

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMERCIAL COURT
COMMERCIAL LIST

S ECI 2023 01899

BETWEEN:

RAEKEN PTY LTD ATF DOWRICK
SUPERANNUATION FUND (ACN 110 057 684)

Plaintiff

- and -

JAMES HARDIE INDUSTRIES PLC (ARBN 097829895)

Defendant

ORDERS

JUDGE:	The Honourable Justice M Osborne
DATE MADE:	21 May 2024
ORIGINATING PROCESS:	Writ filed on 8 May 2023
HOW OBTAINED:	Court's own motion
ATTENDANCE:	N/A
OTHER MATTERS:	<p>A. By order made on 6 May 2024 ('May order'), the Court made orders by consent, inter alia, approving the terms of the commencement, opt out and claims registration notice pursuant to ss 33X(1)(a) and (5) and 33Y of the <i>Supreme Court Act 1986</i> (Vic). A copy of the notice so approved, defined in the May order as the 'Notice' was annexed to the May order.</p> <p>B. Sub-paragraphs 3(h) and (i) of the May order provide that the Notice may be amended by agreement between the parties before it is published in order to correct any typographical error, or amend any postal, website or email address or telephone number and for the solicitor for the plaintiff to provide a copy of the amended Notice to the Commercial Court Registry of the Supreme Court of Victoria by 4:00pm on 31 May 2024.</p>

C. The parties have amended the Notice and provided a copy to the Commercial Court Registry in the form annexed hereto.

THE COURT ORDERS THAT:

1. For the purpose of the May order, all references to the Notice, shall from the date of this order and thereafter be a reference to the Notice annexed hereto.

DATE AUTHENTICATED: 21 May 2024


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THE HONOURABLE JUSTICE M OSBORNE





**THIS NOTICE IS SENT BY ORDER OF THE SUPREME
COURT OF VICTORIA**

NOTICE TO GROUP MEMBERS: REGISTRATION AND OPT OUT

JAMES HARDIE SHAREHOLDER CLASS ACTION

Proceeding No. S ECI 2023 01899

Raeken Pty Ltd ATF Dowrick Superannuation Fund (ACN 110 057 684)

v James Hardie Industries Plc (ARBN 097829895)

IMPORTANT

**This Notice has been sent to you because you may be a group member in
a class action.**

**IT IS IMPORTANT THAT YOU READ THIS NOTICE CAREFULLY
BECAUSE IT MAY AFFECT YOUR LEGAL RIGHTS.**



SUMMARY

The Supreme Court of Victoria has ordered that you receive this notice because you may be a group member in the James Hardie Shareholder Class Action.

If you are a group member, you can:

- (1) **Register:** If you wish to remain a group member in this class action you can register your interest with the Plaintiff's solicitors here <https://www.echolaw.com.au/james-hardie-class-action> or complete the Group Member Registration Form at **Schedule A** of this Notice and submit it to the Plaintiff's solicitors, Echo Law. If you register, you will remain eligible to participate in any compensation recovered in the class action.
- (2) **Opt out:** if you do not want to remain a group member in the James Hardie Shareholder Class Action, you must opt out by **4:00pm (AEST) on 26 July 2024 (Opt Out Deadline)**. This means you will **not** be eligible to receive compensation in the event of a successful outcome but will preserve your rights to make an individual claim. If you wish to opt out, you can complete the Online Opt Out Notice on the Supreme Court website at <https://www.supremecourt.vic.gov.au/areas/group-proceedings/james-hardie/opting-out> or complete the Opt Out Notice at **Schedule B** of this Notice and return the completed notice to the Supreme Court of Victoria by email or post. If you decide to opt out, you will be permanently excluded from the class action and cannot rejoin at a later date.

If you **do nothing** in response to this Notice, you will remain a group member. However, at some point in the future it is likely that you will have to register your interest to receive money in any settlement that may be reached, or if the class action goes to trial and the Court decides in favour of the Group Members.

If there is anything in this Notice you do not understand, you should use the contact information at section 8 below, titled '**Where can I find more information?**' to make enquiries or seek independent legal advice.

Please do not direct enquiries to the Supreme Court of Victoria.



1. WHY IS THIS NOTICE IMPORTANT?

- 1.1. You have been sent this Notice because you may be a group member in the James Hardie Shareholder Class Action (defined below). You have been identified as a potential group member based on information in James Hardie's share registries.
- 1.2. You may have suffered loss or damage and be entitled to compensation if the class action ends in a judgment or settlement in favour of group members.
- 1.3. On 8 May 2023, a class action was commenced by Raeken Pty Ltd ATF Dowrick Superannuation Fund (**Plaintiff**) in the Supreme Court of Victoria against James Hardie Industries PLC (**James Hardie**) (**James Hardie Shareholder Class Action**). The Plaintiff's lawyers are Echo Law.
- 1.4. The Supreme Court of Victoria has ordered that this Notice be published for the information of persons who are members of the group on whose behalf the action is brought (**Group Members**).
- 1.5. If you acquired securities in James Hardie between **7 February 2022 and 7 November 2022** (inclusive) (the **Claim Period**) and believe you may be a group member, you should read this Notice carefully as it may affect your rights in the class action.
- 1.6. If there is anything in this Notice that you do not understand, you should use the contact information at section 8 below, titled '**Where can I find more information?**' or seek independent legal advice. Any questions about this Notice should not be directed to the Supreme Court of Victoria.

2. AM I A GROUP MEMBER?

- 2.1. In summary, you are a group member if (subject to some limited exceptions set out in paragraph 1 of the Plaintiff's statement of claim), you:
 - (a) acquired an interest in James Hardie securities between **7 February 2022 and 7 November 2022** (inclusive) by:
 - (i) purchasing James Hardie shares on the Australian Securities Exchange (ASX);
or
 - (ii) purchasing James Hardie American Depositary Receipts on the New York Stock Exchange (NYSE); or



- (iii) acquiring an interest in long exposure to James Hardie shares by entering into equity swap confirmations in respect of James Hardie shares; and
 - (b) have suffered loss or damage resulting from the conduct of James Hardie, as alleged in the Plaintiff's statement of claim (and which is summarised in the section below titled '**What is the James Hardie Shareholder Class Action?**').
- 2.2. If you are unsure whether or not you are a group member, you should contact Echo Law by sending an email to enquiries@echolaw.com.au or by calling 1800 571 241 or +61 3 7046 3565 or seek your own legal advice without delay before the Opt Out Deadline.

3. WHAT IS A CLASS ACTION?

- 3.1. A class action is a proceeding that is brought by one or more persons on their own behalf (the **Plaintiff/s**) and on behalf of a group of people (group members) who have similar claims against another person or persons (the **Defendant/s**).
- 3.2. Group members in a class action are **not** individually responsible for the legal costs associated with bringing a class action and group members do not pay out of pocket costs by participating in a class action. An explanation of how legal costs are payable in this class action is available in section 7 below, titled '**How is the class action being funded?**'
- 3.3. The Plaintiff in a class action does not need to seek the consent of group members to commence a class action on their behalf or to identify specific group members. Group members can, however, cease to be group members by taking steps to opt out of the class action. Group members who have opted out of the class action will not be bound by its outcome. An explanation of how group members can opt out is in section 5 below, titled '**What are my options?**'.
- 3.4. A class action is resolved in two ways, either by the Court delivering a judgment, or by an agreed settlement approved by the Court. Group members in a class action are bound by the outcome of that class action. This means that when a class action is resolved, group members will not be able to pursue the same claims against the defendant in other legal proceedings and may not be able to pursue similar claims against the defendant or related parties, unless the group member had taken the required steps to opt out of the class action.
- 3.5. If you consider that you have claims against James Hardie which are based in your individual circumstances, or otherwise additional to the claims described in the class action, then it is important that you seek independent legal advice about the potential binding effects of the class action before the Opt Out Deadline.



4. WHAT IS THE JAMES HARDIE SHAREHOLDER CLASS ACTION?

- 4.1. The James Hardie Shareholder Class Action is brought by the Plaintiff on its own behalf, and on behalf of all persons who are group members as defined in paragraph 1 of the Plaintiff's statement of claim (and which is summarised in section 2 above, titled '**Am I a Group Member?**').
- 4.2. The proceeding alleges that, between 7 February 2022 and 7 November 2022 (inclusive), James Hardie engaged in misleading or deceptive conduct, made misleading statements, and breached its obligations of continuous disclosure to the market in relation to representations made about its expected growth, and information withheld about its likely FY23 performance.
- 4.3. The defendant to the class action is James Hardie. James Hardie denies the allegations and is defending the class action.

5. WHAT ARE MY OPTIONS?

- 5.1. As explained in this section, if you are a group member, you may elect to:
- (a) register your interest to receive compensation if the class action is successful; or
 - (b) opt out and cease to be a group member.

Section 6 addresses what happens if you decide to do nothing in response to this notice.

OPTION 1 – REGISTER YOUR INTEREST TO RECEIVE COMPENSATION IF THE CLASS ACTION IS SUCCESSFUL

- 5.2. If you wish to register your claim in connection with the James Hardie Shareholder Class Action you have the option to register now. If you register, you may be eligible for compensation in the event of a successful outcome in the class action.
- 5.3. You can register your interest:
- (a) with the Plaintiff's solicitors here <https://www.echolaw.com.au/james-hardie-class-action>; or
 - (b) by completing the group member Registration Form at **Schedule A of this Notice** and returning a signed copy to Echo Law by email at enquiries@echolaw.com.au or post to Echo Law, Level 2, 533 Little Lonsdale Street, Melbourne, Victoria 3000.



- 5.4. If you register for the James Hardie Shareholder Class Action you will become a **Registered Group Member**. This means that:
- (a) you will be entitled to share in any benefit (such as financial compensation) of any order, judgment or settlement in the class action for loss or damage suffered as a result of the pleaded conduct of James Hardie; and
 - (b) you will be bound by any resolution of the class action which means you will not be permitted to bring any future claim related to the subject matter of the James Hardie Shareholder Class Action.
- 5.5. Becoming a Registered Group Member does not mean:
- (a) you enter into a contract with the solicitors for the Plaintiff (Echo Law); or
 - (b) you will become liable for any “out of pocket costs” to Echo Law.
- 5.6. If you have already registered, you do not need to register again. You have already registered if you have provided your name, contact details and, information about the shares in James Hardie you purchased between 7 February 2022 and 7 November 2022 (inclusive) to Echo Law.
- 5.7. If you are unsure whether you have already registered your claim, you may contact Echo Law by email at enquiries@echolaw.com.au or by telephone on 1800 571 241 or +61 3 7046 3565.

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

- 5.8. If you do not wish to remain a group member in the James Hardie Shareholder Class Action, you **must** opt out by **4.00pm (AEST) on 26 July 2024**.
- 5.9. **If you wish to opt out, you must fill out a separate Opt Out Notice by:**
- (a) completing the Online Opt Out Notice on the Supreme Court of Victoria website at: <https://www.supremecourt.vic.gov.au/areas/group-proceedings/james-hardie/opting-out>; or
 - (b) completing an Opt Out Notice located at **Schedule B** of this Notice and return the completed notice to the Commercial Court Registry of the Supreme Court of Victoria:
 - i. by email to jameshardieclassaction@supcourt.vic.gov.au; or
 - ii. by post to:

Commercial Court Registry

Supreme Court of Victoria

210 William Street, Melbourne VIC 3000



in either case before **4.00pm (AEST) on 26 July 2024**.

5.10. If you opt out of the James Hardie Shareholder Class Action, you will:

- (a) cease to be a group member in the class action;
- (b) not be entitled to share in any benefit (such as financial compensation) of any order, judgment or settlement in the class action for loss or damage suffered as a result of the pleaded conduct of James Hardie;
- (c) not be bound by the outcome of any order, judgment or settlement in the class action for loss or damage suffered as a result of the pleaded conduct of James Hardie; and
- (d) retain your rights to commence separate proceedings against James Hardie on your own behalf outside of the James Hardie Shareholder Class Action, provided you issue any proceedings within the time limit applicable to your claim.

5.11. Each group member seeking to opt out should fill out a separate Opt Out Notice. If you are opting out on behalf of a company or business please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner).

5.12. Importantly, if you wish to opt out, you must do so prior to the deadline. Opt Out Notices received after **4.00pm (AEST) on 26 July 2024** will not be accepted, and you will be treated as having not responded to this Notice and remain a group member.

6. WHAT IF I DO NOTHING IN RESPONSE TO THIS NOTICE?

6.1. Registration is not compulsory at this stage and if you do nothing following the receipt of this Notice (i.e., neither register or opt out), you will remain in the class action as an **unregistered group member**.

6.2. Subject to paragraph 6.3 below, your rights will be determined by the outcome of the class action – whether it is settled or decided by the Court.

6.3. It is not compulsory at this stage for you to register if you would like to receive compensation in the event that the class action is successful. At some point in the future you will have a further opportunity to register your interest to receive money in any settlement that may be reached, or if the class action goes to trial and the Court decides in favour of the Group Members. If a settlement is proposed or if the Court finally decides the case, all group members (whether or not they have registered) will be notified.



7. HOW IS THE CLASS ACTION BEING FUNDED?

- 7.1. Group members are not, and will not become, liable for any legal costs out of their own pocket by remaining in the James Hardie Shareholder Class Action **in any circumstances**.
- 7.2. If the class action is unsuccessful, group members will not pay any costs.
- 7.3. If the class action is successful and financial compensation is recovered from James Hardie, legal costs payable will be deducted from the amount of compensation recovered. The legal costs will never exceed the amount of compensation to which you may otherwise become entitled and will be assessed by the Court to ensure any legal costs deducted are fair and reasonable. You will be given a notice at that time informing you of legal costs proposed to be deducted and given an opportunity to tell the Court if you agree or disagree with what is proposed.
- 7.4. On 28 November 2023, the Plaintiff applied to the Court for an order that the legal costs payable to Echo Law be calculated as a percentage, no higher than 27.5% (inclusive of GST) of any settlement or judgment sum recovered for group members at the end of the proceeding. This is called a Group Costs Order. On 11 April 2024, the Court approved the Plaintiff's application for a Group Costs Order. This means that group members will receive at least 72.5% of the overall settlement or judgement sum.
- 7.5. A Group Costs Order involves a single costs deduction from the total amount of compensation recovered. The liability for payment of legal costs incurred by Echo Law will be shared between the Plaintiff and all group members and will be deducted from the total sum before the compensation is distributed to individual group members. The Court cannot approve an extra 'uplift' fee if it has made a Group Costs Order, and legal costs will be restricted to the approved percentage of any settlement or judgment sum recovered or lower as the Court assesses is fair and reasonable.
- 7.6. Under the Group Costs Order, Echo Law is responsible for paying any costs order made against the Plaintiff and group members in the proceeding (an Adverse Costs Order), or any security the Court may order for James Hardie's costs in the class action (Security for Costs).



8. WHERE CAN I FIND MORE INFORMATION?

- 8.1: Group members can register to receive updates in relation to the class action here <https://www.echolaw.com.au/james-hardie-class-action>.
- 8.2. Copies of relevant documents, including the most recent version of the pleadings may be obtained by:
- (a) accessing the Supreme Court's website here <https://www.supremecourt.vic.gov.au/areas/group-proceedings/james-hardie>;
 - (b) accessing the Plaintiff's solicitors' James Hardie Shareholder Class Action website here <https://www.echolaw.com.au/james-hardie-class-action>; and
 - (c) contacting Echo Law via email at enquiries@echolaw.com.au or by telephone on 1800 571 241 or +61 3 7046 3565.
- 8.3. If there is anything of which you are unsure, you can find more information or contact Echo Law by email to enquiries@echolaw.com.au or by calling 1800 571 241 or +61 3 7046 3565, or by seeking your own legal advice.
- 8.4. If there is anything of which you are unsure and you do not want to speak with Echo Law (or you want to understand their involvement better), you may get legal advice from a solicitor of your choice at your own cost.



SCHEDULE A

GROUP MEMBER REGISTRATION FORM

JAMES HARDIE CLASS ACTION – Proceeding No. S ECI 2023 01899

Raeken Pty Ltd ATF Dowrick Superannuation Fund v James Hardie Industries PLC

Complete this form if you wish to **REGISTER** and remain a group member in the James Hardie Shareholder Class Action.

Please return this form to Echo Law by email or post at the below address.

By post: Echo Law
 Level 2
 533 Little Lonsdale Street
 Melbourne VIC 3000

By email enquiries@echolaw.com.au

Alternatively, you may also complete an online version of this registration form at:
<https://www.echolaw.com.au/james-hardie-class-action>.

GROUP MEMBER DETAILS

Name of group member:

Name of registered owner(s) of securities (*if different from name of group member*):

HIN/SRN/Reference number (*if known*):

Name of person completing this form (print):

Authority of person completing this form (e.g., company director, lawyer)

Email address:

Postal address:

Telephone number:

How many James Hardie securities did you hold at the commencement of trading on 7 February 2022:



TRADE INFORMATION

Please provide details of all transactions and trades in James Hardie securities for the time period 7 February 2022 and 7 November 2022 (inclusive).

Date	Transaction type (acquisition or disposal)	Type of James Hardie securities	Number of securities	Unit price per share (excl. brokerage)	Securities exchange on which transaction occurred

JAMES HARDIE EQUITY SWAP ARRANGEMENTS

DID YOU ENTER INTO EQUITY SWAP AGREEMENTS IN RESPECT OF JAMES HARDIE SECURITIES?

An equity swap is a derivative financial instrument whereby an investor gains exposure to the future share price movement of a security without acquiring a direct interest in ordinary shares.



YES

NO

If you selected 'Yes', please provide copies of the instruments and documents for each equity swap and related transaction (including any back-to-back transaction).

If you need to list details of further acquisitions and/or disposals, please attach additional versions of the tables to the back of this form.

Dated: _____

Name: _____ Signed: _____

This information will be managed collectively and consistently with Echo Law's Privacy Policy available at <https://www.echolaw.com.au/privacy-policy>



SCHEDULE B

NOTICE OF OPTING OUT BY GROUP MEMBER

Only complete this form if you wish to **OPT OUT** of the James Hardie Shareholder Class Action.

BETWEEN:

RAEKEN PTY LTD ATF DOWRICK SUPERANNUATION FUND (ACN 110 057 684)

Plaintiff

-and-

JAMES HARDIE INDUSTRIES PLC (ARBN 097829895)

Defendant

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

I, *[print name]*..... am

(select one option only)

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

in the above group proceeding, and give notice under section 33J(2) of the *Supreme Court Act 1986* that I am **opting out** of this proceeding.

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

If you would like to **OPT OUT** of the James Hardie Shareholder Class Action, please complete this form online via the Supreme Court 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 (AEST) on 26 July 2024.**

