



## EML CLASS ACTION

*Paul Mumford & Anor v EML Payments Ltd*

### **AMENDED CLASS ACTION SUMMARY STATEMENT**

Case: S ECI 2021 04738

Filed on: 27/04/2023 03:09 PM

Pursuant to Order 3(a) of the orders made by the Honourable Justice Nichols on  
12 October 2022.

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#### **1. What is the class action about**

This class action is against EML Payments Limited (**EML**), who is the defendant. It is alleged that EML made misleading misrepresentations or omissions and failed to comply with its continuous disclosure obligations as an ASX listed company, breaching relevant provisions of the *Corporations Act 2001* (Cth), *ASIC Act 2011* (Cth) and the Australian Consumer Law.

The class action alleges that by reason of this conduct:

- (a) Some group members would not have purchased shares in EML had the alleged wrongdoing not occurred; and
- (b) Group members paid more for shares in EML than would have been the case had EML complied with its obligations and properly informed the market.

#### **2. Who is a group member in the class action?**

You are automatically a group member if you acquired shares in EML during the period 19 December 2020 and ~~18 May 2021~~ 25 July 2022 (inclusive).

A complete definition of group membership is available in paragraph 1 of the Amended Statement of Claim writ.

If you wish to participate in the class action and be entitled to receive compensation in the event the claim is successful, you will be required to formally register your claim at a future time.

A notice will be distributed explaining what are known as “opt out” and “registration” processes, your rights and options, and steps that you are required to take at a future date.

#### **3. What is the role and responsibility of the plaintiff?**

The plaintiffs, Paul Mumford and Gayle Mumford, receive advice from and provide instructions to Shine Lawyers about the case on behalf of group members. Mr Mumford and Mrs Mumford provide instructions about key stages in the proceeding, including in relation to any offer of settlement.

Mr Mumford and Mrs Mumford have overarching obligations to act honestly, avoid undue delay and expense, and to exercise their best endeavours to take steps to resolve the proceeding.

In the event that this class action does not settle prior to trial, Mr Mumford and Mrs Mumford may be required to provide evidence regarding their individual claims.

#### 4. Who is the law firm acting for the plaintiff?

Shine Lawyers is acting for the plaintiffs and group members in this class action against EML.

#### 5. What costs are involved?

**Under no circumstances will group members ever be out-of-pocket by participating in this class action – whether the case is successful or unsuccessful.**

Shine Lawyers is acting on the basis ~~that the plaintiff will seek~~ of a Group Costs Order that has been granted by the Court, pursuant to which:

- The legal costs payable to Shine Lawyers ~~would be calculated as a percentage (which must be approved by the Court)~~ will be calculated at 24.5% of the amount of any damages award or settlement that may be recovered in the class action;
- The liability for ~~that this~~ payment ~~would~~ will be shared by the plaintiff and group members;
- Shine Lawyers would be liable for any costs payable to the defendant that the Court may order; and,
- If an order for security for costs is made in favour of the defendant, Shine Lawyers will provide this security.

~~Up to and including the application for a Group Costs Order, Shine Lawyers will conduct the class action on a 'No Win No Fee' basis.~~

~~In the event that a Group Costs Order is not sought by the plaintiff or granted by the Court, Shine Lawyers may seek third party litigation funding to fund the legal costs (both fees and disbursements) and the risk of an adverse costs order being made in the proceeding (including any need to provide security for costs).~~

This means that plaintiffs and group members will not be asked to pay anything upfront. Legal costs will only become payable in the event of a successful settlement or judgment, and then, only as approved by the Court. Costs payable to Shine Lawyers will be deducted from, and will not exceed, any compensation that group members are entitled to receive.

Shine Lawyers may arrange its own finance for the costs of advancing the class action. If so, this does not affect the arrangements or costs outlined above.

#### 6. Other class actions against EML?

Shine Lawyers is unaware of any other filed class action as at the date of filing this class action. Shine Lawyers is aware that one other law firm had formerly announced an investigation in a potential class action against EML relating to similar allegations the subject of this class action, which has not proceeded.

#### 7. Who can I contact to get further information?

Group members may contact Shine Lawyers, at no out-of-pocket cost, via:

**Email**                    [EMLClassAction@shine.com.au](mailto:EMLClassAction@shine.com.au)

**Phone**                    1800 325 172

**Website**

<https://www.shine.com.au/service/class-actions/eml-payments-shareholder-class-action>