

NAB MYSUPER CLASS ACTION
Shimshon v MLC Nominees Pty Limited & NULIS Nominees (Australia) Limited
(Supreme Court of Victoria Case S ECI 2020 00306)

CLASS ACTION SUMMARY STATEMENT

1. What is a class action?

Where seven or more people have claims that arise out of similar circumstances, a class action can be brought by one plaintiff on their own behalf and representing others.

2. Who is the NAB MySuper Class Action against, and what is the claim for?

The claim is against MLC Nominees Pty Ltd (**MLCN**) and NULIS Nominees (Australia) Limited (**NULIS**). MLCN was trustee of The Universal Super Scheme, which in mid 2016 was transferred to the MLC Super Fund, of which NULIS was trustee. MLCN and NULIS are companies in the NAB group.

The claim alleges that MLCN and NULIS breached their duties as superannuation trustees in the transition of members “accrued default amounts” to the MySuper product and caused members to suffer loss, including by paying higher fees than they should have.

3. Who is a group member in the NAB MySuper Class Action?

You are a group member if you were a member of The Universal Super Scheme who held an “accrued default amount” attributable to the MLC MasterKey Business Super product (incorporating MLC MasterKey Personal Super), and your accrued default amount was transferred by NULIS on or about 3 December 2016 or 25 March 2017, to a MySuper product in the MLC Super Fund.

You are also a group member if you received a payment from a deceased MasterKey member, or under the Family Law Act or a superannuation agreement you received the transfer of a MasterKey member’s interest, of all or part of the member’s interest in an accrued default amount transferred by NULIS

A complete definition of group members is available at Part B of the Statement of Claim.

4. Who is the law firm acting for the plaintiff?

Maurice Blackburn.

5. What is the role and responsibility of the plaintiff?

The plaintiff is the representative for the class and will provide instructions to Maurice Blackburn regarding the conduct of the case and may give evidence during the proceeding. In hearing the plaintiff’s case, the Court will be asked to make findings in relation to questions of fact and/or law that are common to all group members. In this case the plaintiff is Mr David Shimshon.

6. How is the NAB MySuper Class Action funded?

There is no third party litigation funder involved in the case. All costs associated with the NAB MySuper Class Action will be borne by Maurice Blackburn, unless there is a successful outcome to the class action (such as a settlement that is approved by the Court or a judgment by the Court awarding damages to group members). Maurice Blackburn's retainer agreement sets out the terms on which it is acting: see <https://www.mauriceblackburn.com.au/class-actions/current-class-actions/nab-mysuper-class-action/>

7. How are legal fees and disbursements charged?

The plaintiff's legal fees and disbursements are 'conditional', meaning that they are only recoverable by Maurice Blackburn if there is a successful outcome. Amounts recoverable by Maurice Blackburn for legal fees and disbursements must be approved by the Court as reasonable, before being deducted from the money to be paid to group members. Those deductions will never exceed a group member's recovery.

If there is a successful outcome, the plaintiff's legal fees and disbursements will be charged in one of two ways:

- (a) calculated using time based billing for professional fees, with disbursements (for example, fees for experts and barristers) charged at cost; OR
- (b) (in the event that the Supreme Court of Victoria has power to make a group costs order in relation to these proceedings, and a group costs order is made by the Court) calculated as a percentage of the amount of any award or settlement, with the liability being shared among the plaintiff and all group members. The percentage is determined by the Court.

In the event that there is not a successful outcome to the NAB MySuper Class Action, group members cannot be pursued for costs by MLCN or NULIS as the *Supreme Court Act* prohibits orders for costs against group members.

8. Are there any other class actions that relate to NAB's MySuper transition?

As at February 2020, the NAB MySuper Class Action is the only class action in Australia that has been commenced against MLCN and NULIS on behalf of members who had accrued default amounts transferred to MySuper, concerning that transition.

9. Who can group members contact for further information about the case?

For further information about the NAB MySuper Class Action, group members may contact Maurice Blackburn, at no out of pocket cost, via the following methods:

Email	NAB MySuper@mauriceblackburn.com.au	Post	NAB MySuper Class Action Maurice Blackburn PO Box 523 Melbourne VIC 3001
Phone	1800 519 760		