



HIGH COURT OF AUSTRALIA

NOTICE OF FILING

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Details of Filing

File Number: S147/2022
File Title: Zurich Insurance PLC & Anor v. Koper & Anor
Registry: Sydney
Document filed: Form 27B - Appellant's chronology
Filing party: Appellants
Date filed: 09 Jan 2023

Important Information

This Notice has been inserted as the cover page of the document which has been accepted for filing electronically. 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 and whenever the document is reproduced for use by the Court.

IN THE HIGH COURT OF AUSTRALIA
 SYDNEY REGISTRY

BETWEEN:

ZURICH INSURANCE PLC
 First Appellant

ASPEN INSURANCE UK LIMITED
 Second Appellant

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And

DARIUSZ KOPER
 First Respondent

ATTORNEY GENERAL OF THE COMMONWEALTH
 Second Respondent

APPELLANTS' CHRONOLOGY

20 Part I: Certification

1. This chronology is in a form suitable for publication on the Internet.

Part II: List of principal events leading to the litigation

2. References are to paragraphs of the reasons of the Court of Appeal (*Zurich Insurance PLC v Koper* [2022] NSWCA 128, 'CA') and the primary judge (*Dariusz Koper v Zurich Insurance PLC* [2021] NSWSC 1587, 'J') and to page numbers of the Core Appeal Book ('CAB') and the Appellants' Book of Further Materials ('ABFM').

No.	Date	Event	Reference
1.	31 March 2012	The Appellants and a number of other London market insurers insured Brookfield Multiplex Constructions (NZ) Limited (In Liquidation)	CAB 73, [4]

No.	Date	Event	Reference
		(BMX NZ) on a joint and several basis under policies of professional indemnity insurance, which constituted a “tower” of insurance, with the First Excess Policy, Second Excess Policy and Third Excess Policy “following form” with the Primary Policy, for the period 31 March 2012 to 31 March 2013 (Policy).	
2.	12 October 2012	Body corporate 346799 and 199 registered proprietors of apartments within the ‘Victopia’ building including Dariusz Koper (Victopia Claimants) commenced proceedings in the High Court of New Zealand against BMX NZ, KNZ International Co Limited (Developer), and Auckland City Council amongst others (NZ Proceedings).	CAB 8, [1] – [4]
3.	3 December 2012	Liquidators were appointed to BMX NZ.	CAB 92, [24]
4.	22 March 2017	Judgment was delivered in the NZ Proceedings in favour of the Victopia Claimants against BMX NZ and the Developer for the sum of NZD 53,124,719.76 (NZ Judgment). Judgment was also given for the Auckland City Council on its cross claim against KNZ and BMX NZ.	CAB 5-64 CAB 72, [1]
5.	3 April 2017	The liquidators of BMX NZ sought indemnity under the Policy for the unpaid portion of the NZ Judgment, approximately NZD 23,124.719.76 plus interest.	ABFM 13, [30] ABFM 294 – 295
6.	28 August 2018	The indemnity sought by the liquidators was	ABFM 14,

No.	Date	Event	Reference
		declined.	[32] ABFM 363 - 373
7.	1 April 2021	Dariusz Koper filed a Summons in the Supreme Court of New South Wales seeking leave pursuant to section 5 of the <i>Civil Liability (Third Party Claims Against Insurers) Act 2017</i> (NSW) to proceed directly against the First Respondent in the Supreme Court of New South Wales (Leave Application).	CAB 65-68
8.	17 May 2021	The First Appellant filed a Notice of Motion in the Leave Application seeking the Summons filed on 1 April 2021 be set aside.	CAB 69-71
9.	6 August 2021	The First Respondent filed a Summons and Commercial List Statement in the Commercial List Proceedings No. 2021/224418 of the Supreme Court of New South Wales, against the First Appellant.	CAB 73, [5]
10.	30, 31 August 2021 and 12 November 2021	Hearing of the Zurich's Motion and Leave Application.	
11.	8 December 2021	Judgment was delivered granting leave pursuant to s 5 of the <i>Civil Liability (Third Party Claims Against Insurers) Act 2017</i> (NSW) for the First Respondent to proceed with his proceedings in the Commercial List (Leave Judgment).	CAB 72-146

No.	Date	Event	Reference
12.	17 December 2021	The First Respondent filed an Amended Summons and Amended Commercial List Statement joining the Second Appellant.	
13.	1 April 2022	The Appellants filed an Amended Summons seeking leave to appeal and draft Notice of Appeal in the Court of Appeal (Appellants' Appeal).	CAB 151-155
14.	6 July 2022	Hearing of the Appellants' Appeal.	
15.	20 July 2022	Judgment was delivered for the Appellants' Appeal and the Court of Appeal granted leave to appeal and dismissed the appeal.	CAB 160-184
16.	15 August 2022	The Appellants' filed the Special Leave Application in the High Court of Australia.	
17.	15 August 2022	The Appellants' filed the Notice of Constitutional Matter for the Special Leave Application in the High Court of Australia.	
18.	10 November 2022	Special Leave was granted by the High Court of Australia without hearing oral arguments	CAB 189-190
19.	21 November 2022	The Appellants' filed the Notice of Appeal in the High Court of Australia.	CAB 191-193
20.	21 November 2022	The Appellants' filed the Notice of Constitutional Matter for the Special Leave Application in the High Court of Australia.	CAB 194-198
21.	30 November	The Second Respondent filed its Notice of	CAB 199-

No.	Date	Event	Reference
	2022	Contention in the High Court of Australia.	201

Dated: 9 January 2023



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