

BETWEEN:

Geoffrey and Lynden Iddles

Plaintiffs

- and -

**Fonterra Australia Pty Ltd
Fonterra Milk Australia Pty Ltd
Fonterra Brands (Australia) Pty Ltd**

Defendants

**FONTERRA CLASS ACTION
FUNDING INFORMATION SUMMARY STATEMENT**

This summary about the funding arrangements for the Fonterra class action should be read together with the “Fonterra Class Action Summary Statement”.

1. How is the class action being paid for?

- 1.1 The plaintiffs in the Fonterra class action are not able to pay their “own costs”, provide any security for costs or pay any substantial order for adverse costs that might be made in the course of the class action.
- 1.2 For that reason, the plaintiffs (the **Iddles**) have made agreements with their solicitors (**Adley Burstyner**) and a commercial litigation funder, Litigation Lending Services Limited (**LLS**).
- 1.3 Under those agreements:
 - (a) Adley Burstyner will charge for its work on the class action, according to the time reasonably expended in performing the work;
 - (b) LLS will pay 70% of the solicitor’s time-based charges, plus all of the expenses properly incurred by the solicitors (such as barristers’ fees, witness costs and Court fees);
 - (c) LLS will also provide any security for costs that might be ordered by the Court, and pay any costs order made against the plaintiffs and in favour of any defendant or any third party;
 - (d) if the class action is unsuccessful, Adley Burstyner will not be entitled to the remaining 30% of its fees incurred, and LLS will not be able to recover its costs or any remuneration; but
 - (e) if a settlement of claims covered by the class action, or a judgment, results in compensation being payable to the plaintiffs and group members, then the Iddles, Adley Burstyner and LLS will seek orders from the Court that, before the compensation is paid to the group members:
 - (i) a portion of the compensation be used to pay Adley Burstyner’s remaining 30% of its fees, plus an “uplift” of 25% which is only applied to that remaining 30% amount; and
 - (ii) a further portion of the compensation be used to reimburse LLS for the expenses it incurred, and to remunerate it for having carried the financial risk of the litigation.

The court will decide whether or not to make any orders sought by Iddles, Adley Burstyner or LLS.

2. What success fee will Litigation Lending Services Limited be paid?

- 2.1 If the class action results in compensation for the plaintiffs and group members, the Court may order that a portion of the compensation be used to reimburse LLS for the expenses it paid, although only to the extent that the Court assesses that the expenses were reasonable. The expenses incurred in running a class action like the Fonterra class action usually amount to some millions of dollars, if the class action gets near trial or goes to trial.
- 2.2 Separately from the reimbursement of expenses, LLS will also ask the Court to make an order that a further portion of group members' compensation be paid to it, as remuneration for having carried the financial risk that enabled the class action to be run to a successful conclusion.
- 2.3 The Court will decide whether or not to make any order remunerating LLS, including whether any percentage of the compensation to group members should be paid to LLS. The Iddles' own agreement with LLS provides for a remuneration rate of 25% to 30%, depending on factors identified in the funding agreement.

3. Changes to the funding arrangements

- 3.1 If there are material changes to the funding arrangements for the Fonterra class action, notices about the changes will be sent to group members.

4. Are group members liable for costs?

- 4.1 The class action rules in the Supreme Court make clear that group members cannot be ordered to pay any costs in relation to a class action, other than by having a portion of any eventual compensation deducted at the end of the action, and used to reimburse or remunerate the plaintiffs, their solicitors and the funder in the manner described above.
- 4.2 In rare situations, a group member might choose to play an active role in a particular hearing during the course of a class action. The class action rules provide that such a group member might be liable for costs incurred by other parties in relation to the particular hearing. This is rare however, and if it becomes relevant to any group member in the Fonterra class action, further information will be given to the group member(s) involved before they make any such choice.

5. Further information

- 5.1 A copy of the funding agreement between the Iddles and LLS (with some passages masked for confidentiality reasons) is available at the Adley Burstyner website at <https://www.adleyburstyner.com.au/farmers-farm-gate-milk-price-action>.
- 5.2 If you would like more information about the funding arrangements, you can contact Adley Burstyner by email on info@adleyburstyner.com.au or post to 131 Westbury Close Balaclava 3183.