



Summary of Judgment

Andrianakis v Uber Technologies Inc and Others (Settlement Approval) [2024] VSC 733

2 December 2024

Today, the Trial Division of the Supreme Court (Matthews J) made orders approving the settlement of the group proceedings brought by Nicos Andrianakis and Jamal Salem on behalf of participants in the taxi and hire car industries against seven companies in the Uber group of companies.

The entry of Uber ride-sharing services into the Australian point-to-point passenger transport market caused significant disruption to the taxi and hire car industries. It precipitated major changes to those industries, including to the regulatory framework. Thousands of drivers, licence owners, operators and network service providers lost significant income and/or capital value, and many experienced substantial declines in their livelihoods, which they attribute to the entry of Uber ride-sharing services into the market.

Maurice Blackburn commenced the group proceedings in 2019. The plaintiffs claimed that they, and group members generally, suffered loss and damage by an alleged conspiracy by unlawful means by the Uber companies. They alleged that the Uber defendants had agreed or combined to commit an unlawful act, being to operate the Uber ride-sharing business contrary to regulations between 2014 and 2017, with an intention to injure the plaintiffs and group members, and that the agreement or combination was carried into effect. These allegations were denied by Uber.

The trial of the proceedings was due to commence on 18 March 2024. The night before, the parties entered into a proposed settlement. Without admission of liability, Uber agreed to pay \$271.8 million to settle the proceedings, inclusive of all legal and funding costs, and interest.

A proposed settlement of a class action can only go ahead with the approval of the Court.

The Court found that the settlement is fair and reasonable and in the interests of group members, and has approved it. In doing so, the Court took into account submissions by the plaintiffs' Counsel, the Court-appointed contradictor (independent Counsel), and by Counsel for the litigation funder, Harbour Fund III, L.P, as well as the objections made by some group members and evidence filed on behalf of the plaintiffs and Harbour.

The Court also made orders for deduction of the below amounts from the settlement sum of \$271,800,000:

- \$38,698,628.81 to Maurice Blackburn for legal costs and disbursements (including an uplift fee);
- \$81,540,000 (approximately 30% of the settlement sum) to Harbour as its funding commission ; and
- a total of \$220,000 to the plaintiffs and sample group members, as compensation for the work undertaken by them in the proceedings.

The Court has appointed Maurice Blackburn to administer the settlement distribution scheme, which will see the claims of registered group members assessed and processed. Regular reports to the Court as to the implementation of the settlement distribution scheme will be required. The costs of administering the settlement distribution scheme will also come out of the settlement amount and will be monitored by the Court.

The Court had previously made orders, in July 2023, that group members who had not already registered with Maurice Blackburn must do so by 2 October 2023. After that process occurred, 8,701 group members were registered with Maurice Blackburn. Group members who did not register by then would be bound by any settlement reached before trial but would not, without leave of the Court, be able to receive any benefit from the settlement.

After the proposed settlement was reached, the Court made orders that notice of it be given to group members. Unregistered group members who wished to participate in the settlement were required to apply to the Court for leave to do so by 2 July 2024. Approximately 6,476 unregistered group members applied for leave to participate in the settlement. To be granted leave, they had to meet a high threshold by demonstrating unfair prejudice to them in the operation of the orders made in July 2023. The Court granted 140 unregistered group members leave to participate in the settlement as they had provided a persuasive explanation for failing to register on time which demonstrated that they would suffer unfair prejudice if not allowed to participate and that it would be unjust.

The Court has directed Maurice Blackburn to notify unregistered group members of the outcome of their applications for leave to participate in the settlement. It is expected that this could take some time, so those group members should await communication from Maurice Blackburn.

NOTE: This summary is necessarily incomplete. It is not intended as a substitute for the Court's reasons or to be used in any later consideration of the Court's reasons. The only authoritative pronouncement of the Court's reasons and conclusions is that contained in the published reasons for judgment.