



BRENDAN FRANCIS SINNAMON v MEDIBANK PRIVATE LTD

GROUP PROCEEDING SUMMARY STATEMENT

Case: S ECI 2023 02833

Filed on: 29/06/2023 02:33 PM

1. What is a class action?

Also known as a group proceeding or a representative proceeding, a class action is a case brought by a lead plaintiff on their own behalf and on behalf of seven or more people who have claims against the defendant that arise out of similar circumstances. A class action is an efficient way for the Court to resolve common questions of fact or law in a dispute.

2. Who is the defendant in this class action, and what is the claim about?

The claim is against Medibank Private Ltd (**Medibank**) and it concerns information available to investors who acquired an interest in Medibank shares over the period from 20 September 2020 to 25 October 2022 (inclusive) (**claim period**).

In October 2022, Medibank disclosed a major cyber incident that resulted in a criminal taking the personal data of 9.7 million customers and health claims data of around 480,000 customers.

The claim alleges that Medibank breached relevant provisions of the *Corporations Act 2001* (Cth) and the *Australian Securities and Investment Commission Act 2001* (Cth) by making misleading representations and further, failed to comply with its continuous disclosure obligations as an ASX-listed company, in relation to the information it provided (and failed to provide) to investors during the claim period about the adequacy of its privacy and information security controls.

The class action alleges that Medibank's share price was inflated by its disclosure failures, and that group members suffered loss and damage. Alternatively, the class action alleges that some group members would not have purchased shares in Medibank had the alleged wrongdoing not occurred.

3. Who is a group member in the Class Action?

You are automatically a group member if between 20 September 2020 and 25 October 2022 inclusive you acquired an interest in ordinary shares in Medibank and/or long exposure to Medibank shares by entering into equity swap confirmations in respect of Medibank shares.

If you do not wish to participate in the class action, there will be an opportunity for you to opt out of the class action at a future time.

If you do wish to participate in the class action and be entitled to receive compensation if the claim is successful, you will be required to formally register your claim at a future time.

You will receive a Notice or Notices about the opt out process and the registration process which explain these options and the steps you are required to take at a future date.

4. Who is the lead plaintiff and what is their role and responsibilities?

The lead plaintiff in the class action is Dr Brendan Sinnamon. It is the lead plaintiff's role to represent the group members and provide instructions to Phi Finney McDonald regarding the conduct of the case. The lead plaintiff may give evidence during the proceeding. In hearing

the lead plaintiff's case, the Court will consider questions of fact and/or law that are common to all group members.

5. Who is the law firm acting for the lead plaintiff?

Phi Finney McDonald acts for the lead plaintiff.

6. How is the class action funded?

The lead plaintiff intends to apply for a Group Costs Order pursuant to s 33ZDA of the *Supreme Court Act 1986* (Vic) at an early stage in the class action. If a Group Costs Order is made, under s 33ZDA, Phi Finney McDonald will indemnify the lead plaintiff in respect of adverse cost exposure as well as pay all legal costs and disbursements. The effect of a Group Costs Order if made, is that, if the case is successful – meaning that there is a settlement or the case succeeds at trial and damages are awarded by the Court – then, subject to further order, the legal costs payable to Phi Finney McDonald will be calculated as a percentage of any settlement sum or damages award (up to the conclusion of the trial of common issues) rather than on a time-billed basis. The Court will have control over the percentage fixed by the Group Costs Order and is required to approve it as fair and reasonable.

Liability for payment of the percentage fixed by the Group Costs Order would be shared among the lead plaintiff and all group members. That means that, pursuant to the Group Costs Order, an amount representing the percentage fixed by that order would be deducted from any settlement sum or damages award and paid to Phi Finney McDonald, before any distribution to the lead plaintiff and group members.

7. What costs are involved?

The lead plaintiff and group members will not be asked to pay anything upfront or out-of-pocket. Costs will only be payable in the event of a successful outcome, and then only as approved by the Court. Legal costs and any other amounts approved by the Court and payable to the Phi Finney McDonald will be deducted from, and will not exceed, any compensation that group members are entitled to receive. This means that **you will not be out of pocket by participating in the class action.**

If a successful outcome is not achieved in the class action, the lead plaintiff and group members will not be required to pay any costs or any other amounts to Phi Finney McDonald.

8. Are there any overlapping class actions?

As at the date of this class action statement, there is one overlapping class action against Medibank in the Supreme Court of Victoria: *Kilah v Medibank Private Ltd* S ECI 2023 01227, conducted by Quinn Emanuel Urquhart & Sullivan.

Other law firms have commenced class actions on behalf of consumers affected by the cyber-security incident in the Federal Court of Australia or filed representative complaints with the Office of the Australian Information Commissioner.

9. Who can I contact to get further information?

Group members may contact Phi Finney McDonald about the class action, at no out-of-pocket cost, via:

Email medibankshareholders@phifinneymcdonald.com

Phone (03) 9134 7100.

Group Members will not be charged for such enquiries.