

CLASS ACTION MEMBERS FACE DISMISSAL UNLESS CLAIMS ARE REGISTERED

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Legal Briefings - By **Ante Golem**, **Emily Clarke** and **Adriana Costanzo**

A class action by plane passengers against Rolls Royce relating to a mid-air jet engine explosion in 2010 has resulted in the dismissal of claims made by unregistered members of the action, prior to any judgment or settlement.

The September ruling by the Supreme Court of New South Wales (**the Court**) has significant implications for defendants who will be able to seek final orders to dismiss unregistered class action members' claims, before any judgement or settlement of the claims in the class action.

REGISTER OR BE DISMISSED

A class action was brought by passengers on board flight QF32 from Changi, Singapore on 4 November 2010. The passengers contended Rolls Royce was responsible for the manufacture of an engine that allegedly failed during the flight and sued Rolls Royce for psychological injury caused by their experience on the flight.

On 27 March 2015, the Court ordered that passengers either register or opt out of their claims by 3 June 2015. The order provided that any unregistered passenger after that date would not be entitled to compensation from any settlement arising from the proceedings without leave of the Court. This is commonly referred to as a "class closure" where members of a class action must identify themselves by a certain date. No further claims were registered by 3 June 2015.

On 10 June 2016, the Court established a regime for registered passengers to provide particulars and material in support of their claims. The regime also gave unregistered passengers a further opportunity to register their claims by 1 August 2016 by filing an application for leave with the Court. No applications were filed.

Rolls Royce subsequently sought orders from the Court for the dismissal of the unregistered passengers' claims, on the basis that the dismissals operate as a final determination. The Court made those orders.

IMPLICATIONS

Defendants to class actions can apply to the Court and seek orders for the dismissal of unregistered members' claims and that those orders be final, prior to any judgment or settlement. Where this occurs it will be necessary for the defendant to show that it has sought to give proper notice to unregistered participants in the class action.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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