



**A2M CLASS ACTION**  
**GROUP PROCEEDING SUMMARY STATEMENT**

**1. What is this case about?**

- 1.1 A “class action” is a kind of court procedure. It enables the court to determine the legal claims made on behalf of groups of people (or companies) in a single case, rather than requiring every person with a claim to start a separate legal proceeding.
- 1.2 The class action procedure is available where 7 or more persons have claims against the same defendant, and the claims arise out of the same or related circumstances, and the claims give rise to some substantial “common” question of law or fact. If so, then any one of the persons can commence a class action on behalf of some or all of them.
- 1.3 The person who starts the class action is called the **plaintiff**. The persons represented in the class action are called the **group members**. The plaintiff does not need the group members’ consent to start the action, but the group members will be given a chance, at a time decided by the court, to remove themselves from the class action by “opting out”.
- 1.4 The early stages of a class action usually focus on investigating the common questions that apply to all the related claims. Later in the class action, the court decides what to do about any non-common questions, such as the amount of loss (if any) that was suffered by a particular group member.

**2. What is the A2M class action?**

- 2.1 Mr Yue Xiao has commenced a class action in the Supreme Court of Victoria against The a2 Milk Company Limited (**A2M**) as defendant.
- 2.2 Mr Xiao alleges that A2M in various market disclosures between August 2020 and July 2021 made misleading representations, and failed to comply with its continuous disclosure obligations as an ASX listed company, in breach of obligations under the *Corporations Act 2001* (Cth), the *Australian Securities and Investments Commission Act 2001* (Cth) (ASIC Act) and the Australian Consumer Law.
- 2.3 Mr Xiao alleges that by reason of A2M’s contraventions:
- (a) some persons who were shareholders as at 19 August 2020 continued to hold A2M shares that otherwise they would have sold before incurring certain losses; and
  - (b) other persons purchased A2M shares in the period from 19 August 2020 to 9 May 2021 that they otherwise would not have purchased, and likewise suffered various losses when problems with the company’s products, management and performance were later revealed.
- 2.4 The persons represented by Mr Xiao in the class action are called ‘**group members**’.

**3. Who are the group members?**

- 3.1 You may be a group member in the class action if you:
- (a) held an interest in shares in A2M on the NZX or the ASX, which you acquired before 19 August 2020, and retained the shares until after 28 September 2020; or
  - (b) acquired shares in A2M on the NZX or the ASX during the period from 19 August 2020 to 9 May 2021 (inclusive);
- 3.2 A complete definition of group members is set out in the ‘Statement of Claim’ filed by Mr Xiao in the class action. A copy of the Statement of Claim can be viewed on the website <https://www.shine.com.au/a2milk>.
- 3.3 If you fit the definition of ‘group member’ you will be sent more information about the class action in due course. If you are a group member but you do not wish to be, you will be given an opportunity to ‘opt out’ of the class action.

**4. What are the roles of the plaintiffs, compared to group members?**

- 4.1 Mr Xiao as plaintiff is responsible for the conduct of the class action. The lawyers acting for him are Shine Lawyers (**Shine**). Shine take their instructions from Mr Xiao.
- 4.2 The group members are not required to play any active role in conducting the class action. The Court will order that information be provided to the group members at various times during the class action, including information about how to ‘opt out’ and cease to be a group member. If or when any action is required of group members, a notice will be sent to them.

## 5. Who pays legal costs?

- 5.1 Mr Xiao and A2M will each incur legal costs in running the class action. Both of them will incur solicitors' fees, plus the expenses their solicitors incur such as barristers' fees, witness costs and Court fees (**own costs**). Also, the normal rule in court proceedings in Australia is that the losing party in any case must pay the legal costs of the winning party. These are called "**adverse costs**". Sometimes a court will make an order requiring a plaintiff to provide some kind of guarantee that the plaintiff is able to pay the defendant's adverse costs if the plaintiff fails in his or her claim. That guarantee is called "**security for costs**".
- 5.2 The group members in a class action cannot be ordered to pay any of the plaintiff's costs or provide security for costs while the class action is running, or pay any of the defendant's costs at any time. If the class action is successful and the group members recover compensation, the Court can order that some of the compensation be used to reimburse any costs incurred that were not able to be recovered from the defendants.
- 5.3 The costs that the Mr Xiao and A2M will each incur during the running of the class action are likely to be very substantial. Mr Xiao is not able to pay his "own costs", or satisfy an order for security for costs, or pay adverse costs on their own.
- 5.4 Shine Lawyers is acting on the basis that Mr Xiao will seek a 'Group Costs Order', pursuant to which:
- (a) the legal costs payable to Shine Lawyers will be calculated as a percentage (which must be approved by the Court) of the amount of any damages award or settlement that may be recovered in the class action;
  - (b) the liability for that payment will be shared equally by Mr Xiao and group members;
  - (c) Shine Lawyers would be liable for any costs payable to A2M that the Court may order; and
  - (d) If an order for security for costs is made in favour of A2M, Shine Lawyers will provide this security.
- 5.5 Up to and including the application for a Group Costs Order, Shine Lawyers will conduct the class action on a 'no win, no fee' basis.
- 5.6 In the event that a Group Costs Order is not sought by Mr Xiao or granted by the Court, Shine Lawyers may seek third party 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).
- 5.7 The above means that Mr Xiao and group members will not be asked to pay anything upfront. Legal costs will only be payable in the event of a successful settlement or judgment, and then only as approved by the Court. Costs payable to Shine Lawyers will be deducted from, and will not exceed, any compensation that group members are entitled to receive.
- 5.8 Shine Lawyers may arrange its own finance for the costs of advancing the class action. If so, this would not affect the arrangements or costs outlined above.

## 6. Are there any other class actions against A2M?

- 6.1 On 5 October 2021, *Jake Thomas v The A2 Milk Company Ltd*, with case number S ECI 2021 03645, was filed in the Victorian Supreme Court that relates to similar subject matter.
- 6.2 The law firm representing the plaintiff in that proceeding also intends to seek a Group Costs Order for legal costs to be calculated as 28% of the amount of any damages award or settlement that may be recovered in that proceeding.

## 7. Who can I contact to get further information?

- 7.1 Group members may contact Shine Lawyers, at no out of pocket cost, via:

<b>Email</b>	<a href="mailto:A2MilkClassAction@shine.com.au">A2MilkClassAction@shine.com.au</a>
<b>Phone</b>	1800 325 172
<b>Website</b>	<a href="https://www.shine.com.au/service/class-actions/a2-milk-class-action">https://www.shine.com.au/service/class-actions/a2-milk-class-action</a>