

OPT OUT NOTICE
RUBY PRINCESS CLASS ACTION
KARPIK V CARNIVAL PLC AND ANOTHER
FEDERAL COURT OF AUSTRALIA PROCEEDINGS NSD 806 of 2020

**THIS IS AN IMPORTANT NOTICE ISSUED TO YOU BY THE
FEDERAL COURT OF AUSTRALIA**

Why is this important?

This notice is about the Ruby Princess Class Action.

It has been sent to you because you may be a Class Member (which is defined in paragraph 6 of this notice).

As explained below, you may **do one of three things** in response to this notice:

- 1. opt out** of the class action by 16 April 2021 (4.00 PM Sydney time) and lose your right to receive any compensation from the class action (but keep your right to try and get compensation in an action you start yourself);
- 2. sign up** to the class action (which you can do in two ways); or
- 3. do nothing, in which case you remain part of the class action.**

A. WHAT IS A CLASS ACTION?

1. A class action is an action that is brought by one person ("**Applicant**") on his or her own behalf and on behalf of a class of people ("**Class Members**") against another person or persons ("**Respondent**" or "**Respondents**") where the Applicant and the Class Members have similar claims against the Respondents.
2. Class Members are "bound" by the outcome in the class action, unless they have opted out of the proceeding. A binding result can happen in two ways being either a *judgment* following a trial, or a *settlement* at any time. If there is a judgment or a settlement of a class action Class Members *will not* be able pursue the same claims and *may not* be able to pursue similar or related claims against the Respondents in other legal proceedings.

B. THINGS YOU SHOULD KNOW ABOUT THE CLASS ACTION

What is the Ruby Princess class action?

3. This class action, which is brought by one of the passengers on the Ruby Princess, Susan Karpik (who is also called the Applicant), on her own behalf and on behalf of Class Members, claims compensation (that is, money) for losses suffered by Class Members as a result of the outbreak of COVID-19 on board the Ruby Princess during its journey from Sydney to Sydney via New Zealand which departed on 8 March 2020 (**the Voyage**).
4. The class action has been brought against Carnival Plc and Princess Cruise Lines Ltd. They are called the Respondents. The Respondents do not admit the allegations and are defending the class action.
5. The solicitors running the case are Shine Lawyers. A company called Balance Legal Capital (**Balance**) is funding the case by paying the lawyers and covering any exposure to pay the Respondents' costs.

Are you a Class Member?

6. You are a Class Member if:
 - a. you were a passenger on the Voyage;
 - b. you are an executor, administrator or personal representative of the estate of a passenger who passed away as a result of contracting Coronavirus on the Voyage; or
 - c. you are a close family member of an ill or deceased passenger and you have suffered a recognised psychiatric injury as a result of your family member contracting COVID-19 on the Voyage.
7. If you are unsure whether or not you are a Class Member, you can still register for the class action. There will be no cost to you even if it turns out that you are not a Class Member or if the Court determines you are not a Class Member. You should read this notice carefully.

Why have I been sent this Opt Out Notice?

8. The class action has been ordered to go to a mediation before 30 August 2021 and the Court provides you with an opportunity to 'opt out' of the class action in advance of that mediation taking place. This and the other options that are available to you are explained further in Part C below.

Will Class Members have to pay any legal costs?

9. Class members will not have to pay any "out of pocket" legal costs by remaining in this class action and will not be liable for any costs if the class action is unsuccessful.
10. If the class action is unsuccessful, Class Members will not have to pay any legal costs by remaining in the class action.
11. If the class action is successful (that is, if money compensation is recovered), the Court might be asked to share the legal and funding costs among all persons who have benefitted from the class action. The effect of any such order, if made, would be that all Class Members who benefit will contribute to the costs and pay a reasonable litigation funding commission. That means even those who do not sign up to a funding agreement and costs agreement may have to contribute to these costs and funding commission from their share of compensation.
12. Balance is also funding Overseas Class Members (being persons who purchased their ticket, themselves or through a travel agent, in a country other than Australia or New Zealand). The question of whether the claims brought on behalf of Overseas Class Members can be determined by the Federal Court is expected to be the subject of a separate hearing on 20 May 2021. Irrespective of whether Overseas Class Members remain part of the class action, the costs of that hearing will only be deducted from the amounts payable to Overseas Class Members if the class action is successful or settles. These costs will not be deducted from the amounts payable to you or other non-Overseas Class Members.

C. YOUR THREE OPTIONS

OPTION 1: OPT OUT AND CEASE TO BE A CLASS MEMBER

13. Class Members who opt out will not receive any money from this class action if it wins or settles.
14. Class Members who opt out may preserve their right to commence their own claim for compensation against the Respondents and will no longer be part of this class action.
15. To opt out, you must complete the below “Opt Out Notice”. Once complete, send the notice directly to the New South Wales District Registry of the Federal Court of Australia before **4:00pm on 16 April 2021**.

OPTION 2: SIGN UP TO THE CLASS ACTION

16. All Class Members can sign up to the class action by providing their details, and information about their claims to the lawyers, Shine Lawyers. This means it is possible for their claims to be specifically considered at the mediation.
17. Although you do not have to sign up to remain a Class Member (see Option 3 below), it is likely that at some point you will need to register your interest to participate - either to receive money in any settlement, or to take further steps to bring your claim forward.
18. If you wish to sign up, it would assist the lawyers to prepare for the mediation if you were to register by 31 May 2021. If you have already signed up, you do not need to sign up again.
19. If you wish, you may now sign up with Balance and Shine Lawyers, by either:
 - (a) entering into funding and costs agreements (and becoming a **Represented Class Member**); or
 - (b) not entering into funding and costs agreements but submitting your claim details to Shine Lawyers (with the result you will be a **Registered Unrepresented Class Member**).
20. If you want to become a Represented Class Member, what you need to do is to enter into a funding agreement with Balance and a costs agreement with Shine Lawyers. You can do this:

(a) online at <https://www.shine.com.au/service/class-actions/ruby-princess-coronavirus-claim>; or

(b) by calling 1800 325 172 or sending an email to rubyprincess@shine.com.au.

21. If you are considering becoming a Represented Class Member, you should read carefully the litigation funding agreement and the costs agreement and, if you then do not understand everything you should speak with Shine Lawyers and/or get independent legal advice from your own lawyer.
22. Becoming a Registered Unrepresented Class Member will mean you will not enter into any contract with Balance and Shine Lawyers. It will be possible for your claim to be specifically considered to some extent during the mediation, but if further steps are required to bring your individual claim (once all of the issues that are common to all Class Members are determined), you will have to pay any legal costs yourself. Also, at the end of the class action, an order may be sought requiring Registered Unrepresented Class Members who benefit, to contribute to the costs and the funding out of any money they receive.
23. An aspect of the funding of this class action by Balance is that it can be withdrawn by Balance in certain circumstances. The Court has been told that:
- (a) in considering whether this class action is commercially viable and whether to continue to fund the proceedings, Balance will take into account the number of Represented Class Members and the value of the claims of the Represented Class Members; and
 - (b) Balance may decide to cease funding the proceeding if there is an insufficient number of Represented Class Members.

OPTION 3: DO NOTHING

24. Class Members who do not opt out by **16 April 2021**, or sign up will remain as Class Members and await the outcome of the class action. You will be an Unregistered Class Member but, as noted above, at some point Unregistered Class Members may need to register to get any money out of any settlement (if that happens) or run their individual case (and because you are not a Represented Class Member you will have to pay any legal costs yourself). At the end of the class action, an order may be sought requiring Unregistered Class Members who benefit from the class action (e.g. receive money compensation) to contribute to the costs and the funding out of any money they receive.

D. FOUR IMPORTANT THINGS TO NOTE

25. *Firstly*, this is not a scam. You can check (and get any copies of relevant documents) by:
- (a) Visiting the Federal Court of Australia website for the class action at <https://www.comcourts.gov.au/file/Federal/P/NSD806/2020/actions>;
 - (b) visiting Shine Lawyers' website <https://www.shine.com.au/service/class-actions/ruby-princess-coronavirus-claim>; or
 - (c) by telephoning 1800 325 172.
26. *Secondly*, as explained above, signing up to the class action (by any mode) will still assist Shine to consider your details and circumstances in order to consider and advance your claim specifically at the mediation in August.
27. *Thirdly*, if you are a Class Member and you either sign up to the class action or do nothing, then you will continue to be bound by all orders and judgments the Court makes in the Ruby Princess Class Action.
28. *Fourthly*, if there is anything of which you are unsure and you don't want to speak with Shine Lawyers (or you want to understand their involvement or the funding agreement or costs agreement better), you should seek your own legal advice.
29. If you are unsure of, or do not understand, anything in this notice, you should contact Shine Lawyers or seek independent legal advice.

OPTION 1 – OPT OUT

Form 21

Rule 9.34

OPT OUT NOTICE

Federal Court of Australia

No. NSD 806 of 2020

District Registry: New South Wales

Division: General

SUSAN KARPIK

Applicant

Carnival PLC (ARBN 107 998 443 / ABN 23107998443) and another named in the schedule

Respondents

To: The Registrar
New South Wales Registry, Federal Court of Australia
Level 17, Law Courts Building Queens Square
Sydney NSW 2000

Or by email: nswdr@fedcourt.gov.au

The person named below, as a Class Member in this representative proceeding, gives notice under section 33J of the *Federal Court of Australia Act 1976* (Cth), that the person is opting out of the proceeding.

Name of Class Member	
Country of Residence of Class Member	
Country in which Class Member purchased tickets for the Voyage	
Postal address of Class Member	
Telephone contact of Class Member	
Email address for Class Member	

If signing as the lawyer or representative of the class member:

Person completing form	
Authority of person completing	
Postal address of person completing this form	
Telephone contact	
Email address	

Date:.....

Signed by:

..... (signature)

..... (print name)

Class Member / Lawyer for the Class Member