



Class Actions a step-by-step guide

1. The pleadings

A lead plaintiff commences a class action by filing a document with the Court setting out in detail their complaint against the defendant, and the way in which it is alleged they broke the law. This document is called a 'Statement of Claim'.

The defendant then has a period of time to respond to the complaint by filing a Defence with the Court. The lead plaintiff and defendant are referred to as the 'parties' to the proceeding. Both parties have the opportunity to ask further questions or clarify aspects of the other parties' case. It is possible that additional parties will be joined throughout the case.

2. Discovery

During the discovery process, each party is required to identify and disclose documents relevant to the case. In some class actions, discovery results in many thousands of documents being exchanged between the parties, with each document requiring review and consideration.

3. Lay (untrained) and expert witness

The parties may gather evidence from lay and expert witnesses to assist in answering factual questions or obtaining specialised expert knowledge and opinions about the case. Lay witnesses often include eye witnesses.

Expert witnesses produce written reports detailing their opinion about specific aspects of the case. Generally, each party is permitted to engage their own expert. Experts may also participate in a conference in an attempt to confine any areas of disagreement.

4. Interlocutory issues

Disputes between the parties may arise throughout the course of the proceeding. For instance, it may be argued that a party should not be permitted to rely upon a certain expert witness, or that not all relevant documents have been produced during the discovery process. The Court will hear and oversee these interlocutory disputes and make determinations along the way.

5. Alternative dispute resolution (ADR)

Prior to trial, the Court will require the parties to participate in ADR such as a mediation in an attempt to negotiate and resolve the case out of Court. Going to trial can be risky, time consuming and expensive. ADR provides the parties with an opportunity to reach a negotiated outcome (or settlement).

6. Trial

A judge and/or jury will listen to the evidence of each party, including lay and expert witnesses. The judge (or jury) will then decide the case either in favour of the lead plaintiff or the defendant.

7. Appeal

Should either party believe that an error has occurred in the determination of the case, they have the right to apply to a higher court to seek a review of the decision.

The information in this brochure is general in nature, and you may require additional advice. For more information contact our Class Action Department on 1800 815 228 or info@maddenslawyers.com.au

For the most up-to-date version of this document visit the Class Actions section of our website at maddenslawyers.com.au

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