



THE HIGH COURT OF NEW ZEALAND TE KŌTI MATUA O AOTEAROA

20 September 2021

MEDIA RELEASE – FOR IMMEDIATE PUBLICATION

Decisions released by High Court today on representative proceeding *Ross v Southern Response Earthquake Services Ltd*

Press summary

This summary is provided to assist in the understanding of the Court’s judgments. It does not comprise part of the reasons for those judgments. The full judgments with reasons are the only authoritative documents. The full text of the judgments and reasons can be found at www.courtsofnz.govt.nz.

Background

Ross v Southern Response Earthquake Services Ltd is a representative proceeding. The plaintiffs were insured with AMI at the time of the Canterbury earthquake sequence, and subsequently cash-settled with Southern Response. They are suing Southern Response for misleading them in relation to costs elements that were not included in the cash settlement.

In the proceeding, the plaintiffs represent the class of policyholders who reached similar cash settlements before 1 October 2014. In previous court rulings it was established that class members would have to opt out of the proceeding if they did not wish to be part of it or to be bound by the outcome.

Four decisions released today

The High Court has now released four decisions in relation to important aspects of the case:

1. A decision providing detailed reasons as to the Court’s powers to supervise communications between the defendant (Southern Response) and the class members: ***Ross v Southern Response Earthquake Services Ltd – [2021] NZHC 2451***
2. A “notification” judgment, identifying the Court’s requirements in relation to the notice which the plaintiffs must provide to all class members about their rights to opt out. The judgment deals with matters of form, content, timing and distribution. Directions are made in relation to those matters and the Court approves a number of forms. The opt-out date is identified as 20 December 2021: ***Ross v Southern Response Earthquake Services Ltd – [2021] NZHC 2452***

3. A judgment dealing with an amended application of Southern Response in relation to its proposed communications with class members. Southern Response's communications are considered and forms are approved subject to some amendment. Directions are made as to timing: ***Ross v Southern Response Earthquake Services Ltd – [2021] NZHC 2453***
4. A judgment refusing the plaintiffs' application for an order that, should Southern Response enter into any settlements with class members who opt out of the proceeding, a sum representing 15 per cent of the settlement should be set aside as money which could later go towards the plaintiffs' litigation and funding costs. The High Court holds that the balance of convenience is against requiring any part of such settlement funds to be set aside: see ***Ross v Southern Response Earthquake Services Ltd – [2021] NZHC 2454***

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