

**SUPREME COURT OF NEW SOUTH WALES NOTICE AS TO PROPOSED SETTLEMENT
OF THE COSMETIC INSTITUTE CLASS ACTION**

A. Important information

1. This notice is being sent to you because it is likely you are a group member in the class action in relation to The Cosmetic Institute claiming compensation for negligence, breach of consumer guarantees and misleading or deceptive conduct.
2. The solicitors acting for the plaintiffs in the class action are **Turner Freeman**.
3. You may be aware that the parties have agreed to settle the proceedings without admission of liability subject to court approval. Because this is a class action, a judge of the Supreme Court of New South Wales must determine whether the settlement is fair and reasonable. The judge will have a hearing to decide whether the settlement is fair and reasonable at 10:00am on 13 and 14 May 2024. This notice is approved by the Court and explains some things about the settlement to allow you to work out whether you agree or disagree with what is proposed.

B What is the settlement?

4. Under the proposed settlement of the class action:
 - (a) Without admission of liability the defendants will collectively pay \$25 million to settle all claims by group members in relation to breast augmentation surgeries (**BAS**) performed at premises occupied by The Cosmetic Institute Pty Ltd, The Cosmetic Institute Parramatta Pty Ltd, TCI Bondi Junction Pty Ltd and/or TCI Southport Pty Ltd (**TCI Premises**);
 - (b) the lead plaintiffs will be paid the following sums less any payments they are required to make to third parties like Medicare, Centrelink or to private health funds. The lead plaintiffs are being paid the sums below (less third party repayments) in recognition of the time spent by each of them in prosecuting the class action and the risks each faced in being a lead plaintiff in the proceeding.
 - (i) Ursula Raad, first plaintiff - \$165,000;
 - (ii) Kylie Pollock, second plaintiff - \$345,000;
 - (iii) Jessica Bruen, third plaintiff - \$295,000;

- (iv) Kirsty-Anne Rowlands, fourth plaintiff - \$370,000;
- (v) Lily Knowland, fifth plaintiff - \$220,000;
- (vi) Tiffany Rutherford, sixth plaintiff - \$220,000;
- (vii) Alysha Axen, seventh plaintiff - \$120,000;
- (viii) Sherine Zahr, eighth plaintiff - \$170,000;
- (ix) Emma Love, ninth plaintiff - \$295,000;
- (x) Candiece Gielisse, tenth plaintiff - \$345,000;
- (xi) Ali Turner, eleventh plaintiff - \$120,000;
- (xii) Stefanie Sanchez, twelfth plaintiff - \$145,000.

TOTAL **\$2,810,000**

- (c) before any money goes to group members, it is proposed that \$10M will be deducted from the settlement on account of past legal costs and disbursements and for the cost of administration;
 - (d) the balance of the settlement will be paid to group members.
5. Turner Freeman are developing a methodology for the allocation of the balance of the settlement amount amongst group members who register to participate in the settlement.
 6. It will be up to the judge to decide whether the settlement is fair and reasonable, and whether the proposed deduction for legal costs and disbursements, and the allocation of the balance of the settlement between registered group members, is fair and reasonable.
 7. The proposed settlement includes settlement of the claim that the non-insurer defendants engaged in conduct that was misleading or deceptive, or likely to mislead or deceive (**the misleading and deceptive conduct claim**). You might recall receiving a Notice in March 2024 which advised that this claim was no longer being pursued. The mechanism by which that occurred was the removal of the misleading and deceptive conduct claim from the Statement of Claim. Because the proposed settlement is a settlement of all claims that the plaintiffs and group members have now, or may have in the future, against the defendants in connection with the injuries they sustained as a consequence of BAS, it is necessary that the proposed settlement include any right to compensation arising from the misleading and deceptive conduct claim.

Practically speaking, settlement of the misleading and deceptive conduct claim will be achieved by amending the Statement of Claim to include this claim. If you intended to seek legal advice in respect of this claim, and/or if you intended to commence legal proceedings in respect of this claim, your rights may be affected. You should seek legal advice.

C Are you eligible to participate in the settlement?

8. You may be eligible to participate in the settlement if you had BAS performed at the TCI Premises on or before 29 October 2017 and suffered injury, loss or damage as a result of undergoing that BAS.
9. Some group members have already registered with Turner Freeman (by completing a registration questionnaire or form in the past), but others have not. If you have not already registered then in order to participate in the proposed settlement you must register by completing a Registration Form online at www.turnerfreeman.com.au/tci/. The deadline for registration is 3 May 2024.
10. If you have already completed and provided Turner Freeman Lawyers with a questionnaire or registration form in the past, you do not need to do anything further at this time to register your interest to share in the settlement proceeds.
11. The judge will have a hearing to decide whether the settlement is fair and reasonable at 10:00am on 13 and 14 May 2024. If you do not register by the deadline, then:
 - (a) you will not be eligible to participate in the proposed settlement, unless the Court is satisfied that it is just for you to do so; and
 - (b) if the settlement is approved by the Court, your right to compensation in relation to the matters in the class action will be extinguished.

D How much will you receive under the settlement?

12. If the settlement is approved on the basis of a proposed “Settlement Distribution Scheme” then eligible registered class members will receive an amount calculated in accordance with a methodology based on:
 - (a) The number of Registered Group Members who are eligible for compensation and the value of their claims;
 - (b) Whether they had their surgery in NSW or Qld (the damages available in Qld generally being lower than that in NSW);

- (c) Whether they had already undergone revision breast surgery;
 - (d) Whether they have a need for any treatment other than undergoing revision breast surgery;
 - (e) Whether they have experienced certain complications;
 - (f) The severity and duration of their complications;
 - (g) Whether they have undergone treatment for their complications and the number and types of treatment undergone;
 - (h) The extent to which treatment has been successful;
 - (i) Their age;
 - (j) Whether they suffered or suffer from unrelated medical conditions;
 - (k) Whether they were working at the time they suffered their complications;
 - (l) The date they suffered their complications;
 - (m) The amounts that may need to be paid to third parties like Medicare, a private health fund or Centrelink;
 - (n) Whether they have already received compensation for their complications from parties other than the defendants in these proceedings;
 - (o) When or whether their claim was notified to an insurer.
13. At present approximately 1,000 group members have registered.
14. By **22 April 2024** the proposed “Settlement Distribution Scheme” will be available on the Turner Freeman website at www.turnerfreeman.com.au/tci/. The amount that each group member receives will vary depending upon the factors listed in paragraph 12 and the methodology outlined in the proposed Settlement Distribution Scheme once published.
15. Please note:
- (a) group members will not receive the full value of their claims under the settlement (as it is a compromise, and has to take into account the risk that the class action might fail, and

there will be proposed deductions from the settlement for legal costs and disbursements);
and

- (b) if you are unsure whether you are a group member, please contact Turner Freeman using the details at the end of this notice.

E Your options

<p>If you <u>support</u> the proposed settlement and have <u>already registered</u> with Turner Freeman</p>	<ul style="list-style-type: none">• You do not have to do anything.• If the settlement is approved and you are eligible to participate in the settlement, you will receive a further notice informing you of an estimate of the amount you will receive as part of the settlement. This notice will set out further options, including how to raise any disagreement with the estimate of the amount you will receive as part of the settlement.
<p>If you have <u>not registered</u> but <u>wish to participate</u> in the settlement</p>	<ul style="list-style-type: none">• You must register by 10am on 3 May 2024 by completing the online registration form at www.turnerfreeman.com.au/tci/• If the settlement is approved and you are eligible to participate in the settlement, you will receive a further notice informing you of an estimate of the amount you will receive as part of the settlement. This notice will set out further options, including how to raise any disagreement with the estimate of the amount you will receive as part of the settlement.• <u>If you do not register and the settlement is approved, then your right to compensation will be extinguished.</u>• <u>If you do not register and the settlement is approved, then you will not be eligible to participate in the proposed settlement, unless the Court is satisfied that it is just for you to do so.</u>
<p>If you <u>disagree</u></p>	<ul style="list-style-type: none">• You should tell the Judge and the parties why.

<p>with the proposed settlement or any aspect of it</p>	<ul style="list-style-type: none">• This is best done by sending an email to tcapprovalhearing@turnerfreeman.com.au by no later than 10 May 2024.• You can also tell the Judge your concerns at the settlement approval hearing by attending the hearing in person or by video link. If you want to tell the Judge your concerns in person or by the video link please send an email to tcapprovalhearing@turnerfreeman.com.au by no later than 10 May 2024 and you will be provided with details if you wish to attend the hearing.• Please note, even if you object to the settlement, you will still receive compensation if the settlement is approved, you are eligible to participate, and you have registered to participate.
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G Where can you get further information?

16. If you want any more information you should contact Turner Freeman at TCI.ClassAction@turnerfreeman.com.au and/or by telephone on (02) 8222 3333.
17. Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Turner Freeman or seek legal advice from another solicitor.