



## GROUP PROCEEDING SUMMARY STATEMENT

### GERALD FULLER v FLETCHER BUILDING LIMITED (ARBN 096 046 955)

Case: S ECI 2022 03433

Filed on: 03/03/2023 03:13 PM

#### **What is a class action?**

A “class action” is a kind of court procedure which is available where seven or more persons have claims against the same defendant, 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.

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”.

#### **What is this case or proceeding about?**

This proceeding makes allegations that between 17 August 2016 and 23 October 2017, Fletcher Building Limited (“Fletcher”) made representations about the performance and financial position of its Buildings and Interiors (B+I) business and failed to disclose information of its true financial position, thereby inflating the value of its shares. In doing so, it is alleged that Fletcher engaged in conduct in contravention of the *Corporations Act 2001* (Cth), *Australian Securities and Investments Commission Act 2001* (Cth), the Australian Consumer Law being Schedule 2 to the *Competition and Consumer Act 2010* (Cth), *Financial Markets Conduct Act 2013* (NZ) and the *Fair Trading Act 1986* (NZ).

The Lead Plaintiff alleges on behalf of himself and all group members that, by reason of Fletcher’s conduct, he and group members suffered loss or damage by acquiring shares in Fletcher at a price higher than the shares would otherwise have traded on the market.

#### **Am I a group member?**

You are a group member if you purchased fully paid ordinary shares in Fletcher on the Australian Securities Exchange (ASX) or New Zealand Stock Exchange (NZX) between 17 August 2016 and 23 October 2017.

#### **Who is the law firm acting for the Plaintiff?**

The law firm acting for the plaintiff in this proceeding is Mayweathers Pty Limited trading as Mayweathers (“Mayweathers”).

#### **Who is the Plaintiff and what role and responsibility does he have?**

In his capacity as Lead Plaintiff, Mr Gerald Fuller receives legal advice from Mayweathers and provides instructions to Mayweathers on behalf of himself and all other group members in the proceeding (“Lead Plaintiff”). The Lead Plaintiff is responsible for providing evidence of his claim if the proceeding advances to trial. In the event the proceeding settles at any time, the Lead Plaintiff is also responsible for providing instructions to Mayweathers in relation to any offer of settlement.

**What fees and disbursements are involved and how are they funded?**

The lead plaintiff, Gerald Fuller (“Lead Plaintiff”) has entered into agreements with his solicitor in the proceeding, Mayweathers Pty Limited trading as Mayweathers (“Mayweathers”) and a commercial litigation funder, CASL Funder Pty Limited (ACN 645 229 643) (“Funder”). The Funder has appointed CASL Management Pty Limited (“Manager”) to assist the Funder with services in respect to the management of the litigation funding of this proceeding.

The agreements between the Lead Plaintiff, the Funder and the Manager provide that:

- The Funder has agreed to fund 75% of the reasonable fees of Mayweathers in running the proceeding (“Lawyer’s Funded Fees”) and 100% of Mayweathers’ disbursement costs (“Lawyer’s Disbursements”);
- The other or remaining 25% of Lawyer’s Fees are conditional upon a successful outcome (“Lawyer’s Remaining Fees”). If the proceeding achieves a successful, Mayweathers is entitled to its Lawyer’s Remaining Fees and an additional 25% of its Lawyer’s Remaining Fees for the risk Mayweathers has agreed to assume in prosecuting the proceeding (“Uplift Fee”); and
- The Funder will also provide any security for costs that might be ordered by the Court, and pay any costs order made against the Lead Plaintiffs and in favour of any Defendant.

If the class action is unsuccessful, the Funder and Manager have no entitlement to recover their costs or any remuneration.

In the alternative event that the class action is successful:

- The Funder will seek approval from the Court to deduct from Claim Proceeds all fees and costs it has paid, such as the Lawyer Funded Fees, Lawyer’s Disbursements, and any adverse costs order expenses; and
- The Funder and Manager will each seek the Court’s approval to deduct an additional fee from Claim Proceeds to remunerate them for their respective roles in the proceeding.

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

**Have any other group proceedings been filed, or are likely to be filed, that relate to this proceeding?**

Mayweathers are not aware of any other group proceeding that has been filed, or is likely to be filed, that relates to the same subject matter as this proceeding.

**Who can I contact to get further information about the proceeding?**

You may contact Mayweathers or the Funder, at no cost to you, by the following methods:

<u>Mayweathers</u>		<u>Funder</u>	
<b>Email</b>	fletcherclassaction@mayweathers.com.au	<b>Email</b>	fletcherclassaction@casl.com.au
<b>Telephone</b>	(02) 8020 5720	<b>Telephone</b>	1800 952 652 (Australia), +61 2 8039 6100 (abroad)
<b>Website</b>	https://www.mayweathers.com.au/	<b>Website</b>	https://www.casl.com.au/