

FEDERAL COURT OF AUSTRALIA

NUROFEN SPECIFIC PAIN RANGE CLASS ACTION – APPROVED SETTLEMENT

1. Why is this notice important?

On 24 February 2016, a representative proceeding or “**class action**” was commenced in the Federal Court of Australia against Reckitt Benckiser (Australia) Pty Ltd (**Respondent**). The class action is brought by Keith Hardy and Yasminka Jang (**Applicants**) on their own behalf and on behalf of all group members (defined below). The class action arises out of the packaging of, and certain webpages in relation to, the following pain relief products which were marketed, sold and supplied in Australia by the Respondent in the period 1 January 2011 to 31 December 2015 (**Relevant Period**):

- **Nurofen Migraine Pain** ibuprofen lysine 342 mg tablet blister pack;
- **Nurofen Tension Headache** ibuprofen lysine 342 mg tablet blister pack;
- **Nurofen Period Pain** ibuprofen lysine 342 mg tablet blister pack;
- **Nurofen Back Pain** ibuprofen lysine 342 mg tablet blister pack,

(together, “**Nurofen Specific Pain Range**”).

The Federal Court has ordered that this notice be published for the information of persons who might have claims affected by the class action. **You should read this notice carefully. Any questions you have concerning the matters contained in this notice should not be directed to the Court.** If there is anything in it that you do not understand, you should seek legal advice.

2. What is a class action?

A class action is an action that is brought by one or more persons, the Applicants, on their own behalf and on behalf of a group of people, “**group members**”, against another person, the Respondent, where the Applicants and the group members have similar claims against the Respondent.

Group members in a class action **are not** individually responsible for the legal costs associated with bringing the class action. In a class action, only the Applicants are responsible for the costs.

Group members are bound by any judgment or settlement entered into in the class action unless they have opted out of the proceeding. This means that:

- (a) if the class action is successful, group members may be eligible for a share of any settlement monies or Court-awarded damages;
- (b) if the class action is unsuccessful, group members are bound by that result; and
- (c) regardless of the outcome of the class action, group members will not be able to pursue their claims against the Respondent in separate legal proceedings unless they have opted out.

3. What is this class action?

This class action is brought by the Applicants on their own behalf and on behalf of all persons who are group members as defined in the proceeding.

The Applicants allege in the statement of claim in Federal Court proceeding *Keith George Hardy & Anor v Reckitt Benckiser (Australia) Pty Ltd*, NSD 273 of 2016, that during the Relevant Period, certain packaging and website representations made by the Respondent were misleading or deceptive, and in breach of various provisions of the Australian Consumer Law. Those representations included: (1) that each product in the Nurofen Specific Pain Range was specifically formulated to treat the particular type of pain specified on the packaging; and (2) that each product solely or specifically treated the particular type of pain specified on the packaging.

Remedies being sought by the Applicants include damages or compensation.

The Respondent admits that certain packaging and website representations made in the Relevant Period were misleading or deceptive but does not admit or otherwise denies the other claims made in the statement of claim, denies that it is liable to the Applicants as alleged or at all, and is defending the class action.

4. Are you a group member?

You are a group member if you are a consumer who purchased one or more of the Nurofen Specific Pain Range products in Australia in the Relevant Period.

If you are unsure whether or not you are a group member, you should contact Bannister Law on 1300 763 950 or email nurofen@bannisterlaw.com.au or seek your own legal advice without delay.

5. Court approved settlement of the class action

On [*insert date*] the Federal Court of Australia approved the settlement of the Proceeding. Under the settlement, the Respondent is to pay a sum of \$3,500,000 into a settlement fund to be administered by Sapere Research Group (**Administrator**) and the Proceeding has been dismissed. The settlement is binding on all group members.

If you are a group member you are entitled to a distribution under the settlement for Nurofen Specific Pain Range products you purchased in the Relevant Period in accordance with the settlement scheme approved by the Court.

The amount available for distribution to group members will be \$3,500,000, less the Administrator's administrative costs of administering the settlement fund (**Settlement Distribution Fund**).

Participating group members will be entitled to receive a payment of \$5.70 for each 24-tablet sized pack and \$3.16 for each 12-tablet sized pack purchased in the Relevant Period, less 20% which represents a payment to Second Floor Litigation Services Pty Ltd (**Second Floor**) in consideration for their funding of the legal costs of the Proceeding. However, if the total claims of participating group members (inclusive of the payment to Second Floor) exceed the Settlement Distribution Fund, then the amount payable to participating group members for each 12- and 24-tablet sized pack of Nurofen Specific Pain Range product purchased in the Relevant Period will be reduced on a pro rata basis.

Before any payment is made to a group member, the Respondent will have the right to request additional information from group members who claim to have purchased more than \$200 of Nurofen Specific Pain Range products, including by requesting additional documents or requesting (with the Administrator's approval) that group member to answer questions in person before the Administrator.

6. How to make a claim

The settlement scheme is being administered by the Administrator. If you are a group member and wish to make a claim, you will need to complete the following steps:

- (a) go to the following website – <http://nurofenclassaction.com.au/>; and
- (b) download and complete the prescribed statutory declaration. You will need to sign the prescribed statutory declaration before an authorised witness, such as a lawyer or Justice of the Peace.

The prescribed statutory declaration must be returned to the Administrator by no later than 20 January 2018 (**Closing Date**). If you do not submit your claim by the Closing Date you will not be entitled to participate in the settlement.

All claims will be processed following the Closing Date however, before any payment is made to a group member, the Respondent will also have the right to test certain group members who claim to have purchased more than a particular amount of Nurofen Specific Pain Range products, including by calling for supporting documents to be produced or asking the group member to answer questions under oath or affirmation at a hearing before the Administrator.

If you have submitted a valid claim, payment will be made as soon as reasonably practicable after the Closing Date.

If you have any questions, or if you cannot access the prescribed statutory declaration at the website above and would like a copy sent to you, please contact Bannister Law on 1300 763 950 or email nurofen@bannisterlaw.com.au, or seek your own legal advice.

