



FUNDING INFORMATION SUMMARY STATEMENT

William Lay & Daniel Joseph Batchelor v Nuix Limited & Ors – S ECI 2021 04360

Case: S ECI 2021 04360

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1. How is the Nuix Class Action funded?

The Nuix class action is being jointly funded by litigation funders Woodsford Litigation Funding 13 LLP (company number OC432977) (**Woodsford**) and LLS Australia Funding Pty Ltd (collectively, **the litigation funders**).

2. What is the role of the litigation funders and what are the basic funding terms?

Legal fees and disbursements (including, barristers' and experts' fees) will be paid by the litigation funders pursuant to the terms of the Woodsford - Nuix - Litigation Funding Scheme (**Funding Scheme**) and the terms of a Litigation Finance Agreement between the litigation funders and the Lead Plaintiffs.

The litigation funders will pay a proportion of the legal fees and all disbursements over the duration of the case, in accordance with the Funding Scheme and Litigation Finance Agreement. This applies to the legal fees incurred by Shine Lawyers and Phi Finney McDonald because, as explained in the Class Action Summary Statement, Shine Lawyers will be the solicitors on the record and will engage Phi Finney McDonald under an agency arrangement such that both firms will work together on the class action.

To the extent any legal costs are not covered by funding from the litigation funders, those costs will be carried by Shine Lawyers and Phi Finney McDonald on a No-Win-No-Fee (**NWNF**) basis.

Shine Lawyers and Phi Finney McDonald will charge a 25% uplift fee on the professional fees carried on a NWNF basis and will recover that uplift fee from any resolution sum paid by any defendant/s in the event of a successful outcome. Shine Lawyers and Phi Finney McDonald will not charge the uplift fee if this would cause the Lead Plaintiffs and group members to receive less than a total of 70% of any resolution sum.

Additionally, the litigation funders will indemnify the Lead Plaintiffs (and group members who participate) against liability for any adverse costs order made against the Lead Plaintiffs (in the event that there is not a successful outcome).

3. What funding costs are the litigation funders entitled to if there is a successful outcome?

The Lead Plaintiffs and group members will not be asked to pay anything upfront. Costs will only be payable in the event of a successful outcome and then only as approved by the Court. Costs payable to the litigation funders and/or law firms (including any costs incurred pursuant to the agency agreement between Shine Lawyers and Phi Finney McDonald) will be deducted from, and will not exceed, any compensation that group members are entitled to receive if there is a successful outcome.

In the event of a successful outcome (such as a settlement that is approved by the Court or a judgement by the Court awarding damages to group members), the litigation funders will be entitled to recover the following:

- the costs of operating the Funding Scheme;
- the legal costs and disbursements it has paid during the course of the proceeding, including any adverse costs and security for costs; and
- a funding commission, being a percentage of any net proceeds (that is, the amount of resolution proceeds after deducting the above amounts), to be set by the Court at the time of the successful outcome.

Before any amounts can be deducted from any resolution sum, the cost of operating the Funding Scheme, the amount of legal costs and disbursements, and the funding commission must first be approved by the Court. The Lead Plaintiffs will also seek a Common Fund Order so that all group members contribute to the costs and the funding commission regardless of whether they are a member of the Funding Scheme.

The funding commission is a percentage of the recovery which reflects the risks assumed by the litigation funders in funding the proceeding. Based on the risks presently known to the Lead Plaintiffs and the litigation funders (including the expected costs of conducting the class action), it is intended that the commission sought will be:

- 16% of any resolution sum up to \$50 million; plus
- 10% of any resolution sum to the extent it exceeds \$50 million.

4. What happens if there is not a successful outcome?

If there is not a successful outcome, the litigation funders will pay any adverse costs orders that are made. The Lead Plaintiffs and group members will not be asked to pay Shine Lawyers or Phi Finney McDonald's costs or disbursements. The litigation funders will not seek and are not entitled to recover from group members any costs they have paid in relation to the case.

5. Who can I contact to get further information about the funding of the class action?

Group members may contact Shine Lawyers, at no out-of-pocket cost, via:

Email	NuixClassAction@shine.com.au
Phone	1800 325 172
Website	https://www.shine.com.au/service/class-actions/nuix-class-action