



UNITED PETROLEUM CLASS ACTION

FNH United Pty Ltd & Anor vs United Petroleum Franchise Pty Ltd & Anor

Supreme Court of Victoria Case S ECI 2022 04261

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GROUP PROCEEDING SUMMARY STATEMENT

1. Who is the United Petroleum Class Action brought against, and what is the claim for?

The United Petroleum Class Action is against United Petroleum Franchise Pty Ltd (ACN 127 764 989) (**United Petroleum**), and Avi Silver, a director of United Petroleum.

United Petroleum is the franchisor for United Petroleum sites. The claim alleges wrongdoing by United Petroleum in its capacity as franchisor in relation to its conduct towards franchisees and guarantors, who are the Group Members.

The claim alleges that United Petroleum's wrongdoing includes misleading or deceptive conduct and unconscionable conduct with respect to the installation of the Pie Face franchise into United Petroleum sites, as well as the allocation of Pie Face stock to those sites. The proceeding alleges that Group Members have suffered loss as a result of this conduct, and that some Group Members would not have entered into franchises with United Petroleum had the alleged wrongdoing not occurred.

2. Who are the Group Members in the United Petroleum Class Action?

The Group Members are all persons (individuals or corporate entities) who:

- (a) at any time from 19 October 2016 to 20 October 2022 were or commenced to be a franchisee in the United Network pursuant to a standard form franchise agreement; and
- (b) at any time during that period were a guarantor of a Franchisee's obligations under a Franchise Agreement with United Petroleum.

3. Who is the law firm acting?

Levitt Robinson Solicitors.

4. Who are the lead plaintiffs, and what are their roles and responsibilities?

The lead plaintiffs are:

- (a) FNH United Pty Ltd (ACN 639 802 798);
- (b) Fahim Istanikzai;
- (c) Jigarkumar Bharatbhai Patel; and
- (d) Jaydeep Devjibhai Bhatti.

The lead plaintiffs bring the claim on their own behalf and on behalf of Group Members who have claims against the defendants arising from similar or related circumstances.

They will provide instructions to Levitt Robinson as representatives for the Group Members regarding the conduct of the case, including in relation to any offer of settlement, and may give evidence in the proceeding.

The lead plaintiffs have overarching obligations to act honestly, to avoid undue delay and expense, and to exercise their best endeavours to take steps to resolve the proceeding.

At the hearing, the Court will be asked to make findings in relation to the questions of fact and law that are common to all Group Members.

5. Is this group proceeding funded by a litigation funder?

There is currently no litigation funder involved in the case.

6. How are legal fees and disbursements charged?

As to fees, Levitt Robinson is acting on a “no win, no fee” basis.

This means that all fees associated with the Class Action will be borne by Levitt Robinson, unless and until there is a successful outcome (being a settlement approved by the Court or in a judgment after trial). In that case, Group Members may be required to pay legal costs to Levitt Robinson from the settlement or award of damages if approved by the Court.

If there is a successful outcome, the Plaintiffs’ legal fees and disbursements will either be charged using time-based billing for professional fees, with disbursements (for example, filing fees, fees for experts and barristers) charged at cost; OR calculated as a percentage of the amount of any collective award or settlement if the Court makes a Group Costs Order. The percentage is determined by the Court.

As to disbursements, these are also funded by Levitt Robinson, and Levitt Robinson will seek to recoup those costs if there is a successful outcome. Two Group Members have also made their own voluntary contributions towards the costs of disbursements.

Amounts recoverable by Levitt Robinson 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.

If there is not a successful outcome, the Plaintiffs and Group Members will not be asked to pay Levitt Robinson’s costs or disbursements. Also, Group Members cannot be pursued for costs by United Petroleum or Mr Silver, as the *Supreme Court Act 1986* (Vic) prohibits orders for costs against Group Members unless and until a Group Member takes their own individual action.

7. Are there any other Class Actions that relate to the operation of United Petroleum franchises?

Levitt Robinson is unaware of any other class actions in Australia that have been filed, or are likely to be filed, that relate to the operation of United Petroleum franchises.

8. Who can Group Members contact for further information?

For further information about the proceeding, Group Members may contact Maureen Oraha, Solicitor, at Levitt Robinson Solicitors using the details below. Group Members will not be charged for such enquiries.

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