

FISHER & ORS V BT FUNDS MANAGEMENT LTD & ORS (VID826/2023)

NOTICE OF PROPOSED DISCONTINUANCE OF CLASS ACTION

This notice contains important information about the proposed discontinuance of Fisher & Ors v BT Funds Management Ltd & Ors (VID 826/2023). You have two options:

1. If you do not oppose the discontinuance, you do not need to do anything.
2. If you oppose the discontinuance (or any part of it), you need to follow the steps set out below.

You should read this notice carefully, as it concerns your rights. If there is anything in it that you do not understand, you should seek legal advice.

A. Why are you receiving this notice?

1. The Federal Court of Australia has ordered that this notice be sent to persons who have registered their interest with Shine Lawyers in relation to the above class action, Federal Court of Australia proceeding VID 826/2023: Danny Allan Raymond Fisher & Ors v BT Funds Management Ltd (ACN 002 916 458) in its capacity as trustee for the Retirement Wrap, BT Super For Life, BT Super and Asgard Independence Plan Division Two (**First Respondent**) & Ors (**Proceeding**).
2. The Proceeding relates to alleged breaches of trustee duties under superannuation legislation and the general law by the First Respondent and Westpac Securities Administration Limited (ACN 000 049 472) (**Third Respondent**) in relation to group insurance offered to superannuation fund members following a tender process. TAL Life Insurance Services Limited (ACN 003 149 157) (**Second Respondent**) was alleged to have been knowingly involved in those alleged breaches of trustee duties.
3. The Applicants have litigated the Proceeding with the benefit of funding from Woodsford Group Limited and Woodsford Litigation Funding 9 LLP (**Woodsford**).

B. Reasons for and effect of the proposed discontinuance

4. The Applicants have sought the leave of the Court to discontinue the Proceeding. This follows the Respondents' applications to strike out parts of the Applicants' statement of claim filed in the Proceeding and the serving of various materials on the Applicants by the Respondents. In view of those applications and materials, the Applicants, Shine Lawyers and Woodsford have agreed to discontinue the Proceeding.

5. Under the proposed discontinuance:
- (a) The Proceeding will be discontinued.
 - (b) The Respondents will pay an amount towards the Applicants' costs of bringing the Proceeding.
 - (c) Woodsford will cease to fund the Proceeding and will not fund another proceeding against the Respondents arising out of the same or similar facts.
 - (d) Shine Lawyers will cease to act in the Proceeding.
 - (e) From 60 days after the date on which the discontinuance is approved, any limitation period (i.e. the time within which an action must be commenced) that applies to any group members to which the Proceeding relates shall begin to run again.
6. If the Court grants leave to discontinue the Proceeding, this will not affect the rights of the Applicants or group members to pursue in another proceeding the claims brought in this Proceeding. You can seek advice from a lawyer about your options if you wish to do so.
7. You are receiving this because you may be a group member in the Proceeding. To be a group member you must have been:
- a) a member of a superannuation fund of which the First or Third Respondent was the trustee; and
 - b) a holder of a superannuation product issued by the First or Third Respondent as trustee that provided insurance cover under a group policy of insurance issued by the Second Respondent in the period 6 October 2017 until 1 April 2023.
8. Discontinuance of the Proceeding requires approval by the Court. The discontinuance application will be heard on **20 November 2024**.

C. What do you have to do?

9. You have the following options:

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| If you <u>do not oppose</u> the proposed discontinuance | <ul style="list-style-type: none"> • You do not have to do anything. |
| If you <u>oppose</u> the proposed discontinuance | <ul style="list-style-type: none"> • You should seek independent legal advice should you wish to take the following steps. • You need to complete a “Notice of Objection” (overleaf) and send it to Shine Lawyers and the Court using the address details on the form. The Notice of Objection must be received by 4pm on 13 November 2024. |

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| | <ul style="list-style-type: none"> • You will need to be willing to propose yourself or another group member to be substituted as lead applicant in the Proceeding and thereby take over conduct of the case. Any new lead applicant must be willing to conduct the case on his or her own behalf and on behalf of group members, and to appoint lawyers to act in the case and to meet the legal costs or arrange for them to be met. • If you object, you may wish to submit material (including documents, or submissions) for the Court to consider. This material must be received by the Court by 4pm on 13 November 2024 • If you wish to make oral arguments in support of your objection during the Court hearing for the discontinuance application on 20 November 2024, please indicate this on the Notice of Objection, and arrangements will be made for you to be able to do so. |
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D. Where can you get further information?

10. Copies of relevant documents (including the statement of claim and defences) may be obtained from <https://www.shine.com.au/service/class-actions/bt-super-insurance-class-action>, or by emailing Shine Lawyers at btfmlegal@shine.com.au or telephoning 1800 870 492.

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Shine Lawyers or seek your own legal advice. Please bear in mind that while you should contact Shine Lawyers for further information as necessary, Shine Lawyers are unable to provide specific legal advice to group members.

Notice of Objection to Proposed Discontinuance

FISHER & ORS V BT FUNDS MANAGEMENT LTD & ORS

(VID 826 of 2023)

Complete this form only if you wish to submit an objection to the Proposed Discontinuance.

Your Notice of Objection will be considered by the Court when it is determining whether to approve the Proposed Discontinuance.

If you wish to object to the Proposed Discontinuance, or any aspect of it, your Notice of Objection must be received by the Court and the Applicants' solicitors by 4:00 pm (AEDT) on **13 November 2024**.

If you do NOT wish to object to the proposed Discontinuance, do NOT return this form.

TO:

- The Federal Court of Australia, by email to the Victoria Registry at vicreg@fedcourt.gov.au; and
- The Applicants' solicitors, by email to btfmlegal@shine.com.au

The person identified below gives notice that the person **OBJECTS** to the Proposed Discontinuance of this proceeding.

A. DETAILS OF OBJECTOR

| | |
|------------|--|
| Name: | |
| Telephone: | |
| Email: | |

B. GROUND(S) OF OBJECTION

My submissions in support of my objection to the Proposed Discontinuance are as follows *[set out in the space below any submissions you wish to make, attach additional pages if necessary]*:

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C. ATTENDANCE AT HEARING on 20 November 2024 at 10.15am (AEDT)

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| <input type="checkbox"/> | I intend to appear before the Court at the hearing on 20 November 2024 at 10.15am (AEDT) <i>[If you intend to appear, please complete the following]:</i> |
| <input type="checkbox"/> I will appear on my own behalf <input type="checkbox"/> I will be represented by a lawyer: | |
| <input type="checkbox"/> | I do not intend to appear, but wish for my submissions to be considered in my absence |
| Signed: | |
| Name of person signing: | |
| Date: | |