

CLASS ACTION PANEL EVENT: INSIGHTS

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Events

The class action landscape in Australia has been an area of focus throughout 2018, with continued momentum in the volume of claims, and growth in the litigation funding industry in Australia and globally.

The inquiry currently being undertaken by the Australian Law Reform Commission is generating robust discussion on a range of significant issues. Judicial developments have also been at the forefront, particularly with regard to management of competing claims and Court oversight of the regime.

Herbert Smith Freehills hosted a class action event in Melbourne yesterday, with a panel of experts, including the Honourable Justice Jonathan Beach of the Federal Court of Australia, Neil Purslow of litigation funder Therium, and John Walker of Investor Claim Partner. Therium is a UK-based funder, which announced this week that it will shortly launch a full service offering in Australia, based in Melbourne. Investor Claim Partner has an Australian focus, though its founder and CEO John Walker has funded cases in the USA, UK, Germany, Netherlands, Australia, Singapore, New Zealand and South Africa.

Three of our leading class actions specialists, partners Ken Adams, Ruth Overington and Damian Grave, helped to facilitate a robust discussion, sharing their insights on a range of current class action issues.

Australia has now had a class action procedure for 25 years, with the introduction by the Commonwealth of an opt-out class action procedure as part of the Federal Court Act. In the past 15 years substantially similar class action procedures have been introduced in Victoria, New South Wales and Queensland.

His Honour Justice Beach provided his insights on how the system is operating, possible approaches to the management of competing claims and the role of the judiciary in the s 33V settlement approval process.

The litigation funders described an increasingly competitive market for their services, providing comparative UK, US and Australian perspectives on issues such as the management of potential conflicts of interest, the dynamics of the funding industry and the different experiences of the UK, US and Australian markets with regard to funders having the ability to exercise control of the conduct of litigation.

The panelists provided their reflections on these issues, as well as discussing the Australian experience in relation to securities claim cover under directors and officers insurance and the policy issues arising with regard to the different interests of funders, claimants and claimants' solicitors.

A range of issues and perspectives on the possible introduction of contingency fees was canvassed, generating lively discussion across the panel. This is an issue presently being considered in the current ALRC inquiry.

The interaction with the panel led by questions from the audience of in-house counsel raised a range of issues, including as to the role and effectiveness of judicial oversight of the regime and the decision-making processes of litigation funders.

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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