



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

NOTICE TO GROUP MEMBERS: OPT OUT OR REGISTRATION

FLEX COMMISSIONS CLASS ACTION - WESTPAC AND ST GEORGE FINANCE

The Supreme Court of Victoria has ordered that you receive this notice because you may be a group member in *Fox & Anor v Westpac Banking Corporation & Anor* (Proceeding No S ECI 2020 02946).

If you are a group member:

- You **must** register by 12 October 2023 in order to be eligible to receive any compensation if there is a settlement at the upcoming mediation that will occur by 15 December 2023. Unless you register, you may lose your right to participate in any settlement reached at mediation.
- If you do not want your rights determined by the class action, you may opt out by 12 October 2023.
- If there is anything you are unsure about or do not understand, you should seek independent legal advice or contact the lawyers for the Plaintiffs conducting the class action. You can find more information by:
 - visiting the Maurice Blackburn Lawyers website at:
www.mauriceblackburn.com.au/flex
 - calling Maurice Blackburn Lawyers on **1800 318 063** or
 - emailing westpacflexCA@mauriceblackburn.com.au

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



WHAT IS THIS NOTICE?

1. The purpose of this notice is to inform you of a class action in the Supreme Court of Victoria brought against Westpac Banking Corporation (**Westpac**) and Westpac's wholly owned subsidiary St George Finance Limited (**St George Finance**), (together, the **Defendants**), to inform you of a mediation to be held before 15 December 2023 and to provide you with options regarding your participation in the class action.
2. This notice provides important information about:
 - (a) the class action, including what it is about and how it is being funded;
 - (b) how you may register to have the opportunity to receive any monetary benefit that may be recovered in the class action and how your legal rights will be affected if you do not register and remain a group member; and
 - (c) what you need to do if you wish to remove yourself from the class action and cease to be a group member, namely by opting out before 12 October 2023.

WHY ARE YOU RECEIVING THIS NOTICE?

3. The Supreme Court of Victoria has ordered that you receive this notice because, according to information available to Westpac and St George Finance, you have been identified as a potential **group member** in the class action.
4. You are a group member if you are a person who entered into a finance agreement for the acquisition of a car:
 - (a) with Westpac or St George Finance;
 - (b) which was obtained through a car dealer who supplied the car;
 - (c) in which a "flex commission" was paid to the car dealer by one of the Defendants; and
 - (d) between 1 March 2013 and 31 October 2018, either commenced entering into discussions concerning finance with the car dealer or executed that finance agreement.



INFORMATION ABOUT THIS CLASS ACTION

5. This class action has been brought by Alannah Fox and Bridget Nastasi (**the Plaintiffs**). Ms Fox had a loan with Westpac and Ms Nastasi had a loan with St George Finance. The Plaintiffs bring this action on their own behalf and also on behalf of all group members who entered into similar loan arrangements with the Defendants. The Plaintiffs are represented by Maurice Blackburn Lawyers.
6. The Plaintiffs allege that car dealers acted on behalf of Westpac and St George Finance in providing certain credit services to group members who took out car loans through those dealers. The claim alleges that “flex commissions” were paid to those car dealers and that certain features of the flex commission arrangements were unfair and/or not disclosed to consumers who paid higher interest rates on their Westpac car loans than would otherwise have been the case. It is claimed that the Defendants are responsible for the flex commission arrangements and non-disclosures, and that Westpac should therefore pay compensation (that is, money) to consumers for the loss they have suffered as a result. The claim seeks to restrain the lenders from charging further interest, the repayment of interest under the loans, or alternatively orders voiding the loan agreements or providing compensation to group members.
7. Westpac and St George Finance deny the claims made against them and are defending the class action.
8. The Court has ordered the parties to attend a mediation by 15 December 2023.

YOUR OPTIONS

9. If you are a group member, you have two options - registering to be eligible to receive compensation if the case settles, and opting out if you want to exclude yourself from the case.

OPTION 1: REGISTER YOUR INTEREST TO RECEIVE COMPENSATION

10. If you would like to be eligible to share in any monetary benefit arising from any settlement reached between the parties at the upcoming mediation, you must register as a Group Member before 12 October 2023.



11. If you register as a Group Member, you will become a **Registered Group Member**.
12. The lawyers for the Plaintiffs encourage group members who wish to remain a group member to register their details with them. Becoming a Registered Group Member will help the parties work out if a settlement is possible because information about how many people are participating in the claim is part of that process.

How can you register your claim?

13. For most group members, the easiest way to register your claim will be to complete the online form available at www.mauriceblackburn.com.au/flex-registration
14. If the online form is not suitable for your needs, please contact Maurice Blackburn Lawyers on **1800 318 063** or at westpacflexCA@mauriceblackburn.com.au
15. You do not need to register again if you have already registered with Maurice Blackburn Lawyers for the purpose of the class action. If you are unsure whether you have registered, please contact Maurice Blackburn Lawyers on the details below.

What are the consequences of registration?

16. **If a settlement is reached** between the parties at the upcoming mediation:
 - (a) Registered Group Members will be eligible to share in any monetary amount paid by the Defendants in this class action.
 - (b) A single fee will be deducted from the total amount of any monetary amount paid by the Defendants for the costs and risks incurred by Maurice Blackburn Lawyers for running the class action.
 - (c) The monetary amount which the Defendants would pay, and the percentage payable to Maurice Blackburn Lawyers, must first be approved by the Court. Before this happens, you will receive a further Notice that provides information about the proposed settlement for your consideration at that time.



17. **If the class action does not settle** at the upcoming mediation:

- (a) Registered Group Members will be eligible to share in a monetary payment from any future settlement in this class action and will be bound by any final judgment, if the class action is not resolved prior to trial.

18. **If the class action is unsuccessful:**

- (a) The Defendants are not required to pay any monetary amount to the group members.
- (b) You will not be required to pay anything.

19. Becoming a Registered Group Member does not mean you enter into a contract for Maurice Blackburn Lawyers to represent you.

20. Registered Group Members are not, and will not be, liable for any legal costs out of their own pocket by registering in this class action.

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

21. If you meet the description of a group member and do not want your legal rights to be determined by this class action, you must opt out by 12 October 2023.

22. If you choose to “opt out”:

- (a) you will cease to be a group member in the class action;
- (b) you will not be bound by the outcome of the class action and will not be entitled to share in the benefit of any order, judgment or settlement in favour of the Plaintiffs and group members in the class action; and
- (c) you may be at liberty to bring your own claims against Westpac or St George Finance, provided that you file court proceedings within the time limit applicable to your claims.

23. If you wish to bring your own claims against Westpac or St George Finance, or are unsure how opting out will affect your legal rights, you should seek your own independent legal advice about your claims and any time limits prior to opting out.



How can you opt out?

24. If you do not wish to remain a group member in this class action, you must opt out by completing an opt out notice in the form set out at **Schedule 1** at the end of this notice.
25. You must then return the completed opt out notice to the Commercial Court Registry of the Supreme Court of Victoria by:
 - (a) **Emailing the form to** flexcommissions@supcourt.vic.gov.au: or
 - (b) **Mailing the form to:**

Commercial Court Registry
Supreme Court of Victoria
210 William Street
MELBOURNE VIC 3000
26. Each group member seeking to opt out should complete a separate opt out notice.
27. The opt out notice must reach the Commercial Court Registry by no later than 12 October 2023, or it will not be effective.

WHAT IF YOU DO NOTHING?

28. If you are a group member and you decide not to opt out and do not register:
 - (a) You will not be entitled to receive any compensation if the proceeding settles at mediation, unless the Court makes an order permitting you to participate.
 - (b) You may lose your right to seek monetary relief from the Defendants in relation to the same (or similar) claims alleged in this class action if the proceeding settles at mediation.
 - (c) You may be given another opportunity to register in the future, but not in relation to any settlement that is achieved at the upcoming mediation.



- (d) If the class action does not result in a settlement before trial, you will be bound by any final judgment determined at trial.
29. If you are a group member who is not registered you should consider very carefully whether you wish to register. You should not delay in making this decision.

INFORMATION ABOUT HOW THE CLASS ACTION IS BEING FUNDED

30. Group members are not, and will not be, liable for any legal costs out of their own pocket by remaining in the class action.
31. If the class action is **unsuccessful**, group members will not be liable to pay any costs.
32. If the class action is **successful** (that is, if any monetary amount is recovered from Westpac or St George Finance by settlement or judgment), any legal costs that are payable to the lawyers for the Plaintiffs will be calculated and deducted as a percentage of the monetary amount recovered for the Plaintiffs and group members at the end of the class action. This is because the Supreme Court of Victoria has made a “group costs order” in the proceeding. The Court has set the rate of the group costs order at 24.5% of any monetary amount, although the Court may vary it in the future.
33. For example, if Westpac or St George Finance are ordered to pay \$1,000,000 to compensate the Plaintiffs and group members, the Plaintiffs and group members will share \$755,000 between them and the Plaintiffs’ lawyers will be paid \$245,000 for the work they performed on behalf of the Plaintiffs and group members in the class action. The Court may, for example, decide to lower the rate of the group costs order if it would result in the lawyers for the Plaintiffs being paid an excessive amount of money compared to the work they have performed.
34. The group costs order also means that the lawyers for the Plaintiffs are required to pay any costs payable to Westpac and St George Finance if the class action is unsuccessful or give any security for costs that the Court may order in the class action.



35. No amounts will be paid from any settlement or judgment to Maurice Blackburn for the work they have done unless the Court approves those amounts.

WHERE CAN YOU OBTAIN FURTHER INFORMATION?

36. Copies of relevant documents, including this notice and the pleadings, may be obtained by:

(a) visiting the Maurice Blackburn Lawyers website at:

www.mauriceblackburn.com.au/flex

(b) visiting the Supreme Court of Victoria website at:

<https://www.supremecourt.vic.gov.au/areas/group-proceedings/flex-commissions-westpac-st-george-finance>

37. Please consider the above matters carefully. If there is anything you are unsure about, you can:

(a) contact Maurice Blackburn Lawyers at: **1800 318 063** or at

westpacflexCA@mauriceblackburn.com.au; or

(b) seek independent legal advice.

38. Please do not contact the Court for legal advice, as it will be unable to assist you.

39. This notice was approved by the Court and distributed and published pursuant to orders made on 20 July 2023.

40. You should not delay in making any decision to opt out or seek further advice.



SCHEDULE 1

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

S ECI 2020 02946

B E T W E E N

ALANNAH FOX & ANOTHER

Plaintiffs

-and-

WESTPAC BANKING CORPORATION (ACN 007 457 141)
& ANOTHER

Defendants

NOTICE OF OPTING OUT BY GROUP MEMBER

DO NOT COMPLETE AND RETURN THIS FORM UNLESS YOU WISH TO OPT OUT OF THE WESTPAC CAR LOAN FLEX COMMISSIONS CLASS ACTION.

IF YOU OPT OUT, YOU WILL NO LONGER BE A GROUP MEMBER

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

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

am a group member in the above group proceeding.

I give notice under s 33J(2) of the *Supreme Court Act 1986* (Vic) that I am opting out of this proceeding.

Dated:	
Signature of group member or the group member's solicitor:	
Address of group member:	
Email address of group member:	

If you would like to **opt out** of the Flex Commissions Class Action (Westpac and St. George Finance), please return this form to the Commercial Court Registry of the Supreme Court of Victoria by email or post at the above addresses by 12 October 2023.

