

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 20/09/2017 10:43:50 AM AEST 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: Non-Prescribed Pleading
File Number: VID811/2010
File Title: John Andrews & Ors v ANZ Banking Group Limited
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 20/09/2017 11:24:21 AM AEST

A handwritten signature in blue ink that reads 'Warwick Soden'.

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.



Rejoinder

No. VID811 of 2010

Federal Court of Australia
District Registry: Victoria
Division: General

JOHN ANDREWS and others

Applicants

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED ACN 005 357 522

Respondent

To the Reply filed 25 May 2017, the Respondent (ANZ) says as follows:

1. It joins issue with the allegations in the Reply, save insofar as it contains admissions.
2. In rejoinder to paragraphs 2(b), 3(b), 4(b), 5(b), 6(b), 7(b), 8(b) and 9(b) it:
 - a. denies the allegations therein;
 - b. says further that if a demand upon ANZ was a precondition to any liability of ANZ in respect of the fees charged to the accounts referred to in paragraph 7 of ANZ's Defence to the Further Amended Statement of Claim (**Defence**) (which is denied), such demand was made by the commencement of the proceeding, which occurred more than six years prior to the commencement of the applicants' claims for relief set out in the Further Amended Originating Application;
 - c. further or alternatively to subparagraph (b), says that at the times when the fees referred to in subparagraph 7(a) of the Defence were charged by ANZ to the account of "Matilda's Books ABN 16 234 560 750", no amounts were standing to the credit of that account and accordingly and independently of any other circumstance a demand upon ANZ was not a precondition to the accrual of any cause of action against ANZ for debt or any other liability in respect of those fees;

Filed on behalf of (name & role of party)	Australia and New Zealand Banking Group Limited (respondent)
Prepared by (name of person/lawyer)	Mark Bradley
Law firm (if applicable)	Ashurst Australia
Tel	(03) 9679 3000
Fax	(03) 9679 3111
Email	mark.bradley@ashurst.com

Address for service
(include state and postcode) Level 26, 181 William Street, Melbourne VIC 3000

- d. alternatively to subparagraph (c), says further that if a demand upon ANZ was a precondition to any liability of ANZ (which is denied), such demand was made by or upon the closing of the account of “Matilda’s Books ABN 16 234 560 750”, which occurred more than six years prior to the commencement of the applicants’ claims for relief set out in the Further Amended Originating Application;

PARTICULARS

The account of “Matilda’s Books ABN 16 234 560 750” was closed on or about 10 March 2009.

- e. further or alternatively to subparagraph (b), says that at the times when the fees referred to in lines 2, 17, 21, 24, 25 and 26 of Schedule 12 were charged by ANZ to the account of “Field Geoffrey Allan” numbered 013 623 5526 97854, no (or, in the case of the fee referred to in line 2, insufficient) amounts were standing to the credit of that account and accordingly and independently of any other circumstance a demand upon ANZ was not a precondition to the accrual of any cause of action against ANZ for debt or any other liability in respect of those fees;
- f. further or alternatively to subparagraph (b), says that if a demand upon ANZ was initially a precondition to any liability of ANZ in respect of any of the fees referred to in lines 1, 2, 3, 4, 5 and 13 of Schedule 12 (which is denied) the account of “Field Geoffrey Allan” numbered 013 623 5526 97854 subsequently (more than six years prior to the commencement of the applicants’ claims for relief set out in the Further Amended Originating Application) became overdrawn to an extent exceeding the amount of those fees, and accordingly and independently of any other circumstance a demand upon ANZ ceased to be a precondition to the accrual of any cause of action against ANZ for debt or any other liability in respect of those fees.

Date: 20 September 2017


Signed by Mark Bradley
Ashurst Australia
Lawyer for the Respondent