



## GROUP PROCEEDING SUMMARY STATEMENT

### *Ross Andrew Gawler v FleetPartners Group Ltd*

Supreme Court of Victoria

Case: S ECI 2023 05208

Filed on: 04/02/2025 03:30 PM

#### 1. What is a class action?

Also known as a group proceeding or a representative proceeding, a class action is a case brought by a lead representative on their own behalf and on behalf of seven or more people who have claims against the defendant that arise out of similar circumstances. A class action is an efficient way for the Court to resolve common questions of fact or law in a dispute.

#### 2. Who is the defendant in this class action, and what is the claim about?

The claim is against FleetPartners Group Ltd (ASX:FPR, ACN 131 557 901), formerly Eclipx Group Ltd (ASX:**ECX**). The claim concerns information available to investors who acquired an interest in ECX shares over the period from 8 November 2017 to 10:35 am on 20 March 2019 (inclusive) (**claim period**).

During the claim period, ECX made statements to the market of investors and potential investors in ECX as to the financial performance of the company in FY17 and FY18, provided guidance as to its future earnings in FY18 and FY19, and announced a proposed merger with a competitor, McMillan Shakespeare Ltd (ASX:MMS) (the **MMS merger**). ECX subsequently withdrew, revised or restated that information, including by:

- (a) on 20 March 2019, issuing an ASX release withdrawing its FY19 guidance and indicating that the MMS merger was unlikely to proceed; and
- (b) on 13 November 2019, ECX restating its FY17 and FY18 financial results, including reducing trade receivables in its “Right2Drive” business by \$9.5 million.

The claim alleges that ECX breached relevant provisions of the *Corporations Act 2001* (Cth), the *Australian Securities and Investment Commission Act 2001* (Cth) and the Australian Consumer Law by making misleading representations and further, failed to comply with its continuous disclosure obligations as an ASX-listed company in relation to the information it provided (and/or failed to provide) to investors during the claim period about its financial performance, future earnings guidance, its systems and processes for recognising and forecasting revenue, and the MMS merger.

The class action alleges that ECX’s share price was inflated by its disclosure failures and that as result group members suffered loss and damage. Alternatively, the class action alleges that some group members would not have purchased shares in ECX had the alleged wrongdoing not occurred.

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

You are automatically a group member if, between 8 November 2017 and 10:35 am on 20 March 2019 inclusive, you acquired an interest in ordinary shares in ECX.

If you do wish to participate in the class action and be entitled to receive compensation if the class action is successful at any point up to the first day of the initial trial in the proceeding, you are required to formally register your claim by 4:00 pm (AEDT) on 2 April 2025 (**Class Deadline**). Details on how to register your claim are contained in the Opt Out and Registration Notice (**Notice**), found at this link: <https://phifinney-mcdonald.com/action/fleetpartners-formerly-eclipx-class-action/> under the heading “Key Documents”.

If you do not wish to participate in the class action, you must opt out of the class action by the Class Deadline. Details on how to opt out are contained in the Notice.

If you do not register or opt out by the Class Deadline, you will remain a group member in the class action but, subject to further order of the Court, you will not be entitled to obtain any benefit

arising from any settlement reached by the parties at any point up to the first day of the initial trial in the proceeding. Further detail is contained in the Notice.

#### **4. Who is the representative plaintiff and what are their roles and responsibilities?**

The representative plaintiff in the class action is Dr Ross Andrew Gawler. The representative plaintiff's role is to represent the claims of the group members and provide instructions to PFM regarding the conduct of the case. The representative plaintiff may give evidence during the proceeding. In hearing the representative plaintiff's case, the Court will consider and determine questions of fact and/or law that are common to all group members.

#### **5. Who is conducting this class action?**

Phi Finney McDonald (**PFM**) acts for the representative plaintiff. PFM is a leading class action law firm with offices in Melbourne, Sydney and London.

#### **6. How is the class action funded?**

On 26 June 2024, the Court made orders granting the plaintiff a Group Costs Order (**GCO**) of 39% pursuant to s 33ZDA of the *Supreme Court Act 1986 (Vic)*. The effect of the GCO is that:

- (a) If the case is successful – meaning that there is a settlement or the case succeeds at trial and damages are awarded by the Court – then, subject to further order, the legal costs payable to PFM will be calculated as 39% of any settlement sum or award of damages or compensation (up to the conclusion of the trial of common issues) rather than on a time-billed basis.
- (b) PFM (as the law practice representing the representative plaintiff and in respect of which the GCO is made) is liable to pay any costs payable to the defendant in the proceeding (known as “adverse costs”) and provide any security for costs that the Court orders the representative plaintiff to give. PFM will also carry or pay the representative plaintiff's legal costs and disbursements until the conclusion of the trial of common issues.
- (c) Liability for payment of the GCO will be shared among the representative plaintiff and all group members. This means that 39% is to be deducted from any settlement sum or award of damages or compensation awarded and paid to PFM, before any distribution to the representative plaintiff and group members.

#### **7. What costs are involved?**

The representative plaintiff and group members will not be asked to pay any upfront or out-of-pocket costs. Costs will only be payable in the event of a successful outcome and will be subject to Court approval in the event of a settlement. Legal costs and any other amounts approved by the Court and payable to PFM will be deducted from, and will not exceed, any compensation that group members are entitled to receive.

If a successful outcome is not achieved in the class action, the representative plaintiff and group members will not be required to pay any costs or any other amounts to PFM. This means that **you will not be out of pocket by participating in the class action regardless of whether the case is successful or unsuccessful.**

#### **8. Are there any overlapping class actions?**

As at the time of filing this document, there are no overlapping class actions filed against the defendant.

#### **9. Who can I contact to get further information?**

Group members may contact PFM about the class action, at no out-of-pocket cost, via:

**Email**                    [eclixshareholders@phifinney-mcdonald.com](mailto:eclixshareholders@phifinney-mcdonald.com)

**Phone**                    (03) 9134 7100.