

IMPORTANT NOTICE

OPT OUT AND REGISTRATION NOTICE

MAYNE PHARMA GROUP LTD SHAREHOLDER CLASS ACTION
Benjamin Hillman v Mayne Pharma Group Ltd (ACN 115 832 963) (S ECI 2020 03351)

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.

SUMMARY

This is an important Notice issued to you by order of the Supreme Court of Victoria about the Mayne Pharma Group Ltd Class Action. The Notice is sent to you because you may be a member of the class in the Mayne Pharma Group Ltd Class Action. You should read this Notice carefully as the matters set out in the Notice may affect your rights.

As explained at Section 5 below, you may do one of three things in response to this notice:

1. **Register:** If you wish to obtain compensation by participating in any settlement reached between the plaintiff and defendant at the Court Ordered Mediation or within 3 months after the first day of that mediation you **must** register your interest in accordance with this Notice **by Wednesday, 4.00pm (AEST) on 28 June 2023**.
2. **Opt out:** You can exclude yourself from the class action by opting out in accordance with this Notice by **Wednesday, 4.00pm (AEST) on 28 June 2023 (Opt Out Deadline)**, which will mean you will not be eligible to receive compensation in the event of a successful outcome, but you keep your right to make your own claim.
3. **Do nothing:** If you do nothing by the Opt Out Deadline following receipt of this Notice and you have not already registered your claim, you will remain a group member in the class action but, subject to further order of the Court, you **will not** be permitted to participate in any settlement reached between the plaintiff and defendant at the Court Ordered Mediation or within 3 months after the first day of that mediation. This is because if an in-principle settlement is reached at the Court Ordered Mediation or within 3 months after the first day of that mediation the Court has ordered that, subject to any further order of the Court, group members who neither opted out nor registered (i.e. "do nothing") by the Opt Out Deadline will be bound by the settlement reached between the plaintiff and defendant at the Court Ordered Mediation or within 3 months after the first day of that mediation but will not be able to seek any benefit under that settlement.

If there is anything in this Notice that you do not understand, you should use the contact information at Section 7 below to make enquiries or seek independent legal advice. Do not contact the Supreme Court of Victoria with any questions about this Notice.

1 KEY INFORMATION ABOUT THE MAYNE PHARMA CLASS ACTION AND THIS NOTICE

- 1.1. On 21 August 2020, Benjamin Hillman (**plaintiff**) commenced a class action against Mayne Pharma Group Ltd (**Mayne Pharma**) in the Supreme Court of Victoria on behalf of all persons who acquired an interest in fully paid ordinary shares in Mayne Pharma between 24 November 2014 and 15 December 2016 (inclusive) (**Claim Period**) (**Mayne Pharma Class Action**).
- 1.2. The plaintiff, Benjamin Hillman, is bringing the Mayne Pharma Class Action with funding from Vannin Capital Operations Limited (**Vannin**). The plaintiff's lawyers are Phi Finney McDonald.
- 1.3. The Supreme Court of Victoria has ordered that this Notice be published for the information of persons who may be affected by the Mayne Pharma Class Action.
- 1.4. 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 legal advice.

2 WHAT IS A CLASS ACTION?

- 2.1. A class action is an action that is brought by one or more persons ("plaintiff") on behalf of a class of people ("group members") against another person ("defendant") where the plaintiff and the group members have similar claims against the defendant.
- 2.2. Group members in a class action **are not** individually responsible for the legal costs associated with bringing the class action. In a class action, only the plaintiff is responsible for the costs.
- 2.3. If a class action is resolved — either by the Court delivering a judgment, or by an agreed settlement that is approved by the Court — the resolution binds all persons who are group members unless they have opted out of the class action. Once the Mayne Pharma Class Action is resolved, group members will not be able to pursue the same claims against Mayne Pharma in other legal proceedings and may not be able to pursue similar or related claims.
- 2.4. If you consider that you have claims against Mayne Pharma which are based on your individual circumstances or are additional to the claims described in the class action, then it is important that you seek independent legal advice about the potential binding effects of the class action before the Opt Out Deadline.

3 WHAT IS THE MAYNE PHARMA CLASS ACTION ABOUT?

- 3.1 The Mayne Pharma Class Action is brought by the plaintiff, Benjamin Hillman, on his own behalf and on behalf of all persons who are “group members”.
- 3.2 The details of the allegations in the class action are set out in the Statement of Claim (which may be subject to change). In the Statement of Claim, the plaintiff alleges (in summary) that Mayne Pharma:
- (a) contravened its continuous disclosure obligations between 24 November 2014 and 15 December 2016 (inclusive) by failing to properly inform the market about alleged discussions and agreements its US subsidiary had with Heritage Pharmaceuticals in relation to sales of a product called “Doxy DR”, which were or could be regarded as anti-competitive and contrary to US law, and that subpoenas had been issued by US regulators; and
 - (b) engaged in misleading or deceptive conduct between 24 November 2014 and 15 December 2016 (inclusive) by maintaining public representations that Mayne Pharma was compliant with competition law, had appropriate systems for ensuring compliance, and was not exposed to the risk of reputational, financial or other impacts in the US for non-compliance with competition law.
- 3.3 The class action alleges that investors who acquired Mayne Pharma shares during the Claim Period are entitled to compensation for loss and damage as they paid more for those shares than they would have paid as a consequence of Mayne Pharma’s conduct. The class action also alleges that some group members would not have purchased Mayne Pharma shares if Mayne Pharma had complied with its obligations.
- 3.4 Mayne Pharma denies the claims made against it and is defending the class action.

4 ARE YOU A GROUP MEMBER IN THE MAYNE PHARMA CLASS ACTION?

- 4.1 You have been sent this Notice because you have been identified as someone who may be a group member in the Mayne Pharma Class Action.
- 4.2 You are a group member in the Mayne Pharma Class Action if:
- (a) you acquired an interest in ordinary shares in Mayne Pharma between 24 November 2014 and 15 December 2016 (inclusive), by purchasing Mayne Pharma shares on the ASX;
 - (b) you have suffered loss or damage by or resulting from the conduct of Mayne Pharma alleged in the Statement of Claim; and
 - (c) you are not:
 - (i) a related party, related body corporate, associated entity, or officer or close associate of Mayne Pharma; or
 - (ii) a Justice, Registrar, District Registrar, or Deputy District Registrar of the High Court of Australia or the Federal Court of Australia.

- 4.3 If you are a group member because you meet the above description, you should read this Notice carefully as it will affect your rights.
- 4.4 If you are unsure whether or not you are a group member, you should contact Phi Finney McDonald at MaynePharma@phifinneymcdonald.com or (03) 9134 7100 or seek your own legal advice without delay.

5 YOUR THREE OPTIONS IN RESPONSE TO THIS NOTICE

- 5.1 The Supreme Court of Victoria has ordered that this Notice be published for the information of persons who may be affected by the Mayne Pharma Class Action. You have three options that you may elect to take in response to this Notice.

OPTION 1 – REGISTER

If you wish to receive a share of any settlement monies resulting from a settlement at the Court Ordered Mediation or within 3 months after the first day of that mediation you must:

- (a) complete the Group Member Registration Form; or
- (b) enter into litigation funding agreement with Vannin Capital Operations Limited (**Vannin**),

both of which are available at <https://phifinneymcdonald.com/action/mayne-class-action/> by **Wednesday, 4.00pm (AEST) on 28 June 2023**.

If you previously completed and returned a litigation funding agreement with Vannin in the Mayne Pharma Class Action, you do not have to take any further steps to register your claim. This is because you have already taken the steps necessary to register your claim.

If you register for the Mayne Pharma Class Action:

- (a) you may be eligible to receive compensation as part of any settlement prior to judgment (provided that it is approved by the Court and you satisfy any eligibility requirements); and
- (b) you will be bound by any resolution of the class action (meaning that you will not be permitted to bring any future claims related to the subject matter litigated in the Mayne Pharma Class Action).

If you have any difficulty registering at <https://phifinneymcdonald.com/mayne-registration/>, please contact Phi Finney McDonald at MaynePharma@phifinneymcdonald.com or by telephone at (03) 9134 7100.

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

If you do not want to remain a group member in the Mayne Pharma Class Action, you should opt out by **Wednesday, 4.00pm (AEST) on 28 June 2023**. The plaintiff in a class action does not need to seek the consent of group members to commence a class action on their behalf or to identify a specific group member. However, group members can cease to be group members by opting out of the class action.

If you opt out of the class action:

- (a) you will not be bound by any order, judgment, or settlement in the Mayne Pharma Class Action;
- (b) you will not be entitled to share in the benefit of any order, judgment, or settlement in the Mayne Pharma Class Action; and
- (c) you will be able to commence separate proceedings against Mayne Pharma on your own behalf outside of the Mayne Pharma Class Action, provided you issue those proceedings within the time limit applicable to your claim. **You should seek independent legal advice about your claim and the applicable time limit prior to opting out.**

Each group member seeking to opt out should fill out a separate Opt Out form located on the last page of this Notice. Opt Out forms must be returned directly to the Commercial Court Registry of the Supreme Court of Victoria:

- (a) by post to:
Commercial Court Registry
Supreme Court of Victoria
210 William Street
Melbourne VIC 3000; or
- (b) by email at maynepharmaaction@supcourt.vic.gov.au

before **Wednesday, 4.00pm (AEST) on 28 June 2023**.

If you are opting out on behalf of a company or business, please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner).

Opt out notices received after 4.00pm (AEST) on 28 June 2023 will not be accepted without leave of the Court and you will be treated as having not responded to this Notice.

OPTION 3 – DO NOTHING

If you do nothing following receipt of this Notice (i.e. neither opt out or register), and you have not previously completed and returned a litigation funding agreement

with Vannin in the Mayne Pharma Class Action, you will remain an unregistered group member in the Mayne Pharma Class Action.

The practical implications of doing nothing in response to this Notice are as follows:

- (a) if an in-principle settlement is reached between the plaintiff and Mayne Pharma at the Court Ordered Mediation or within 3 months of the first day of that mediation and the settlement is approved by the Court, you **will not** be entitled to participate in that settlement. Further, you will be bound by the terms of the settlement including any releases (despite not being eligible to participate in the settlement). This means that your right to bring a claim against Mayne Pharma (and potentially its related entities and officers) for matters related to those canvassed in the Mayne Pharma Class Action will be extinguished;
- (b) if there is no settlement prior to final judgment, you will be bound by the final judgment, and you will be entitled to obtain compensation and/or damages (if you satisfy the eligibility criteria set down by the Court) in the event that the Court finds in favour of the plaintiff and group members. If the Mayne Pharma Class Action is unsuccessful or is not as successful as you might have wished, you will not be able to sue on the same claim in any other proceedings;
- (c) it is open to the plaintiff and the defendant to apply to the Court for a further Court Ordered Mediation to extend the period during which only registered group members are permitted to seek any benefit pursuant to any subsequent settlement. It is unknown whether this will occur, and unknown what, if any, notice the Court will order to be provided to group members at that point. Accordingly, it is possible that if you remain an unregistered group member, you will not, without leave of the Court, be permitted to seek any benefit pursuant to any settlement of the Mayne Pharma Class Action even if that settlement occurs after 3 months after the first day of the Court Ordered Mediation.

Consequently, if you do not want to risk missing out on the option to participate in any settlement of the Mayne Pharma Class Action, you should register your claim as per Option 1 above.

- 5.2 If you object to the procedures described in Section 5 of this Notice (i.e. you object to making one of the three choices described above and the potential consequences of those choices), or you seek a variation of them, you must send a written notice to the Supreme Court's registry by email at maynepharmaaction@supcourt.vic.gov.au or Phi Finney McDonald by email to MaynePharma@phifinney-mcdonald.com by **4.00pm (AEST) on 28 June 2023**. Any notice challenging the Supreme Court of Victoria orders received after this time will not be accepted. The written notice should set out the challenge you will make or the variation you seek and the reasons for that challenge/variation. You may then be required to attend the Commercial Court of the Supreme Court of Victoria at a later date to have your challenge / application for a variation of the arrangements heard.

6 FUNDING OF THE MAYNE PHARMA CLASS ACTION

- 6.1 The Mayne Pharma Class Action is funded by Vannin. Vannin has agreed to pay the costs of the Mayne Pharma Class Action. This means that the plaintiff and some group members (known as **Funded Group Members**) have entered into a Litigation Funding Agreement (**LFA**) with Vannin. Group members who have not entered into a LFA with Vannin are known as unfunded group members (**Unfunded Group Members**). The plaintiff and Funded Group Members have also entered into a Conditional Legal Costs Agreement with Phi Finney McDonald.
- 6.2 Funded Group Members and Unfunded Group Members are not, and will not become, liable for any “out of pocket” costs by participating in the Mayne Pharma Class Action.
- 6.3 In litigation, the Court will typically order the losing party to pay a proportion of the legal costs of the successful party (**adverse costs order**). In a class action, it is only the plaintiff that faces the risk of an adverse costs order if the action fails. As a group member, an adverse costs order will not be made against you. If the class action is unsuccessful, Vannin has indemnified the plaintiff against any adverse costs order which may be made against him in the Mayne Pharma Class Action. Vannin has also procured a commercial litigation insurance policy underwritten by AmTrust Europe Limited that indemnifies Vannin against any liability for adverse costs payable by Vannin to the plaintiff.
- 6.4 However, if the Mayne Pharma Class Action is successful (that is, if compensation is recovered for group members), pursuant to the LFA Vannin will be entitled to recover:
- (a) legal costs, disbursements, and other litigation expenses;
 - (b) costs and fees referable to the Mayne Pharma Class Action paid or payable under the commercial litigation insurance policy underwritten by AmTrust Europe Limited that Vannin has procured; and
 - (c) twenty-five percent (25%) of any compensation to which Funded Group Members become entitled as commission for funding the Mayne Pharma Class Action.
- 6.5 In the event of a successful outcome, one of the plaintiff or Vannin will seek an order that Vannin’s entitlements (as outlined in paragraph 6.4 above) be paid out of the total amount recovered for all group members. The effect of such an order would be to share the liability for payment of Vannin’s entitlements on a pro rata basis between all group members who have benefited from the action, so that all registered group members are in the same position, regardless of whether they are Funded Group Members or Unfunded Group Members who have registered by completing the Group Member Registration Form. These costs will never exceed the amount of compensation to which you may otherwise become entitled.
- 6.6 The Court will assess whether the costs proposed to be deducted are fair and reasonable. You will be given a notice at that time informing you of the amount which it is proposed to be deducted and given an opportunity to tell the Court if you agree or disagree with what is proposed.

7 FURTHER QUESTIONS ABOUT THE MAYNE PHARMA CLASS ACTION

7.1 Please consider the above matters carefully.

7.2 If there is anything of which you are unsure, or you have any questions or comments about the Notice, in the first instance you should contact Phi Finney McDonald by emailing MaynePharma@phifinneycdonald.com, or alternatively by telephone on (03) 9134 7100. You may also seek your own legal advice. You should not delay in making your decision.

NOTICE OF OPTING OUT BY GROUP MEMBER

Only complete this form if you wish to **OPT OUT** of the Mayne Pharma Class Action

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

S ECI 2020 03351

BETWEEN

BENJUMIN HILLMAN

Plaintiff

and

MAYNE PHARMA GROUP LTD (ACN 115 832 963)

Defendant

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

I, *[print name]*.....
am a group member in the above group proceeding, **OR**
I, *[print name]*
am a director of *[company name]*
who is a group member in the above group proceeding.

The above named group member is opting out of this proceeding by this notice.

| | |
|--|--|
| Date: | |
| Signature of group member, company representative or group member's solicitor: | |
| Email address of group member or company representative: | |
| Address of group member: | |

If you would like to opt out of the Mayne Pharma Class Action, please return this form to the Commercial Court Registry of the Supreme Court of Victoria by email (maynepharmaclassaction@supcourt.vic.gov.au) or by post (210 William Street, Melbourne, Victoria 3000) by **Wednesday, 4.00pm (AEST) on 28 June 2023.**