

**IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMERCIAL COURT
GROUP PROCEEDINGS LIST**

S ECI 2023 01227

BETWEEN:

ROBERT LAIRD KILAH First Plaintiff

BRENDAN FRANCIS SINNAMON Second Plaintiff

- and -

MEDIBANK PRIVATE LTD (ACN 080 890 259) Defendant

ORDER

JUDGE OF THE COURT: The Honourable Justice Attiwill

DATE MADE: 2 September 2024

ORIGINATING PROCESS: Writ filed 28 March 2023

HOW OBTAINED: At the case management conference on 23 August 2024 and upon further email correspondence between the parties and the Court

ATTENDANCE: Mr A Hochroth with Ms R V Howe, counsel, for the plaintiffs
Mr N P De Young with Ms J A Findlay and Ms A Martyn, counsel, for the defendant

OTHER MATTERS: A. This order is signed by the Judge pursuant to r 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015*.

THE COURT ORDERS THAT:

Class deadline

1. The time and date by which a group member may opt out of the proceeding pursuant to s 33J(1) of the *Supreme Court Act 1986* (Vic) (the **Act**) is fixed as **4:00pm (AEDT) on 1 November 2024 (Class Deadline)**.

Notice

2. The terms of the commencement, opt out and claim registration notice set out at:

- (a) Annexure A (**Notice**);
- (b) Annexure B (**Abridged Notice**); and
- (c) Annexure C (**Covering Email**),

to these orders are approved, pursuant to ss 33X(1)(a), 33X(5) and 33Y of the Act.

3. Pursuant to s 33Y of the Act, the Notice be given to group members between **5 September 2024 and 10 September 2024**, according to the following procedure:

- (a) By **4:00pm on 3 September 2024**, the parties are to jointly engage Computershare Communication Services Pty Ltd (**Computershare**) to act as the agent in respect of the distribution of the Notice and are to send Computershare a copy of this order;
- (b) By **4:00pm on 3 September 2024**, the defendant is to instruct Computershare to prepare a list of contact details (including the last known postal address and/or email address) of all persons who acquired shares in the defendant (**Medibank Shares**) during the period 1 July 2019 to 25 October 2022 (inclusive), including those security holders whose qualifying transactions were recorded on the register within the two-day settlement window following 25 October 2022 (**Confidential List of Shareholders**).
- (c) The defendant shall instruct Computershare to, by **4:00pm on 4 September 2024**, provide the parties with:
 - (i) the Confidential List of Shareholders identifying:
 - (A) the total number of persons who comprise the Confidential List of Shareholders;
 - (B) the total number of persons who have an email address recorded on the Confidential List of Shareholders;
 - (C) the total number of persons who only have a postal address recorded on the Confidential List of Shareholders; and
 - (ii) an itemised estimate of Computershare's costs to distribute the Notice in accordance with the instructions in this order.
- (d) The defendant shall instruct Computershare to, between **5 September 2024 and 10 September 2024**:
 - (i) cause the Covering Email and Notice to be sent by email during business hours to any person on the Confidential List of Shareholders in respect of whom there is an email address recorded;
 - (ii) if no email address is recorded on the Confidential List of Shareholders, cause the Notice to be sent by prepaid ordinary post to the address recorded

for the person on the Confidential List of Shareholders.

- (e) The defendant shall instruct Computershare to:
 - (i) where Computershare receives an email delivery failure notification, attempt a second delivery to the intended email recipient during business hours within five business days of becoming aware of such a delivery failure (**second email notification**);
 - (ii) if Computershare receives further email delivery failure notifications to the second email notification, provide a report to the parties, between six and seven business days of sending all Covering Emails and Notices out pursuant to the instructions set out in paragraph 3(d)(i) of this order, setting out:
 - (A) the number of delivery failure notifications received to the second email notification (i.e., the recipients for whom there is a ‘bounce-back’ notification);
 - (B) of the group members for whom delivery failure notifications were received, the number of group members for whom Computershare holds an address located (a) in Australia, and (b) overseas;
 - (C) an itemised estimate of Computershare’s costs for the postal distribution of the Notice to the addresses identified in accordance with paragraph 3(e)(ii)(B) of this order;
 - (iii) cause the Notice to be sent by prepaid ordinary post to the relevant person at the address recorded for that person on the Confidential List of Shareholders within seven business days of providing the report at paragraph 3(e)(ii) of this order;
 - (iv) notify the parties within two business days of becoming aware that its costs of postal distribution of the Notice are likely to exceed its estimate under paragraph 3(e)(ii)(C) of this order by more than 10%.
- (f) The subject line of any email sent in accordance with paragraphs 3(d)(i) or 3(e)(i) of this order shall be: “Important Class Action Court Notice – Kilah & Anor v Medibank Private Limited S ECI 2023 01227”.
- (g) The plaintiffs are to cause, between **5 September 2024 and 10 September 2024**, the Abridged Notice to be published once in each of the following newspapers:
 - (i) the Australian; and
 - (ii) the Australian Financial Review.
- (h) Between **5 September 2024 and 10 September 2024**, the plaintiffs shall cause

a copy of the Notice to be sent by email during business hours to each group member who has, at the date of this order, identified themselves to Quinn Emanuel Urquhart & Sullivan and/or Phi Finney McDonald (**Plaintiffs' Lawyers**) and for whom the Plaintiffs' Lawyers have a current email address.

- (i) By **5 September 2024**, the Commercial Court Registry of the Supreme Court of Victoria shall cause the Notice to be displayed on the website of the Supreme Court of Victoria (and to remain continuously so displayed up to and including the conclusion of the proceeding) and made available for inspection at the Commercial Court Registry of the Supreme Court of Victoria (and to remain continuously so available up to and including the conclusion of the proceeding).
 - (j) By **5 September 2024**, the plaintiffs shall cause a copy of the Notice and this order to be displayed on the websites of the Plaintiffs' Lawyers at <https://mplshareholderclassaction.com.au/> and <https://phifinneymcdonald.com/action/medibank-shareholder-class-action/>, and to remain continuously so displayed up to and including the conclusion of the proceeding.
 - (k) The Notice, Abridged Notice and Covering Email may be amended by agreement between the parties by **4:00pm on 3 September 2024** in order to correct any typographical error, or any postal, website or email address or telephone number.
 - (l) If the Notice is amended in accordance with paragraph 3(k) of this order, the Plaintiffs' Lawyers shall forthwith provide a copy of the amended Notice to the Commercial Court Registry of the Supreme Court of Victoria by **4:00pm on 3 September 2024**.
4. The costs of distributing the Notice, the Abridged Notice and Covering Email (including any disbursements incurred) in accordance with paragraph 3 of this order is paid by the plaintiffs in the first instance, but on the basis that those costs will subsequently be costs in the proceeding.
 5. The defendant shall instruct Computershare to, by **24 September 2024**, provide the parties with a report containing the following information:
 - (a) the total number of emails sent to persons in the Confidential List of Shareholders;
 - (b) the number of emails marked delivered to the recipient;
 - (c) the number of emails marked undelivered (i.e., the recipients for whom there is a 'bounce-back' notification);
 - (d) the number of notices sent by post; and
 - (e) the number of postal notices returned undelivered.

Opt Out

6. Pursuant to s 33J(2) of the Act, any group member who wishes to opt out of this proceeding must, before the Class Deadline:
 - (a) submit a completed 'Opt Out Notice' in the form of Schedule 2 to the Notice (**Opt Out Form**) to the Commercial Court Registry of the Supreme Court of Victoria by email or post; or
 - (b) complete and submit the **Online Opt Out** through the Supreme Court of Victoria website at: <https://www.supremecourt.vic.gov.au/areas/group-proceedings/medibank-private/opting-out>.
7. Each group member who wishes to opt out of the group proceeding in accordance with paragraph 6 of this order must complete the Opt Out Form or Online Opt Out either:
 - (a) by personally signing or personally affixing their 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 the group member's solicitor personally authorised to act on behalf of the group member personally signing or personally affixing their electronic signature as that group member's solicitor;
 - (d) in the case of an executor of an estate which is a group member, 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 a group member, by the attorney personally signing or personally affixing their electronic signature.
8. If, on or before the Class Deadline, the solicitors for any party or the defendant receive a notice purporting to be an Opt Out Form referable to this proceeding, they shall forthwith provide the notice to the Commercial Court Registry of the Supreme Court of Victoria within seven days of receipt of the notice with a notation specifying the date it was received and the notice is to be treated as an Opt Out Form received by the Court at the time it was received by the solicitors or the defendant, as relevant.
9. The defendant is to instruct Computershare to, if, on or before the Class Deadline, it receives a notice purporting to be an Opt Out Form referable to this proceeding, forthwith provide the notice to the Commercial Court Registry of the Supreme Court of Victoria within seven days of receipt of the notice with a notation specifying the date it was received and the notice is to be treated as an Opt Out Form received by the Court at the time it was received by Computershare.
10. The solicitors for the parties have leave to inspect the Court file and to copy any Opt Out Form(s) filed by group members.

Claim Registration

11. Pursuant to ss 33ZF and 33ZG of the Act, any group member who wishes to obtain any benefit arising from any settlement of the proceeding (subject to Court approval) reached at any time between the date of these orders and three months after the first day of mediation must register their claim by the Class Deadline by completing and submitting a **Registration Form** hosted by the Plaintiffs' Lawyers at <https://phifinney-mcdonald.com/action/medibank-shareholder-class-action/> or by posting or emailing a Registration Form in the form of Schedule 1 to the Notice to medibankshareholders@phifinney-mcdonald.com, using their best endeavours to include the following information (as applicable):

- (a) the group member's name (or names in the case of joint security holders), telephone number and address and/or email address;
- (b) any relevant Holder Identification Number (**HIN**) or Security Reference Number (**SRN**) or equivalent reference number in respect of Medibank Shares or equity swap confirmations in respect of Medibank Shares (**Medibank Equity Swaps**);
- (c) the number of Medibank Shares held by the group member at the close of trade on 25 October 2022 (or, in the case of Medibank Equity Swaps, the number of Medibank Shares to which the equity swap relates);
- (d) details of the group member's acquisition(s) of an interest in Medibank Shares during the period 1 July 2019 to 25 October 2022 (inclusive), including the type of securities acquired (that is, Medibank Shares or Medibank Equity Swaps), date of acquisition(s), quantity acquired and the price at each acquisition;
- (e) details of the group member's sale(s) and/or disposal(s) of Medibank Shares during the period 1 July 2019 to 25 October 2022 (inclusive), including the type of securities sold/disposed, date of each sale(s)/disposal(s), quantity sold/disposed and the price at each sale/disposal;
- (f) whether the group member's interest in the Medibank Shares acquired is beneficially held and if not the identity of the person or entity on whose behalf the Medibank Shares were acquired (**Beneficial Owner**); and
- (g) in respect of Medibank Equity Swaps:
 - (i) copies of the instruments and documents for each equity swap and related transaction (including any back-to-back transaction);
 - (ii) details of all other arrangements entered into in connection with each equity swap; and

- (iii) 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.
- 12. A group member who registers pursuant to paragraph 11 of this order is a **Registered Group Member**. A group member is also deemed to be a Registered Group Member if, by the date of these orders, the group member has already registered their interest with the Plaintiffs' Lawyers in connection with this proceeding.
- 13. Group members who are deemed to have registered by the operation of paragraph 12 of this order are required to submit to the Plaintiffs' Lawyers as soon as practicable, but in any event by no later than the Class Deadline, using their best endeavours and to the extent that they have not already done so, the same information as other group members are required to submit, using their best endeavours, pursuant to paragraph 11 above.
- 14. For the avoidance of doubt, failure by a group member to provide all the information required in paragraph 11 above will not render the group member's registration invalid provided the group member is identifiable based on the information provided.
- 15. Pursuant to ss 33ZF and 33ZG of the Act, and subject to any further order of the Court, any group member who by the Class Deadline does not register or opt out of the proceeding in accordance with these orders:
 - (a) will remain a group member in this proceeding for all purposes, including for the purpose of being bound by any judgment in this proceeding and being bound by the terms (including releases) of any approved settlement agreement in the proceeding; and
 - (b) shall not, without leave of the Court, be entitled to obtain any benefit pursuant to any settlement (subject to the approval of the Court) of this proceeding reached at any time between the date of these orders and three months after the first day of mediation.
- 16. Any group member wishing to seek a variation of paragraphs 11 to 14 of this order must file with the Court or the Plaintiffs' Lawyers by no later than the Class Deadline written notice of the variation sought and a statement of the reasons for seeking the variation, and the Plaintiffs' Lawyers must forthwith notify the defendant and the Court of any notice they receive.
- 17. By **4:00pm on 13 December 2024**, the plaintiffs must:
 - (a) deliver to the solicitors for the defendant, on a de-identified basis (anonymising identities and redacting information that would tend to identify the Registered

Group Member, any Beneficial Owner of the Medibank Shares and/or any MPL equity swap transaction counterparty), a list of the Registered Group Members, containing (if available):

- (i) a unique identification number for each Registered Group Member;
 - (ii) where a Registered Group Member has acquired an interest in Medibank Shares on behalf of a Beneficial Owner, a unique beneficial owner identification number for each Beneficial Owner;
 - (iii) the information listed in paragraph 11(b) to 11(g) of this order for each Registered Group Member; and
 - (iv) any amendments to the information as notified to the Plaintiffs' Lawyers by that date;
- (b) file confidentially on RedCrest a list of Registered Group Members which shall contain, if available:
- (i) a unique identification number for each Registered Group Member;
 - (ii) the information listed in paragraph 11 of this order for each Registered Group Member; and
 - (iii) any amendments to the information as notified to the Plaintiffs' Lawyers by that date.
18. The list of Registered Group Members provided to the defendant in accordance with paragraph 17(a) of this order, and any information contained therein, is to be kept confidential by the defendant to:
- (a) the defendant's legal advisers;
 - (b) those officers and employees of the defendant who have the conduct of this proceeding on behalf of the defendant;
 - (c) the defendant's insurers (and their legal advisers), if any; and
 - (d) experts retained by the defendant in the proceeding.

Mediation

19. The proceeding is referred to a mediator to be agreed between the parties, or in default of agreement by 1 November 2024 to be appointed by the Court, such mediation to be completed by **31 March 2025**.
20. Subject to the terms of this order, the Plaintiffs' Lawyers must, after consultation with all parties, deliver to the mediator a copy of this order, all pleadings (including requests for further and better particulars) and a copy of any other necessary information, and take all steps necessary to ensure that the mediation commences as soon as practicable.
21. The mediation be attended by those persons who have the ultimate responsibility for

deciding whether to settle the dispute and the terms of any settlement and the lawyers who have ultimate responsibility to advise the parties in relation to the dispute and its settlement.

22. By **7 April 2025**, the mediator report back to the Court whether the mediation is finished.
23. By **4:00pm on 24 March 2025**, the solicitors for the parties shall each individually prepare and give to their respective clients a memorandum setting out:
 - (a) the estimated total cost and disbursements incurred to date;
 - (b) the estimated total cost and disbursements from the date of the memorandum onwards until the completion of the trial, including the mediation; and
 - (c) the estimated total cost and disbursements payable to the other party if their clients are not successful at trial.

General

24. Costs reserved.
25. Liberty to apply.

DATE AUTHENTICATED: **2 September 2024**

The Honourable Justice Attiwill



ANNEXURE A – NOTICE

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**.

ANNEXURE B – ABRIDGED NOTICE

REGISTRATION & OPT OUT NOTICE

MEDIBANK SHAREHOLDER CLASS ACTION

THIS NOTICE IS VERY IMPORTANT AND IS ISSUED PURSUANT TO AN ORDER OF THE SUPREME COURT OF VICTORIA – PLEASE READ IT CAREFULLY

A Registration & Opt Out Notice has been issued to Group Members in the Medibank Shareholder class action (**Medibank Class Action**), pursuant to an order of the Supreme Court of Victoria. **You can access the Notice at <https://phifinneymcdonald.com/action/medibank-shareholder-class-action/>.** You should read the Notice carefully as it contains important information about your legal rights. This is an abridged version of that Notice.

AM I PART OF 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 and 25 October 2022 (inclusive), you may be a Group Member of the Medibank Class Action. A detailed description of the people who are group members can be found in the Notice.

WHAT IS THE NOTICE ABOUT?

The Court has ordered that the parties attend a mediation by 31 March 2025. At that mediation the parties will explore whether they can reach agreement about the outcome of the Medibank Class Action.

WHAT ARE MY OPTIONS?

Your options on how to respond to the Notice are set out below. These three options are:

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. You may register at <https://phifinneymcdonald.com/action/medibank-shareholder-class-action/> or alternatively submit a Registration Form (found at Schedule 1 of the Notice) by email to medibankshareholders@phifinneymcdonald.com or by post to Phi Finney McDonald, Level 3,

325 Flinders Lane, Melbourne VIC 3000.

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 the Notice) to the Commercial Court Registry of the Supreme Court of Victoria.

OPTION 3: Do nothing → If you do nothing in response to the 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 Plaintiffs' Lawyers by email at medibankshareholders@phifinneymcdonald.com or by telephone on (02) 9146 3500 and (03) 9134 7100 or alternatively, obtain your own legal advice.

ANNEXURE C – COVERING EMAIL

Covering Email

Subject: Important Class Action Court Notice – Kilah & Anor v Medibank Private Limited S ECI 2023 01227

This email and the attached Registration & Opt Out Notice contain important information that may affect your legal rights. Please read them carefully and consider your options.

You are receiving these documents because you have been identified as a person who may be a Group Member in the Medibank Class Action.

The Court has made orders that:

1. there is to be a mediation in the Medibank Class Action completed by 31 March 2025. Any person who wishes to obtain any benefit pursuant to any settlement of this class action at any time between now and three months after the first day of the mediation must complete a Registration Form by **4:00pm AEDT on 1 November 2024**. You can complete the Registration Form here <https://phifinney-mcdonald.com/action/medibank-shareholder-class-action/>. You can also email or post the Registration Form which is explained in the Registration & Opt Out Notice; and
2. any person who does not wish to participate in the class action must opt out of the class action by **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>. You can also email or post an Opt Out Form which is explained in the Registration & Opt Out Notice.

These matters are further explained in the Registration & Opt Out Notice attached to this email.

The Registration & Opt Out Notice includes information about:

1. how to determine whether you are an eligible Group Member;
2. if you are an eligible Group Member:
 - a. how to register your claim to participate in any settlement reached between the parties in the class action at any time between now and three months after the first day of the mediation;
 - b. your right to opt out of the class action;
 - c. what happens if you choose to do nothing in response to the Registration & Opt Out Notice.

The deadline to register your claim or opt out of the class action is **4:00pm AEDT on 1 November 2024**.

If there is anything you do not understand in the Registration & Opt Out Notice, or if you have any questions, you may seek independent legal advice or contact the lawyers for the Plaintiffs by email: medibankshareholders@phifinneymcdonald.com or phone (02) 9146 3500 (QE) and (03) 9134 7100 (PFM). Any questions you have concerning the matters contained in the Registration & Opt Out Notice should not be directed to the Court.