

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

S ECI 2020 02853

BETWEEN

TRACY-ANN FULLER
(and **another** according to the Schedule)

Plaintiffs

and

ALLIANZ AUSTRALIA INSURANCE LIMITED (ACN 000 122 850)
(and **another** according to the Schedule)

Defendants

ORDER

JUDGE: The Honourable Justice Nichols

DATE MADE: 21 December 2022

ORIGINATING PROCESS: Writ filed 27 September 2021

HOW OBTAINED: By consent

ATTENDANCE: Not applicable

OTHER MATTERS: A Orders 1 to 7 herein apply to group members in this proceeding who purchased a non-PDS Extended Warranty add-on insurance product/s (**NPDS Extended Warranty group member**).

B Pursuant to order 4 of orders made on 21 September 2022, the distribution of the Notice referred to in order 3(a) herein is not required to be sent to group members who have already been issued with an opt out notice.

THE COURT ORDERS BY CONSENT THAT:

Opt out deadline

1 The date by which a NPDS Extended Warranty group member may opt out of this proceeding, pursuant to ss 33J(1) and (3) of the *Supreme Court Act 1986* (Vic) (Act),



be fixed at **4.00pm AEDT on 17 March 2023 (NPDS Extended Warranty Opt Out Deadline)**.

Notice and opt out

2 Pursuant to ss 33X(1)(a) and (5) and 33Y of the Act, the form and content of the opt out notice (**Notice**) set out in Annexure A to these Orders is approved.

3 Pursuant to s 33Y of the Act, the Notice be given to NPDS Extended Warranty group members by **10 February 2023 (Notice Date)**, according to the following procedure:

(a) the solicitors for the plaintiffs will cause the Notice to be sent to each person on the NPDS Extended Warranty List of Purchasers, to the extent that:

(i) an email address associated with that person is specified on the NPDS Extended Warranty List of Purchasers; and

(ii) that person has not already been sent an opt out notice, insofar as the solicitors for the plaintiffs can reasonably determine this;

(b) whenever a Notice is sent by email (in fulfilment of order 3(a)) the subject line of the email shall be: "Court Notice regarding Allianz Class Action – Fuller & Anor v Allianz Australia Insurance Limited & Anor (S ECI 2020 02853)";

(c) the solicitors for the plaintiffs will cause the Notice to be posted on the respective publicly available websites of the solicitors for the plaintiffs until the NPDS Extended Warranty Opt Out Deadline;

(d) the Commercial Court Registry of the Supreme Court of Victoria shall cause the Notice to be posted on the Supreme Court of Victoria website and available for inspection at the Commercial Court Registry of the Supreme Court of Victoria by the Notice Date.

4 The Notice may be amended by the solicitors for the plaintiffs before it is published in order to correct any typographical error, or any postal, website or email address or telephone number.

5 The costs of, and incidental to, the procedure set out in order 3 above be initially borne by the plaintiffs, but on the basis that those costs will subsequently fall to be dealt with by the Court as part of the costs of the proceeding. For the avoidance of doubt,



addressing inquiries by group members and members of the public in relation to the Notice is work that is incidental to order 3 above.

6 If, between the Notice Date and the NPDS Extended Warranty Opt Out Deadline, the solicitors for any party or a party itself receives a notice from an NPDS Extended Warranty group member purporting to be an opt out notice referable to this proceeding, the solicitors shall file that notice with the Commercial Court Registry of the Supreme Court of Victoria within 21 days of receipt of the notice by the solicitors or the relevant party with a notation specifying the date it was received and the notice shall be treated as an opt out notice received by the Court at the time it was received by the solicitors or by the party, as relevant.

7 The parties have leave to inspect the Court file and copy any opt out notices filed.

Other matters

8 Such further or other orders as the Court considers appropriate.

9 Liberty to apply.

10 Costs reserved

DATE AUTHENTICATED: 21 December 2022



The Honourable Justice Nichols

SCHEDULE OF PARTIES

TRACY-ANN FULLER

and

JORDAN WILKINSON

and

ALLIANZ AUSTRALIA INSURANCE LIMITED (ACN 000 122 850)

and

**ALLIANZ AUSTRALIA LIFE INSURANCE LIMITED
(ACN 076 033 782)**



First plaintiff

Second plaintiff

First defendant

Second defendant

ANNEXURE A – NOTICE

SUPREME COURT OF VICTORIA

IMPORTANT NOTICE

Tracy-Ann Fuller & Jordan Wilkinson v Allianz Australia Insurance Limited & Allianz Australia Life Insurance Limited (Proceeding number: S ECI 2020 02853)

ALLIANZ CLASS ACTION

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

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



WHY ARE YOU RECEIVING THIS NOTICE?

1. The purpose of this notice is to inform you of a class action in the Supreme Court of Victoria brought against Allianz Australia Insurance Limited (**Allianz**) & Allianz Australia Life Insurance Limited (**Allianz Life**). The plaintiffs in the Allianz Class Action are Ms Tracy-Ann Fuller and Mr Jordan Wilkinson. The joint lawyers for the Plaintiffs are Johnson Winter & Slattery (**JWS**) and Maurice Blackburn Lawyers (**Maurice Blackburn**).
2. The Allianz Class Action relates to 'add-on' insurance products issued or offered by Allianz, or by Allianz and Allianz Life, which were sold in motor vehicle dealerships to persons who purchased motor vehicles or motorcycles between 1 June 2006 and 27 September 2021.
3. The Plaintiffs commenced the Allianz Class Action on their own behalf and on behalf of **Group Members**.
4. **You are receiving this opt out notice because you have been identified as a potential Group Member in the Allianz Class Action in relation to an Extended Motor Warranty product/s, with the potential to receive compensation for any loss you may have suffered.**
5. You may have already received an opt out notice for this class action in about February 2022. If you have already opted out of the class action or have been informed by the Court that you have ceased to be a Group Member, please disregard this notice.
6. The Court has ordered that this notice be published for the information of only those persons who might be Group Members in the class action **and** who purchased certain **Extended Motor Warranty product/s** for which no product disclosure statement was issued.
7. This notice provides important information about the Allianz Class Action, what you need to do if you wish to remove yourself from participating in the Allianz Class Action (to opt out), and how your rights are affected if you do not opt out before the deadline, **17 March 2023**.
8. You should read this notice carefully. Any questions you have concerning the matters contained in this notice should not be directed to the Court. If there is anything in it that you do not understand, you should seek independent legal advice or contact JWS or Maurice Blackburn (see contact details below).

WHAT IS A CLASS ACTION?

9. A class action is a type of legal proceeding in which the claims of a group of persons (the group members) are brought in a single proceeding. A class action is brought by the plaintiff on behalf of the group members.



10. Unless a group member opts out (as explained below), they are automatically covered by the class action even if they did not take any active steps to join it before it was commenced.

WHAT IS THE ALLIANZ CLASS ACTION?

11. The Allianz Class Action is brought against Allianz and Allianz Life. It relates to 'add on' insurance products issued or offered by Allianz, or by Allianz and Allianz Life, which were sold to consumers at or around the time they purchased a vehicle from a motor vehicle dealership.

12. In summary, the Plaintiffs claim that:

- a) Dealers acting on Allianz's behalf, gave "personal advice" to the Plaintiffs and some Group Members who purchased add-on insurance products, but Dealers and/or Allianz breached various obligations in relation to the giving of that advice;
- b) Allianz engaged in misleading or deceptive conduct and made false or misleading representations in relation to the sale of the add-on insurance products to the Plaintiffs and Group Members;
- c) Allianz engaged in unconscionable conduct in relation to the sale of the add-on insurance products to the Plaintiffs and Group Members;
- d) Allianz caused the Plaintiffs and some or all Group Members to pay for the add-on insurance products as a result of a mistaken belief in relation to the products;
- e) as a consequence of Allianz's alleged conduct, the Plaintiffs and Group Members suffered loss or damage.

13. The Plaintiffs seek relief for Group Members, including damages to compensate each Group Member and/or recovery of the amount of the premiums mistakenly paid.

14. Allianz and Allianz Life deny the allegations and are defending the Allianz Class Action.

15. The detailed allegations are set out in the Plaintiffs' Amended Consolidated Statement of Claim. Copies of the Amended Consolidated Statement of Claim and the Defence are available to be viewed on the websites referred to below.

ARE YOU A GROUP MEMBER?

16. You are a Group Member in the Allianz Class Action if each of the following subparagraphs (a) to (e) applies to you:

- a) at any time between 1 June 2006 to 27 September 2021 inclusive you purchased one or more of the following add-on insurance products at or around the time you purchased a vehicle from a motor vehicle dealership:



- i. **Loan Protection Insurance** (also referred to as “repayment insurance”, “consumer credit insurance” or “CCI”), including Loan Protection Insurance which was issued by both Allianz and OnePath Life Limited;
 - ii. **Motor Equity Insurance** (also referred to as “guaranteed asset protection insurance”, “GAP insurance”, “shortfall insurance”, “purchase price insurance” or “value protect insurance”);
 - iii. **Extended Motor Warranty** (also referred to as “mechanical insurance”, “motor vehicle warranty” or “extended warranty insurance”); and
 - iv. **Tyre and Rim Insurance**;
 - b) you became liable to pay or paid (directly or indirectly), a premium to either of Allianz, or Allianz and Allianz Life for the add-on insurance products;
 - c) you were not, and are not, any of the following:
 - i. a director, an officer, or a close associate of Allianz or Allianz Life;
 - ii. a judge, Associate Judge or Judicial Registrar of the Supreme Court of Victoria;
 - d) you suffered loss or damage by reason of the alleged contravening conduct of Allianz and/or Allianz Life as pleaded in the Amended Consolidated Statement of Claim; and
 - e) you satisfied the definition of a ‘consumer’ within the meaning of s 12BC of the *Australian Securities and Investments Commission Act 2001* (Cth) in your dealings with Allianz and/or Allianz Life.
17. In addition to the above requirements, for persons who purchased add-on insurance products prior to 7 July 2014 (or potentially a later date in some cases), you are a Group Member if your claim falls within the exception to the statutory limitation period applicable to your claim.
18. You have been sent this notice because you have been identified as someone who may be a Group Member in the Allianz Class Action in relation to an **Extended Motor Warranty** product/s.
19. If you do not fit the above description, you may disregard this notice. **If you fit the above description, you should read this notice carefully as it will affect your rights.**
20. If you are unsure whether or not you are a Group Member, you should:
- a) contact JWS or Maurice Blackburn (see contact details in section 9 below); or
 - b) seek your own independent legal advice without delay.



21. Further information is also available at JWS' website: www.allianzclassaction.com.au or Maurice Blackburn's website: www.mauriceblackburn.com.au/allianzaddoninsurance/

WHAT ARE YOUR OPTIONS?

22. If you are a Group Member, you have two options – to opt out or to remain as a group member.

Option 1 – Opt out

If you fit the definition of a Group Member but do **not** want your rights to be determined by this class action you must opt out by **4pm (AEDT) on 17 March 2023**.

If you choose to 'opt out':

- you will cease to be a Group Member in the Allianz Class Action (with respect to all Add-On Insurance Products);
- you will not be entitled to share the benefit of any order, judgment or settlement in favour of the Plaintiffs and Group Members in the Allianz Class Action;
- you may be at liberty to bring your own claims against Allianz and/or Allianz Life, provided that you file Court proceedings within the time limit applicable to your claims. If you wish to bring your own claims against Allianz and/or Allianz Life, you should seek your own independent legal advice about your claims and any time limits prior to opting out.

How can you opt out?

If you do not wish to remain a Group Member in the Allianz Class Action, you must opt out of the class action by completing an '**opt out notice**' in the form shown at **Attachment A** below. You must then return the completed notice to the Registry of the Supreme Court of Victoria at the address on the form. Each Group Member seeking to opt out should fill out a separate form.

IMPORTANT: the notice must reach the Registry by no later than **4pm (AEDT) on 17 March 2023**, otherwise it will not be effective.



Option 2 – Remain a Group Member

If you are a Group Member and you choose this option, **there is nothing you need to do at the present time.**

You will remain a Group Member of the Allianz Class Action and your claims will be collectively resolved through the Allianz Class Action.

If you remain a Group Member, you will be bound by any settlement or judgment in the Allianz Class Action. If the class action is successful, you may be entitled to share in the benefit of any order, judgment or settlement in favour of the Plaintiffs and Group Members, although you may have to satisfy certain conditions before your entitlement arises.

If the class action is unsuccessful or is not as successful as you might have wished, you will not be able to pursue the same claims and may not be able to pursue related claims against Allianz and/or Allianz Life in other legal proceedings.

INFORMATION ABOUT HOW THE CLASS ACTION IS BEING FUNDED

No 'out of pocket' costs for Group Members in the Allianz Class Action

23. Group Members are not, and will not be, liable for any legal costs out of their own pocket by remaining in the Allianz Class Action.
24. If the Allianz Class Action is unsuccessful, Group Members will not be liable to pay any costs.
25. If the Allianz Class Action is successful (that is, if any monetary compensation is recovered from Allianz and/or Allianz Life by judgment or settlement), any legal costs that are payable to JWS and Maurice Blackburn will be deducted from, and will not exceed, the amount of monetary compensation recovered for the Group Members.
26. This position will not change, even if the way in which the Allianz Class Action is being paid for changes in the future.
27. The only exception to this is if, following determination of the issues in the Allianz Class Action which are common to all Group Members, you choose to participate in a hearing regarding questions concerning your individual claim. You will be told about this well in advance and will be able to choose whether to participate in the hearing of your individual claim, at which time information about legal costs will be provided to you. If you decide not to participate, you will not have any liability for legal costs out of your own pocket.



How the Allianz Class Action is being paid for

28. The Court has ordered that the legal costs payable to JWS and Maurice Blackburn be calculated as **25% of any settlement or judgment sum** recovered for Group members at the end of the Allianz Class Action. This is called a Group Costs Order. This means that there will be one single deduction for the payment of legal costs from any money recovered for Group Members from a settlement or judgment, and group members will receive not less than 75% of any amount received in settlement or judgment.
29. The court may vary the percentage at any time during the proceeding, but if that occurs the Court will take into account the interests of Group Members in any re-assessment, and Group Members will be notified of any change.
30. The liability for payment of the legal costs incurred by JWS and Maurice Blackburn will be shared between the Plaintiffs and all Group Members, regardless of whether or not those Group Members have entered into contracts with JWS or Maurice Blackburn.
31. The law requires JWS and Maurice Blackburn to pay any costs payable to Allianz and/or Allianz Life in the Allianz Class Action. JWS and Maurice Blackburn must also give any security for the costs of Allianz and/or Allianz Life in the Allianz Class Action that the Court may order the Plaintiffs to give.

WHERE CAN YOU OBTAIN FURTHER INFORMATION?

32. Copies of relevant documents, including this notice and the Amended Consolidated Statement of Claim, may be obtained by:
 - a) downloading them from either:
 - i. JWS' website; www.allianzclassaction.com.au
 - ii. Maurice Blackburn's website: www.mauriceblackburn.com.au/allianzaddoninsurance/
 - iii. the Supreme Court of Victoria website: www.supremecourt.vic.gov.au/areas/group-proceedings/allianz
 - b) inspecting them:
 - i. by appointment, between 9am and 5pm, at one of the offices of JWS or Maurice Blackburn, contact details for which are available from the web addresses above or by calling Maurice Blackburn on 1800 497 191 or JWS on +61 3 8611 1333;
 - ii. at the Commercial Court Registry of the Supreme Court of Victoria at ground floor, 450 Little Bourke Street, Melbourne VIC 3000.



33. Please consider the above matters carefully. If there is anything of which you are unsure, you can:

- a) contact Maurice Blackburn on 1800 497 191 or addonclassaction@mauriceblackburn.com.au;
- b) contact JWS on +61 3 8611 1333 or allianzclassaction@jws.com.au; or
- c) seek independent legal advice.

34. The Supreme Court should not be contacted for legal advice.

35. This notice was approved by the Supreme Court and published pursuant to Orders made on 20 December 2022.

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



NOTICE OF OPTING OUT BY GROUP MEMBER

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

No. S ECI 2020 02853

BETWEEN:
TRACY-ANN FULLER and another

Plaintiffs

and

**ALLIANZ AUSTRALIA INSURANCE LIMITED
(ACN 000 122 850) and another**

Defendants

To: The Manager, Commercial Court Registry and Deputy Registrar
Supreme Court of Victoria
Commercial Court Registry
210 William Street Melbourne Victoria 3000
commercialcourt@supcourt.vic.gov.au

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

a group member in the above group proceeding, 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 or the group member's solicitor:	
Address of group member:	
Email address of group member:
Telephone number of group member:

If you would like to opt out of the Allianz Class Action, please return this form to the Commercial Court Registry of the Supreme Court of Victoria by email or by post, at the addresses on this form, by **4pm (AEDT) on 17 March 2023.**

