

Joint Media Statement

September 17, 2013

Bell Case Settlement

The parties in the long running Bell litigation have announced the matter has been settled. The settlement is subject to various approvals being obtained in local and overseas jurisdictions, which may take up to six months

In March this year, the High Court of Australia granted special leave to appeal certain aspects of the determination and orders made by the Court of Appeal of the Supreme Court of Western Australia. Leave was granted to the twenty banks that defended the original proceedings and their appeal was due to be heard in September. The High Court has now adjourned the hearing, by consent.

At issue in the case, which began in 1995, were loans to various Bell companies of approximately \$265m. that the liquidators of the Bell companies claimed had been improperly recovered by the banks when the Bell Group collapsed in 1991.

In October 2008, Justice Owen found in favour of the liquidators on many of their claims and in April 2009 ordered the banks to repay approximately \$350 million principal, which, together with compound interest, resulted in a \$1.66bn award to the Bell companies. In August 2012, the Court of Appeal (by majority) confirmed Justice Owen's major findings against the banks and increased the interest rate applicable to the repayment. The banks did not contest the Court of Appeal's decision in relation to certain statutory claims and paid approximately \$718 million to the Liquidators on this account in December 2012. The interest rate awarded under the judgment was one of the issues the High Court was to consider.

As major creditors of the Bell companies, the banks stood to recover some part of the funds ultimately available for distribution to creditors. As part of the settlement the banks have agreed to release their claims.

The sum for which the case has been settled has not been disclosed. It is subject to various approvals being obtained which are necessary for the settlement to be given effect.

Tony Woodings, liquidator of the Bell companies, said: "Taking into account a number of matters including the views of the Bell companies' principal creditors (other than the banks) and the time and cost of further litigation I consider the settlement reached is in the best interests of the Bell companies and their creditors. "

Spokesman for the banks, Herbert Smith Freehills' Mr John Vaughan, said: "While there were several significant issues on which it would have been useful to have a High Court decision, settling now is a pragmatic decision which will save further time and costs for all the parties involved."

"The Insurance Commission of Western Australia is pleased to see the parties have settled this long running litigation," Rod Whithear, Chief Executive of the Insurance Commission said.

"It is now up to the parties to deliver the conditions precedent needed to finalise that agreement over the coming months."

Contact:

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| John Vaughan Herbert Smith Freehills o. +61 8 9211 7714 m. +61 409 787 714 | Tony Woodings ALJ Woodings Chartered Accountant +61 8 9486 4211 |
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