

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

SUMMARY STATEMENT

1. What is a class action?

- 1.1 A “class action” is a kind of court procedure. It assists the court to determine the legal claims made on behalf of groups of people (or companies) in a single case, rather than requiring every person with a claim to start a separate legal proceeding.
- 1.2 The class action procedure is available where seven or more persons have claims against the same defendant, and the claims arise out of the same or related circumstances, and the claims give rise to some substantial “common” question of law or fact. If so, then any one of the persons can commence a class action on behalf of some or all of them.
- 1.3 The person who starts the class action is called the **plaintiff**. The persons represented in the class action are called the **group members**. The plaintiff does not need the group members’ consent to start the action, but the group members will be given a chance, at a time decided by the court, to remove themselves from the class action by “opting out”.
- 1.4 The early stages of a class action usually focus on investigating the common questions that apply to all the related claims. Later in the class action, the court decides what to do about any non-common questions, such as the amount of loss (if any) that was suffered by a particular group member.

2. What is the Fonterra class action?

- 2.1 The Fonterra class action was started in the Supreme Court of Victoria in June 2020. The plaintiffs are Geoff and Lynden Iddles. They were dairy farmers who supplied milk to Fonterra during the 2015-2016 milk supply season (**2016 Season**). They bring the class action on behalf of farmers who supplied milk to any of three Fonterra companies during the 2016 Season, namely Fonterra Australia Pty Ltd ACN 006 483 665, Fonterra Milk Australia Pty Ltd ACN 114 326 448 or Fonterra Brands (Australia) Pty Ltd ACN 095 181 669. The three companies are referred to as “**Fonterra**” in the rest of this notice.
- 2.2 Mr and Mrs Iddles allege that Fonterra had contractual obligations to its milk suppliers in respect of setting milk prices during the 2016 Season. They allege that Fonterra breached those obligations when it implemented a price decrease (sometimes called a “step down”) in May 2016. They also allege that Fonterra engaged in misleading conduct in relation to the likelihood of step-downs during the 2016 Season, and finally that it acted unconscionably in its dealings with suppliers during that Season.
- 2.3 The Iddles claim financial compensation from Fonterra, for themselves and on behalf of all the group members.

2.4 The detailed allegations made by the Iddles are set out in a “Statement of Claim”. A copy of the current statement of claim is available on the Court’s website.

2.5 Fonterra has not yet filed a defence to the allegations made by the Iddles.

3. Who are the group members?

3.1 The group members in the class action comprise persons (including companies) who supplied raw milk to any of the Fonterra defendants during the 2016 Season, from Victoria, New South Wales, Tasmania and South Australia, but excluding anyone who was a director or officer of a defendant. The full definition of the group members is set out in the Statement of Claim.

4. What are the roles of the plaintiffs, compared to group members?

4.1 Mr and Mrs Iddles as plaintiffs are responsible for the conduct of the class action. The lawyers acting for them (and for any group members who sign retainer agreements) are **Adley Burstyner**. Adley Burstyner take their instructions from the Iddles.

4.2 The group members are not required to play any active role in conducting the class action. The Court will order that information be provided to the group members at various times during the class action, including information about how to opt out and cease to be a group member. If or when any action is required of group members, a notice will be sent to them.

5. Who pays legal costs?

5.1 The plaintiffs and the defendants will each incur legal costs in running the class action. Both of them will incur solicitors’ fees, plus the expenses their solicitors incur such as barristers’ fees, witness costs and Court fees (“**own costs**”). Also, the normal rule in court proceedings in Australia is that the losing party in any case must pay the legal costs of the winning party. These are called “**adverse costs**”. Sometimes a court will make an order requiring a plaintiff to provide a guarantee that the plaintiff is able to pay the defendant’s adverse costs if the plaintiff fails in his or her claim. That guarantee is called “**security for costs**”.

5.2 The group members in a class action cannot be ordered to pay any of the plaintiff’s costs or provide security for costs while the class action is running, or pay any of the defendant’s costs at any time. If the class action is successful and the group members recover compensation, the Court can order that some of the compensation be used to reimburse any costs incurred that were not able to be recovered from the defendants.

5.3 The costs that the plaintiffs and the defendants will each incur during the running of the class action are likely to be very substantial. Mr and Mrs Iddles are not able to pay their “own costs”, or satisfy an order for security for costs, or pay adverse costs on their own.

5.4 For that reason, they have made an agreement with Adley Burstyner and a commercial litigation funder (**LLS**). The agreement is that 30% of Adley Burstyner’s solicitors’ fees will not be paid during the class action and will only get paid if the case wins (calculated on a time-charge basis), but otherwise LLS will pay any costs incurred by or ordered against the Iddles. In return, the Iddles, Adley Burstyner and LLS will seek orders from the Court that, if the class action is successful and the plaintiffs and group members recover compensation, some of the compensation will be used to pay the remaining 30% part of Adley Burstyner’s costs, and some will be paid to LLS. The Court will decide whether to make those orders, and if so then what portion of the compensation should be paid to LLS. The distribution of any recovery to group members will be supervised by the Court.

5.5 More information about the funding arrangements for the class action are set out in the Funding Information Summary.

6. Are there any other class actions against Fonterra?

6.1 To the best of the plaintiff's solicitor's knowledge there are no other class actions being conducted in Australia against Fonterra.

7. More information

7.1 You can get more information about the Fonterra class action and LLS by visiting the Adley Burstyner website at <https://www.adleyburstyner.com.au/farmers-farm-gate-milk-price-action> or by sending an enquiry to info@adleyburstyner.com.au. You will not be charged for that enquiry.