



Federal Court of Australia

District Registry: South Australia Registry

Division: General

No: SAD209/2024

TIMOTHY DAVID MABLESON, JAMES DOUGLAS DAMPNEY, GAYLE DICKERSON AND DAVID WILLIAM KIDMAN IN THEIR CAPACITIES AS JOINT AND SEVERAL ADMINISTRATORS OF BESTON GLOBAL FOOD COMPANY LIMITED (ADMINISTRATORS APPOINTED) (ACN 603 023 383) and another named in Schedule B
Plaintiff

ORDER

JUDGE: Justice Charlesworth

DATE OF ORDER: 17 October 2024

WHERE MADE: Adelaide

THE COURT ORDERS THAT:

1. Pursuant to s 37AF of the *Federal Court of Australia Act 1976* (Cth) (Federal Court Act) and on the grounds specified in s 37AG(1) of the Federal Court Act, the following material be suppressed from publication and otherwise treated as confidential for the purposes of r 2.32(1)(b) and r 2.32(3)(a) of the *Federal Court Rules 2011* (Cth):
 - (a) the paragraphs and pages of the confidential affidavit affirmed by Timothy David Mableson on 8 October 2024 (First Mableson Affidavit) identified in Schedule A;
 - (b) the paragraphs and pages of the confidential affidavit sworn by Timothy David Mableson on 15 October 2024 (Second Mableson Affidavit) identified in Schedule A; and
 - (c) the paragraphs of the plaintiffs' Outline of Submissions dated 15 October 2024, identified in Schedule A.
2. At or before 4:30pm (ACDT) on 17 October 2024, the plaintiff is to lodge and file the plaintiff's Outline of Submissions, First Mableson Affidavit and Second Mableson Affidavit which excludes the confidential material, which is to be made available on the Court file thereafter.



3. Pursuant to s 439A(6) of the *Corporations Act 2001* (Cth) (Act) the period within which the plaintiffs must convene the second meeting of creditors of Beston Global Food Company Limited (Administrators Appointed) (ACN 603 023 383) (Beston Global) and Beston Pure Dairies Pty Ltd (Administrators Appointed) (ACN 606 417 994) (Beston Pure Dairies) as fixed by s 439A(5) of the Act be extended so as to expire at 5.00pm (ACDT) on 28 February 2025.
4. Pursuant to s 447A(1) of the Act, Pt 5.3A of the Act is to operate in relation to Beston Global and Beston Pure Dairies (Companies) as if the second meeting of creditors of the Companies, required by s 439A of the Act, may be convened and held at any time during the period as extended under paragraph 1 of these orders (Orders) or within the period of five business days after that period, notwithstanding the provisions of s 439A(2) of the Act.
5. Pursuant to s 90-15 of the Insolvency Practice Schedule (Corporations), the plaintiffs would be justified, and would be acting reasonably, in entering into, and causing the Companies to enter into and become liable under, new and/or further financing arrangements (NAB Loan) with National Australia Bank (ACN 004 044 937) (NAB) to fund the administrations of the Companies on terms materially similar to the Companies' existing NAB facilities, on the basis that the:
 - (a) Companies will grant securities to NAB for the NAB Loan (or agree that existing securities shall apply to the NAB Loan); and
 - (b) plaintiffs will not have any personal liability under the NAB Loan should the assets of the Companies prove insufficient to meet the payment obligations thereunder.
6. Pursuant to s 447A(1) of the Act:
 - (a) Part 5.3A of the Act is to operate in relation to the Companies as if s 443A(1) of the Act provided that the plaintiffs will not be personally liable to repay any debts or satisfy any liabilities arising from entry into the NAB Loan should the assets of the Companies prove insufficient to meet the payment obligations thereunder; and
 - (b) the right of indemnity provided for in s 443D of the Act shall continue to apply in respect of the plaintiffs' liability pursuant to the NAB Loan.



7. The plaintiffs are to take all reasonable steps to cause a copy of the Orders to be given to creditors (including persons or entities claiming to be creditors) of the Companies within three business days of the date of these Orders.
8. Any person who can demonstrate a sufficient interest has liberty to apply to vary or discharge the Orders in paragraphs 3 to 6 above at or before 5:00pm (ACDT) on 22 October 2024 by written notice to the plaintiffs and the Court.
9. The plaintiffs' costs of and incidental to the originating process dated 8 October 2024 be costs in the administrations of the Companies, jointly and severally.
10. Any person who can demonstrate a sufficient interest, may have access to and inspect any material filed in this action in support of the plaintiff's Originating Process, other than any material subject to a suppression or confidentiality order, by application to the Court. Any such application is to be resolved by the South Australian District Registrar expeditiously, and in any event within 24 hours of the application being made.
11. Any person who can demonstrate a sufficient interest, may be provided with transcript of today's hearing for inspection only, which transcript shall contain a record of the oral reasons for judgment.
12. Liberty to apply to vary these orders may be exercised at first instance by email to the Associate of Justice Charlesworth at Associate.CharlesworthJ@fedcourt.gov.au.
13. Pursuant to s 37AF of the Federal Court Act and on the grounds specified in s 37AG(1), Exhibit P1 and Exhibit P2 are suppressed from publication.

Date orders authenticated: 17 October 2024


Registrar

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



Schedule A

The confidential parts of the First Mableson Affidavit are:

- (a) Paragraph 10 on page 3;
- (b) Paragraph 20 on page 5;
- (c) Paragraphs 38 to 52 on pages 9 to 14;
- (d) Sub-paragraph 55(p) on page 16;
- (e) Sub-paragraph 70(d) on page 22;
- (f) Paragraphs 75 to 77 on pages 23 to 25;
- (g) Pages 103 to 163 of Exhibit TDM-1; and
- (h) Pages 236 to 238 of Exhibit TDM-1.

The confidential parts of the Second Mableson Affidavit are:

- (a) Paragraph 8 on page 3;
- (b) Paragraphs 10 to 49 on pages 3 to 9; and
- (c) Pages 12 to 105 of Exhibit TDM-2.

The confidential parts of the plaintiff's Outline of Submissions are:

- (a) Paragraph 1.2;
- (b) Paragraph 18;
- (c) Paragraph 20;
- (d) Paragraph 64;
- (e) Paragraph 75; and,
- (f) Paragraph 86.



Schedule B

No: SAD209/2024

Federal Court of Australia

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Division: General

Second Plaintiff

TIMOTHY DAVID MABLESON, JAMES DOUGLAS
DAMPNEY, GAYLE DICKERSON AND DAVID WILLIAM
KIDMAN IN THEIR CAPACITIES AS JOINT AND
SEVERAL ADMINISTRATORS OF BESTON PURE
DAIRIES PTY LTD (ADMINISTRATORS APPOINTED)
(ACN 606 417 994)