



**GROUP PROCEEDING SUMMARY STATEMENT AND
FUNDING INFORMATION SUMMARY STATEMENT**

RAEKEN PTY LTD v JAMES HARDIE INDUSTRIES PLC

Case: S ECI 2023 01899

Filed on: 08/05/2023 01:56 PM

What is this group proceeding about?

This group proceeding (the **James Hardie Group Proceeding**) relates to allegations that James Hardie Industries plc (**James Hardie**) engaged in misleading conduct, made misleading statements, and failed to comply with its continuous disclosure obligations as an ASX-listed company, including by breaching relevant provisions of the *Corporations Act 2001* (Cth) and the *ASIC Act 2001* (Cth).

The James Hardie Group Proceeding alleges that because of this conduct, group members paid more for shares in James Hardie between 7 February 2022 and 7 November 2022 than would have been the case had the Company complied with its obligations.

Am I a group member?

Subject to a handful of exceptions, you are automatically a group member in the James Hardie Group Proceeding if you purchased shares in James Hardie during the period 7 February 2022 to 7 November 2022 (inclusive).

If you do not wish to participate in the James Hardie Group Proceeding, there will be an opportunity for you to opt out of the class action at a future time.

If you do wish to participate in the James Hardie Group Proceeding and be entitled to receive compensation if the claim is successful, you will likely be required to formally register your claim at a future time.

If you are the registered owner of James Hardie shares traded on the ASX, you will receive a notice about the opt out and registration process which explains these options and the steps you are required to take at a future date.

Who is acting for the Lead Plaintiff?

Echo Law is acting for the Lead Plaintiff in the James Hardie Group Proceeding.

Echo Law is unaware of any other group proceedings that have been, or are likely to be, filed that relate to the same subject matter as the present group proceeding.

Who is the Lead Plaintiff and what responsibilities do they have?

The Lead Plaintiff is Raeken Pty Ltd (**Raeken**). Raeken is the trustee company for a self-managed superannuation fund, a 'retail investor' in James Hardie shares. The directors of Raeken will receive advice from and provide instructions to Echo Law about the James Hardie Group Proceeding on behalf of all group members. They will provide instructions about key stages in the proceeding, including in relation to any offer of settlement. They have overarching obligations to act honestly, avoid undue delay and expense, and to exercise best endeavours to take steps to resolve the proceeding. In the event that the case does not settle prior to trial, Raeken may be required to provide evidence regarding its individual claim.

How is the James Hardie Group Proceeding funded?

Echo Law is acting in the James Hardie Group Proceeding on the basis that the Lead Plaintiff will seek a Group Costs Order, pursuant to which:

- a) legal costs payable to Echo Law would be calculated as a percentage (as approved by the Court) of any amount of damages award or settlement that may be recovered in the James Hardie Group Proceeding;

- b) the liability for that payment would be shared by the Lead Plaintiff and all group members in the James Hardie Group Proceeding;
- c) Echo Law would be liable for any costs payable to the Defendant in the proceeding that the Court may order; and
- d) if an order for security for costs is made in favour of the Defendant, Echo Law will provide this security.

To enable Echo Law to provide its legal services and pay for any expenses over the course of the James Hardie Group Proceeding, Echo Law has a limited recourse loan facility in place with a litigation funder, CASL Funder Pty Ltd (**CASL**). This facility covers a portfolio of proceedings that are intended to be run on a Group Costs Order basis, including the James Hardie Group Proceeding. CASL is not entitled to claim repayment of money unless there is a successful outcome in the James Hardie Group Proceeding (or any other proceeding in the facility), and the amount payable to CASL cannot exceed the amount that is payable to Echo Law. Under the facility, CASL does not seek to create a funding relationship directly with the Lead Plaintiff or group members, or impose any separate litigation funding charge. CASL has no contractual recourse against the Lead Plaintiff or group members for repayment of its facility with Echo Law.

In the event that a Group Costs Order is not sought by the Lead Plaintiff or granted by the Court, the Lead Plaintiff and Echo Law may seek conventional, case-specific, litigation funding to fund the legal costs (both fees and disbursements) and the risk of an adverse cost order being made in the proceeding (including any need to provide security for costs).

In no circumstances will group members ever be out of pocket by participating in the James Hardie Group Proceeding – whether the case is successful or unsuccessful.

How are legal costs charged in this group proceeding?

During the life of the James Hardie Group Proceeding, Echo Law will record its fees based on an hourly rate for the time its staff spend working on the claim. If the James Hardie Group Proceeding is subject to litigation funding or any other time-based billing arrangement, then Echo Law will be paid pursuant to those rates and hours. Expenses incurred in running the case (for example, fees charged by experts and barristers) are charged at cost.

If the application for a Group Costs Order is successful, then subject to Court order, Echo Law is acting in the James Hardie Group Proceeding on the basis that its fees and expenses will be recovered by the Lead Plaintiff by way of that Group Costs Order. This means that Echo Law would receive payment for its fees and expenses if and when the class action is successful, calculated as a percentage of the amount of any damages award or settlement. Liability for payment of the percentage is shared amongst the Lead Plaintiff and all group members. The percentage paid under a Group Costs Order is determined by the Court and the Court would have the power to adjust the percentage at any time over the course of the James Hardie Group Proceeding, including following a successful outcome.

If the James Hardie Group Proceeding is not successful, group members are not required to pay anything.

Who can I contact to get further information?

You can contact Echo Law by sending an email to enquiries@echolaw.com.au or by calling 1800 571 241. You will not be charged a fee for contacting Echo Law to ask questions about the James Hardie Group Proceeding (the cost of responding to such enquiries will fall within the definition of costs of the proceeding generally).