from any settlement or judgment obtained.

If the Westpac CCI Class Action is unsuccessful, you will not be liable for any legal costs.

No Class Member will ever be "out-of-pocket" simply by remaining a Class Member or registering for the class action

6. WHAT IS THE RELIEF SOUGHT IN THE CLASS ACTION?

The Applicant seeks a number of types of relief on behalf of Class Members, including damages to compensate each Class Member and/or the return to each Class Member of the premiums they each paid under the Policies.

If the action succeeds, the Court may be asked to make declarations that some Policies are void, in addition to monetary relief. Your consent will be requested before any declaration that your Policy is void is made.

7. YOU SHOULD NOTE THAT:

Firstly, this is not a scam. You can check (and obtain copies of) any relevant documents by visiting Slater and Gordon's website [hyperlink] or inspecting them at one of the offices of Slater and Gordon.

Secondly, if you wish to remain a Class Member, you do not need to do anything in relation to this Notice. Alternatively, you can actively register your interest in the Westpac CCI Class Action on Slater and Gordon's website at [hyperlink].

Thirdly, if you wish to opt out, you must complete the 'Opt Out Notice' form annexed to this Notice at Schedule A and return it directly to the Victorian Registry of the Federal Court of Australia before the Opt Out Deadline, i.e. by no later than 4pm on 27 November 2020.

SCHEDULE A

Form 21 Rule 9.34

OPT OUT NOTICE

<u>IMPORTANT</u>:	**You should only complete this form if you do <u>NOT</u> want to participate in the Westpac CCI Class Action**

VID 134 of 2020

Federal Court of Australia
District Registry: Victoria
Division: Commercial and Corporations NPA
Regulator and Consumer Protection Sub-area

Roger Kemp
Applicant

Westpac Banking Corporation ACN 007 457 141 and others named in the Schedule
Respondents

To: The Registrar
Federal Court of Australia
Victoria District Registry
Owen Dixon Commonwealth Law Courts Building
305 William Street
Melbourne VIC 3000

…………………..……………………(*print name of class member)*, a class member in this class action, gives notice under section 33J of the *Federal Court of Australia Act 1976* that they are opting out of the class action.

Date: …………………………..
Signed by: …………………………………….
Class Member/Lawyer for the Class Member (*circle as applicable)*

Prepared in the Victoria District Registry, Federal Court of Australia
Level 7, Owen Dixon Law Courts, 305 William Street, Telephone 03 8600 3333

Please complete the information on the following page

Class member details

Telephone: ……………………………………………………………
Email: ……………………………………………………………
Address: ……………………………………………………………

If you are signing as the solicitor or representative of the class member:

Name: …………………………………………………………..
Capacity: ……………………………………………………………
Telephone: ……………………………………………………………
Email: …………………………………………………………….
Address: …………………………………………………………….

Schedule

No: VID134/2020

Federal Court of Australia

District Registry: Victoria

Division: General

Second Respondent	WESTPAC GENERAL INSURANCE LIMITED ACN 003 719 319
Third Respondent	WESTPAC LIFE INSURANCE SERVICES LIMITED ACN 003 149 157