



Federal Court of Australia

District Registry: Victoria Registry

Division: General

No: VID1252/2019

KATHERINE PRYGODICZ and others named in the schedule
Applicant

COMMONWEALTH OF AUSTRALIA
Respondent

ORDER

JUDGE: Justice Murphy

DATE OF ORDER: 12 September 2025

WHERE MADE: Melbourne

THE COURT NOTES THAT:

- A. This proceeding (the **Prygodicz Proceeding**) arose out of the Respondent's use of an automated debt-collection system between July 2015 and November 2019 known as the **Robodebt System**.
- B. This proceeding was commenced on 19 November 2019 by the Applicants (the **Prygodicz Applicants**).
- C. On 22 April 2021, certain parties entered into a **Deed of Settlement** to resolve the Prygodicz Proceeding.
- D. On 11 June 2021, Murphy J made orders approving the settlement of the Prygodicz Proceeding pursuant to section 33V of the *Federal Court of Australia Act 1976* (Cth) and published reasons (*Prygodicz v Commonwealth of Australia (No 2)* [2021] FCA 634).
- E. Paragraphs 1 to 4 of the orders made on 11 June 2021 (**11 June 2021 Orders**) authorised the Applicants *nunc pro tunc* to enter into and give effect to the Deed of Settlement and Settlement Distribution Implementation Plan in Annexure B to the 11 June 2021 orders.



- F. On 7 July 2023, the Report of the **Royal Commission** into the Robodebt Scheme was published. It made public certain information and documents about the Robodebt System.
- G. On 24 September 2024, Nathan Knox and David Mandell (group members in this proceeding) (the **Knox Applicants**) filed an application for an extension of time to appeal against paragraphs 1 to 4 of the 11 June 2021 Orders.
- H. On 7 February 2025, the Knox Applicants filed an application for the Full Court to receive further evidence on their proposed appeal.
- I. The application for an extension of time, the application to receive further evidence and any appeal (together, the **Knox Proceeding**) were listed for hearing on 28 to 31 July 2025.
- J. By the Knox Proceeding, the Knox Applicants sought orders setting aside paragraphs 1 to 4 of the 11 June 2021 Orders on the basis that the settlement approved by those orders was not within the range of reasonable outcomes in light of the information and documents made public by the Royal Commission and remittal of the Prygodicz Proceeding so that they could prosecute a claim of misfeasance in public office.
- K. On 3 July 2025, the Knox Applicants, the Prygodicz Applicants and the Commonwealth entered into a binding heads of agreement to settle the Knox Proceeding and the Prygodicz Proceeding.
- L. On 3 September 2025 the Knox Applicants, the Prygodicz Applicants and the Commonwealth entered into a binding Deed of Settlement (**Second Deed of Settlement**) to settle the Knox Proceeding and the Prygodicz Proceeding.
- M. To give effect to the Second Deed of Settlement, the Prygodicz Applicants (with the consent of the Commonwealth):
 - a. will apply for approval of the settlement of the Prygodicz Proceeding and the Knox Proceeding on the terms set out in the Second Deed of Settlement under s 33V of the *Federal Court of Australia Act 1976* (Cth), and for the definition of group members in the Prygodicz Proceeding to be expanded, which would provide for further payments to be made to Group Members in addition to, and



without disturbing, the payments already made to Group Members under the first Deed of Settlement (**Settlement Application**); and

- b. to permit the approval process to occur, will seek orders setting aside paragraphs 1 to 4 of the orders made on 11 June 2021.

THE COURT ORDERS BY CONSENT THAT:

Section 33K Application, Settlement Approval Application and Set Aside Application

1. By **4:00pm on 10 October 2025**, the Applicants are to file and serve the following applications:
 - (a) an application pursuant to rule 39.05(f) of the *Federal Court Rules 2011* (Cth) seeking orders setting aside paragraphs 1 to 4 of the orders made on 11 June 2021 (**Set Aside Application**);
 - (b) an application for leave to file a Further Amended Originating Application in substantially the same form as that annexed to these orders (**Section 33K Application**); and
 - (c) the Settlement Application.
2. The Set Aside Application, Section 33K Application, and Settlement Application are to be heard and determined at the same time.

Case management hearing

3. The matter is listed for a case management hearing at **9:30am on 27 October 2025**.
4. By **4:00pm on 17 October 2025**, the parties are to provide to the Court proposed orders pursuant to paragraph 15.1(a) of the Class Actions Practice Note (GPN-CA).

Other matters

5. For the avoidance of doubt, and to the extent necessary, the Prygodicz Applicants (and, as necessary or appropriate, the Knox Applicants, the Group Members and the Commonwealth) are permitted to prosecute the Set Aside Application, Section 33K Application, and Settlement Application (and otherwise take steps in relation to those



applications), notwithstanding the terms of the Deed of Settlement and the 11 June 2021 Orders.

6. The parties have liberty to apply on 3 days' notice.
7. Costs reserved.

Date orders authenticated: 12 September 2025

Sia Lagos
Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.



Annexure

Form 19
Rule 9.32

Further Amended Originating application starting a representative proceeding under Part IVA of the Federal Court of Australia Act 1976

No. VID1252 of 2019

Federal Court of Australia
District Registry: Victoria
Division: General

Katherine Prygodicz (and others named in the schedule)

Applicants

Commonwealth of Australia

Respondent

To the Respondent

The Applicants apply for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place: Federal Court of Australia
Owen Dixon Commonwealth Law Courts Building
305 William Street
Melbourne, Victoria, Australia

Date: ~~30 June 2020~~ **[Date of first mention to be inserted]**

Signed by an officer acting with the authority
of the District Registrar

Filed on behalf of (name & role of party)	Katherine Prygodicz & Ors – the Applicants		
Prepared by (name of person/lawyer)	James Naughton		
Law firm (if applicable)	Gordon Legal		
Tel	+61 (3) 9603 3018	Fax	+61 (3) 9603 3050
Email	jnaughton@gordonlegal.com.au		
Address for service	Gordon Legal, Level 22, 181 William Street, Melbourne, VIC 3000		

[Form approved 01/08/2011]

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Details of claim

Note: terms have the same meaning as in the Second Further Amended Statement of Claim unless otherwise defined herein.

On the grounds stated in the accompanying Second Further Amended Statement of Claim, the Applicants claim for themselves and the Group Members:

1. Declarations that:

- (aa) the Commonwealth does not have and has not had any statutory power to use any income information provided by or on behalf of an Applicant or Group Member in response to a Robodebt notification to determine or assert an Asserted Overpayment Debt;
- (ab) the Commonwealth acted unlawfully in:
 - (i) using calculations or other outputs of the Robodebt System to procure or compel the provision by any Applicant or Group Member to the Commonwealth of income information and/or to generate or send to any Applicant or Group Member any Robodebt notification;
 - (ii) determining and asserting against any Applicant or Group Member any Asserted Overpayment Debt, or recalculation of it;
 - (iii) requesting or demanding repayment by any Applicant or Group Member of any Asserted Overpayment Debt, or recalculation of it;
 - (iv) recovering from any Applicant or Group Member and retaining any Asserted Overpayment Debt, or recalculation of it;
- (a) the Commonwealth does not have and has not had any statutory power to ~~raise and recover or seek to recover any Robodebt raised debts or~~ impose any penalty ~~on an Asserted Overpayment Debt thereon;~~
- (b) the Commonwealth was unjustly enriched by receipt of each Commonwealth recovered amount and is liable to make restitution of each Commonwealth recovered amount to the Applicants and Group Members;
- (c) the Commonwealth recovered amounts are moneys had and received by the Commonwealth to the use of the Applicants and Group Members return of which they are entitled to;
- (d) the Commonwealth owed and owes a duty of care to the Applicants and Group Members as alleged in the Statement of Claim;
- (e) the Commonwealth breached its duty of care to the Applicants and Group

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Members in the manner alleged in the Statement of Claim:

(f) the Commonwealth committed the tort of misfeasance in public office.

2. Restitution of all or the aggregate of Commonwealth recovered amounts and interest earned by the Commonwealth thereon.
3. Return of all or the aggregate of Commonwealth recovered amounts as money had and received by the Commonwealth to the use of the Applicants and Group Members.
4. Damages in negligence and misfeasance in public office.
5. Damages in an aggregate amount pursuant to s 33Z(1)(f) of the *Federal Court of Australia Act 1976* (Cth).
6. Interest pursuant to statute.
7. Costs.
8. Such further or other order as the Court thinks fit.

Questions common to claims of group members

The questions of law or fact common to the claims of the group members are:

1. Since 1 July 2010, has the amount of any (and which) Social Security Payments to which a recipient was entitled been calculated on the basis of their reported fortnightly income?
2. Since 1 July 2015, when and in what circumstances has the Robodebt System been used by the Commonwealth to raise and recover debts?
3. Has the Robodebt System operated in the manner described in paragraph 6 of the Statement of Claim and, if not, how has it operated?
4. Are the calculations or other outputs of the Robodebt System capable of establishing, for the purposes of s 1223(1) of the SSA, that a person who obtained the benefit of an amount paid by way of Social Security Payment was not entitled to obtain that benefit such that the amount of the Social Security Payment is a debt due to the Commonwealth?
5. Have any provisions of the SSA, the 1947 Act (as defined), the *Social Security (Fares Allowance) Rules 1998* or the *Data-matching Program (Assistance and Tax) Act 1990* (Cth) expressly provided that Robodebt-raised debts were debts due to the Commonwealth and, if so, what provisions?
6. Has there been any statutory or other onus on the Applicants and Group Members to establish that a Robodebt-raised debt was not a debt due to the Commonwealth within the meaning of s 1222A of the SSA?



7. Does the Commonwealth have, or has the Commonwealth had, any statutory or other power to raise and recover or seek to recover any Robodebt-raised debts or impose any penalty thereon?
8. Has the Commonwealth been enriched by, and in the amount of, each Commonwealth recovered amount at the expense of the Applicants and Group Members?
9. Was and is the recovery by the Commonwealth of the Commonwealth recovered amounts:
 - (a) ultra vires and unlawful?
 - (b) under and by reason of a mistake?
 - (c) on a basis that failed?
 - (d) by compulsion or duress colore officii?
 - (e) by reason of the Commonwealth's negligent conduct?
10. Was and is the enrichment of the Commonwealth by receipt of each Commonwealth recovered amount at the expense of the Applicants and Group Members unjust by reason of any (and if so, which) of the grounds referred to in the previous sub- paragraph?
11. Are the Applicants and Group Members entitled to restitution of the Commonwealth recovered amounts?
12. Are the Commonwealth recovered amounts money had and received by the Commonwealth to the use of the Applicants and Group Members return of which the Applicants and Group Members are entitled to by reason that:
 - (a) the recovery of the Commonwealth recovered amounts was ultra vires and unlawful?
 - (b) the payment of the Commonwealth recovered amounts was under and by reason of a mistake?
 - (c) the payment of the Commonwealth recovered amounts was on a basis that failed?
13. Did and does the Commonwealth owe to the Applicants and Group Members a duty to take reasonable care to avoid causing them loss and damage by reason of any or all of the following:
 - (a) the exercise or discharge of the Commonwealth-controlled functions?
 - (b) the assertion of Asserted Overpayment Debts?
 - (c) requests or demands for repayment of Asserted Overpayment Debts and associated penalties?
 - (d) recovery or attempted recovery of Asserted Overpayment Debts and associated

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penalties?

14. Did the Commonwealth breach its duty of care to the Applicants and Group Members by reason of the matters pleaded in paragraphs 66 to 72 of the Statement of Claim?

14A. Did the Commonwealth commit the tort of misfeasance in public office?

15. Are the Applicants and Group Members entitled to damages in negligence or misfeasance in public office in respect of the Commonwealth's breach of duty of care and, if so, what is the proper measure or means of quantifying those damages?

Representative action

The Applicants brings this application as a representative parties iesy under Part IVA of the *Federal Court of Australia Act 1976*.

The group members to whom this proceeding relates are all persons, including any persons who had previously opted out of the proceeding and in respect of whom the Court has ordered that they be reinstated as a Group Member:

- (a) who at any time after 1 July 2010 received from the Commonwealth one or more payments of social security benefits of the kind set out in Annexure A to the Statement of Claim; and
- (b) in respect of whom the Commonwealth, at any time after 1 July 2015:
 - (i) generated correspondence or other notification (including by postal mail, email or through 'myGov' or 'Centrelink Express') referring to a difference between the income information obtained by Centrelink from the Australian Taxation Office and that used by Centrelink in assessing Social Security Payment entitlements and requesting, requiring or reminding the Social Security Payment recipient to check, confirm or update employment income information (**Robodebt notification**); and
 - (ii) by or following the Robodebt notification, asserted an overpayment of one or more Social Security Payments recoverable by the Commonwealth as a debt (**Asserted Overpayment Debt**); and
 - (iii) requested or demanded repayment of any Asserted Overpayment Debt or part thereof; and
- (c) who as at 19 November 2020:
 - (i) have paid, had paid on their behalf, or had recovered from them, any Asserted Overpayment Debt or part thereof; and/or
 - (ii) have not been informed by the Commonwealth that no recovery action will be



pursued in respect of their Asserted Overpayment Debt,

(d) and, in addition, all persons (Category 5 Group Members) who:

(i) were in a close personal relationship with a Category 1 Group Member, Category 2 Group Member or a Category 3 Group Member who has died, where the Group Member's death was materially contributed to by a Robodebt-raised Debt;

(ii) have suffered a recognised psychiatric illness or condition materially contributed to by the death of the Group Member; and

(iii) have registered in the Prygodicz Proceedings.

Applicants' address

The Applicants' address for service is:


Place: Gordon Legal, Level 22, 181 William Street, Melbourne Victoria 3000

Email: jnaughton@gordonlegal.com.au

The Applicants' address is c/- Gordon Legal Level 22, 181 William Street, Melbourne, Victoria, 3000.

Service on the Respondent

It is intended to serve this application on the Respondent.

Date: ~~19 November 2019~~ ~~30 June 2020~~ 



Signed by James Naughton
Lawyer for the Applicants



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Schedule

No. VID1252 of 2019

Federal Court of Australia
District Registry: Victoria
Division: General

Applicants

First Applicant: Katherine Prygodicz

Second Applicant: Elyane Porter

Third Applicant: Steven Fritze

Fourth Applicant: Felicity Button

Fifth Applicant: Shannon Thiel

Sixth Applicant: Devon Collins

Seventh Applicant: Nathan Knox

Eighth Applicant: David Mandell

Respondent: Commonwealth of Australia

Date: ~~19 November 2019~~ ~~30 June 2020~~ [***]



Schedule

No: VID1252/2019

Federal Court of Australia

District Registry: Victoria Registry

Division: General

Second Applicant	ELYANE PORTER
Third Applicant	STEVEN FRITZE
Fourth Applicant	FELICITY BUTTON
Fifth Applicant	SHANNON THIEL
Sixth Applicant	DEVON COLLINS