

# Class Actions

The Allens disputes team has a long history of acting for defendants in class actions. This has included more than thirty proceedings in the Federal and state courts across a broad range of contexts including shareholder, product liability, consumer protection, financial products, cartel, environmental damage, natural disaster, human health and employee rights.

In recent years, we have been engaged to defend a broader range of class actions than any other firm in the Australian market. This is a testament to the depth of our experience, the quality of our specialised expertise and our track record of working with clients to assist them navigate the complex strategic, commercial and reputational issues raised by class actions.

## DEFENDING CLASS ACTIONS IN AUSTRALIA

Class actions are an established and specialised part of the Australian legal landscape. It has now reached the point where Australia has the most active class actions 'industry' outside the United States. That 'industry' is characterised by a plaintiff-friendly regime, an increasingly entrepreneurial legal market and an active (and largely unregulated) third party funding market.

Our team of class action specialists draw on the depth of their experience to work closely with clients to address the broad range of issues that arise when they are faced with a class action, including the following:

- implementing risk minimisation options prior to the commencement of proceedings
- identifying and protecting business and reputational risks
- managing potential regulatory and other contagion exposures
- developing sophisticated defence strategies canvassing legal and factual matters
- designing innovative options for commercial resolution
- establishing effective lines of communication with stakeholders
- cost-effectively managing the conduct of the proceeding

*'They know and understand us, our strategy and focus, and are certainly our first port of call in any significant legal matter.'*

*Chambers Asia Pacific Dispute Resolution, 2020*

*'A team of great strategists.'*

*Asia Pacific Legal 500 Class Actions, 2020*

*'The breadth and depth of talent in the litigation team is particularly notable with respect to the very talented associates and senior associates. They are not afraid to let these people shine.'*

*Chambers Asia Pacific Dispute Resolution, 2020*

*'The team has excellent technical legal knowledge and adopts a highly strategic approach to major cases.'*

*Asia Pacific Legal 500 Dispute Resolution, 2020*



## USING OUR EXPERTISE AND EXPERIENCE TO OUR CLIENT'S ADVANTAGE

We are regularly engaged to deploy our wealth of our class actions experience to yield tangible benefits for our clients. Some of the ways in which we do this include:

- Class actions often raise a broad range of legal, commercial and strategic issues that extend well beyond the litigation itself. Among other things, class actions often arise in the context of regulatory investigations and disputes in other jurisdictions. In these circumstances, we draw on the breadth of our experience to work closely with our clients to develop and implement strategies that deal with the big picture and ensure that our clients' reputations are protected.
- We understand the 'pressure points' for plaintiff lawyers and litigation funders at various stages of class action proceedings. We assist our clients to harness that knowledge to obtain optimal outcomes that eliminate further claim exposure or expansion. This is critical in the current environment where plaintiff lawyers and funders are constantly testing the limits of the various class action regimes in ways which call on our intricate legal knowledge.
- Our finely-tuned understanding of the courts' changing approach to the management of class actions enables us to guide our clients to take the points that can deliver genuine strategic advantage and avoid arguments that will not resonate. This ensures that our client's reputation and standing before the court is not tainted by acquiescence in the conduct of opposing class action participants.

### ➤ SHAREHOLDER / SECURITIES CLAIMS

#### **Brambles**

Defending competing shareholder class action proceedings brought against Brambles in relation to alleged breaches of its continuous disclosure obligations in respect of its financial results.

#### **QBE**

Defending shareholder class action proceedings brought against QBE in relation to alleged breaches of its continuous disclosure obligations in respect of its financial results.

#### **Vocation**

Defending three separate shareholder class action proceedings brought against Vocation in relation to alleged breaches of its continuous disclosure obligations in respect of its financial results.

#### **Leighton financial results**

Defending shareholder class action proceedings brought against Leighton Holdings (now CIMIC) in relation to alleged breaches of its continuous disclosure obligations in respect of its financial results.

#### **Leighton foreign bribery**

Defending two separate shareholder class action proceedings brought against Leighton Holdings (now CIMIC) in relation to alleged breaches of its continuous disclosure obligations in respect of foreign bribery claims.

#### **Aristocrat**

Defending shareholder class action proceedings brought against Aristocrat in relation to alleged breaches of its continuous disclosure obligations in respect of its financial results.

#### **AWB**

Defending shareholder class action proceedings brought against AWB in relation to alleged breaches of its continuous disclosure obligations in respect of its dealings in Iraq.

*'Allens has always provided real-time, actionable and easy-to-understand advice.'*

*Chambers Asia Pacific Dispute Resolution, 2020*

### ➤ FINANCIAL SERVICES CLAIMS

#### **Bank fees**

Acting for Westpac in multiple class action proceedings brought by customers who have been charged exception fees, part of the largest set of coordinated class actions to be commenced in Australia.

#### **Collapse of Storm Financial**

Acting for Macquarie Bank in class actions brought in numerous jurisdictions relating to the multi-billion-dollar collapse of Storm Financial.

#### **Collapse of Great Southern**

Acting for Bendigo and Adelaide Bank Limited in 16 class actions commenced by investors in the Great Southern investment schemes.

#### **CBA CDOs**

Acting for CBA in class action proceedings brought by investors in financial products known as CDOs.

#### **ANZ CDOs**

Acting for ANZ in class action proceedings brought by investors in relation to its sale of CDOs.

#### **CPDO ratings**

Acting for ABN Amro and The Royal Bank of Scotland in landmark class action proceedings brought by investors in relation to losses suffered following their investment in complex structured products known as CPDOs. This was the first case in the world to put a credit rating on final trial.

### **Life insurance**

Acting for Westpac in a class action brought on behalf of consumers who purchased Westpac life insurance policies.

### **BankSA**

Acting for BankSA in class action proceedings brought on behalf of persons who allegedly loaned funds or invested in the ALC Group.

### **St George Bank – MIS**

Acting for St. George in a class action brought on behalf of investors in an alleged investment scheme operated by Tony Famularo.

### **Collapse of managed investment schemes**

Acting for KPMG in class action proceedings brought by investors following the collapse of a group of managed investment schemes.

### **Expert appointment**

Jenny Campbell was appointed by the Supreme Court of New South Wales as an independent (class action) expert to provide advice to class members who were required to choose between competing class actions relating to their investment in Provident Capital.

## **PRODUCT LIABILITY, CONSUMER AND EMPLOYEE CLAIMS**

### **Nissan**

Acting for Nissan in the defence of a class action regarding Takata airbags – the largest product safety recall in history.

### **Ford**

Acting for Ford in the defence of a class action raising allegations about defects in the power shift transmission in certain Ford vehicles.

### **Pharmaceutical products**

Acting for Pfizer Australia in class action proceedings brought by consumers who used a dopamine agonist.

### **Employee bonuses**

Acting for Westpac in class action proceedings brought by a group of employees in relation to alleged bonus entitlements.

### **Agricultural products**

Acting for Du Pont in class action proceedings in relation to crop damage alleged to have been caused by its Benlate® fungicide.

### **Mad cow disease**

Acting for Ridley Corporation in Canadian class action proceedings brought by cattle farmers in relation to economic losses alleged to have resulted from the discovery of 'mad cow disease' or bovine encephalitis.

### **Silicone breast implants**

Acting for Dow Corning in international class action proceedings in relation to the alleged negligent design of silicone breast implants and failure to warn consumers of the risks involved.

### **Tobacco products**

Acting for Philip Morris in two of Australia's largest class action proceedings involving personal injuries claims and third-party economic loss claims arising out of the consumption of tobacco products.

### **Network failure**

Acting for a telecommunications company in relation to foreshadowed class action proceedings by consumers in relation to network coverage.

### **Foreign remittance services**

Advising a US investment bank in relation to class action proceedings brought by foreign remittance providers in relation to a proposal by a local bank to cease providing foreign remittance services.

## **ANTI-COMPETITIVE CONDUCT CLAIMS AND REGULATORY ACTIONS**

### **Air freight cartel**

Acting for various airlines (including Emirates, Air France, KLM and Martinair) in class action proceedings regarding alleged cartel activity in the air freight industry.

### **Packaging cartel**

Acting for Amcor in class action proceedings regarding alleged cartel conduct with Visy in the corrugated packaging industry.

### **Foreign corrupt practices / anti-trust**

Acting for AWB in multiple class action proceedings in the United States brought by and on behalf of Iraqi citizens alleging breaches of the US Federal Racketeer Influenced and Corrupt Organisations (RICO) statute and Alien Tort Claims Act, and in anti-trust and RICO proceedings brought against AWB by US wheat farmers.

## **ENVIRONMENTAL DAMAGE AND DISASTERS AND HUMAN RIGHTS**

### **Oil spill**

Acting for PTTEP Australasia (a subsidiary of the Thailand based PTT Exploration and Production Public Company Limited) in respect of class action arising from an oil spill at its Montara oilfield in 2009.

### **Bushfires**

Advising stakeholders in relation to Victorian and New South Wales bushfire class actions.

### **Lead poisoning of children**

Acting for Mt Isa Mines and Xstata (now part of Glencore) in class action proceedings brought by families of children from Mt Isa in relation to alleged lead and other environmental poisoning.

### **Environmental damage**

Acting for BHP Billiton in class action proceedings in Australia and PNG in relation to alleged environmental damage at the OK Tedi mine in Papua New Guinea.

### **Landslide**

Acting for ExxonMobil PNG Limited, which operates the PNG LNG Project, in defending two class actions arising from a landslide that occurred around a decommissioned project quarry site in January 2012 in the Southern Highlands of PNG. The first class action was settled and the second class action was summarily dismissed.

### **Lead contamination**

Acting for Pasminco (now Oz Minerals) in class action proceedings in relation to alleged lead contamination arising from smelter operations.

### **Human rights**

Acting for Rio Tinto in US class action proceedings brought on behalf of Bougainville citizens alleging breaches of the Alien Tort Claims Act (ATCA) regarding the development and operation of the Panguna mine on Bougainville in Papua New Guinea.

# Allens Arrow and legal project management

We understand that the discovery process can be a main contributor to the total cost of class actions and general litigation.

Allens was the first Australian law firm to establish a truly integrated legal, technology and review offering. As market leaders in this space, we have been using our Arrow offering to drive significant efficiencies and cost-savings for clients, through:

- document analytics and predictive coding technologies to target relevant documents
- project management and collaboration technologies, to provide you with real time access to data and key documents
- customised Ringtail databases for document review – the leading platform in the Australian market. Unlike many of our competitors, we do not charge any data-hosting fees
- low cost options for legal review, including our inhouse document review team or legal process outsourcing.

More generally, we believe that every stage of a litigation presents opportunities to leverage technology and implement processes that can have a material impact on cost. Ultimately, a successful matter relies on a legal team that takes a long-term view, manages costs, is on the lookout for opportunities to be more efficient, anticipates risk, and ensures the wider team works well together so that the matter proceeds efficiently. Our inhouse project managers are trained in implementing the Allens Legal Project Management Method, including rigorous cost management.

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