

MEDIA RELEASE

Southern Response Concealment Class Action

In a landmark judgment issued this morning, the Court of Appeal confirmed that the Southern Response Concealment Class Action will proceed issued **on an “opt out” basis**.

On the primary issue the Court of Appeal said:

Allowing representative proceedings to proceed on an opt out basis will also strengthen the incentives for insurers and other large entities dealing with the public to comply with the law, as it increases the prospect that they will be held to account for any breaches of their obligations to large numbers of individuals in circumstances where individual claims may not otherwise be pursued. Those incentives will be weaker if the potential breacher is only exposed to an opt in claim brought on behalf of a modest proportion of affected persons who have actively sought to participate in the claim.

Class action lawyer, Grant Cameron of GCA Lawyers, who acts for the class representatives Brendan and Colleen Ross, said;

“all affected policyholders will now receive a Notice from the Court confirming that they are automatically included as members of the class. If anyone doesn’t want to be involved in the proceeding, they will have to provide written notice to the court.”

“We are very pleased with this decision for two reasons. First, the Court has confirmed that repair customers who entered into settlements in similar circumstances should be included in the class and so no affected policyholder should now miss out. Second, by requiring an opt-out notice to be issued to all affected policyholders, we can be sure that all class members will be guaranteed access to justice”.

“As an opt-out order has never previously been ordered by a New Zealand Court, the decision aligns our Courts with class action best practice throughout the Western World”.

Brendan and Colleen Ross, who represent the short-changed policy-holders said:

“We are thrilled with this outcome as we couldn’t have sued by ourselves and so the only way forward was for everyone to come together. If Southern Response had persuaded the Court that the obligation remained on policyholders to provide written notice that they wanted to join the action, we had to expect that about 80% wouldn’t have responded. That would have meant that the government

would still avoid having to pay out about \$200M even though the courts have already found its actions to be wrong. By providing an opt-out order, everyone will now benefit, and justice might finally be done”.

“We think thanks is properly due to our legal team but particularly to Claims Funding Australia, who have provided the litigation funding support for the action. Without that support, we could never have got this far”.

In a Supreme Court judgment released on 22 July 2015, Southern Response was held liable to pay sums of money that it had earlier concealed from a policyholder when it was settling its insurance claims. Instead of immediately responding to that judgment by correcting all settlements made to that point, Southern Response decided to only correct its conduct in for persons settling their claims after 1 October 2014 thereby side-stepping its obligations to all policyholders who had settled earlier.

“The importance of this decision cannot be understated. Not only is it a landmark decision in New Zealand law, but by the Rosses bringing the action as a representative proceeding, they ensured that ‘the clock stopped’ for limitation purposes, and for all eligible policyholders”, said Mr Cameron.

In August this year the High Court found that Southern Response Liable to pay Mr and Mrs Dodds over \$178,000 after it had misled and deceived them after withholding the cost estimates when they settled their insurance claims. Despite two courts now finding Southern Response liable to pay the concealed funds, Southern Response announced on 12 September that it would appeal the Dodds judgment.

Media inquiries to:

Grant Cameron 03 365 1347 or 0274 323 066
grant@gcalawyers.com

Further information can be obtained at:

The Southern Response Class Action www.southernresponseclassaction.co.nz

GCA Lawyers www.gcalawyers.com

Claims Funding Australia <https://claimsfundingaus.com.au>