



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID758/2019

**WETDAL PTY LTD (ACN 145 536 661) AS TRUSTEE FOR THE BLUECO TWO SUPERANNUATION FUND** and another named in the schedule  
Applicant

**ESTIA HEALTH LIMITED (ACN160 986 201)**  
Respondent

### **ORDER**

**JUDGE:** JUSTICE MIDDLETON

**DATE OF ORDER:** 26 February 2021

**WHERE MADE:** Melbourne

#### **THE COURT ORDERS THAT:**

1A. The orders made previously on 25 February 2021 at 9.30am be vacated.

#### **Notice of Proposed Settlement and Approval Hearing**

1. Pursuant to sections 33X and 33Y of the *Federal Court of Australia Act 1976* (Cth) (**Act**), approval of the form and content of the notice of proposed settlement to group members set out in **Annexure A** to these orders (**Settlement Notice**).
2. Pursuant to sections 33X and 33Y of the Act, orders for sending of the Notice to group members within 7 business days from the date these orders are made according to the following procedure:
  - a. the Respondent shall instruct its share registry to prepare a list of contact details (including the last known postal address and/or email address) for all security holdings for which securities in Estia were recorded on the Estia Health Ltd share register as acquired between 12 August 2015 and 9:52am on 6 October 2016 (inclusive);



- b. the Respondent shall cause the Notice to be sent by email to any of the security holders that have email addresses recorded on the share register;
- c. to the extent that any security holder does not have an email address recorded on the share register, the Respondent shall cause the Notice to be sent by prepaid ordinary post to that security holder at the address recorded for that person on the share register;
- d. to the extent that any email sent to a security holder referred to in order (b) above experiences a delivery failure, the Respondent shall cause the Notice to be sent by prepaid ordinary post to that security holder at the address recorded for that person on the share register, within 2 business days of receiving that delivery failure notice;
- e. the Applicants shall cause a copy of the Notice to be sent by email to each Group Member who registered their claim in accordance with paragraph 6 of the orders made by Justice Middleton on 3 March 2020 (**Registered Group Members**);
- f. the Applicants shall cause a copy of the Notice to be sent by email to each Group Member who attempted to register their claim with Investor Claim Partner Pty Ltd, ICP Capital Pty Ltd and LLS Fund Services Pty Ltd (together, the **Funders**) or the Applicants' solicitors (Phi Finney McDonald), but did not register their claim in accordance with paragraph 6 of the orders made by Justice Middleton on 3 March 2020;
- g. the Applicants shall cause a copy of the Amended Statement of Claim, Defence to the Amended Statement of Claim and the Notice to be displayed on the website of the Applicants' solicitors (at <http://phifinneymcdonald.com/projects/>) and to remain continuously so displayed up to and including the hearing of the Approval Application (as that term is defined in paragraph 6 below); and
- h. the District Registrar of the Victorian Registry of the Federal Court shall cause the Notice to be posted on the Federal Court website and be available for inspection at each of the District Registries of the Federal Court in Sydney, Melbourne, Canberra, Brisbane, Adelaide, Perth, Hobart and Darwin.



3. The Settlement Notice may be amended by the Applicants before it is emailed, posted or published in order to correct any postal, website, email address or telephone number or any typesetting or typographical error.
4. The costs of and incidental to the procedure set out in order 2 (including the costs charged by the share registry service provider, Link Market Services Limited and/or its subsidiary Link Digicom (**Link**)) shall be initially paid by the Applicants, but otherwise the costs of and incidental to that procedure set out in order 2 are to be costs in the proceeding.

#### **Notice of Estimated Distribution**

5. Within 14 days from the date these orders are made, the Funders and/or the Applicants' solicitors shall cause the Notice of Estimated Distribution, in the form set out in **Annexure B** to these orders, to be sent to Registered Group Members and (at the discretion of the Funders and/or the Applicants' solicitors) some or all of the Group Members described at paragraph 2(f) above.

#### **Directions in relation to the Approval Application**

6. The Applicants' application dated 17 February 2021 (**Approval Application**), be listed for hearing before his Honour Justice Beach (**Approval Judge**) at 10.15am AEST on 12 April 2021 (**Approval Hearing**).
7. All other timetabling and listing dates for the proceeding be vacated.
8. The Funders have leave to intervene in, and be jointly represented in relation to the Approval Application.
9. By 4.00pm on 1 April 2021:
  - a. the Applicants are to file and serve:
    - (i) a proposed minute of the orders to be sought at the Approval Hearing (and any ancillary or further order to be sought as part of the Approval Application);



- (ii) evidence in relation to the Approval Application; and
    - (iii) an outline of submissions in relation to the Approval Application;
  - b. the Funders are to file and serve:
    - (i) any evidence in relation to the Approval Application; and
    - (ii) any outline of submissions in relation to the Approval Application;
  - c. the Respondent is to file and serve:
    - (i) any evidence in relation to the Approval Application; and
    - (ii) any outline of submissions in relation to the Approval Application.
- 10. Until further order, the Applicants and the Funders have leave to file any submissions, affidavit or annexure or part thereof, in respect of which they seek confidentiality orders, in a sealed envelope marked “*Confidential Material – Not to be Opened Except by Direction of a Judge or the Court*” and are excused from any requirement to serve any such confidential submission, affidavit or annexure or confidential part thereof on any party.
- 11. Pursuant to s 33ZF of the Act, 4.00 pm on 24 March 2021 be fixed as the date by which any group member who wishes to oppose the Proposed Settlement (as that term is defined in paragraph 2 of the Settlement Notice), or any aspect of it, must file a completed Notice of Objection in the form annexed to the Notice distributed under paragraph 2 of these orders to the Court by email to Associate.BeachJ@fedcourt.gov.au and kate.vanrenen@phifinneymcdonald.com.
- 12. By 4.00 pm on 26 March 2021, any Group Member who has provided to the Court a Notice of Objection must provide to the Court, by email to Associate.BeachJ@fedcourt.gov.au, and the Applicants’ solicitors by email to kate.vanrenen@phifinneymcdonald.com:
  - a. any evidence upon which the Group Member relies; and



- b. any written submissions upon which the Group Member relies, in support of the Notice of Objection.
13. The Applicants and Respondent are to file any completed Notice of Objection in the form annexed to the Notice distributed under paragraph 2 of these orders, in the Victorian District Registry of the Federal Court of Australia within two days after receipt, and the completed Notice of Objection shall be treated as Notice of Objection received by the Court at the time it was received by the Applicants or Respondent.
14. The Applicants, the Funders and the Respondent have leave to inspect the Court file and to copy, or to obtain from the chambers of the Approval Judge, any Notice of Objection filed with the Court.

#### **Costs Reference**

15. Pursuant to s 33ZF(1) and/or s 37P(2) and/or s 54A of the Act, and Division 28.6 of the *Federal Court Rules 2011* (Cth), Ian Ramsey-Stewart (**Referee**) is appointed for the purpose of conducting an inquiry (**Reference**) and making a report in writing to the Court (**Report**) stating, with reasons, the Referee's opinion on the following two issues:
  - a. the reasonableness of the Applicants' legal costs for work done up to the date of the hearing of the application for Proposed Settlement (including costs anticipated and yet to be incurred as at the date of the Report); and
  - b. the reasonableness of the sum proposed for settlement administration costs.
16. The Referee is to submit the Report to the Court in accordance with r.28.66, addressed to the chambers of the Approval Judge on or before 26 March 2021, or such further date as the Court may determine. Unless the Court so orders, the Referees' fees shall not exceed \$22,000 inclusive of GST.
17. Without affecting the power of the Court as to costs, the Applicants are to be liable to the Referee for the Referee's fees.



18. The cost of the Reference shall form part of the Applicants' costs and shall be deducted from the settlement sum prior to any distribution of the settlement sum to eligible group members, if the settlement is approved.
19. The Referee shall provide a copy of the Report to the Applicants and the Applicants' solicitors.
20. The Referee is not bound to conduct the Reference in accordance with the rules of evidence; and in the Report shall, to the extent it was necessary for the Referee to make any findings of fact in order to express her opinion on the issues:
  - a. make a statement of the facts found by the Referee from which the Court may draw such inferences as it thinks fit; and/or
  - b. submit any matter arising on the Reference for the decision of the Court, and provide alternative opinions on the issue, depending on how the Court determines the matter submitted to the Court.
21. If, for any reason, the Referee is unable to comply with the order for delivery of the Report to the Court by 26 March 2021, the Referee is to communicate that fact to the chambers of the Approval Judge as soon as it becomes apparent to the Referee that they will be unable to do so.
22. The Referee has liberty to seek directions with respect to any matter arising in connection with the Reference.

### **Miscellaneous**

23. Within 10 days from the date of these orders, the Applicants will provide to the Respondent's insurer (Allianz Australia Insurance Limited) (but not the Respondent) via email to Naomi.Lin@allianz.com.au a confidential Excel spreadsheet with the details set out in **Annexure C** to these orders of each Registered Group Member (**Review List**) for the sole purpose of the Respondent's insurer's compliance with legal obligations concerning the prevention of payment to persons or entities associated with terrorism and/or money laundering (**Prohibited Person**).



24. Within 21 days from the date of the Applicants providing notice in accordance with order 23, the Respondent's insurer is to disclose to the Applicants' solicitors on a confidential basis the names of any person or entity identified by them to be on the Review List and be a Prohibited Person.

Date that entry is stamped: 26 February 2021

*Sia Lagos*  
Registrar



**Schedule**

No: VID758/2019

Federal Court of Australia  
District Registry: Victoria  
Division: General

Second Applicant      RONALD JOHN RENTON





**“Annexure A” – Notice of Proposed Settlement**

[This page is intentionally left blank]



## ESTIA CLASS ACTION

*Wetdal Pty Ltd as trustee for the Blueco Two Superannuation Fund & Anor v Estia Health Limited*

### NOTICE OF PROPOSED SETTLEMENT

This Notice is provided pursuant to Orders made by the Federal Court of Australia on 26 February 2021.

This Notice is an important legal document and you should read it carefully as it concerns your legal rights.

1. You have received this Notice because you have been identified as a potential group member in the Federal Court of Australia proceeding *Wetdal Pty Ltd as trustee for the Blueco Two Superannuation Fund & Anor v Estia Health Limited (VID758/2019) (Estia class action)*.
2. In summary, this Notice is to inform you that a conditional settlement of AUD\$37.75 million (**Settlement Sum**), inclusive of legal fees, expenses, disbursements, any funding commission and interest, has been reached in the proceeding between the Applicants and the Respondent (Estia Health Limited (**Estia**)) to resolve the claims of all Group Members (**Proposed Settlement**). The Proposed Settlement is without admission of liability by Estia.
3. The Applicants (who bring the action on behalf of themselves and Group Members) are represented by solicitors Phi Finney McDonald (with assistance from William Roberts Lawyers), and the class action has been funded by Investor Claim Partner Pty Ltd and ICP Capital Pty Ltd (together, **ICP**) and LLS Fund Services Pty Ltd (**LLS**).
4. The Proposed Settlement requires Court approval to be effective and for monies to be distributed to eligible Group Members. The Court must assess whether any class action settlement is fair and reasonable in the interests of Group Members. The Court has been asked to approve the Proposed Settlement at a hearing to be held at 10.15am on 12 April 2021, Australian Eastern Standard Time (**AEST**) (**Settlement Approval Hearing**). You are entitled to attend the hearing if you wish to.
5. If you **do not** oppose the proposed settlement, no action is required. However, if you wish to oppose the proposed settlement, you must take the steps outlined in Part F of this Notice.
6. If there is anything in this Notice that you do not understand or if you have any questions, you should **not** contact the Federal Court and should instead seek independent legal advice or contact Phi Finney McDonald (for contact details see paragraph 32 of this Notice, below).



## A. BACKGROUND

7. The Estia class action was commenced on 15 July 2019 and alleges that:
  - a. Estia engaged in misleading and/or deceptive conduct in breach of section 12DA of the *Australian Securities and Investments Commission Act 2001* (Cth), section 1041H(1) of the *Corporations Act 2001* (Cth) and section 18 of the Australia Consumer Law, and breached its obligations of continuous disclosure, in contravention of section 674(2) of the *Corporations Act 2001* (Cth) and the ASX Listing Rules, between the period 12 August 2015 to 9:52am on 6 October 2016 (inclusive) (**Claim Period**);
  - b. the conduct of Estia caused its securities to trade on the ASX at artificially inflated prices; and
  - c. persons who acquired Estia shares within the Claim Period have suffered compensable loss.
8. The allegations are denied by Estia. Estia defended the class action and the Proposed Settlement acknowledges that Estia makes no admissions as to liability.
9. Full details of the allegations made by the Applicants and of Estia's defence against those allegations are set out in the Amended Statement of Claim and Defence. See Part H of this Notice, below, for details on how to access these documents.

## B. GROUP MEMBERS

10. You are receiving this Notice because you have been identified as a potential group member in the Estia class action.
11. A group member is defined in the Amended Statement of Claim as someone who:
  - a. acquired an interest in ordinary fully paid shares in Estia during the Claim Period; or
  - b. acquired long exposure to Estia shares by entering into equity swap confirmations in respect of Estia shares during the Claim Period; and
  - c. suffered loss or damage by or resulting from the conduct of Estia as alleged in the Amended Statement of Claim; and
  - d. is not a director, officer, close associate, related party, related body corporate or associated entity of Estia, or a Justice, Registrar, District Registrar, or Deputy District Registrar of the High Court of Australia or the Federal Court of Australia; and
  - e. did not opt out of the proceeding in accordance with the orders of Justice Middleton dated 3 March 2020.

### (Group Member)



12. All Group Members will be bound by the terms of the Proposed Settlement, if approved by the Court. However, your rights in relation to the Estia class action depend on whether you are a Registered Group Member or an Unregistered Group Member:

- a. **Registered Group Members** are those Group Members who registered their claims in accordance with the orders of Justice Middleton dated 3 March 2020. Registered Group Members are to be bound by the settlement and are to be eligible to participate in the distribution and potentially receive monies from the Settlement Sum.
- b. **Unregistered Group Members** are those Group Members who have not registered as a group member in the Estia class action in accordance with paragraph 12a.

If you are an Unregistered Group Member, then unless the Court otherwise orders, you are still a Group Member (unless you opted out) but are not entitled to participate in the Proposed Settlement or receive compensation from it, but you will be bound by it and precluded from making any further claims against Estia or its related entities (including related bodies corporate and Estia's past or present directors and officers) which relate to the subject matter of the Estia class action (which includes the facts and circumstances giving rise to the allegations described in the Statement of Claim and the Amended Statement of Claim). If you are an Unregistered Group Member and you now wish to participate in the Proposed Settlement, please notify Phi Finney McDonald on (03) 9134 7100, or by email to [kate.vanrenen@phifinney-mcdonald.com](mailto:kate.vanrenen@phifinney-mcdonald.com) by no later than 4:00pm (AEDT) on 24 March 2021. You must also fill out a Notice of Objection to Proposed Settlement, and send it to Phi Finney McDonald by that date so that the Applicants and the Court have information about your claim. Your wish to register for the proposed settlement after the Class Deadline will be notified to the Court, which will decide as part of deciding whether to approve the settlement, whether you are entitled to participate in the settlement. See further Section G below.

13. If you are not sure whether you are a Registered Group Member, please contact ICP on [estiaclassaction@icp.net.au](mailto:estiaclassaction@icp.net.au) or 1800 26 26 00.
14. All group members (whether you are a Registered Group Member or an Unregistered Group Member) have the right to be heard at the Settlement Approval Hearing on whether the settlement should be approved. See Section G below.

#### **D. PROPOSED SETTLEMENT AND COURT APPROVAL**

15. Under the terms of the Proposed Settlement, Estia will pay, without admission of liability, a Settlement Sum of AUD\$37.75 million, inclusive of legal costs, expenses and disbursements, any funding commission and interest.
16. The Proposed Settlement includes covenants and releases that are commonly agreed in class action settlements. If the Proposed Settlement is approved by the Court as



fair and reasonable, all claims made by the Applicants and Group Members against Estia in the Estia class action will be finally resolved, regardless of whether you are a Registered or Unregistered Group Member (but this will not apply to any person who filed an opt-out notice in the Estia class action), and Group Members (whether Registered or Unregistered) will not be permitted to make any further claims against Estia or its related parties (including related bodies corporate and Estia's past or present directors and officers) which relate to the subject matter of the Estia class action (which includes the facts and circumstances giving rise to the allegations described in the Statement of Claim and the Amended Statement of Claim).

17. If the Proposed Settlement is not approved by the Court, the Estia class action will continue and there will be no distribution of compensation to group members unless and until the Applicants are successful in the proceeding, or a further settlement is reached.
18. At the Settlement Approval Hearing, the Applicants will seek orders from the Court to approve a proposed Settlement Distribution Scheme which will establish how Registered Group Members' entitlements are to be calculated, and the process to distribute the Settlement Sum as efficiently as possible. This is explained further in paragraphs 19 – 23 below.

#### **E. SETTLEMENT DISTRIBUTION SCHEME**

19. The process by which the Settlement Sum is proposed to be distributed will be outlined in the proposed Settlement Distribution Scheme. The proposed Settlement Distribution Scheme will include a confidential schedule containing a "Loss Assessment Formula" which details how each Registered Group Member's entitlement will be calculated. The proposed Settlement Distribution Scheme and the Loss Assessment Formula are subject to Court approval.
20. The Settlement Distribution Scheme proposes that after making deductions (see below) the settlement will be distributed between Registered Group Members. The amount of compensation to be paid to each Registered Group Member under the Settlement Distribution Scheme will depend on a number of factors, such as the number of shares purchased by that Registered Group Member, the date of purchase, whether any of those shares were sold, the overall losses of all Registered Group Members sharing in the Proposed Settlement, the total amount of the deductions from the Settlement Sum which are approved by the Court and any interest earned on the Settlement Sum prior to final distributions. If you are not a Registered Group Member see above what steps you can take.
21. Under the proposed Settlement Distribution Scheme, the following amounts (subject to Court approval) will be deducted from the Settlement Sum before it is distributed to Registered Group Members, shared on a pro rata basis by all Registered Group Members:
  - a. legal costs estimated at approximately \$5.2 million. The Applicants will seek Court approval of legal costs in an amount to be determined as fair and



reasonable by the Court, having regard to the opinion of an independent expert costs assessor. The Court may approve an amount for legal costs which is different to this estimate;

- b. other Project Costs paid by the Funders of approximately \$1.1 million, principally relating to client management services and the payment of premiums for adverse costs insurance and three deeds of indemnity provided by way of security for costs in the Estia class action;
  - c. funding commission rate of between 22% and 25% and a management services fee of 3% owed by Funded Group Members to the Funders in accordance with the funding agreements (approximately \$10 million) to be paid to the Funders (this is explained further at paragraphs 24 – 26 below);
  - d. payment to the Applicants estimated at approximately \$19,000 to reimburse them for time, trouble and expenses incurred in representing Group Members in the Estia class action; and
  - e. administration costs estimated at approximately \$220,000, being the costs of administering the Settlement Distribution Scheme.
22. If the Court approves the Proposed Settlement, Phi Finney McDonald (or such other Administrator that is appointed by the Court) will be appointed as the Administrators of the proposed Settlement Distribution Scheme, and trustees in relation to the Settlement Sum. Under Court supervision, Phi Finney McDonald (or such other Administrator that is appointed by the Court) will be obliged to act impartially and will no longer act as lawyers for the Applicants or Group Members.
23. Group Members can request a copy of the proposed Settlement Distribution Scheme including relevant confidential schedules, from any time after 5 March 2021, by:
- a. Contacting the Applicants' solicitors by email at [kate.vanrenen@phifinney-mcdonald.com](mailto:kate.vanrenen@phifinney-mcdonald.com); and
  - b. signing and returning a confidentiality undertaking which will be sent to you in response to your request for a copy of the Settlement Distribution Scheme

## **F. LITIGATION FUNDING**

24. The Funders provided litigation funding for the Applicants' prosecution of the Estia class action on behalf of Group Members. Many (but not all) Registered Group Members signed funding agreements with the Funders.
25. Under this arrangement, the Funders:
- a. indemnified the Applicants against any adverse costs orders; and



- b. paid legal costs and other “Project Costs” incurred in prosecuting the proceeding, including the cost of solicitors, barristers, and independent experts together with the upfront cost of securing adverse costs insurance and the deeds of indemnity provided as security for costs.
26. At the Settlement Approval Hearing, the Funders will seek to recover their contractually defined commission, subject to a funding equalisation order. Under a funding equalisation order, the amount equal to the amount of funding commission and the management services fee owed under the funding agreements to Funded Group Members, is deducted from the unfunded Registered Group Members’ recovery and redistributed amongst all Registered Group Members on a pro rata basis, so that all group members who participate in the settlement contribute to the costs of bringing the action.

#### **G. WHAT STEPS CAN GROUP MEMBERS NOW TAKE?**

27. If you wish to support the settlement, there is nothing you need to do. If you are a Registered Group Member you will be kept informed about further developments in the Court approval process. You are encouraged to refrain from contacting Phi Finney McDonald unnecessarily, in order to keep costs to a minimum.
28. If you wish to **oppose** the Proposed Settlement, or any aspect of it, then you **must**, by no later than 4:00pm (AEDT) on 24 March 2021, fill in the form entitled ‘Notice of Objection to Proposed Settlement’ attached to this Notice (which can be obtained in word format from Phi Finney McDonald upon request), duly execute it, and file it with the Court and serve it on Phi Finney McDonald by sending it by email to:  
Associate.BeachJ @fedcourt.gov.au; and  
kate.vanrenen@phifinneycdonald.com
- You **may** attend the approval hearing to explain the basis of your objection to the Judge if you wish to do so. If you do not attend, then the Court may give consideration to your objection and to the approval of the settlement in your absence. You may wish to seek independent legal advice in relation to opposing the settlement.
29. If you are an Unregistered Group Member and you now wish to participate in the settlement, please notify Phi Finney McDonald on (03) 9134 7100, or by email to kate.vanrenen@phifinneycdonald.com by no later than 4:00pm (AEDT) on 24 March 2021. You must also fill out a Notice of Objection to Proposed Settlement, and send it to Phi Finney McDonald by that date so that the Applicants and the Court have information about your claim. Your wish to register for the proposed settlement after the Class Deadline will be notified to the Court, which will decide on the settlement approval whether you are entitled to participate in the settlement.
30. The Settlement Approval Hearing will take place at 10.15am on 12 April 2021 (AEST) in the Victoria Registry of the Federal Court of Australia located at **Owen Dixon Commonwealth Law Courts Building, 305 William Street, Melbourne Victoria 3000**. You are entitled to attend the hearing if you wish to. Due to the coronavirus, a hearing may not happen in a courtroom where people come along in person, and if you want to speak, you may be provided instead with a video link or telephone link. If



you want to speak to the Judge about the settlement at the hearing this can be arranged.

#### **H. FURTHER INFORMATION**

31. Copies of relevant documents, including this Notice, Statement of Claim, Amended Statement of Claim and the Defence may be obtained by:
  - a. requesting them by email to [kate.vanrenen@phifinneymcdonald.com](mailto:kate.vanrenen@phifinneymcdonald.com); or
  - b. inspecting them at <http://phifinneymcdonald.com/projects/>; or
32. If you need further information about the proposed settlement, please contact Phi Finney McDonald on (03) 9134 7100, or by email to [kate.vanrenen@phifinneymcdonald.com](mailto:kate.vanrenen@phifinneymcdonald.com).





## NOTICE OF OBJECTION TO PROPOSED SETTLEMENT

No. VID758 of 2019

Federal Court of Australia  
District Registry: Victoria  
Division: General

**Wetdal Pty Ltd (ACN 145 536 661) as trustee for the Blueco Two Superannuation Fund and another named in the schedule of parties**

Applicants

**Estia Health Limited (ACN 160 986 201)**

Respondent

Complete this form if you wish to submit an objection to the Proposed Settlement.

If you do **NOT** wish to object to the proposed settlement, you do **NOT** need to return this form.

**Please note** that if you submit a Notice of Objection to Proposed Settlement, your name and your specific circumstances (including transaction details and grounds of objection) may be read out in Court and/or referred to in orders and/or judgments of the Federal Court.

Your Notice of Objection will be considered by the Court when it is determining whether or not to approve the Proposed Settlement.

If you wish to object to the Proposed Settlement, or any aspect of it, your Notice of Objection must be received by the Court by 4.00 pm (AEDT) on 24 March 2021 and any evidence/submissions in support received by 4.00 pm (AEDT) on 26 March 2021.

Any Notice of Objection received after this deadline will not be considered by the Court when it is determining whether or not to approve the Proposed Settlement.

To: The Federal Court of Australia, by email to Associate.BeachJ@fedcourt.gov.au  
cc: Phi Finney McDonald, by email to kate.vanrenen@phifinney-mcdonald.com

The person identified below gives notice pursuant to paragraph 11 of the orders of the Court made on 26 February 2021 that the person is a Group Member in the Estia class action and **OBJECTS** to the Proposed Settlement of this proceeding, for the reasons outlined.



**A. DETAILS OF OBJECTOR**

- I am a Registered Group Member (see paragraph 12(a) of the Notice of Proposed Settlement); or
- I am an Unregistered Group Member (see paragraph 12(b) of the Notice of Proposed Settlement)

Name	
ACN/ABN [ <i>if company</i> ]	
Person completing this form	
Capacity [ <i>e.g., individual, partnership, trustee/agent</i> ]	
Registered or Unregistered group member	
Telephone	
Email	
Postal address	

**B. RELEVANT TRANSACTIONAL INFORMATION**

If you are an Unregistered Group Member (see paragraph 12(a) of the Notice of Proposed Settlement), you are required to provide the following information. Further, you are required to provide documentary evidence from a third party (e.g. contract notes or transaction receipts) in support of each acquisition and disposal of Estia securities during the period 12 August 2015 to 6 October 2016 (inclusive).

If you are a Registered Group Member (see paragraph 12(b) of the Notice of Proposed Settlement), you are **not** required to provide the following information. Please proceed to Sections C, D and E below.

HIN/SRN under which Estia securities were traded	
Number of Estia securities held as at close of trade on 11 August 2015	
Total number of Estia securities acquired by the objector during the period 12 August 2015 to 6 October 2016 (inclusive)	



Total number of Estia securities disposed of by the objector during the period 12 August 2015 to 6 October 2016 (inclusive)	
---	--

**C. ATTENDANCE AT HEARING AT 10.15AM (AEST) ON 12 APRIL 2021**

- I do not intend to appear, but wish for my submissions to be considered in my absence
- I intend to appear before the Court at the hearing at 10:15AM (AEST) on 12 April 2021

*[please tick one]*

If you intend to appear, please complete the following:

- I will appear on my own behalf
- I will be represented by a lawyer:.....

*[please tick one if you intend to appear]*

**D. NOTICE OF OPT OUT AND REGISTRATION**

If you are a Registered Group Member, you are **not** required to provide the following information. Please proceed to Section E below.

If you are an Unregistered Group Member, did you receive a copy of the Notice of Opt Out and Registration provided to Group Members in accordance with the orders of Justice Middleton dated 3 March 2020?

- Yes, I received a copy of the Notice of Opt Out and Registration
- No, I did not receive a copy of the Notice of Opt Out and Registration

*[please tick one]*

If yes, you must state at Section E below the reasons why you elected not to register or opt out of the Estia class action.



**E. GROUND(S) OF OBJECTION**

Please state the reasons in support of your objections to the Proposed Settlement [*set out in the space below any submissions you wish to make, attach additional pages if necessary*]:



**E. EXECUTION OF NOTICE**

If you are completing the Notice of Objection on behalf of an individual shareholder you must sign and have your signature witnessed.

If you are completing the Notice of Objection on behalf of a company with a sole director or as the sole trustee, the sole director or sole trustee must sign and have their signatures witnessed.

If you are completing the Notice of Objection on behalf of a company or trust (with more than one director or trustee), two directors of the company, a director and a company secretary of the company, or two trustees must sign. A witness signature is not required.

By signing below, I confirm that the information I have provided in this form is true, complete and correct:

Signed:	
Name	
Position	
Date	
Witness Signature	
Name of Witness	

Second signature:	
Name	
Position	
Date	
Witness Signature	
Name of Witness	



**“Annexure B” – Notice of Estimated Distribution**

PHI<sub>x</sub> FINNEY<sub>x</sub> MCDONALD

PRIVILEGED AND CONFIDENTIAL

Estia Class Action

**Court Approved Notice of Estimated Distribution**

[DATE]

Set out below in Schedule A is an estimate of the amount that will be distributed to you under the Proposed Settlement of the Estia class action, if the Proposed Settlement and the proposed Settlement Distribution Scheme are approved by the Court. This amount may vary depending upon whether the Court approves or modifies the deductions proposed from the settlement sum, the amount of interest earned on the settlement sum, how much time and cost it takes to administer the settlement, and whether more people register and are allowed to participate in the settlement.

The estimated distribution listed for the Group Member(s) shown below is an indicative assessment only. If the Proposed Settlement is approved, the amount ultimately paid may differ.

If you believe that an error has been made in calculating the distribution amount, or you wish to seek a Review please refer to the section below entitled ‘Request for Review’. Any Request for a Review must be received by Investor Claim Partner Pty Ltd and ICP Capital Pty Ltd (together; **ICP**) before 4.00pm AEDT on [3 weeks from date Notice of Estimate Distribution Sent] 2021. Any requests for Review received after this deadline will be rejected.

The estimate below has been calculated in accordance with the terms of the proposed Settlement Distribution Scheme. If you would like further information about the Proposed Settlement, or wish to gain access to the Deed of Settlement and/or proposed Settlement Distribution Scheme (other than the confidential list of Group Members), you can contact Phi Finney McDonald using the details set out in paragraph 32 of the Notice of Proposed Settlement.

**Personal Details:**

Please refer to the Trade Confirmation Summary accompanying this Notice which sets out the trading information upon which the Estimated Distribution has been calculated.

Based on the information set out in the Trade Confirmation Summary accompanying this Notice, we estimate that your entitlement to compensation under the Proposed Settlement, if approved, will be as follows:

<b>Unique ID:</b>	<b>Group Member Name:</b>	<b>Estimated Distribution:</b>
{ApplicantID}	{ClaimantName}	[Estimated Distribution]

PHI FINNEY MCDONALD, LEVEL 3, 325 FLINDERS LANE, MELBOURNE VIC 3000  
T: +61 (0)3 9134 7100, E: [CLASSACTIONS@PHIFINNEYMCDONALD.COM](mailto:CLASSACTIONS@PHIFINNEYMCDONALD.COM)  
[WWW.PHIFINNEYMCDONALD.COM](http://WWW.PHIFINNEYMCDONALD.COM)  
Phi Finney McDonald Pty Ltd ACN 618 727 905



**SCHEDULE A: TRADE CONFIRMATION SUMMARY REPORT**

Master ID: {ApplicantID}

**Estia Health Limited**

*Trade Loss Period: 12 August 2015 to 9:52am on 6 October 2016 (inclusive)*

Claimant ID: {ApplicantID}

Claimant Name: {ApplicantName}

SRN/HIN/Account: {Applicant SRN/HRN/Account}

Shares on hand as at close of trade on 11 August 2015: {X}

---

<b>DATE</b>	<b>TYPE</b>	<b>CATEGORY</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>PRICE</b>	<b>AMT (AUD)</b>
-------------	-------------	-----------------	--------------------	------------	--------------	------------------

---



## Review Request Procedure

### Requests for Review:

If you consider that an error has been made in calculating your estimated distribution amount referred to above, you must request a Review of the Estimated Distribution Amount (**Review Request**) before 4.00pm AEDT on [3 weeks from date Notice of Estimate Distribution Sent]. The procedure for the Review Request is as follows:

1. Complete the Review Request Form below and attach any relevant documentation upon which you will rely for the purposes of the Review Request and a statement of reasons for making the Review Request. You must submit the Review Request Form to ICP before 4.00pm AEDT on [3 weeks from date Notice of Estimate Distribution Sent], by one of the methods set out in the Review Request Form.
2. ICP and Phi Finney McDonald will consider the Review Request and any documents provided and:
  - a. where ICP and Phi Finney McDonald are satisfied that the Review Request discloses an error, slip or omission or any other administrative, mathematical or clerical error, will issue you with a Notice of Re-Estimated Distribution;
  - b. where ICP and Phi Finney McDonald are not satisfied that the Review Request discloses an error, slip or omission or any other administrative, mathematical or clerical error, will notify you of the outcome of the Review Request.
3. ICP or Phi Finney McDonald may direct you to submit further documentation in support of your Review Request. If you receive a request for further information or documentation, you must provide the information or documents within 3 business days of the date of any such written notice. If you do not provide the information or documents within 3 business days, the Review Request shall be deemed never to have been made, and the accuracy of the Notice of Estimated Distribution shall be deemed to be accepted by you.





### Estia Class Action Review Request Form

Complete this form for each Group Member for whom you intend to make a Review Request.

**Unique ID:**

**Group Member Name:**

Reasons for making a Review Request: (tick all applicable boxes)

- Error or omission in the trade data  
(Mark all required changes on details of transactions and enclose it with this form)
- Other error

Please describe your reasons for making a Review Request [*set out in the space below any submissions you wish to make, attach additional pages if necessary*]:

Supporting documentation enclosed: (tick all applicable boxes)

- Notice of Trade Data
- Statutory declaration
- Buy/Sell confirmations
- Contract notes
- Broker statements
- CHESSE statements
- Link print-outs
- Other (please specify)

This form must be completed and returned to ICP (with any supporting documentation) by 4.00pm AEDT on [3 weeks from date Notice of Estimate Distribution Sent] to:

By mail: Estia Class Action  
Investor Claim Partner Pty Ltd  
Level 13, 115 Pitt Street  
Sydney, NSW, 2000 Australia

OR

By email: EstiaClassAction@icp.net.au



**“Annexure C” – Details to be provided to Respondent’s insurers**

<b><i>Details to be provided</i></b>	<b><i>Description</i></b>
Name	Insert the full party name in case of single string excel.
Party Type	O = organisation (enterprise etc.) I = individual (persons) U = unknown
To the extent known, if the group member is an entity	Insert the ACN or ABN.
To the extent known, if the group member is a trust vehicle or SMSF	Insert the names of the trustee(s). The trust vehicle and names of trustees should be on separate rows.
To the extent known, if the group member is a custodian	Insert the custodian’s name.
If the screening process produces any positive results, and to the extent known	Insert further information such as DOB, identification numbers, and to the extent not already provided, the ACN or ABN, the name of the trustees and the custodian names.