

SUPREME COURT OF VICTORIA



NOTICE TO GROUP MEMBERS:

REGISTRATION & OPT OUT

NOTICE

MEDIBANK SHAREHOLDER CLASS ACTION

Robert Laird Kilah & Brendan Francis Sinnamon v Medibank Private Limited
(S ECI 2023 01227)

THIS NOTICE IS SENT BY ORDER OF THE SUPREME COURT OF VICTORIA.
IT IS IMPORTANT THAT YOU READ THIS NOTICE CAREFULLY BECAUSE IT MAY
AFFECT YOUR LEGAL RIGHTS.

THE CLASS DEADLINE IS 1 NOVEMBER 2024

SUMMARY

- A. This notice has been issued pursuant to an order of the Supreme Court of Victoria. It is about a class action called the Medibank Shareholder Class Action (**Medibank Class Action**).
- B. If you have been sent this notice, you may be a Group Member in the Medibank Class Action, if you acquired an interest in shares in Medibank Private Limited (ASX: MPL) (**Medibank**) or acquired long exposure to Medibank shares by entering into equity swap confirmations in respect of Medibank shares during the period 1 July 2019 to 25 October 2022 (inclusive).
- C. The claim arises from a cyber data breach in Medibank's information technology (IT) network, which resulted in substantial volumes of data, including the personal and health claims data of customers collected by Medibank, being accessed by one or more hackers. The stolen data was later released on the dark web. The Plaintiffs allege that Medibank failed to make disclosures to the market as to its cybersecurity and IT controls and/or misled the market through public statements it made regarding its cybersecurity and IT controls and its systems of risk oversight and management of its customers' personal and private information. Medibank denies these allegations and is defending the claims. Further details of the claims made in the proceeding can be found in section A below.
- D. If you wish to be eligible to take part in any settlement reached between the Plaintiffs and Medibank at an upcoming mediation, you must register your claim with the lawyers for the Plaintiffs by **4:00pm AEDT on 1 November 2024**. The Court has ordered that the parties attend a mediation by 31 March 2025. A mediation allows the parties to explore whether they can reach agreement about the outcome of the action (subject to Court approval).

YOUR OPTIONS

- E. Your options on how to respond to this notice are set out below. These three options are:
- (a) **OPTION 1: Register** → The deadline to register your claim is **4:00pm AEDT on 1 November 2024**. If you do not register by the deadline, you will remain a Group Member in the Medibank Class Action but, subject to further order of the Court, you will not be entitled to obtain any benefit pursuant to any settlement reached by the parties at any point up to three months after the first day of mediation. Registering your claim is cost free. At no stage will you be liable for any out of pocket costs by registering your claim. Click here to register <https://phifinneymcdonald.com/action/medibank-shareholder-class-action/> or alternatively submit a Registration Form (found at Schedule 1 of this Notice) by email to medibankshareholders@phifinneymcdonald.com or by post to Phi

Finney McDonald, Level 3, 325 Flinders Lane, Melbourne VIC 3000.

- (b) **OPTION 2: Opt Out** → If you no longer wish to be a Group Member of the Medibank Class Action, you can opt out of the class action. The deadline to opt out is **4:00pm AEDT on 1 November 2024**. The Online Opt Out form is available to complete online at <https://www.supremecourt.vic.gov.au/areas/group-proceedings/medibank-private/opting-out> or you can email or post an Opt Out Form (found at Schedule 2 of this Notice) to the Commercial Court Registry of the Supreme Court of Victoria.
- (c) **OPTION 3: Do nothing** → If you do nothing in response to this Notice you will remain a Group Member of the Medibank Class Action but, subject to any further order of the Court, you will not be entitled to obtain any benefit pursuant to any settlement reached at any point up until three months after the first day of mediation.

If you have any questions, you should contact the lawyers conducting the Medibank Class Action whose contact details are set out below or alternatively, obtain your own legal advice.

A. WHAT IS THE CLASS ACTION ABOUT?

1. The Plaintiffs, Mr Robert Kilah and Dr Brendan Sinnamon, have commenced a class action on behalf of themselves and all shareholders who acquired an interest in Medibank shares or acquired long exposure to Medibank shares by entering into equity swap confirmations in respect of Medibank shares during the period 1 July 2019 to 25 October 2022 (inclusive) (**Claim Period**).
2. The Plaintiffs' claims relate to a series of announcements made by Medibank from October 2022 about a major cyber incident in its network that resulted in a data breach of customer information.
3. In broad terms, the Plaintiffs allege that during the Claim Period, Medibank:
 - (a) failed to comply with its continuous disclosure obligations as an ASX-listed company to disclose information to investors about the adequacy of privacy and information security controls; and
 - (b) breached relevant provisions of the *Corporations Act 2001* (Cth), the *Australian Securities and Investment Commission Act 2001* (Cth) and the *Competition and Consumer Act 2010* (Cth) by making misleading or deceptive representations to the market about the adequacy of its privacy and information security controls(**Medibank's alleged misconduct**).

4. The Plaintiffs allege that, by reason of Medibank's alleged misconduct, the price of Medibank shares was inflated throughout the Claim Period, and the Plaintiffs and Group Members suffered loss and damage following Medibank's announcements about the 2022 cyber incident to the market.
5. Medibank denies the allegations and is defending the Medibank Class Action.
6. The Court has ordered there be a mediation by no later than 31 March 2025.

B. ARE YOU A GROUP MEMBER IN THE MEDIBANK CLASS ACTION?

If you received this notice, it is because Medibank's shareholder records, obtained from the Share Registry, indicate that you meet the criteria below and may be a Group Member.

7. You are a Group Member if you meet the following criteria:
 - (a) If, during the Claim Period (1 July 2019 to 25 October 2022 (inclusive)), you:
 - (i) acquired an interest in, or entered into a contract to acquire an interest in, ordinary shares in Medibank (**MPL Shares**); and/or
 - (ii) acquired long exposure to MPL Shares by entering into equity swap confirmations in respect of MPL Shares (**MPL Equity Swaps**);
 - (b) if you have suffered loss or damage by, because of or resulting from the alleged misconduct of Medibank as pleaded in the Consolidated Statement of Claim; and
 - (c) if you were not, during the Claim Period, and are not as at 3 October 2023, any of the following:
 - (i) any of the persons referred to in s 33E(2) of the *Supreme Court Act 1986* (Vic);
 - (ii) a related party (as defined by s 228 of the *Corporations Act 2001* (Cth)) of Medibank;
 - (iii) a related body corporate (as defined in s 50 of the *Corporations Act*) of Medibank;
 - (iv) an associated entity (as defined in s 50AAA of the *Corporations Act*) of Medibank;
 - (v) an officer or close associate (as defined in s 9 of the *Corporations Act*) of Medibank;
 - (vi) an officer or employee of, or other legal practitioner engaged by, the solicitors for the plaintiffs in relation to this proceeding.

8. The full Group Member definition appears at paragraph 1 of the Plaintiffs' Consolidated Statement of Claim, a copy of which is available at <https://www.supremecourt.vic.gov.au/areas/group-proceedings/medibank-private>.
9. If you meet the above criteria, you are a Group Member in the Medibank Class Action and you should read this Notice carefully as it will affect your rights.

C. OPTIONS
OPTION 1 – REGISTER

10. If you wish to obtain any benefit pursuant to any settlement reached by the parties at any point up until three months after the first day of mediation, you must register your claim.
11. It is free to register. You will not be liable for any upfront or “out of pocket” costs by registering your claim.
12. To register, you must complete and submit a Registration Form by **4.00pm AEDT on 1 November 2024**.
13. The Registration Form is available to complete online at <https://phifinneymcdonald.com/action/medibank-shareholder-class-action/> or by submitting a Group Member Registration Form found at **Schedule 1** of this Notice by email to medibankshareholders@phifinneymcdonald.com or by post to Phi Finney McDonald, Level 3, 325 Flinders Lane, Melbourne VIC 3000.
14. If you have previously registered your interest in the Medibank Class Action with Phi Finney McDonald (**PFM**) and Quinn Emanuel Urquhart & Sullivan (**Quinn Emanuel**) (collectively, the **Plaintiffs' Lawyers**), you do not need to register again, but you may be contacted by a representative of the Plaintiffs' Lawyers to ensure that you have provided all the information that is necessary in order to complete your registration.
15. If you do not register by the deadline of **4.00pm AEDT on 1 November 2024** and a settlement is reached between the Plaintiffs and Medibank at any point up until three months after the first day of mediation, you will remain a Group Member but you will not be entitled to obtain any benefit pursuant to the settlement, even if you would otherwise have had an eligible claim, subject to further order of the Court.

OPTION 2 – OPT OUT AND CEASE TO BE A GROUP MEMBER

16. If you do not want to remain a Group Member in the Medibank Class Action, you must opt out by **4.00pm AEDT on 1 November 2024**.
17. If you wish to opt out, you can do so by:
 - (a) completing and submitting an “Online Opt Out” through the Supreme Court of Victoria website at: <https://www.supremecourt.vic.gov.au/areas/group-proceedings/medibank-private/opting-out>; or
 - (b) completing an Opt Out Form found at **Schedule 2** of this Notice and returning a copy of the completed notice to the Commercial Court Registry of the Supreme Court of Victoria:
 - (i) by post to:
Commercial Court Registry
Supreme Court of Victoria
210 William Street
Melbourne, Victoria 3000
 - or,
 - (ii) by email at medibankclassaction@supcourt.vic.gov.au
18. If you wish your opt out to be valid and effective, you must complete the Opt Out Form or the Online Opt Out either:
 - (a) by personally signing or personally affixing your electronic signature;
 - (b) in the case of a corporation who is a group member, by a director of the corporation personally signing or personally affixing their electronic signature;
 - (c) by your solicitor personally authorised to act on your behalf personally signing or personally affixing their electronic signature as your solicitor;
 - (d) in the case of an estate of a group member who is now deceased, by the executor personally signing or personally affixing their electronic signature; or
 - (e) in the case of a person holding a power of attorney for you, by the attorney personally signing or personally affixing their electronic signature and details of the power of attorney.
19. If you opt out of the Medibank Class Action:
 - (a) you will not be bound by any order, judgment, or settlement in the Medibank Class Action;
 - (b) you will not be entitled to share in the benefit of any order, judgment, or settlement in the Medibank Class Action; and
 - (c) you may be able to commence separate proceedings against Medibank on your own behalf to claim compensation outside of the Medibank Class Action provided you issue those proceedings within the time limit applicable to your claim.

20. If you are unsure on how opting out will affect your rights, you should seek independent legal advice about your claim and the applicable time limit prior to opting out.
21. Each Group Member seeking to opt out should fill out a separate Opt Out Form or Online Opt Out.
22. Opt Out Forms or Online Opt Outs received after **4.00pm AEDT on 1 November 2024** will not be accepted without leave of the Court and you will be treated as having not responded to this Notice.

OPTION 3 – DO NOTHING IN RESPONSE TO THIS NOTICE

23. If you do nothing in response to this Notice (i.e. neither register, nor opt out), you will remain a Group Member in the Medibank Class Action.
24. The practical implications of doing nothing in response to this Notice are that:
 - (a) If a settlement is reached between the Plaintiffs and Medibank at any point up until three months after the first day of mediation and the settlement is approved by the Court, you will not be entitled to obtain any benefit pursuant to any settlement, without leave of the Court. You will, however, be bound by the settlement, including any terms releasing Medibank in respect of matters related or similar to the claims the subject of the Medibank Class Action (despite not being eligible to seek any benefit). This means that your right to bring your own claim against Medibank for matters related or similar to the claims that are the subject of the Medibank Class Action will be extinguished.
 - (b) If no settlement is reached between the Plaintiffs and Medibank before trial, you will be bound by the final judgment, and you will be entitled to obtain compensation and/or damages (if you satisfy the eligibility criteria set down by the Court) in the event that the Court finds in favour of the Plaintiffs and Group Members. If the Medibank Class Action is unsuccessful, or is not as successful as you might have wished, you will not be able to sue on the same claim in any other proceedings.

D. FUNDING OF THE MEDIBANK CLASS ACTION

25. The Court has made a Group Costs Order in the Medibank Class Action at a rate of 27.5% inclusive of GST, subject to further order.
26. Quinn Emanuel and PFM are financing the plaintiffs' legal costs in the Medibank Class Action.
27. A Group Costs Order is an order of the Court permitting the legal costs payable

to the Plaintiffs' Lawyers to be calculated as a percentage of the amount of any award or settlement sum if the Medibank Class Action is successful – that is, if money is paid by Medibank to resolve the claims of the Plaintiffs and Group Members in the case. This can happen: (a) if the Plaintiffs and Medibank settle the case in principle at mediation and the Court approves the settlement, or (b) through a judgment after the case is heard by the Court in a trial, or otherwise.

28. If the Medibank Class Action is successful:
- (a) The Plaintiffs' Lawyers will be paid 27.5% (inclusive of GST), subject to any further order, as legal costs of the amount of any award of damages or any settlement sum approved by the Court, prior to those damages or that settlement sum being distributed to Group Members.
 - (b) The Court will assess whether the costs proposed to be deducted from any settlement sum are fair and reasonable. You will be given a notice at that time informing you of the amount which is proposed to be deducted and given an opportunity to tell the Court if you agree or disagree with what is proposed.
29. If the Medibank Class Action is unsuccessful:
- (a) Group Members will not pay any costs.
 - (b) An adverse costs order will not be made against you as a Group Member. In litigation, the Court will typically order the losing party to pay a proportion of the legal costs of the successful party. In class actions, only the plaintiff faces the risk of an adverse costs order if the action fails. The effect of the Group Costs Order is that, if the Medibank Class Action is unsuccessful, the Plaintiffs' Lawyers will be liable to pay any costs payable to Medibank in the proceeding and will not be entitled to recover from the Plaintiffs or Group Members any legal costs or disbursements incurred or paid on their behalf in relation to the Medibank Class Action.

E. OTHER MATTERS

30. Please consider the matters addressed in this Notice carefully.
31. If you wish to seek further information about the Medibank Class Action, you can visit <https://www.supremecourt.vic.gov.au/areas/group-proceedings/medibank-private>; <https://mplshareholderclassaction.com.au/> and <https://phifinney-mcdonald.com/action/medibank-shareholder-class-action/>

32. If there is any information in this notice that you are unsure about, or you have any questions or comments about the Notice, you can contact the Plaintiffs' Lawyers by:
 - (a) emailing medibankshareholders@phifinneymcdonald.com; or
 - (b) by telephone on (02) 9146 3500 (QE) and (03) 9134 7100 (PFM).
33. You may also seek your own legal advice. You should not delay in making your decision.
34. The Supreme Court should **not** be contacted for legal advice.

SCHEDULE 1

OPTION 1: REGISTER TO PARTICIPATE
MEDIBANK CLASS ACTION

GROUP MEMBER REGISTRATION FORM

COMPLETE THIS FORM IF YOU WANT TO **REGISTER** FOR THE MEDIBANK CLASS ACTION. YOU MAY REGISTER ONLINE VIA

<https://phifinneycdonald.com/action/medibank-shareholder-class-action/>

OR

COMPLETE AND RETURN THIS FORM TO PHI FINNEY McDONALD AT ONE OF THE ADDRESSES BELOW.

IF YOU WISH TO **OPT OUT OF THE MEDIBANK CLASS ACTION** YOU MUST COMPLETE AN OPT OUT FORM- SEE **OPTION 2.**

A. CONTACT / IDENTIFICATION DETAILS

Name of person completing this form:	
Email address:	
Postal address:	
Telephone number:	
Holder Identification Number (HIN) or Securityholder Reference Number (SRN):	
Are you filling out this form on behalf of a company, SMSF or someone else who is or was a holder of Medibank Securities?	<input type="checkbox"/> Yes – I am filling this out on behalf of a company, SMSF or another person or entity who is or was the owner of, or beneficially entitled to, Medibank Securities. <input type="checkbox"/> No – I am filling this out for myself, and I am or was the owner of, or beneficially entitled to, Medibank Securities.
If Yes to the above, in what capacity do you represent the person or entity who owned or was beneficially entitled to Medibank Securities? (ie. Director of company, trustee of trust, solicitor for the person or entity, person authorised to act by power of attorney)	

If Yes to the above, name of company entity or person who owned or was beneficially entitled to the securities and on whose behalf this form is being completed?	
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B. HOLDING DETAILS

Opening balance:

Number of Medibank Shares held (or in the case of Medibank Equity Swaps, the number of Medibank Shares to which the equity swap relates) as at the commencement of trading on 1 July 2019:	
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Closing balance:

Number of Medibank Shares held (or in the case of Medibank Equity Swaps, the number of Medibank Shares to which the equity swap relates) as at the close of trading on 25 October 2022:	
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Medibank Equity Swaps

An equity swap is a derivative contract where two parties exchange the return on an underlying equity asset, like a stock or stock index, for the return on another asset, usually a fixed or floating interest rate.

If you are a holder of Medibank Equity Swaps, when returning this form (via post or email) please also provide:

- (a) copies of the instruments and documents for each equity swap and related transaction (including any back-to-back transaction);
- (b) details of all other arrangements entered into in connection with each equity swap; and
- (c) details of any other trading in, or other transactions relating to, Medibank Shares that affect or may affect the calculation of loss under each equity swap.

C. SIGNATURE

Signature of person completing form:

Name of person completing form:

Date of signature:

D. DELIVERY INSTRUCTIONS

Please return the completed form by email or post to the following address, so that it is received by no later than **4.00 pm (AEDT) on 1 November 2024**:

Email: medibankshareholders@phifinneymcdonald.com

Post: Phi Finney McDonald
 Level 3, 325 Flinders Lane,
 Melbourne VIC 3000

By signing and sending this form to Phi Finney McDonald, you acknowledge that:

- you are the registrant or are acting on behalf of and with the authority of the registrant;
- the information you have provided above is true and correct to the best of your knowledge; and
- you have read and understood the Phi Finney McDonald Privacy Policy, found at: <https://phifinneymcdonald.com/privacy-policy/>

SCHEDULE 2

MEDIBANK SHAREHOLDER CLASS ACTION

Robert Laird Kilah & Brendan Francis Sinnamon v Medibank Private Limited
(S ECI 2023 01227)

OPTION 2: NOTICE OF OPTING OUT BY GROUP MEMBER (OPT OUT FORM)

Only complete this form if you wish to **OPT OUT** of the Medibank Class Action. If you Opt Out, you will no longer be a Group Member of the Medibank Class Action.

To: Commercial Court Registry
Supreme Court of Victoria
210 William Street
Melbourne Victoria 3000
medibankclassaction@supcourt.vic.gov.au

I, [*print name*]....., am
(select **one** option only)

- a group member;
- a director of [*company*]which is a group member; or
- an Executor for the Estate of [*print name*]which is a group member; or
- a power of attorney for [*print name*]..... who/which is a group member; or
- a solicitor acting for [*print name*] who/which is a group member.

in the above group proceeding, and give notice under section 33J(2) of the *Supreme Court Act 1986* (Vic) that I am **opting out** of this proceeding (if a group member) or on behalf of the group member whom I represent (if I am a representative of that group member).

Date:	
Signature of group member, director of group member, Executor, power of attorney or solicitor for group member:	
Email address of group member:	
Postal address of group member:	

If you would like to **opt out** of the Medibank Class Action, please complete this form online via the Supreme Court of Victoria website **OR** return this completed form to the Supreme Court of Victoria by email or by post, at the addresses on this form, by **4:00pm AEDT on 1 November 2024**.