



**Adley  
Burstyner**

**Final Report by Administrator of Fonterra Class  
Action Settlement Distribution Scheme**

**to Supreme Court of Victoria  
and Group Members**

**2 August 2024**

## Table of contents

A. Executive Summary: .....	3
B. Definitions .....	7
C. Introduction .....	9
D. Background: the court proceedings and settlement .....	9
Claims .....	9
Court process before in-principal settlement .....	10
Settlement Approval Application: Court's assessment of reasonableness and fairness ....	11
Evidence from plaintiffs' lawyer and Administrator .....	14
Approval Judgment .....	14
E. Settlement administration .....	15
Settlement Distribution Scheme (SDS) .....	15
Judicial oversight: Role of the Supreme Court of Victoria during settlement administration .....	16
Administrator's Application to amend SDS .....	17
Dealing with Settlement Sum (including interest) .....	17
Settlement administration and claim calculation .....	18
Claims registered (and comparison with expressions of interest registered before settlement) .....	18
Flaws in information supplied by Group Members: Supplier numbers and bank account details .....	19
Calculation process and cost savings .....	20
Bespoke arrangements .....	21
Distributions and validation .....	22
Contact with Group Members .....	24
Legal costs and assessment by Court Appointed Independent Legal Costs Referee .....	25
Taxation on interest .....	26
Application to allow late claims .....	27
Schedule A - Initial assessment of tasks in administration .....	28



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**A. EXECUTIVE SUMMARY:**

1. This report informs the Court and Group Members on the outcomes and processes of the administration of the Fonterra Class Action Settlement and the formalities recommended by the Administrator to wind up the settlement administration<sup>1</sup>.
2. Also, given the significance of the matter to Group Members and the public nature of class actions, an effort has been made to explain for Group Members' benefit the broader context of the underlying Court proceedings prior to the settlement.
3. On 14 April 2023 the \$25m Fonterra Class Action Settlement was approved by orders of the Supreme Court of Victoria.
4. On 17 October 2023 deductions for pre 20 February 2023 legal costs and fees of litigation funder LLS were determined by the Court, with quantification of post 21 February 2023 deferred to a later date.
5. Those October 2023 orders paved the way for distributions to Group Members of \$13,611,965.01 (including the FASL Offset Payment), pending determination of costs for the period post 20 February 2023.
6. In November and December 2023 \$13,180,785.60 was distributed to 581 entitled Group Members (with the entitlements for 16 other Group Members calculated to be \$0), and a FASL Offset Repayment of \$364,786.32 made to Fonterra. On 12 February 2024 a payment of \$66,393.09 was made to the last unpaid Group Member.
7. The distributions amounted to:
  - (a) 49% of those Group Members' loss in terms of the revenue difference as defined in the SDS, with an average payout of \$23,308; or
  - (b) 73% of those Group Members' loss if LLS' commission is included.
8. The application of \$1,339,288.31 remains to be determined (figure as at 19 July 2024)<sup>2</sup>, being the balance remaining of the \$25,856,083.63 (the \$25m plus interest accrued) after the deductions provided for in the orders authenticated 17 October 2023.

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<sup>1</sup> For efficiency and cost effectiveness the report was also drafted for the cost reference process, to describe the SDS administration steps in order to facilitate to the Independent Legal Costs Referee's work (and to that end an advanced draft of the report was provided to her). As that work was being performed in any event, the Administrator considered it suitable to include the various descriptions in this report, in the event it was of interest to Group Members and / or the Court, and the costs of a summary separately tailored for the Independent Legal Costs Referee were avoided.

<sup>2</sup> Not all of the already approved deductions for costs have been made yet. This figure is what remains to be approved and distributed, after accounting for those already approved deductions.

9. The Administrator proposes that the balance of that sum which remains after taxation payments and administration costs (to be determined), be distributed to Group Members in a second round of payments, and whatever amount remains of a \$25,000 contingency be paid to either the Plaintiffs or the charity nominated in the SDS. At the Administrator's discretion.
10. Matters which clause 14.2 of the SDS requires be addressed in this report (*italicised and bold content is the wording in the SDS*):

***(a) the total number of Claimants who applied to participate in the SDS:***

647 claims were lodged using the online claim process, in the period 28 November 2022 to 22 April 2023. This included duplicate lodgements, which were eliminated in subsequent steps.

***(b) the number of people the Administrator notified were ineligible to participate in the SDS, and the reasons why:***

- (i) One business, being that of the putative objector Mr Comben and his wife Mrs Comben, was deemed ineligible to participate, ultimately because they were considered not to be Group Members on the basis that they didn't supply Fonterra as at 5 May 2020, alternatively the data did not establish loss and an entitlement to a payout as calculated under the SDS.
- (ii) 13 Group Members were deemed eligible to participate, but the entirety of their payouts was paid to Fonterra as the FASL Offset Payment, meaning they also did not receive any payment.
- (iii) Three Group Members were deemed eligible to participate but - for reasons other than a FASL Offset Payment – their payouts were calculated as \$0 by application of the Calculation Protocol in the SDS.
- (iv) Ten Group Members who applied to participate after the deadline would still like to participate in the SDS if allowed, but at this stage their claims have been rejected. The Administrator is presently seeking the Court's permission to admit those claims, as addressed later in this report.

In addition, the Administrator considered that a number of persons were likely ineligible to participate because their contracting arrangements meant that another person was the proper milk supplier, and therefore Group Member, in respect of the loss claimed. For example, some sharefarmers were not direct suppliers to Fonterra and were operating under the auspices of the farm owner who was the supplier (and therefore Group Member). All such issues were resolved to all stakeholders' satisfaction, following the administration team interacting with the farm owner and sharefarmer, and



establishing that arrangements were in place to the satisfaction of the share farmer and farm owner as to the private distribution by the entitled Group Member, of settlement payouts made to it. Similar issues arose, and an amicable resolution occurred with discussion coordinated by Administrator, where a partnership which would have been a proper Group Member had dissolved, for example a marital breakup (and in at least one such case the Administrator facilitated the orderliness of affairs by splitting a payment and making it to two parties).

(c) ***the amount distributed under the SDS to Claimants:***

\$13,247,17.69 directly to Group Members. \$364,786.32 putative entitlements of Group Members were paid to Fonterra, rather than the Group Members, as the FASL Offset Payment.

(d) ***the amount of the Administration Costs, including a breakdown of the constituent components of those cost:***

This is yet to be approved. The **Fourth Independent Costs Report** of the Independent Legal Costs Referee, dated 30 April 2024, allows costs of \$306,105.17, comprised as follows:

- (i) professional costs of \$207,552.99 (\$27,978.75 of which is estimated costs for the period after 30 April 2024); plus
- (ii) disbursements of \$98,552.19 as follows:

**Incurred**

Vincent's accounting (for administration work where charge out rates, including for clerks, more cost efficient than legal service providers)	\$62,610.35
External administration support for bank account verification	\$990.00
Bank fees	\$247.61

***subtotal***    **\$63,847.96**

**Estimated costs post 30 April 2024**

Vincent's accounting	\$25,883.00
Counsel	\$4,250.00
Bank fees	\$175.00
Miscellaneous expenses	\$1,975.00
7.5% contingency	\$2,421.23

***subtotal***    **\$34,704.23**

***Total***    **\$98,552.19**

The Administrator:

- (i) does not challenge the Fourth Independent Costs Report and proposes that it be adopted by the Court;



- (ii) intends to only charge future costs actually incurred (if lower than the aggregate estimate for costs post 30 April 2024), and seeks the right to approach the Court to seek approval if actual professional costs plus disbursements are greater than the aggregate estimate for same. However, at this stage that seems unlikely, as professional costs to 19 July 2024 remain less than under half the allowance in the Fourth Independent Costs Report.

**(e) *whether any time deadlines specified in the SDS were missed:***

A small number of Group Members submitted claims late, as discussed in (b) above and expanded upon elsewhere in this report. A number of Group Members also submitted claims after the original deadline of 17 January 2023, however order 2 made 14 April 2024 extended that deadline and those Group Members claims were then accepted.

Minor lateness of short periods for steps under the SDS, or matters relating to the determining of “Approval Date” (having regard to the associated definition including the requirement that the proceeding be dismissed before that date), or timing issues where no stakeholder is adversely affected, are not reported on, on the basis of being de minimis, requiring intricate explanation and consideration, and of no significant consequence to any person.

**(f) *the amount of any residue in the Settlement Distribution Fund and the manner of any application of that residue:***

The amount and application of it specified in paragraph 8 above, save for funds in respect of any deduction already approved for legal costs which has not yet been paid and which therefore remains in the Settlement Distribution Fund pending such payment.

11. The Administrator now proposes that:

- (a) The Court order that the late claims be accepted and paid;
- (b) A second distribution be made to the balance of claiming Group Members, provisioning for taxation obligations and remaining costs with \$25,000 to remain for contingencies;
- (c) Outstanding costs for the period from 21 February 2023 be determined and approved by the Court, in the amounts allowed in the Fourth Independent Costs Report, and then paid by the Administrator along with required tax payments;
- (d) Once the Administrator is satisfied that there are no further liabilities under the SDS, and no more work for it to do, any balance of the \$25,000 contingency remaining in the SDS’ account be transferred, at the Administrator’s discretion, to either the charity

nominated therein or the Plaintiffs as a further, modest, Plaintiffs' reimbursement payment;

and then in due course the Administrator ask the Court to make orders that SDS come to an end and the class action proceeding be struck out.

## B. DEFINITIONS

<b>Administration Costs</b>	Costs of and incidental to the administration of the SDS incurred by the Administrator, in the amount approved by the Court (being the definition in the SDS)
<b>Administrator</b>	David Burstyner, administrator of the SDS
<b><u>Approval Judgment</u></b>	<a href="#"><u>Lynden Iddles &amp; Anor v Fonterra Aust Pty Ltd &amp; Ors [2023] VSC 566, being Judgment of His Honour Justice Delany dated 20 September 2023 comprising the reasons for to the Approval Orders and the October 2023 Orders, and dealing with (amongst other things) an SDS amendment, legal costs, other deductions from the settlement and related matter.</u></a>
<b>Approval Orders</b>	Orders 2 and 3 made 14 April 2023 by the Honourable Justice Delany in proceeding S ECI 2020 02588 in the Supreme Court of Victoria, which:  (a) approved the Fonterra Class Action Settlement and its settlement distribution scheme; and  (b) appointed David Burstyner as Administrator.
<b>FASL Offset Payment</b>	The amount to be paid to Fonterra pursuant to the SDS, in satisfaction of the amounts remaining unrepaid of advances made by Fonterra to Group Members as the so-called Fonterra Australia Support Loans (also called FASLs).
<b>First Claim Deadline</b>	27 January 2023, pursuant to the Settlement Notice Orders
<b>Fonterra</b>	Together and severally, FONTERRA AUSTRALIA PTY LTD (ACN 006 483 665), FONTERRA MILK AUSTRALIA PTY LTD (ACN 114 326 448) AND FONTERRA BRANDS (AUSTRALIA) PTY LTD (ACN 095 181 669) of Level 2, 40 River Boulevard, Richmond VIC 3121  (being the definition in the SDS, by cross reference to the underlying settlement agreement)



<b>Fonterra Class Action Settlement</b>	As defined in the Approval Orders, essentially the settlement of claims in proceeding S ECI 2020 02588 in the Supreme Court of Victoria.
<b>Fourth Independent Costs Report</b>	The Fourth Report of the Independent Legal Costs Referee, dated 30 April 2024.
<b>Independent Legal Costs Referee</b>	Catherine Mary Dealehr, the independent Special Referee appointed by the Court on 18 November 2022, and again on 17 October 2023, to review legal costs.
<b>LLS</b>	LLS FUND SERVICES PTY LTD (ABN 51 627 975 213) AS TRUSTEE FOR LITIGATION LENDING FUND 1
<b>Interim Report</b>	The Administrator's interim report dated 23 June 2023, and at page 13 of the Seventh Affidavit of David Burstyner, affirmed 23 June 2023
<b>October 2023 Orders</b>	Orders authenticated 17 October 2023 by the Honourable Justice Delany, amending the SDS and making provision for legal costs and distribution to Group Members
<b>SDS</b>	The Fonterra Class Action Settlement Distribution Scheme appended to the Approval Orders (or that scheme as amended by the 17 October 2023 orders, as the context dictates)
<b>Second Claim Deadline</b>	22 April 2023, pursuant to the Approval Orders
<b>Settlement Sum</b>	As defined in the Fonterra Class Action Settlement, essentially the \$25m provided by Fonterra, and any interest accrued thereon.
<b>Settlement Notice Orders</b>	<p>Orders made 15 November 2022 by the Honourable Justice Nichols in proceeding S ECI 2020 02588 in the Supreme Court of Victoria, providing for notice of the proposed settlement:</p> <ul style="list-style-type: none"> <li>(a) by written communication to each Group Members plus announcements in selected dairy farmer newspapers; and</li> <li>(b) with a claim lodgement deadline of 27 January 2023.</li> </ul>

## C. INTRODUCTION

12. The report follows from:

- (a) The 14 April 2023 Approval Orders, which approved the SDS and extended the claim lodgement deadline from 27 January 2023 to 21 April 2023;
- (b) Clause 14.2 of the SDS, which requires that upon conclusion of that administration the Administrator reports to the Court;
- (c) The Interim Report, the content of which is not repeated here save for some summarising and noting that it described engagement with around 300 farmers to address incongruities in the claim data they had provided;
- (d) The [Approval Judgment dated 20 September 2023](#); and
- (e) The October 2023 Orders amending the SDS and making provision for legal costs and distribution to Group Members.

## D. BACKGROUND: THE COURT PROCEEDINGS AND SETTLEMENT

### *Claims*

- 13. In May and June 2016 Fonterra reduced the milk price it had forecast it would pay dairy farmers. The price changes had caused significant outcry at that time, and were commonly referred to as the “clawback”, owing to their perceived retrospective character.
- 14. In the Fonterra Class Action filed in the Supreme Court of Victoria on 17 June 2020, Plaintiffs Lynden Iddles and Geoffrey Iddles, dairy farmers from Strathmerton Victoria, brought a class action claim for compensation for loss caused by the milk price reduction. They alleged that the price drop involved misleading and deceptive conduct, unconscionable conduct and breaches of contract. They brought the class action on behalf of themselves and over 1,000 Group Members. Approximately 300 Group Members their interest in the action.
- 15. No other formal redress process for that price drop was pursued by any other Group Member, person, law firm, litigation funder or government agency. In fact, one litigation funder had been funding case preparation from around 2017 to late 2019 but on 5 December 2019 abandoned the Fonterra Class Action because a judgment of the High Court of Australia the preceding day brought uncertainty and heightened risks to funder’s commissions in class actions<sup>3</sup>

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<sup>3</sup> [BMW](#) Australia Ltd v Brewster; Westpac Banking Corporation v Lenthall [2019] HCA 45. Virtually the same legal issue again raised its head during the settlement approval process for the Fonterra Class Action, as the approval of deductions was delayed pending the outcome in *Elliott-Cardé v*

16. Thus, it is clear that despite there having been:
- (a) two related ACCC inquiries;
  - (b) a Senate Inquiry into the subject conduct;
  - (c) an ACCC prosecution of similar conduct by Murray Goulburn Co-operative Co. Limited; and
  - (d) some redress by Murray Goulburn Co-operative Co. Limited to its farmer suppliers for similarly milk pricing changes;
- the Group Members would not have obtained any compensation if it was not for the Fonterra Class Action and the very significant risks taken by Mr and Mrs Iddles, LLS, Adley Burstyner and barristers Lachlan Armstrong KC and Laura Keily<sup>4</sup>.

***Court process and in-principal settlement***

17. On 17 June 2020 the class action was filed in the Supreme Court of Victoria, following four years of case preparation and efforts to obtaining litigation funding, delayed by the changes of laws affecting litigation funding (see paragraph 15).
18. Over the next 2 ½ years of the court process there were a dozen hearings with numerous disputes between Fonterra and the Iddles, including three hearings for a documentary discovery dispute (ultimately resulting in Fonterra producing approximately 55,000 documents), and a [two day hearing of a security for costs dispute](#)<sup>5</sup>. Ten subpoenas were filed (including by Fonterra on the Plaintiffs' business advisers, banks, and medical providers, and by the Plaintiffs in connection with one of Fonterra's experts). There was also significant expert involvement, with the Plaintiffs filing substantial reports from six experts in June and July 2022, and Fonterra filing reports from four experts in September and October 2022. Fonterra required the Plaintiffs to undergo examination by a psychiatrist and filed three reports about that.
19. On 13 October 2022, settlement discussions commenced at a mediation. They continued over the next week.

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*McDonald's Australia Ltd ('McDonald's')* (see paragraph 16 of [Lynden Iddles & Anor v Fonterra Aust Pty Ltd & Ors \[2023\] VSC 566](#))

<sup>4</sup> These two barristers performed significant work when no payment was yet being made, and whether payment would ever be made was unknown, to try and get the case off the ground. Of course there were other barristers who also played invaluable roles while the case was being conducted: Philippa Kelly, Min Guo, Priya Wakhlu, and Chris Fitzgerald. And a small number of dairy farmers / Group Members, provided tremendously useful support to the case preparation and conduct, and – although ultimately not called upon – provided witness statements and were prepared to act as sample Group Members. Those dairy farmer's contributions was material and helped the case.

<sup>5</sup> *Iddles & Anor v Fonterra Australia Pty Ltd & Ors [2021] VSC 609*

20. On 20 October 2020, an in principle settlement amount of \$25m was agreed. At the time, a four week trial had been scheduled to commence on 15 November 2023, and the Plaintiffs were on track for it.
21. The Plaintiffs' decision to settle for less than the full value claimed was based on the Plaintiffs' lawyers' advice that the fiercely negotiated settlement amount, much more than Fonterra had previously agree to pay, was fair, just and reasonable and in the interests of the Plaintiffs and Group Members. The opinion accounted for, amongst other things:
- (a) the risks of losing completely (or partly) if the matter proceeded to trial, as there was an "all or nothing" aspect to the case;
  - (b) the delays that could occur to providing compensation to Group Members and the Plaintiffs if the matter was not settled; and
  - (c) the belief that no higher settlement figure was negotiable, meaning that if the \$25m figure was not agreed then the case would be required to go to trial.
22. The Court's view of the settlement then had to be sought because a class action settlement is only binding if approved by the Court as fair and reasonable and in the interests of Group Members as a whole. This Court's role is to protect the interests of Group Members, as they are not represented.

***Settlement Approval Application: Court's assessment of reasonableness and fairness***

23. On 4 November 2022 the formal settlement agreement was signed and the Plaintiffs filed an application seeking Court approval of it. The Court subsequently made orders, mostly on 15 November 2022, providing a timetable for the settlement approval application. The orders included:
- (a) Notifying Group Members of the details of the proposed settlement and their rights to object to the settlement being approved;
  - (b) A timetable for Group Members lodging their claims for a payout (with a deadline of 27 January 2023);
  - (c) Referring the Settlement Approval application from the docket Judge (Her Honour Justice Nichols) to His Honour Justice Delany, for hearing on 28 February 2023.
24. The comprehensive settlement notification campaign to Group Members used:
- (a) the email details which some Group Members had provided the Plaintiffs' solicitor;
  - (b) the Plaintiffs' solicitor's dedicated case website<sup>6</sup>;

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<sup>6</sup> [www.fonterraaction.com.au](http://www.fonterraaction.com.au)

- (c) the Supreme Court of Victoria's dedicated case website<sup>7</sup>;
  - (d) Fonterra's records; and - as an added measure –
  - (e) publicity in a number of rural newspapers.
25. The Supreme Court of Victoria's website has since been maintained with up to date case information accessible by Group Members (as has the Plaintiffs' solicitor's case website).
26. After notice of the settlement was given to Group Members, only one objection was received. The objector was considered not a Group Member and ultimately he withdrew his claim. Other stakeholders communicated various views to the Plaintiffs' solicitor about the settlement, mostly comprising expressions of appreciation but some adverse impressions of the settlement were expressed. The Plaintiffs' solicitor discussed the His Honour
27. adverse impressions with those holding them, with a view to providing more detailed information about the settlement and litigation context, on some occasions in small groups for efficiency. In nearly all cases, the Group Members were satisfied and more comfortable with the settlement outcome once they had received such explanations and an opportunity to voice their concerns.
28. At the settlement approval hearing on 28 February 2023 Justice Delany of the Supreme Court of Victoria indicated that he would approve the settlement. The approval was formally given by the [Approval Orders \(made 14 April 2023\)](#), with reasons set out in [Approval Judgment delivered 20 September 2023](#)<sup>8</sup>. Procedural orders and a variation to the payout calculation formula were also made by [orders authenticated 17 October 2023](#).
29. That settlement approval included the Settlement Distribution Scheme, or SDS, which was annexed to the [orders made 14 April 2023](#). The SDS sets out the process for administering the \$25m fund and calculating payments to Group Members, including a process for disputes by Group Members.
30. Ultimately, while some Group Members initially queried some aspects of their proposed payments, and the Administration team discussed such queries and concerns, no disputes were persisted with and the need to refer disputes to a barrister never arose. This meant a considerable saving in time and money for the administration.
31. The Fonterra Class Action Settlement also resolved so-called FASLs, or Fonterra Australia Support Loans, namely the amounts outstanding on loans which Fonterra had made to

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<sup>7</sup> <https://www.supremecourt.vic.gov.au/areas/group-proceedings/fonterra>

<sup>8</sup> *Lynden Iddles & Anor v Fonterra Aust Pty Ltd & Ors* [2023] VSC 566



dairy farmers in connection with and by reference to the amount of the May 2016 price drop.

32. The Court's Approval Judgement states:

*"I have no doubt that the Settlement Agreement, which provides for the payment of \$25m inclusive of costs to the lead plaintiffs and group members in exchange for releases by all group members, is a fair and reasonable settlement. ...In evaluating the reasonableness of the settlement, and evaluating the critical question of prospects of success on liability, I take into account that none of the three causes of action relied upon by the plaintiffs, the liability for each of which is denied by Fonterra, are without their difficulties and complexities.. Considerations such as those to which I have referred concerning liability, combined with a dispute as to the basis of calculation of damages, including whether the Autumn Offset Payments are to be brought to account in calculating damages, means that the certainty of a settlement which takes into account the risks is highly desirable in the interests of group members as a whole...The Calculation Protocol as amended operates fairly as between group members in relation to the settlement sum. That is achieved by calculating each participating claimant's notional share of the net distribution sum as the proportion that each participating claimant's revenue difference bears to the sum of all participating claimants' revenue differences...No doubt in addition to loss of revenue referable to the Step-Down Period from direct milk revenue losses, farmers across the group would have experienced their own idiosyncratic losses as a result of the May 2016 Price Decrease. Some farmers may have experienced losses from selling stock at reduced prices, others may have incurred additional interest costs as a result of lost revenue, others again may have incurred expenses in the form of continuing obligations in respect of machinery purchases or other commitments entered into in anticipation of the opening price being maintained that they would not otherwise have entered into were it not for the representations made by Fonterra. ...To seek to bring into account the individual circumstances of group members, including losses referable to matters such as those to which I have referred, would be cumbersome, would likely not be cost-effective, and would be very time-consuming."*

***Evidence from Plaintiffs' lawyer and Administrator***

33. In connection with the settlement approval process and the administration of the settlement, the following evidence was filed by the Plaintiffs and Administrator (covering the settlement approval application, costs and the application to amend the SDS), included in which was the Interim Report:
- (a) Affidavits of David Burstyner dated 4 November 2022, 16 December 2022, 27 February 2023 (two affidavits), 20 April 2023, 16 June 2023, 23 June 2023, 8 September 2023;
  - (b) Affidavit of Natasha Monique Vassallo dated 9 December 2022;
  - (c) Affidavit of Lynden Iddles dated 23 February 2023; and
  - (d) Affidavits of Geoffrey Iddles dated 23 February 2023 and 20 April 2023.
34. In addition:
- (a) The litigation funder filed an affidavit on 16 February 2023, and Fonterra on 17 February 2023; and
  - (b) All parties filed various written submissions.

**Approval Judgment**

35. The Approval Judgment delivered 20 September 2023 (and the resulting October 2023 Orders) facilitated the final steps necessary to make distributions to Group Members of \$13,611,965.01<sup>9</sup>.
36. It also provided the Court's guidance and rulings for various related administration processes (including a proposed amendment to the Settlement Distribution Scheme), and the Court's reasons for approving the settlement and its administration.
37. Amongst other things the Court's Approval Judgment addressed:
- (a) The fairness and reasonableness of the settlement, both in respect of:
    - i. the sum being paid by Fonterra, being settlement between the main parties; and
    - ii. the proposed distribution, being how the settlement operated as between Group Members.

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<sup>9</sup> This figure includes the Fonterra Offset Payment, see paragraph 6 of this report.

- (b) A 27.5% commission for the litigation funder<sup>10</sup> (which was approved) and reimbursement of the litigation funder's expense in obtaining adverse costs insurance (which was refused);
- (c) Confidentiality claims<sup>11</sup>;
- (d) Legal Costs for the period to 20 February 2023, including allowing a deduction which was substantially less than had been sought<sup>12</sup>;
- (e) Reimbursement to the Plaintiffs for their role; and
- (f) Deferring till another time the question of legal costs for the period post 20 February 2023 (both in conducting the settlement approval application and in administering the settlement).

## **E. SETTLEMENT ADMINISTRATION**

### ***Settlement Distribution Scheme (SDS)***

38. The SDS established a "Calculation Protocol" by which all group member claims were to be assessed and calculated. It was a straightforward formula using objective data to calculate a ratio by which the Settlement Sum would be distributed. The Approval Judgment acknowledged the benefits of that simplicity, use of Fonterra data for objective outcomes, and the difficulties of requiring Group Members to provide data which would likely increase cost delay and compromise outcomes (paragraphs 79 to 86).

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<sup>10</sup> A deduction to pay the litigation funder raised a topic controversial in other proceedings, resulting in the Court's ruling in the Fonterra Class Action being deferred on 28 February 2023, and again on 22 May 2023, pending "*delivery by the Full Federal Court of its decision in Elliott-Cardé v McDonald's Australia Ltd ('McDonald's')*" (see paragraph 16 of the [Approval Judgment](#)).

<sup>11</sup> Confidentiality claims, which were uncontroversial between the parties, were made and ordered over the opinion of the Plaintiffs' counsel supporting the settlement approval, Fonterra's bank account, and some content in affidavits supporting settlement approval including commercially sensitive practices of the litigation funder regarding success fee rates and its case selection processes.

<sup>12</sup> See paragraphs 140 to 350 of the [Approval Judgment](#). Shortly stated, the Court concluded that, or adopted an Independent Legal Costs Referee's report which determined that: (i) there were technical and plain english defects in the costs agreement between Adley Burstyner and the Plaintiffs, including a lack of clarity on estimate costs, which precluded a success uplift being paid (and this report notes that the Plaintiffs supported Adley Burstyner's costs claim, no farmer objected to the uplift claim, and no farmer's position could have been changed if the technical defect hadn't occurred because the irregularity was in content which had not been available to Group Members during the case); (ii) the rate charged for seconded staff – while approved by the Plaintiffs and litigation funder and found by the Independent Legal Costs Referee to be a reasonable rate – was not permitted on other technical basis; (iii) costs of defending the Plaintiffs from Fonterra's FASL claim in a separate proceeding were not recoverable due to the same technical breaches which precluded the uplift; and (iv) Adley Burstyner's practice of combining related tasks in a single time entry (which Adley Burstyner testified was to reduce costs) warranted a further 25% reduction of relevant costs.



39. The Court described the Calculation Protocol as follows:

*“The Calculation Protocol estimates the milk revenue net of fees and levies that each participating claimant would have received from between 4 May 2016 to 30 June 2016 (defined in the SDS as the ‘Step-Down Period’) were it not for the May 2016 Price Decrease, at the fat and protein production volumes in the most recent income estimate made by Fonterra prior to the Step-Down Period (‘Counterfactual Revenue’). As originally devised and in place as at 28 February 2023, the estimated volume information relied on as the starting point for the calculation relied on information available to the plaintiffs and their lawyers from Fonterra’s records. From that amount the actual milk revenue received by each claimant during the Step-Down Period is to be deducted.”<sup>13</sup>*

40. The SDS provided the following steps amongst others:

- (a) Receipt of claims;
- (b) Assessment and calculation of claims;
- (c) Preparation and distribution of Claims Confirmation Notices (**CCNs**), subject to knowledge of deductions;
- (d) Receipt of disputes (if any) and processing queries on CCNs. Engagement with Group Members;
- (e) Disputes procedure / reviews;
- (f) Further calculation and determining of payouts to make, based on knowledge of deductions;
- (g) Making payouts;
- (h) Finalisation: Considering and processing further payments, final deductions, winding up administration and seeking the dismissal of proceedings.

41. At **Schedule A** is the initial assessment by the administration team of the steps and processes involved.

***Judicial oversight: Role of the Supreme Court of Victoria during settlement administration***

42. Under sections 10 and 14 of the SDS, the Supreme Court of Victoria:

- (a) Is responsible for supervising the administration of the SDS and, able to deal with any issues encountered by the Administrator;

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<sup>13</sup> Paragraph 80 of the [Approval Judgment](#).

- (b) Is to be provided with a report from the Administrator; and
- (c) Determines Administration Costs to be paid.

**Administrator's Application to amend SDS**

43. On 8 September 2023 the Administrator, concerned about fairness to Group Members after communications with some of them, made an application to the Court, supported by affidavit, asking the Court to vary the Calculation Protocol. The Court agreed to, stating:

*"82. In the course of the scheme administration, it emerged that, in the case of 320 of 597 group members, the volume of milk actually produced in May and June 2016 exceeded the Fonterra estimates relied upon as at 28 February 2023 as the starting point for the calculation of loss. A number of group members identified this as an issue in their Claim Contribution Notices, contending that the use of Fonterra's estimates as the starting point unfairly understated their losses. Mr Burstyner, in his capacity as scheme administrator, proposed an amendment to the SDS to meet this issue. That is, to provide that the counterfactual revenue is to be defined as follows:*

*Counterfactual Revenue = milk revenue for May and June 2016 in the most recent income estimate made by Fonterra prior to the Step-Down Period, or based on actual production for either or both months if greater for that month than what was estimated, net of fees and levies.*

*83 I agree the proposed amendment to the SDS is appropriate and necessary to ensure the settlement is fair and reasonable as between the Group Members."*

**Dealing with Settlement Sum (including interest)**

44. The Settlement Sum was transferred from Fonterra on 24 November 2022, to an Escrow Agent being Perpetual Corporate Trust Limited (**Perpetual**) pursuant to an Escrow Deed dated 18 November 2022.
45. The Administrator endeavoured to ensure that Perpetual obtained competitive interest rates for the Settlement Sum and compared rates which various banks offered Perpetual.
46. Whilst Westpac bank had the better rate (generating several thousand dollars more per month) establishing a Westpac account was going to take longer than an account at the Commonwealth Bank of Australia (resulting in a period without interest). Accordingly, the Administrator arranged with the Escrow Agent for the funds to initially be invested at Commonwealth Bank of Australia and then transferred to Westpac.

47. Following authentication of orders on 17 October 2023, on 18 and 20 October 2023 the funds were transfer out of the Escrow Account to the Controlled Money Account established by the Administrator.

***Settlement administration and claim calculation***

48. A number of options, in terms of service providers and software, were considered when determining the most cost effective and timely way to administer the settlement. That included obtaining a proposal from Kordamentha, and considering discussions previously held with Deloitte regarding their “halo” mass claims product, and obtaining various cost estimates from Vincents Forensic Accountants. Ultimately it was determined that the administration would be well served by Vincents Forensic Accountants, flagged to the Court as a likely service provider, performing the necessary claim calculations and collaborating with Adley Burstyner in the steps to process claims, seek further information, and determine final payouts, and bespoke software was unnecessary given the relative straightforward nature expected for the administration. That decision had regard to accumulated knowledge, reasonable hourly rates, and the track record of Mr Mariano Rossetto in class actions.
49. An example of how that worked in practice is that in the early part of administration of the settlement when claim information was being gathered and verified, it was efficient to use for administrative staff at Vincents Forensic Accountants to perform a significant amount of necessary work at lower charge out rates than typical for a lawfirm (\$137.50 per hour including GST, which can be contrasted with the \$265 party party rate for clerks in the Supreme Court of Victoria’s Scale of Costs). On another occasion, when 100 Group Members needed to be contacted to verify bank account details, the work was outsourced to Law in Order, given the effectiveness of their previous administrative work on the case, and that was also at a very cost efficient fee.
50. Accordingly, in order to reduce settlement administration costs, the SDS team included staff at accountancy firm Vincents Forensic Accountants (supervised by Adley Burstyner) to reduce hourly rates and persons at Law in Order.

***Claims registered (and comparison with expressions of interest registered before settlement)***

51. By the First Claim Deadline (27 January 2023) 570 claims had been submitted<sup>14</sup>, by the Second Claim Deadline (22 April 2023) a further 29 claims were submitted<sup>15</sup>.

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<sup>14</sup> Including duplicates.

<sup>15</sup> Including duplicates.

52. By way of comparison, to consider the efficiency benefits of class actions it is noted that, according to the Supreme Court of Victoria's Annual Report for 2022-2023 tabled in Parliament on 30 November 2023, during that 12 month period 2,496 cases were initiated in the Commercial Court<sup>16</sup>. Considering the Fonterra Class Action it hardly needs to be said that, alongside from the feasibility challenges of the parties which would arise if the parties had to deal with nearly 600 individual dairy farmer Court proceedings, dealing with all of those claims in a single proceeding significantly reduces the burden on the Supreme Court of Victoria and brings economies of scale to almost every aspect of the subject litigation, and almost inescapably greater returns and fairness to aggrieved parties.
53. Also, it is interesting to note how the 598 Group Member claims lodged following settlement compares with the number of registrations received in the case prior to the November 2022 settlement (ultimately totalling under 416 prior to settlement)<sup>17</sup>:
- (a) Between 5 May 2016 and filing of proceedings on 17 June 2020 - 181;
  - (b) Between filing of proceedings and opt out notice (2 October 2021) – 139; and
  - (c) Between opt out and mediation and settlement announcement – 96.
54. This statistics demonstrate the view held by some class action commentators that a substantial portion of Group Members will not actively take a step to join or support a case until there is "money on the table", and also until after proceedings are on foot (with 56% of registrations arriving only after proceedings were issued). Adley Burstyner's specific experience in this matter, having asked many "latecomers" why they did not join earlier, indicates common considerations for Group Members are fears of retribution plus uncertainty about the legal process and those involved and mistrust of any attendant value in joining (alongside persistent feedback of strong adverse feelings and revisitation of trauma in relation to the facts underpinning the case).

***Flaws in information supplied by Group Members: Supplier numbers and bank account details***

55. The extent of irregularities in supplier numbers had not been expected, and caused unpredicted costs. In particular, between 27 April 2023 and 26 May 2023 Adley Burstyner communicated with approximately 270 farmers via telephone and email to obtain:

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<sup>16</sup> 6270 for the entire Trial Division, including civil and criminal cases.

<sup>17</sup> These figures are indicative and, while considered close to actual numbers, may not be absolutely accurate, as the database was not built to deliver these statistics so these figures have been arrived at via approximation based on a review of communication with registrants.

- (a) Complete and accurate supplier numbers from farmers who had previously provided numbers in an incomplete format (preventing crucial steps in determining percentage stakes in farm income, necessary to allocate payouts in respect of farms);
  - (b) Correct bank account details, where potential irregularities were identified by the administration team; and
  - (c) Clarification of the portion of milk production that was subject to the price decrease (as opposed to the portion of milk supply that was subject to a fixed price and therefore unaffected by the price decrease).
56. This resulted in the need to spend significant time cleaning the group member registration data as provided by group member due to incorrect bank account details provided or no information provided at all.
57. The Administrator had not anticipated this additional work, and had assumed that information provided by Group Members upfront would not have been incomplete to that extent, so as to require the administration to have go back to many Group Members with multiple information requests

#### ***Calculation process and cost savings***

58. One aspect of the calculation process which required particular work was that some of the data held by the Administrator, from Fonterra, comprised production volumes, not revenues. Consequently, claim calculation required significant intricate and skilled work by Mr Mariano Rossetto at Vincents Forensic Accountants, and ongoing engagement with the Administrator about the processes being followed, in both applying the Fonterra data to the (then) separate list of claimants, and then generating, using objective counterfactual milk price data, the counterfactual revenues. There was also a labour intensive element of that attended to by the quantification team at Vincents Forensic Accountants, requiring the cross checking and proper correlation of group member registrations to the Fonterra data. In many instances farm and supplier numbers provided by Group Members were not correct, and there were irregularities and idiosyncrasies as to sharefarming arrangements. These issues required some manual one for one checking processes to ensure data was appropriately allocated to the correct group member, and extensive data cleaning to ensure correct claim calculations, and treatment of percentage interests in farm revenue.
59. The administration process also included sending Group Members a “Claim Confirmation Notice”, stating their intended payout, following which they had certain rights of review. To allow for variation in final payouts, Mr Mariano Rossetto of Vincents (who had assisted with various quantum calculations for the Plaintiffs and some potential sample Group Members)

applied a so-called “balancing adjustment” so that there was a pragmatic buffer in case some payouts increased, thereby diluting others (as stated in the Interim Report).

60. The majority of CCNs were distributed on 29 May 2023 (namely, 574). Some were held back owing to some intricacy in calculations concerning suppliers who had a fixed price arrangements for part of their supply. Following further calculations and direct engagement with most them, their CCN's were dispatched in around July 2023.

### ***Bespoke arrangements***

61. Some Group Member situations required individual treatment, consideration, intervention and guidance by the Administrator, including for the following circumstances:
- (a) Sharefarmer arrangements, where parties asserted that they were a group member and proper claimant and the division of an entitlement relating to a farm varied from what was disclosed on Fonterra's records being used (in essence arrangements were more informal). In most such cases a mutual position was able to be extracted from stakeholders and then applied to the distribution (including that in one case, the parties agree with the Administrator as to who should receive the entire proceeds, and that any further division would be attended to privately thereafter, separate from the administration);
  - (b) The enterprise with the largest entitlement, believed to be Australia's largest dairy farm or farming group, had been sold in the year of the step down, with a contract entered March 2016, and a purported December 2016 retrospectively applying assignment of supplier rights. The seller and purchaser had been in litigation regarding entitlements to related payments, and in the class action there had been some controversy as to which party was entitled to a claim and to be a Group Member. Fortunately, but not without a degree of communication between stakeholders, a mutually agreeable allocation of the settlement proceeds was reached;
  - (c) One Group Member which was an estate, where no proof of authority was provided and inquiries yield a grant of probate made in 1939, to persons other than the person who submitted the claim in the Fonterra Class Action Settlement. In that case steps were taken to come up with a pragmatic and not unduly formal, but still prudent, means for identifying the current legal personal representative of the estate, and obtain from them authority that the class action proceeds could be paid to the person who submitted the claim. And, to reduce fraud risks, the legitimacy of persons executing documents in that process was also checked. The process included liaising with the accountants, lawyers and veterinarian for the person who submitted the claim, plus the

current incarnation of the organisation apparently granted probate nearly 100 years ago.

62. Also, it emerged that one Group Member had made a payment towards their FASL when that was to be accounted for out of the Settlement Sum, and another Group Member continued to receive statements from Fonterra showing an outstanding FASL balance notwithstanding a corresponding release in the settlement having commenced operation. The Administrator corresponded with Fonterra's lawyers and Group Members regarding these matters and reached outcomes which appeared satisfactory to all parties.

### ***Distributions and validation***

63. In early November 2023 the Administrator considered that the bank account details held for Group Members should be verified where it had been changed from the particulars provided with the original claim. Having regard to increasing press reports and prevalence of bank account fraud and impersonation of email senders, and in line with guidance from the Law Institute of Victoria and Legal Practitioners Liability Committee<sup>18</sup>, the Administrator considered it prudent to take the extra precaution of making direct telephone contact with a selection of Group Members, using data with a high likelihood of reliability (especially phone numbers provided with the original claim lodgement). Approximately 85 persons were telephoned, in a time consuming task as in many instances it took several attempts to reach a Group Member, some were suspicious and some couldn't be reached. The calls were attended to by paralegals at a cost of \$198 per hour including GST, following a script provided by the Administrator, and with supervision and guidance from the lawyers named in the SDS as required.
64. In November and December 2023 distributions to 583 Group Members were made in the aggregate amount of \$13,180,785.60. One distribution was made on 12 February 2024 (as there were delays in assessment, and the Group Member's provision, of information relating to the entitlement of the Group Member which was atypically brought as a deceased estate for a person for whom probate was granted in 1939 and the Administrator regarded it appropriate to obtain additional proof from the legal personal representative of the estate (see paragraph 61(c)).

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<sup>18</sup> For example see:

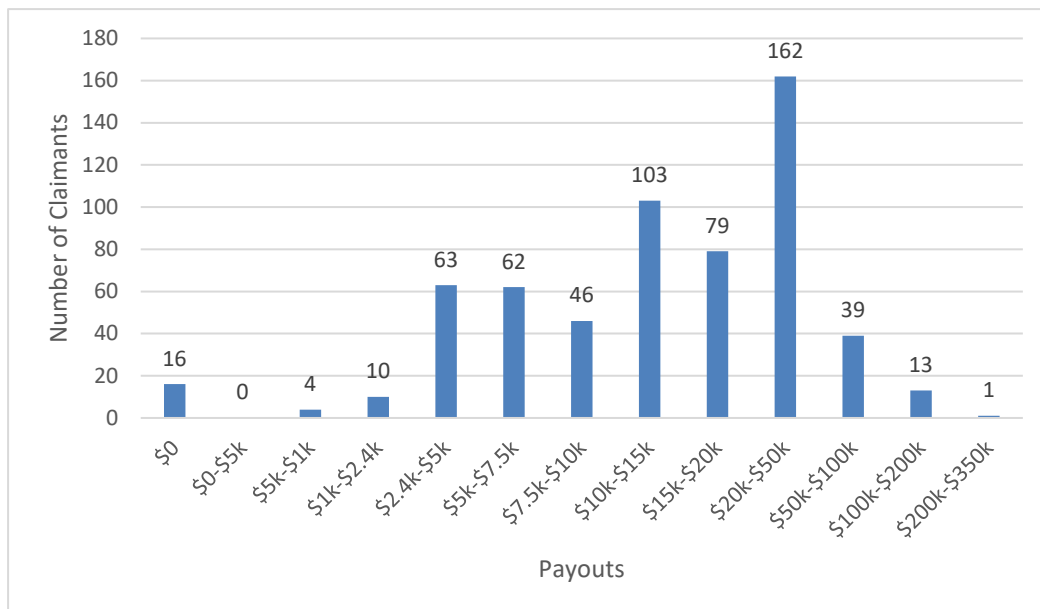
[https://www.liv.asn.au/Web/Law\\_Institute\\_Journal\\_and\\_News/Web/LIJ/Year/2023/02February/LP\\_LC\\_Call\\_first\\_to\\_avoid\\_cyber\\_fraud.aspx](https://www.liv.asn.au/Web/Law_Institute_Journal_and_News/Web/LIJ/Year/2023/02February/LP_LC_Call_first_to_avoid_cyber_fraud.aspx)

65. The breakdown of those distributions is as follows:

Date of distribution	Distribution by number of Group Members (GMs)			Amount of distributions *
	Number of distributions	% of all GMs	Accrued % of all GMs	
23/11/2023	4	1%	1%	\$51,085.56
24/11/2023	413	71%	71%	\$9,588,546.46
4/12/2023	143	24%	96%	\$3,168,377.38
5/12/2023	6	1%	97%	\$72,973.03
11/12/2023	15	3%	99%	\$278,429.93
14/12/2023	2	0%	100%	\$21,373.24
12/02/2024	1	0%	100%	\$66,393.09
5/12/2023	<i>Fonterra FASL Offset Payment</i>			\$364,786.32
<b>Totals</b>	<b>584</b>		<b>Total</b>	<b>\$13,611,965.01</b>

- (a) Average distribution (excluding those who received zero and treating a FASL Offset Payment as a distribution to Group Members): over \$23,308.
- (b) The distributions amounted to 49% of those Group Members' loss in terms of the revenue difference defined in the SDS. If the Funding Commission is included, the distributions amount to 73% of loss.

66. The following chart shows the distribution of payouts by supplier<sup>19</sup>:

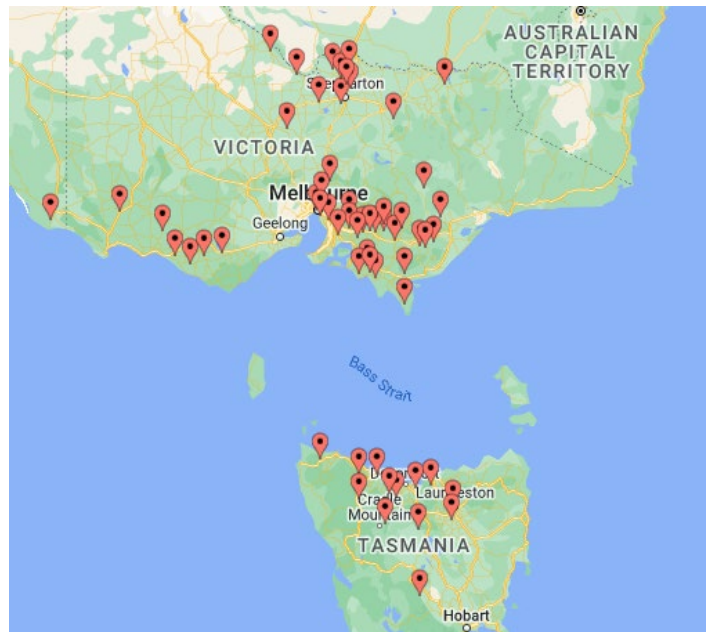


67. All payments were made by electronic transfer, generating efficiency and savings, even though in the order of half a dozen Group Members required bespoke contact because they did not have email addresses.

<sup>19</sup> Some businesses comprise multiple suppliers, and received multiple payouts.



68. Based on postcodes supplied for claimants, and excluding a single Queensland postcode, the geographic spread of Claimants in Australia was as follows:



#### **Contact with Group Members**

69. Over the course of the settlement administrations the Administrator received and responded to group member correspondence and submissions (both personally and, in many cases for cost efficiency, by more junior but suitably qualified personnel). Also, the class action website was maintained.
70. Communications and updates with all or subsets of Group Members since the Interim Report of 23 June 2023 (which addresses the Claims Confirmation Notice process) included:
- (a) On and around 7 July 2023, providing an update on the estimated payment timeline, the processing of Claims Confirmation Notices and the hearing held 23 June 2023 and the awaiting of its outcome;
  - (b) On and around 3 November 2023, a “Payment Notice” which included a comprehensive update on the Approval Judgment, including extracts of it, confirming the then expected payout and bank account details intended to be used (for verification purposes); and
  - (c) On and around 24 November 2023, a “verification of bank account details following telephone call” email.
  - (d) At various times in November 2023, other emails confirming bank accounts and other claim payout details; and

- (e) On and around 5 December 2023, corrected Payment Notices (where bank account details had been clarified).

***Legal costs and assessment by Court Appointed Independent Legal Costs Referee***

***Cost of class action to 20 February 2023***

71. The Court's consideration of legal costs relied on the reports of Catherine Mary Dealehr who it appointed on 18 November 2022, and again on 17 October 2023, to review costs as an independent Special Referee. The Independent Legal Costs Referee was required to determine what legal costs were fair, reasonable and proportionate.
72. The Independent Legal Costs Referee's reports of 24 February 2023, 27 February 2023 and 8 May 2023 determined that fair and reasonable costs for the Fonterra Class Action for the period to 20 February 2023 (excluding Administration Costs) were \$2,080,289 for the solicitors work and \$1,848,975 for barristers, experts and other disbursements (totalling \$3,911,764).
73. The Plaintiffs and Adley Burstyner had claimed \$4,610,529 plus a success fee uplift, and challenged the Independent Legal Costs Referee's decisions to, amongst other things<sup>20</sup>:
- (a) Disallow costs for the representation of Lynden Iddles and Geoffrey Iddles (the class action Plaintiffs) in a County Court Claim by Fonterra against Mr and Mrs Iddles for the FASL, which was later linked to the class action;
  - (b) Find that the costs agreement with the Iddles was defective, including that it was not in plain English and did not state the basis of the uplift claimed; and
  - (c) Disallow some of the costs claimed for work in the period May 2016 to May 2019, during which the Plaintiffs' solicitors time records were incomplete.
74. The Court rejected entirely the Plaintiffs' and Adley Burstyner's challenge and ordered that those costs, for the class action to 20 February 2023 (excluding Administration Costs), be set at \$3,911,764, as determined by the Independent Legal Costs Referee.

***Costs from 21 February 2023 and all Administration Costs***

75. The Fourth Independent Costs Report considered costs of<sup>21</sup>:
- (a) the Fonterra Class Action after 20 February 2023 (essentially the Settlement Approval Application); and

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<sup>20</sup> See Judgment for complete reasons: [Lynden Iddles & Anor v Fonterra Aust Pty Ltd & Ors \[2023\] VSC 566](#)

<sup>21</sup> The Fourth Independent Costs Report also considered, and allowed, a claim for \$3,194 in respect of costs in January 2023 which had inadvertently not previously been claimed.

(b) Administration of the SDS.

76. The Fourth Independent Costs Report allowed costs as follows:

(a) For reasonable and proportionate costs for work since 21 February 2023:

	<b>Claimed</b>	<b>Allowed</b>
Professional fees	\$92,629.68	\$82,093.49
Disbursements	\$116,269.22	\$108,946.94
<b>Totals</b>	<b>\$208,898.90</b>	<b>\$191,040.43</b>

(b) For costs of Administering the SDS:

	<b>Incurred</b>	<b>Estimated for future</b>	<b>Totals</b>
Professional fees	\$179,574.24	\$27,978.75	<b>\$207,552.99</b>
Disbursements	\$63,847.96	\$34,704.23	<b>\$98,552.19</b>
<b>Totals</b>	<b>\$243,422.20</b>	<b>\$62,682.97</b>	<b>\$306,105.17</b>

77. The Plaintiffs and Administrator accept the Independent Legal Costs Referee's finding in her Fourth Independent Costs Report and will not challenge it. At the time of this report the Court has not yet determined that issue.

### ***Taxation on interest***

78. Owing to the intricacies as to what taxation will ultimately be payable on interest accrued on class action settlements sum, plus the likely inability to treat Administration Costs as a deduction (a complicated issue which had been the basis of a multi year controversy and ultimately a High Court ruling in the Black Saturday Class Action \$800m Settlement Administration), advice was sought during the drafting of the SDS from pricewaterhousecoopers (who had acted in the High Court proceedings). Given over \$830k interest accrued, the Administrator considered the prospect of significant tax warranted careful treatment of this issue, both to maximise the Group Members interests and to ensure tax obligations were satisfied out of the settlement sum.

79. The Administrator has not yet paid any tax, and his application for a Tax File Number in his capacity as Administrator is pending with the Australian Taxation Office.

80. He is awaiting for a response to his email to the Escrow Agent asking about interest accrued and associated tax withholding (if any) during a six week period of the Escrow arrangement for which there is a gap in the bank statements so far provided by the Escrow Agent.

81. At this stage, based on accounting advice, the Administrator proceeds on the basis that taxation will be in the order of \$250,000.

***Application to allow late claims***

82. Shortly after payments were distributed to Group Members who submitted claims, several persons contacted Adley Burstyner regarding their claims, and they were advised they were too late.
83. Nevertheless, the Administrator considers it appropriate to ask the Court to allow a small number of late claims given the following in totality:
- (a) The Fonterra Class Action was conducted to make good loss which the Plaintiffs and Administrator thought was unjustly suffered by dairy farmers and, in circumstances where no person would be materially adversely affected by the allowance of the four claims, he considered it would be unduly and unnecessarily officious to deprive those four persons of a recovery which may be important to them, when their lateness is of little consequence to any person;
  - (b) All of the persons registered their interest in the Fonterra Class Action at an early stage, which the Administrator (having previously been the Plaintiff's lawyer in the class action) considered to be a relevant factor because such registration benefits class actions in many ways, and during the life cycle of this case and its preparation there had been doubt as to power of the Court to make common fund orders and therefore having a database assisted the Plaintiffs and their solicitor in obtaining and preserving funding for the case.
  - (c) The reasons given for the lateness.
84. The reasons for the lateness included changed email and phone number, significant health / medical events for the Group Members or their families, extreme staffing pressure due to backpacker shortage and adverse technological events.

**END OF REPORT**



## SCHEDULE A - INITIAL ASSESSMENT OF TASKS IN ADMINISTRATION

Stage	Step/Work Description
1	<p>Set up Systems, Process, Finalise Group Members</p> <p>Set up processes, systems, database, claim data and information collection processes, data handling processes, confirmation of privacy handling, email addresses, complaint handling process, dispute handling process .....</p> <p>Outlay all steps in SDS process and authorisation levels</p> <p>Identification of GMS, cross check data from registration process, to Fonterra provided data, identify differences</p> <p>Collate, review and identify shortfall and errors in data collections, names, etc</p> <p>Review of steps to date and review</p> <p><i>Contact GMs with identified errors and clarification issues, eg addresses, contact details, etc, including correcting/making changes to database, sending clarifying email</i></p> <p>Further review and in depth investigation, issues, eg deceased estates, divorces, liquidations, etc, plus partner review</p> <p>Senior lawyer first check</p> <p>Undertake final review of GM contact data, including bank account details etc</p> <p>Final check by senior lawyer</p>
2	<p>Collection and finalise input of specific data for GMs, Deal with Unique data, Prepare modelling to finalise assessment and distribution</p> <p>Finalise, collate all data to be used in assessment and distribution process</p> <p><i>Identify all GMs with Unique data, adjust compared to factual data, eg contracted price vs farm gate price</i></p> <p>Senior lawyer check and review adjustments</p> <p>Prepare model to deal with all calculations though different stages and steps of SDS, prepare output of data for notification process stages</p> <p>Preparation of correspondence/assessment notices to be sent to GMs for distribution</p> <p>Preparation of IT systems for bulk email correspondence with specialised attachments and information</p> <p>Review output of calculations and output of data with SA</p> <p>Final changes to systems and correspondence</p> <p>IT costs to arrange and email Assessment Notice</p>
3	<p>GM Review/Review Determination Process</p> <p>Receive requests for review, slips/errors/omissions, arrange return correspondence, request additional information, send updates review assessments, carry out review determinations</p> <p>Estimate 150+ simple initial enquiries</p> <p>Estimate 75+ more complex enquiries</p>



	<p>Senior lawyer review determination, review process, provide advice and determinations</p> <p>Preparation of correspondence/assessment notices to be sent to GMs for distribution, income final estimates</p> <p>Preparation of IT systems for bulk email correspondence with specialised attachments and information</p> <p>Review output of calculations and output of data with SA</p> <p>Final changes to systems and correspondence</p> <p>IT costs to arrange and email Assessment Notice</p>
<b>4</b>	<p>GMs appeal Review/Review Determination Process</p> <p>Senior lawyer and / or counsel review and /or advice</p>
<b>5</b>	<p>1st Distribution</p> <p>IT costs to arrange and email to GMs notifying of distribution</p> <p>Costs associated with preparing final list of amounts and data to be uploaded for payments</p> <p>Deal with bounce emails and EFT transfers, chase up GMs, ph enquiries, etc</p> <p>Review output of distributions and findings with senior lawyer</p>
<b>6</b>	<p>Apply to Court for Review of Costs and Prepare 1st Report</p> <p>Prepare of report to Court of processes, steps, findings and outcomes, preparation of costs. Apply to Court for confirmation of cost and apply if needed variation to costs and explanation of reasons why</p> <p>Senior lawyer to review report and documentation</p>
<b>7</b>	<p>2nd Distribution</p> <p>IT costs to arrange and email to GMs notifying of distribution</p> <p>Costs associated with preparing final list of amounts and data to be uploaded for payments</p> <p>Deal with bounce emails and EFT transfers, chase up GMs, ph enquiries, etc</p> <p>Review output of distributions and findings with SA</p>
<b>8</b>	<p>Final Distribution and Report to Court</p> <p>Prepare FINAL report to Court, findings and outcomes</p>