

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

S ECI 2021 04360

BETWEEN

WILLIAM LAY

(and another according to the schedule)

Plaintiffs

and

NUIX LIMITED (ACN 117 140 235)

(and others according to the schedule)

Defendants

ORDER

JUDGE: The Honourable Justice Nichols

DATE MADE: 2 December 2024

ORIGINATING PROCESS: Writ filed 19 November 2021

HOW OBTAINED: At hearing on 2 December 2024

ATTENDANCE: P Collinson KC with T Rawlinson, counsel for the
plaintiffs
J Entwisle, counsel for the first defendant
R Craig KC with J Findlay, counsel for the second
defendant
E Steer, counsel for the third defendant

OTHER MATTERS: The Court notes that the plaintiffs provided a proposed
Amended Consolidated Statement of Claim (ACSOC) to
the defendants on 27 November 2024.



THE COURT ORDERS THAT:

Mediation

- 1 [Intentionally left blank]
- 2 The parties to confer with the appointed mediator as to the conduct of the mediation including the time for the exchange of position papers, submissions and bundles of relevant documents.
- 3 The costs of the mediator be split four ways, to be paid in equal shares by the plaintiffs, Nuix, MCAL, and Phillips respectively.

Notice to Group Members

Form of the notice

- 4 Pursuant to ss 33X(1)(a) and (5) and 33Y of the *Supreme Court Act 1986* (Vic) (**Act**), the form and content of:
 - (a) the notice to group members appearing at Annexure A (**Notice**); and
 - (b) the covering correspondence enclosing the Notice at Annexure B (**Covering Correspondence**);

to these orders, is approved.

Costs of distribution

- 5 By **4 December 2024**, for the purposes of estimating the costs of distributing the Notice and Covering Correspondence, Nuix is to instruct its share registry to prepare:
 - (a) a list of contact details (including the last known postal address and/or email address) of all persons who acquired shares in Nuix between 18 November 2020 and 29 June 2021 (inclusive) (**Confidential List of Shareholders**); and
 - (b) an itemised estimate of its costs to distribute a notice to group members in accordance with these orders;



- (c) a report identifying:
- (i) the total number of persons who comprise the Confidential List of Shareholders;
 - (ii) the total number of persons who have an email address recorded on the Confidential List of Shareholders (**Email Recipients**);
 - (iii) the total number of persons who only have a postal address recorded on the Confidential List of Shareholders (**Postal Recipients**); and
 - (iv) of the Postal Recipients, the total number of persons who have a postal address recorded on the Confidential list of Shareholders which is overseas.

6 By **5 December 2024**, Nuix is to provide the parties with the itemised estimate of its share registry's costs referred to at order 5(b), and the report referred to at order 5(c).

7 The parties be at liberty to seek cost estimates from any other mailing provider of the costs to distribute a notice to group members in accordance with these orders.

8 By **12 December 2024** the parties are to jointly appoint a **Mailing Provider** to act as the parties' agent in respect of the distribution of the Notice provided the Mailing Provider is not to provide information to the Plaintiffs other than that in Order 5(c) above without Nuix's consent or further order of the Court.

9 If the parties cannot agree on the selection of a mailing provider, by **9 December 2024**, the parties are to file:

- (a) a cost estimate obtained from their proposed mailing provider; and
- (b) submissions not exceeding one page in support of the selection of that mailing provider;

via email to the chambers of the Honourable Justice Nichols, and the Court will determine the matter on the papers.



Distribution of notice to group members

10 Pursuant to s 33Y of the Act, the Notice be given to group members on or before **20 December 2024**, according to the procedure set out in orders 11 to 14 below.

11 **By 12 December 2024:**

- (a) if the appointed Mailing Provider is not Nuix's share registry, Nuix is to send the Mailing Provider a copy of these orders and the Confidential List of Shareholders (which for the avoidance of doubt shall not be shared with any other party);
- (b) the parties are to jointly instruct the Mailing Provider to:
 - (i) cause the Covering Correspondence and the Notice to be sent during Australian Eastern Daylight Time business hours on **20 December 2024** to:
 - 1. the Email Recipients, with the email subject line "Important Nuix Class Action Court Notice – Lay v Nuix Ltd S ECI 2021 04360"; and
 - 2. the Postal Recipients, by prepaid ordinary post to the address recorded for that person; and
 - (ii) if the Mailing Provider receives an email delivery failure notification from an Email Recipient, attempt a second delivery to the intended Email Recipient during business hours within two business days of becoming aware of such a delivery failure;
 - (iii) in the case of any further email delivery failure received in response to the second attempted delivery, cause the Notice to be sent to any Email Recipient by prepaid ordinary post at any postal address recorded for that person by **23 December 2024**;
 - (iv) provide a report to the parties, by **20 January 2025**, setting out:
 - 1. the total number of emails sent to persons in the Confidential List of Shareholders;



2. the number of emails marked “delivered” to the recipient;
3. the number of emails marked “undelivered” (i.e., the recipients for whom there is a ‘soft’ or ‘hard’ ‘bounce-back’ notification);
4. the number of notices sent by post; and
5. the number of postal notices returned undelivered,

and

- (v) notify the parties within two business days of becoming aware that the actual costs of acting as the Mailing Provider are likely to exceed its earlier estimated costs by more than 10%, and provide the parties with a revised estimate.

12 Pursuant to ss 33J and 33ZF of the Act, by **20 December 2024**, the plaintiffs are to cause to be published on the website of **Shine Lawyers** an online form securely recording:

- (a) whether a group member seeks to opt out of, or register their claim in, this proceeding;
- (b) in the case of a group member seeking to opt out of this proceeding, the information required at order 16;
- (c) in the case of any group member seeking to register their claim in this proceeding, the information required at order 19.

13 By **20 December 2024**:

- (a) the plaintiffs shall cause Shine Lawyers and Phi Finney McDonald to:
 - (i) send a copy of the Covering Correspondence and the Notice by email to any person who has, as of the date of these orders, identified themselves as a potential group member and for whom at least one firm holds a current email address;



- (ii) display a copy of the Notice and these orders to be displayed on each of their respective websites at <https://www.shine.com.au/service/class-actions/nuix-class-action> and <https://phifinney-mcdonald.com/action/nuix-class-action/>, and to remain continuously so displayed up to and including the conclusion of the proceeding; and
- (b) the Commercial Court Registry of the Supreme Court of Victoria shall cause the Notice and these orders 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 or until further order).
- 14 The Notice and Covering Correspondence may be amended before they are emailed, posted, displayed or published in order to correct any website or email address or telephone number or other non-substantive error. If the Notice is amended in accordance with this order, the plaintiffs' lawyers shall provide a copy of the amended Notice to the Commercial Court Registry of the Supreme Court of Victoria and the defendants forthwith.

Opt Out

- 15 The date by which a group member (as defined in paragraph 3 of the Consolidated Statement of Claim dated 6 September 2022) may opt out of the proceeding pursuant to s 33J(1) of the Act is fixed as **4.00pm AEDT on 28 February 2025 (Class Deadline)**.
- 16 Pursuant to s 33J(2) of the Act, any group member who wishes to opt out of this proceeding must complete and submit the online opt out form referred to in order 12(b) hosted on the website of Shine Lawyers at <https://nuixclassaction.shine.com.au/OptOut> by the Class Deadline which includes the following information (as applicable) and which will be accepted as proof of the group member's intention to opt out of this proceeding:
- (a) the name and contact information (including email address, postal address and/or phone number) of the group member who/which elects to opt out of this proceeding;



- (b) the name and contact information (including email address, postal address and/or phone number) of any authorised representative under whose authority the group member elects to opt out of this proceeding;
- (c) the category of any authorised representative, namely:
 - (i) in the case of a corporation who is a group member, one or more directors of the corporation as required to bind that entity;
 - (ii) the group member's solicitor;
 - (iii) in the case of an estate which is a group member, the executor of the estate; or
 - (iv) the group member's attorney acting under a power of attorney;
- (d) the consent of the group member to opt out of this proceeding by way of electronic signature (which may be in the form of a typed name) of the group member or their authorised representative and the date of lodgement of that consent.

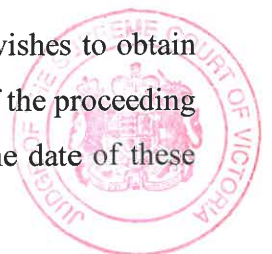
17 By **4.00pm on 14 March 2025**, the plaintiffs must:

- (a) file and serve a list of former group members who have completed the online Opt Out Form referred to in order 16, which list shall constitute notice in writing for the purpose of s 33J(2) of the Act; and
- (b) file any notice purporting to be an Opt Out Form referable to this proceeding, and any such notice shall be treated as an Opt Out Form received by the Court at the time it was received by the solicitors.

18 The solicitors for the parties be granted leave to inspect the Court file and copy any Opt Out Form filed by the plaintiffs in accordance with order 17 or otherwise by group members.

Registration

19 Pursuant to ss 33ZF and 33ZG of the Act, any group member who wishes to obtain any benefit arising from any settlement (subject to Court approval) of the proceeding reached at either the Mediation or otherwise at any time between the date of these



orders and 2 months after the Mediation, must register their claim by the Class Deadline by completing and submitting a group member registration form hosted on the website of **Shine Lawyers** at <https://nuixclassaction.shine.com.au/Registration> using their best endeavours to include the following information (as applicable and to the extent known):

- (a) the group member's name (or names in the case of joint security holders), telephone number and address and/or email address;
- (b) the full name of the registered owner and any relevant Holder Identification Number (**HIN**) or Security Reference Number (**SRN**) or equivalent reference number (if known) in respect of shares in Nuix;
- (c) the number of shares the group member acquired in Nuix as part of its 2020 initial public offering;
- (d) details of the group member's acquisition(s) of an interest in shares in Nuix between 4 December 2020 and the date of their registration as a group member, including the type of securities acquired, date of acquisition(s), quantity acquired and the price at each acquisition; and
- (e) details of the group member's sale(s) and/or disposal(s) of an interest in shares in Nuix between 4 December 2020 and the date of their registration as a group member, including the type of securities sold/disposed, date of each sale(s)/disposal(s), quantity sold/disposed and the price at each sale/disposal;

with such a group member thereafter being a '**Registered Group Member**'.

20 A group member will also be deemed to be a Registered Group Member if, by the Class Deadline, the group member:

- (a) has retained either Shine Lawyers or Phi Finney McDonald to act for the group member in connection with this proceeding, either directly or via a third-party agent; or
- (b) has contacted at least one of Shine Lawyers or Phi Finney McDonald either directly or via a third-party agent in order to register an interest in participating in this proceeding and has provided the information set out in order 19 above (as applicable and to the extent known).



21 Group members who are deemed to have registered by the operation of order 20 above 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 and to the extent known, the same information as other group members are required to submit pursuant to order 19 above.

22 Group members who have already provided Shine Lawyers or Phi Finney McDonald the information specified at order 19(a) to (e) above as of the date of these orders are excused from providing the information required by order 19(d) and (e) in relation to acquisition(s), sale(s), and/ or disposal(s) of an interest in shares in Nuix that occurred on or after 30 June 2021 to the extent that information has not already been provided by that group member.

23 For the avoidance of doubt, the failure by any group member to provide all of the information required in order 19 above will not render the group member's registration invalid provided the group member is identifiable as such based on the information provided.

24 By **4.00pm on 4 April 2025**, the plaintiffs must:

(a) deliver to the solicitors for the defendants, on an identified basis, a list of the Registered Group Members, containing:

- (i) a unique identification number for each Registered Group Member, and their name;
- (ii) the information listed in orders 19(b) to (e) for each Registered Group Member; and
- (iii) 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 marked "Confidential List of group members not to be opened without Leave of the Court" which shall contain, if available:

- (i) a unique identification number for each Registered Group Member;
- (ii) the information listed in order 19 for each Registered Group Member; and



- (iii) any amendments to the information as notified to the plaintiffs' lawyers by that date.

25 Access to the list of Registered Group Members provided to the defendants in accordance with order 24(a), and the information contained in that list, is to be restricted to:

- (a) the defendants' external legal advisers who are directly working on this proceeding; and

- (b) any experts retained by the defendants in the proceeding,

subject to a confidentiality regime, including a form of confidentiality undertaking which is to be executed in advance by the persons referred to in sub-paragraph (a) and (b), to be agreed between the parties or as ordered by the Court.

26 Unless otherwise agreed by the parties or subject to further order of the Court, the list of the Registered Group Members referred to at order 24(a) must not be used by, or on behalf of, any defendant:

- (a) for the purposes of contacting Registered Group Members in relation to this proceeding; or

- (b) for any purpose other than analysing the list of Registered Group Members and assessing the potential quantum of claims of the plaintiffs and group members.

27 The defendants' solicitors must notify Shine Lawyers and Phi Finney McDonald promptly upon becoming aware of any disclosures of the identity of the Registered Group Members other than in accordance with order 25 above.

Class Closure

28 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 permitted to seek any benefit pursuant to any settlement of this proceeding that is entered into by the parties at any time between the date of these orders and 2 months after the date of the Mediation, and which is subsequently approved by the Court pursuant to s 33V of the Act.

Pleading Amendments

29 By **4.00pm** on **9 December 2024**, the defendants are to notify the plaintiffs whether they oppose the plaintiffs being granted leave to file and serve the ACSOC.

30 If the defendants do not oppose the grant of leave, then:

- (a) by **4.00pm** on **10 December 2024**, the plaintiffs have leave to file and serve the ACSOC.
- (b) by **4.00pm** on **23 December 2024**, the defendants file and serve any amended defences.

31 If the defendants oppose the grant of leave, the parties are to approach the chambers of the honourable Justice Nichols for directions by **5.00pm** on **10 December 2024**.

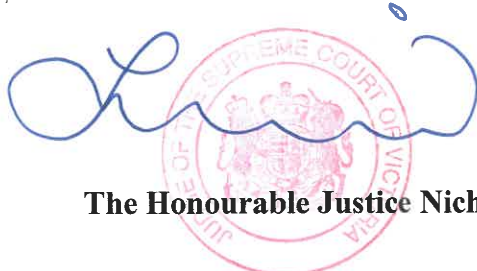
Other

32 The costs of the Mailing Provider to distribute the Notice and the Covering Correspondence according to the procedure set out in Orders 5 to 23 above be paid for in the first instance by the plaintiffs but subsequently be dealt with by the Court as costs in the cause.

33 Save as otherwise provided, costs reserved.

34 Liberty to apply.

DATE AUTHENTICATED: **6 December 2024,**



The Honourable Justice Nichols

ANNEXURE A



SUPREME COURT OF VICTORIA

NUIX CLASS ACTION

LAY & BATCHELOR

V

NUIX LIMITED (ACN 117 140 235) & ORS

IMPORTANT COURT NOTICE

This is an important notice that the Supreme Court of Victoria has ordered be published and distributed to group members on whose behalf this class action is brought and who may be affected by it.

You should read this notice carefully as it may affect your legal rights. Any questions you have concerning this notice should not be directed to the Supreme Court of Victoria. If there is anything in this notice that you do not understand, you should seek legal advice.

A class action has been commenced by two representative plaintiffs William Lay and Daniel Joseph Batchelor (the **Plaintiffs**) in the Supreme Court of Victoria against, Nuix Limited (**Nuix**), Macquarie Capital (Australia) Limited (**MCAL**), and a former director of Nuix, Mr Daniel Phillips (**Phillips**) (together, the **Defendants**) (the **Nuix Class Action**).

The Nuix Class Action has been brought on behalf of investors who acquired an interest in Nuix shares during the period 18 November 2020 to 29 June 2021.

The Plaintiffs allege that between 18 November 2020 to 29 June 2021, Nuix engaged in or was involved in:

- misleading and deceptive conduct;

- inadequate disclosures in the Nuix IPO prospectus; and/or
- contraventions of Nuix’s continuous disclosure obligations.

The Plaintiffs further allege that:

1. Phillips (as a director of Nuix) was involved in the alleged omissions and/or alleged misleading and deceptive statements in the Prospectus in relation to the Nuix IPO, and the alleged contraventions of Nuix’s continuous disclosure obligations;
2. MCAL (who was an underwriter of the issue of Nuix shares pursuant to the Prospectus) is liable, along with Nuix and Phillips, for alleged omissions and/or alleged misleading and deceptive statements in the Prospectus in relation to the Nuix IPO.

The Defendants deny these allegations and are defending the class action.

Unless it is settled earlier, the trial for the Nuix Class Action will start on 27 July 2026.

You have received this notice because you may be a group member in the Nuix Class Action.

As explained below, you may do **one of three things** in response to this notice:

1. **Register** for the class action by **4pm AEDT on 28 February 2025** and be eligible to receive monetary compensation from any settlement approved by the Court which may be reached between the parties at mediation or up to two months after mediation; or
2. **Do nothing** and remain a group member, but not be eligible to receive monetary compensation from any settlement approved by the Court which may be reached between the parties at mediation or up to two months after mediation, and you may lose your right to seek compensation from the Defendants in relation to the same (or similar) claims; or
3. **Opt out** of the class action by **4pm AEDT on 28 February 2025** by completing the Online Opt Out Notice at <https://nuixclassaction.shine.com.au/OptOut>. If you opt out, you will lose the right to any monetary compensation from any settlement reached between the parties and subsequently approved by the Court, or from any judgment of the Court, but keep your right to seek compensation in an action you may start yourself or in which you may participate.

See section C below “**What are my options?**” for further details on each option.

THINGS YOU SHOULD KNOW ABOUT THE NUIX CLASS ACTION

A. What is the Nuix Class Action?

1. There were three class actions brought against Nuix which alleged similar claims in Australia:
 - a. On 19 November 2021, a proceeding against Nuix was brought in the Supreme Court of Victoria by Shine Lawyers on behalf of lead plaintiff William Lay and group members (**Lay proceeding**).
 - b. On 23 November 2021, a proceeding against Nuix, MCAL and Macquarie Group Limited (MGL) was brought in the Supreme Court of Victoria by Phi Finney McDonald on behalf of lead plaintiff Daniel Batchelor and group members (**Batchelor proceeding**).
 - c. On 9 March 2022, a proceeding against Nuix, MCAL, MGL and other parties was brought in the Supreme Court of Victoria by Banton Group on behalf of lead plaintiff Stella Stefana Bahtiyar and group members (**Bahtiyar proceeding**).
2. On 23 August 2022, the Supreme Court of Victoria ordered that the class actions filed by Shine Lawyers and Phi Finney McDonald would be consolidated (**Consolidated Proceeding**), and the Bahtiyar proceeding be permanently stayed (stopped).
3. The Supreme Court also allowed Phi Finney McDonald and Shine Lawyers' proposal that the firms continue to work together in the conduct of the consolidated class action. To this end, Shine Lawyers are the solicitors on the record and Phi Finney McDonald is engaged to work on the matter under an agency arrangement.
4. This notice relates to the Consolidated Proceeding (i.e., the Nuix Class Action).
5. The detailed allegations and defences are set out in the parties' pleadings.
6. A copy of these documents is available at <https://www.shine.com.au/service/class-actions/nuix-class-action#case-documents>.

B. Are you a group member?

7. You are a group member in the Nuix Class Action if you:

- a. acquired an interest in shares in Nuix Limited (ASX: NXL) between 18 November 2020 to 29 June 2021;
 - b. suffered loss by reason of the conduct alleged against the Defendants in the Nuix Class Action; and
 - c. are not:
 - i. a related party, a related body corporate, an associated entity, a director or officer of Nuix or a close associate of a director or officer of Nuix; or
 - ii. a Chief Justice, Justice, Associate Justice or Registrar of the Supreme Court of Victoria or the High Court of Australia.
8. If you are unsure whether or not you are a group member, you should contact Shine Lawyers on 1800 316 490 or at NuixClassAction@shine.com.au, or seek your own legal advice without delay.

C. What are your options?

9. If you are a group member in this class action, you have the following options:

Option 1: Register by 4pm AEDT on 28 February 2025

Group members who wish to be eligible to receive compensation from any settlement that may be reached at mediation, or up to two months after mediation, must register their claim by 4pm AEDT on 28 February 2025 with Shine Lawyers. To register, group members must complete the Group Member Registration Form online via the Shine Lawyers website at <https://nuixclassaction.shine.com.au/Registration>.

If you have:

- (a) registered your interest with Shine Lawyers or Phi Finney McDonald and provided details of your claim; or
- (b) retained Shine Lawyers or Phi Finney McDonald to act on your behalf in relation to the Nuix Class Action

you do not have to register again. You will be contacted directly if you need to provide further information.

Option 2: Do Nothing

If you do nothing (i.e. neither opt out or register), you will remain an unregistered group member and remain bound by any order, judgment or settlement in the Nux Class Action.

However, if you do not register by 4pm AEDT on 28 February 2025, you will not be entitled to receive compensation from any settlement that may be reached at mediation, or up to two months after mediation. If the class action is settled in that period, you may lose your right to seek compensation from the Defendants in relation to the same (or similar) claims alleged in any class action.

If the class action is not settled at mediation, or up to two months after mediation, group members who have not registered may be given another opportunity to register in the event of a successful outcome following the initial trial of the Nux Class Action in July 2026.

To be eligible to receive compensation from any settlement that may be achieved at mediation, or up to two months after mediation, you must register (see Option 1) by 4pm AEDT on 28 February 2025.

Option 3: Opt Out

If you do not wish to be a group member you can remove yourself by opting out of the class action by 4pm AEDT on 28 February 2025. **To opt out, you must** complete and submit the 'Online Opt Out Form at: <https://nuxclassaction.shine.com.au/OptOut> before 4pm AEDT on 28 February 2025.

If you opt out, then you:

- a. will cease to be a group member;
- b. will not be affected by any orders made in the class action and will not receive any compensation from the class action if it succeeds at trial or settles before trial; and
- c. will not be bound by any releases which may operate for the benefit the Defendants, and you will be able to commence your own claim against the Defendants.

If you wish to bring your own claim against the Defendants, you should seek independent legal advice as a matter of urgency because there are strict time limits to commence any such claim.

If you wish to opt out but you cannot do so online, please contact Shine Lawyers at 1800 316 490 between 9:00am to 5:00pm AEDT.

FURTHER INFORMATION ABOUT CLASS ACTION PROCEEDINGS

D. What is a class action?

10. A class action, also known as a group proceeding, is an action that is brought by one or more plaintiff(s) on behalf of themselves and group members against one or more other defendant(s), where the plaintiff(s) and the group members have similar claims against the defendant(s).
11. Group members are bound by any judgment or settlement entered into in the class action unless they choose not to participate by “opting out” of the proceeding. This means that:
 - a. if the class action is successful, registered group members may be eligible for a share of any settlement monies or Court-awarded damages;
 - b. if the class action is unsuccessful, group members are bound by that result;
 - c. any settlement obtained in the proceeding may involve the parties seeking that the Court make an order which would release the Defendants, and their directors or officers and any of their related entities, from any further liability in respect of the claims made in, or similar to those made in, this class action, or claims which are not made in this class action but could have been made where they relate to the same facts and circumstances as those that are the subject of this class action; and
 - d. regardless of the outcome of the class action, group members will not be able to pursue their claims against the defendant(s) in separate legal proceedings unless they have opted out.
12. If you consider that you have a claim against the Defendants based on your individual circumstances or otherwise additional to the claims described in the Nuix Class Action,

it is important that you seek independent legal advice about the potential binding effects of the class action before the deadline for opting out.

E. What is registration?

13. To be eligible to share in any settlement that may be achieved at mediation, or up to two months after mediation, you must register by **4pm AEDT on 28 February 2025**.
14. You can register by providing your name, contact details, and information about your relevant trading in Nuix shares at <https://nuixclassaction.shine.com.au/Registration>.
15. Registration gives the parties information about the value of all the claims of group members who seek to share in compensation from any settlement. This information assists the parties to determine a fair and reasonable settlement.
16. Registering does not mean you enter into a contract for Shine Lawyers or Phi Finney McDonald to represent you.
17. There are only two possible outcomes for registered group members:
 - a. in the event of a successful mediation or trial, and assuming you meet all eligibility criteria, you are entitled to receive a share of the settlement or award of damages, with a single fee (described further below) deducted from the total settlement or award of damages for legal costs to be paid to Shine Lawyers and Phi Finney McDonald for running the class action; or
 - b. in the event of an unsuccessful mediation or trial, the class action and your claim as a group member is unsuccessful. If this happens, you will not be liable for legal costs or required to pay anything.

F. What is opt-out?

18. The plaintiff(s) in class actions do not need to seek the consent of group members to commence a class action on their behalf. However, group members can cease to be group members by “opting out” of the proceeding. If you are a group member in the Nuix Class Action but you do not want to continue to be a group member, you can opt out now.

19. If you opt out of the Nuix Class Action, you:
 - a. will not be affected by any orders made in the Nuix Class Action or by any settlement reached between the parties;
 - b. will not be permitted to receive any distribution from any damages award or settlement outcome arising from the Nuix Class Action; and
 - c. will not be bound by any releases which may operate for the benefit of the Defendants and you will be able to commence separate proceedings against Nuix on your own behalf if you so wish (subject to any applicable time limits).

G. Will you be liable for legal costs?

20. You will **not need to pay any out-of-pocket legal costs** by remaining a group member or by registering in this class action.
21. Group members will not need to pay any out-of-pocket costs as a result of participating in the proceeding. If the class action is unsuccessful, group members will have no liability for legal costs and will not be required to pay anything.
22. To bring the class action, the Plaintiffs signed litigation funding agreements with Woodsford and Litigation Lending Services (**LLS**) (**Funding Agreements**). Pursuant to those Funding Agreements, the Plaintiffs have agreed to apply for a Court order to have any Proceeds (as defined below) obtained from a settlement or a judgment to be distributed as follows:
 - a. *First*, repayment of reasonable costs (Cash Outlay, as further defined below) incurred by Woodsford and LLS;
 - b. Second, payment of Woodsford and LLS' Success Fee (defined below), Shine Lawyers and Phi Finney McDonald's deferred fees (including any costs incurred pursuant to the agency agreement between Shine Lawyers and Phi Finney McDonald) and a 25% uplift on those deferred fees, and any unpaid insurance premiums due (including any deferred and contingent premiums). Shine Lawyers and Phi Finney McDonald will not charge the uplift fee if this would cause the plaintiffs and group members to receive less than a total of 70% of any resolution sum; and

- c. *Third*, payment of the balance to all group members (including the Plaintiffs) in accordance with a distribution scheme approved by the Court.
23. **Proceeds** are the total amount received (including any settlement sum, or compensation, costs and damages awarded by the Court and interest), paid or credited to, in favour of, for the benefit of, or the order of, the Plaintiffs or Group Members, by the Respondents or any third party which relates to the subject matter of the class action.
24. The **Cash Outlay** is the total amount of legal and other fees and costs (incl. GST) advanced by Woodsford and/or LLS plus all other fees and costs relating to the class action reasonably incurred by Woodsford and/or LLS. Those costs include:
 - a. Shine Lawyers' and Phi Finney McDonald's fees;
 - b. the costs of the Woodsford – Nuix – Litigation Funding Scheme (previously ARSN 655 927 521);
 - c. third party costs, including barristers' fees, upfront (but not deferred and contingent premiums for after-the-event (**ATE**) insurance and the costs of any deeds of indemnity purchased from the ATE insurers to satisfy the Respondent's requests and/or applications for security for costs (if necessary)).
25. The Plaintiffs also intend to apply for a payment from the Proceeds for compensation for any time and expense incurred in acting as the Plaintiffs. The balance of any proceeds will then be paid to group members in accordance with a distribution scheme approved by the Court.
26. Pursuant to the Funding Agreements, the Plaintiffs have agreed to apply for an order that will fairly distribute their obligations under the Funding Agreements among people who have benefited from this action. This will be by the way of what is known as a Common Fund Order, Funding Equalisation Order, or may be by another order of the Court.
27. The proposed distribution arrangements are described in more detail below.

H. Plaintiffs' costs and Woodsford's and LLS' Success Fee

28. If the class action is successful, the Plaintiffs intend to seek an order that you contribute to the costs out of/from any settlement or judgment received by you in respect of your

claim. These costs are taken into account before you receive any award or compensation.

29. The Funding Agreements mean that Woodsford and LLS are paying the Plaintiffs' legal costs, including the costs of bring the claim on behalf of group members. Shine Lawyers and Phi Finney McDonald are also deferring some of their fees.
30. In return for the funding that Woodsford and LLS provides under the Funding Agreements for the Plaintiffs' 'own-side' cost (as distinct from the adverse costs risk, which is discussed further below), Woodsford and LLS charge a 'Success Fee' payable from any Proceeds.
31. The Plaintiffs have agreed to apply for a Common Fund Order consistent in amount with Woodsford's and LLS' Success Fee. Woodsford's and LLS' Success Fee, as defined in the Funding Agreement, will be 16% of Proceeds up to AU\$50,000,000 plus 10% of Proceeds above AU\$50,000,000.

I. Indemnification against Adverse Costs provided by Woodsford and LLS

32. If the class action is unsuccessful, the Court may order the Plaintiffs (and/or other third parties such as Woodsford and/or LLS) to pay some part of a successful Defendants' costs (known as **Adverse Costs**).
33. To protect against the risk of Adverse Costs, Woodsford and LLS have:
 - a. indemnified the Plaintiffs (and any Group Member who acts as a representative party) against liability for any Adverse Costs order made against the Plaintiffs;
and
 - b. obtained ATE insurance to:
 - i. provide the Plaintiffs and Group Members with additional protection against the risk of Adverse Costs (the ATE insurance, provided by an A-rated ATE insurer, expressly covers Adverse Costs payable by the Plaintiffs); and
 - ii. assist the Plaintiffs to provide security for the Defendants' costs.
34. In return for this protection against the Adverse Costs risk, the Plaintiffs have agreed to apply for a Court order that the cost of any such ATE insurance, including any deferred and contingent ATE insurance premiums, be payable from the Proceeds (in addition to the other costs mentioned above, including Woodsford's and LLS' Success Fee).

35. Any application for the deduction of costs from the Proceeds, including Woodsford's and LLS' Success Fee and the costs of ATE insurance, is subject to Court approval.

J. Where can you get copies of relevant documents?

36. Copies of relevant documents may be obtained by:
- a. accessing the Shine Lawyers website at <https://www.shine.com.au/service/class-actions/nux-class-action#case-documents>;
 - b. accessing the Supreme Court of Victoria website at <https://www.supremecourt.vic.gov.au/areas/group-proceedings/nux>;
 - c. contacting Shine Lawyers at NuxClassAction@shine.com.au or 1800 316 490 between 9:00am to 5:00pm AEDT and requesting a copy; or
 - d. visiting the Commercial Court Registry of the Supreme Court of Victoria at 450 Little Bourke Street, Melbourne.

K. Questions?

37. If you are unclear about whether you are a group member, or if you have any other questions regarding the Nux Class Action, you should contact Shine Lawyers by emailing NuxClassAction@shine.com.au or seek independent legal advice without delay.
38. If you wish to register or opt out but you cannot do so online or otherwise require assistance, please call Shine Lawyers at **1800 316 490** between 9:00am to 5:00pm AEDT. At the time of your call, please ensure you have all available information relevant to your trading in Nux securities if you are registering.

ANNEXURE B

Covering Correspondence

Subject: Important Class Action Court Notice – Nuix Class Action (Lay & Anor v Nuix Limited & Ors - S ECI 2021 04360)

You are receiving this email because you have been identified as a person who may be a group member in the Nuix Class Action. This email contains important information that may affect your legal rights.

Please read it carefully and consider the options available to you.

A copy of a Court-approved Opt Out and Registration Notice is available to review here:

<https://www.shine.com.au/service/class-actions/nuix-class-action#case-documents..>

The Opt Out and Registration Notice includes information about:

- how to determine whether you are an eligible group member, and if you are:
 - how to **register your claim** to participate in any settlement reached between the parties to the Nuix Class Action; or
 - your right to **opt out** of the Nuix Class Action; or
 - what happens **if you choose to do nothing** in response to the Opt Out and Registration Notice.

The Court has made orders to the effect that:

- if you wish to **register your claim** for the Nuix Class Action, you must complete a registration form online at the website of Shine Lawyers at [TBC]. If you have previously registered your interest with Shine Lawyers or Phi Finney McDonald, or retained either firm to act on your behalf in connection with the Nuix Class Action, you do not have to register again. You will be contacted directly if you need to provide further information.
- if you wish to **opt out** of the Nuix Class Action, you must do so by completing the opt out form online at the website of Shine Lawyers at [TBC]

**The deadline to register your claim or opt out of the class action is 4:00 pm (AEDT) on
28 February 2025.**

Taking no action may affect your rights.

If there is anything you do not understand in the Opt Out and Registration Notice, or if you have any questions, you may seek independent legal advice or contact the plaintiffs' lawyers by email to [email]. Any questions you have concerning the matters contained in the notice should not be directed to the Supreme Court of Victoria which is unable to answer questions about the Nuix Class Action.

If you wish to verify the legitimacy of this email, you can visit the Supreme Court of Victoria website at <https://www.supremecourt.vic.gov.au/areas/group-proceedings/nuix> or search for "Supreme Court of Victoria Nuix Class Action" where you will find a copy of the Opt Out and Registration Notice on the Supreme Court of Victoria's website.

SCHEDULE OF PARTIES



BETWEEN:

WILLIAM LAY

First plaintiff

and

DANIEL JOSEPH BATCHELOR

Second plaintiff

and

NUIX LIMITED (ACN 117 140 235)

First defendant

and

MACQUARIE CAPITAL (AUSTRALIA) LIMITED (ACN 123 199 548)

Second defendant

and

DANIEL PHILLIPS

Third defendant