

SOUTHERN RESPONSE CLASS ACTION

Serious allegations

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Southern Response Class Action (SRCA) returned to court this morning, seeking an order that the class action may proceed. Soon after commencement Justice Gendall noted that the group's case appeared to contain 'very serious allegations'.

Francis Cooke QC, Counsel for the plaintiff group, confirmed that the primary allegation was that Southern Response was implementing a deliberate strategy designed to minimise its financial liability to claims and that such was a serious allegation.

Following court rejection of its December 2015 application, the reformulated application highlights the insurer's alleged tactics in advancing its strategy including: misrepresentation of the insurer's obligations and the claimants' rights, understating the cost of remedying damage, wrongly asserting control of all remedial work, permitting long delays in claims management and inducing settlements for less than their true value. Mr Cooke also stated that in these matters, the insurer was acting in breach of its duties of good faith.

The court was told that a key difference between the parties was that the insurer thought all claims could only be heard before the court as individual cases, whereas the SRCA group believed they could never individually afford to access the court, if they were unable to act as a group. Further, the only way in which the insurer's unlawful strategy could be identified was for the court to take note of the pattern of claims management employed by the insurer, across the majority of claims.

Therefore, gaining access to the court as a group was necessary because there was no other financially viable alternative, and because the insurer's strategy could only be exposed by examining the pattern of conduct across such a group of claims.

SRCA lawyer Grant Cameron confirmed that the group has strong expectations the court will grant their application on this occasion as this will be the first occasion for the court to come to grips with the strategy now set out before it.

The hearing is expected to conclude in the High Court in Christchurch, later today.

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