

CLASS ACTION SUMMARY STATEMENT

1. What is a class action?

A class action is a legal proceeding commenced by a 'lead' or 'representative' plaintiff against one or more defendants, seeking to obtain a legal remedy such as compensation. The lead plaintiff brings the claim on their own behalf and on behalf of other claimants who have claims against the defendant(s) arising from similar or related circumstances. The other claimants that are represented by the lead plaintiff in the class action are known as 'group members'.

In a class action, the lead plaintiff's claim is used to resolve legal and factual issues that are common to group members' claims. This allows those common issues to be considered and resolved once in a way that will apply to the claims of all group members affected by that issue, rather than needing to be determined individually for each group member.

2. What is the Essure class action about, and who is the claim against?

The Essure class action is a case seeking compensation for personal injuries alleged to have been caused by a permanent contraceptive implant known as a "STOP" device or an "Essure" device. Within the case, these products are collectively referred to as "Essure devices".

The case is being pursued against six companies that the plaintiff alleges are legally responsible for the Essure device at various times, because of their roles as manufacturers or sponsors of the devices in Australia. These companies are the defendants to the claim.

The plaintiff alleges that these defendants breached Australia's consumer protection laws and were negligent in their actions concerning the Essure device, and that as a result she and the group members in the class action have suffered personal injuries.

3. Who is a group member in the Essure class action?

The Essure class action covers all persons who received an implant of one or more Essure devices in Australia at any time prior to 31 December 2018 and have suffered harm as a result. The precise definition of the group covered by the class action is contained in a court document called a Writ, which has been filed with the Supreme Court of Victoria by the plaintiff and is available to view on the Court's website. If you satisfy this definition, then you are a group member in the class action unless you choose to opt out of the case.

4. What is the role and responsibility of the lead plaintiff in the Essure class action?

The lead plaintiff in the Essure class action is named Patrice Turner. Her role in the class action is to pursue her claim for compensation and in doing so to represent the interests of other group members, to the extent that their claims have issues in common with Ms Turner's claim. The lead plaintiff will provide instructions to her lawyers, Slater and Gordon Lawyers, about how the proceeding will be conducted, and she will give evidence during the trial of the proceeding that may be used to help determine some of the common issues that affect group members' claims.

5. Who is the law firm acting for the lead plaintiff?

The law firm acting for the lead plaintiff is Slater and Gordon Lawyers.

6. Are there currently any other class actions that involve the Essure device?

As at July 2020, Slater and Gordon is not aware of any other class actions in Australia concerning the Essure device.

7. Is this class action funded by a litigation funder?

No.

8. How will legal costs be charged by Slater and Gordon?

Slater and Gordon is acting in the Essure class action on a conditional-fee basis, more commonly known as a 'No-Win, No-Fee' basis. This means that Slater and Gordon is covering the costs of running the proceeding, and it will only be entitled to recover its legal costs if the class action is successful – that is, if money is paid by the defendants to resolve the claims of group members in the case. This can happen either through a judgment after the case is heard by the Court in a trial, or otherwise if the plaintiff and defendants agree to settle the case and the Court approves this settlement. Under either option, Slater and Gordon will only be paid the legal fees that the court approves, after it considers the fees proposed to be charged and receives evidence about whether they are reasonable.

Slater and Gordon's fees are charged based on an hourly rate for the time its staff spend working on the class action, and the expenses it incurs in running the case (known as 'disbursements' – for example, fees charged by experts and barristers) are charged at cost.

Group members are not required to pay any money up-front in order to be involved in the case or to receive any compensation that they are entitled to from it. Some group members who are also clients of Slater and Gordon have the option of paying their lawyers some money up-front to contribute to the cost of the expenses in the litigation, in accordance with their own legal costs agreements with Slater and Gordon, however this is only an option and not a requirement. It is up to a group member to decide whether they want to be a client of Slater and Gordon, and they will remain a group member whether or not they also become a client, and whether or not they contribute any money. Group members who are not clients of Slater and Gordon or who do not contribute money up-front towards the cost of expenses in the case will not have their claims determined any differently in the class action compared to those who do.

If the class action is successful, because Slater and Gordon is acting on a conditional-fee basis, it is entitled to charge an uplift fee of 25% of its ordinary fees. This is calculated as a percentage of the time-based fees charged by Slater and Gordon for the work its staff performed on the case, and is not a percentage of any of the money you'd be eligible to receive as compensation or damages which is recovered in the case. Slater and Gordon will seek the Court's approval of its fees, including this uplift fee, in the course of any application seeking the Court's approval of a settlement or distribution of compensation from the class action. If compensation is payable to group members in the class, the plaintiff will seek an order from the Court to allow for some of this compensation to be used to pay for a share of the legal costs incurred in running the class action, to the extent these costs are not able to be recovered from the defendants.

9. Who can group members contact for further information?

For further information about the Essure class action, group members can contact Slater and Gordon Lawyers free of charge via:

Website: <https://www.slatergordon.com.au/essure>

Email: EssureContraceptiveImplant@slatergordon.com.au

Phone: 1800 568 723

Post: Essure Class Action, GPO Box 4864, Melbourne VIC 3001