

SUPREME COURT OF VICTORIA



IMPORTANT NOTICE

5 Boroughs NY Pty Ltd v State of Victoria & Ors

(Proceeding No. S ECI 2020 03402)

HOTEL QUARANTINE (BUSINESS LOSSES) CLASS ACTION

THIS NOTICE IS PUBLISHED BY ORDER OF THE SUPREME COURT OF
VICTORIA

IT IS IMPORTANT THAT YOU READ THIS NOTICE CAREFULLY BECAUSE IT
MAY AFFECT YOUR LEGAL RIGHTS



What is this notice about?

1. The Supreme Court of Victoria has ordered that this notice be published to group members to let them know about a proposed settlement of the Hotel Quarantine (Business Losses) Class Action (the **class action**).
2. Specifically, this notice provides important information about:
 - (a) the background to the class action;
 - (b) the key things to know about the proposed settlement;
 - (c) whether you may be eligible to participate in the proposed settlement if the settlement is approved by the Court; and
 - (d) what you need to do if you want to object to the proposed settlement.

What is a class action?

3. A class action is a lawsuit where one or more plaintiffs make a claim for themselves and on behalf of other people whose claims arise out of the same, similar, or related circumstances. The people represented by the plaintiff or plaintiffs are called 'Group Members'.

The Hotel Quarantine (Business Losses) Class Action

4. The Plaintiff in the class action is 5 Boroughs NY Pty Ltd (**Plaintiff**), represented by Quinn Emanuel Urquhart & Sullivan (**Quinn Emanuel**). The Defendants are the State of Victoria and former Ministers and Secretaries of the Department of Health and Human Services and the Department of Jobs, Precincts and Regions.
5. In summary, the Plaintiff seeks compensation for certain retail businesses for alleged economic losses caused by the second wave lockdowns that occurred in Victoria between July to October 2020. The Plaintiff alleges that the lockdowns were the result of negligence in relation to the State's hotel quarantine program and that the State is liable for this alleged negligence.
6. The Defendants deny the claims made against them in the class action and deny any liability.
7. The parties agreed, in principle, to settle the class action before the trial, which was set to commence on Tuesday, 10 March 2026, and subsequently executed a Deed of Settlement. The Court must approve the settlement for it to take effect.

Am I a Group Member of the class action?

8. On 3 August 2026, the Court approved an amendment to the group member definition in this class action. Details of that amendment and the reasons for it can be found in the Court's ruling: *5 Boroughs NY Pty Ltd v The State of Victoria & Ors (No 8)* [2026] VSC 496 which is available here: <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSC/2026/496.html>. If



you believe you would have been a group member under the previous group member definition, but are not a group member under the current group member definition, you should immediately seek legal advice regarding your rights.

9. In accordance with the Court's ruling, you are a group member in this class action if you meet all three of the following criteria:
 - (a) as at 1 July 2020, you operated a retail business that supplied goods or services to the public from physical premises located in Victoria;
 - (b) members of the public acquired those goods or services by attending the physical premises of the business; and
 - (c) as a result of the stage 3 and stage 4 restrictions in place in Melbourne and parts of regional Victoria between July and October 2020, your business was required to shut or operate at a reduced capacity and/or members of the public were restricted or prohibited from visiting your business premises and this caused your business to suffer financial loss.

The full Group Member definition appears at paragraph 1 of the Plaintiff's Further Amended Statement of Claim, a copy of which is available at <https://hotelquarantinesettlement.com.au/>

10. You do not need to still carry on your business to be a Group Member. However, if your business was carried on through a company, that company must still exist (i.e. must still be registered) in order to be a Group Member. If the company has been deregistered, the legal entity that suffered the loss no longer exists.
11. Quinn Emanuel is unable to provide you with individual legal advice in this regard. You may wish to seek independent advice from a lawyer or accountant about your options if the applicable legal entity would be a Group Member but has been deregistered.

What are the key things to know about the proposed settlement?

12. The State has agreed to pay the sum of \$125 million to settle the claims of all Group Members in the class action (**Settlement Sum**).
13. The settlement is without admission of liability by the Defendants.
14. The Court must approve the proposed settlement for it to take effect. The Court will only approve the proposed settlement if it is satisfied that the settlement is fair and reasonable and in the interests of the Group Members as a whole, including as between the Group Members.
15. If the Court approves the proposed settlement, it will apply to all Group Members, except Group Members who have opted out. This means that Group Members will not be permitted to take any other legal action against the Defendants or associated State entities for the same or related circumstances to those that are subject of the class action.



16. The Plaintiff will seek the Court's approval of the following deductions from the Settlement Sum:
- (a) \$37.5 million (30% of the Settlement Sum) in respect of legal costs; and
 - (b) \$310,000 by way of reimbursement to the Plaintiff and certain Group Members who assisted in advancing the claims of Group Members in the class action.
17. The balance of the Settlement Sum (\$87.19 million) will be distributed to eligible Group Members pursuant to a Settlement Distribution Scheme (**SDS**). The SDS will also need to be approved by the Court.

Am I eligible to receive compensation under the proposed settlement?

18. It is proposed that not all Group Members will be eligible to receive compensation under the proposed settlement.
19. In a previous notice published to Group Members from March 2024, Group Members were notified of a registration process to participate in any settlement that might be reached in the class action at a mediation held in November 2024. Group Members were told that in that notice that if they did not register by the Class Deadline (which was 4.00 pm AEST on 8 July 2024), then it was possible that they would not, without leave of the Court, be permitted to seek any benefit pursuant to any settlement of the class action, even if that occurred after the November 2024 mediation.
20. After the Class Deadline, the registration portal remained open until 11 March 2026 (by which time there were media reports of the settlement).
21. If you meet the definition of Group Member in the proceeding and registered by the Class Deadline (**Registered Group Member**), you will be eligible to receive compensation under the proposed settlement in accordance with the SDS.
22. If you are a person who registered after the Class Deadline (**Late Registrant**), Quinn Emanuel will be sending you a separate email with a form attached, inviting you to explain why you did not register by the Class Deadline (for example, if there are good reasons why you did not see the registration notice before then). If you are a Late Registrant and would like to receive compensation under the proposed settlement, you should respond to that email by **4.00 pm AEST on 11 September 2026**.
23. Under the plaintiff's proposal, only Registered Group Members and eligible Late Registrants (who provide a reasonable explanation for why they did not register by the Class Deadline) will be eligible to participate in the proposed settlement. Group Members who did not register prior to 12 March 2026 will be deemed ineligible for compensation under the SDS. Ultimately, it will be the Court, not the plaintiff, who determines which Group Members will be permitted to participate in the proposed settlement.



24. If you opted out of the class action by the Class Deadline, you are no longer a Group Member and will not be eligible to receive compensation (but can bring your own claim against the Defendants if you wish subject to applicable time limits).

More information about the proposed settlement

25. **How will entitlements of Registered Group Members be calculated?** The SDS will set out how eligible Group Members' entitlements will be calculated. To receive compensation, eligible Group Members will be required to provide financial information to the person administering the SDS (the **Settlement Administrator**). The SDS will set out a formula or mechanism for determining each eligible Group Member's entitlement. In general, an eligible Group Member will be entitled to compensation proportional to the size of their respective claim relative to the size of the other eligible Group Members' claims. This is known as a pro-rata distribution. A copy of the proposed SDS will be available at <https://hotelquarantinesettlement.com.au> by **21 August 2026**.
26. **How much will I be entitled to receive?** At this stage it is not possible to provide an estimate of how much individual Group Members will receive from the proposed settlement. That is because individual Group Member entitlements will depend on a number of factors, including the number of eligible Group Members sharing in the proposed settlement, the total amount of the deductions from the Settlement Sum which are approved by the Court, any interest earned on the Settlement Sum prior to final distributions, and the size of each eligible Group Member's claim for loss.
27. Presently, there are about 16,322 persons who registered by the Class Deadline and about 557 persons who registered after the Class Deadline. Not all of those persons are necessarily Group Members eligible to receive compensation. However, if all those persons were Group Members eligible to receive compensation, the average payment to each Group Member would be about \$5,165. This is an estimated average payment only and individual Group Members' payments may be higher or lower.
28. **What about Group Members who did not register or opt out?** If you are a Group Member who did not opt out and did not register, then, unless the Court otherwise orders, if the settlement is approved you will not receive any compensation and your claims against the Defendants will be settled, meaning that you cannot make any claim against the Defendants or associated State entities for the same or related circumstances to those that are subject of the class action.
29. **Why am I receiving less than my business lost as a result of the second wave lockdowns?** The proposed settlement will not result in businesses receiving full compensation for their losses resulting from the second wave lockdowns. That is because the settlement is a compromise of Group Members' claims. It takes into account, among other things, litigation risk and the benefit to Group Members of receiving compensation without having to wait for a trial and any appeals. If the settlement is not approved, there will need to be a trial of the



class action. If that occurs, it is possible that Group Members would receive no compensation (if the class action is unsuccessful). Even if the class action was successful, it would likely be a number of years before Group Members received compensation.

30. **Why are amounts being deducted from the Settlement Sum before it is distributed to Group Members?** There are two deductions proposed to be made from the Settlement Sum before distribution to Group Members: first, for legal costs, and second, to reimburse the Plaintiff and certain Group Members who assisted in advancing the claims of Group Members in the class action.
31. The payment for legal costs is pursuant to a 'group costs order' (**GCO**) made in the class action in November 2023. Under the GCO, Quinn Emanuel is to receive 30% of any settlement or judgment by way of payment for legal costs. In return, Quinn Emanuel conducted the class action for the benefit of Group Members and took on the risk of adverse costs if the class action had been unsuccessful. The GCO can be amended, but the Plaintiff does not propose any amendment in the present case.
32. Accordingly, if the proposed settlement is approved, the amount payable to Quinn Emanuel under the terms of the GCO (inclusive of GST) will be **\$37,500,000** (i.e. 30% of \$125 million).
33. Group Members are not, and will not be, liable for any legal costs of the class action out of their own pocket.
34. A payment to the Plaintiff is proposed to compensate the Plaintiff for assuming the important responsibility of acting as the class representative, conducting the class action for the benefit of all Group Members, and for the time and any out-of-pocket costs incurred in performing that role. In this case, it is proposed to seek an order that the Plaintiff be paid the sum of **\$250,000**. The Plaintiff will seek that sum on the basis that it performed the role of class representative for an extended period of time (more than 5 years) during which it was subjected to public ridicule and hatred (including a campaign to give its restaurant 1 star reviews on Yelp) that contributed to the closure of its business. Further, the Plaintiff borrowed about \$90,000 to avoid a liquidation, which it will need to repay from its reimbursement payment.
35. Deductions will also be sought for twelve Group Members who provided financial information for use in the mediation of the class action that took place in 2024. It is proposed that \$60,000 (\$5,000 each) be deducted and paid to those Group Members.
36. **Who will administer the SDS?** The Plaintiff will seek an order appointing Mr. Simon R. Weeks (Director of Sonority Pty Ltd trading as The Advisory Company) to administer the SDS (**Settlement Administrator**). The Settlement Administrator will communicate with eligible Group Members, calculate Group Members' entitlements and ultimately distribute funds to each eligible Group Member. The costs of the Settlement Administrator will be met from interest accrued on the Settlement Sum. Quinn Emanuel will, however, remain involved to



assist the Settlement Administrator with any legal queries (and Quinn Emanuel's costs of doing so will come out of the sum payable to it under the GCO).

What do I need to do?

37. The application for approval of the proposed settlement will be heard by the Court on 29 September 2026 at the Supreme Court of Victoria, 210 William Street, Melbourne, Victoria.

38. If:

- (a) the proposed settlement is approved by the Court; and
- (b) you are a Registered Group Member or a Late Registrant whom the Court determines should be eligible to receive compensation in accordance with the SDS,

you will be contacted by the Settlement Administrator about what you need to do next.

39. Any Group Member – whether registered or unregistered – can object to the proposed settlement. **The deadline to object to the proposed settlement is 4.00 pm AEST on 11 September 2026.**

40. If you wish to object to any aspect of the proposed settlement, you must notify the Court in writing of your objection by:

- (a) submitting the required information via the Supreme Court of Victoria website at <https://www.supremecourt.vic.gov.au/areas/group-proceedings/covid-19-state-government-business-losses/objection> or
- (b) completing a '**Notice of Objection to Proposed Settlement**' in the form of Schedule A to this Notice and returning it promptly to the Civil Registry of the Supreme Court of Victoria at the address shown on the form.

41. Any Group Member who wishes to object to any aspect of the proposed settlement may attend the hearing either in person or by audio-video link, or by a legal representative, on 29 September 2026 to address the Court in relation to their objection.

**IMPORTANT: THE NOTICE OF OBJECTION MUST BE SUBMITTED
ONLINE OR REACH THE REGISTRY BY NO LATER THAN 4.00 PM AEST
ON 11 SEPTEMBER 2026.**

Where can I obtain further information?

42. You can obtain copies of the relevant documents, including:

- (a) the Further Amended Statement of Claim;



- (b) the Amended Defence;
 - (c) the GCO referred to at paragraph 31;
 - (d) orders of the Court relating to settlement approval made on 11 August 2026;
 - i. by downloading them from Quinn Emanuel's website at <https://hotelquarantinesettlement.com.au>; or
 - ii. by downloading them from the Supreme Court of Victoria's website at <https://www.supremecourt.vic.gov.au/areas/group-proceedings/covid-19-state-government-business-losses>
43. As noted, the proposed SDS will be available from Quinn Emanuel's website by **21 August 2026**.
44. If there is anything in this notice of which you are unsure, you should:
- (a) email Quinn Emanuel at enquiries@hotelquarantinesettlement.com.au; or
 - (b) seek independent legal advice.
45. If there is anything in the SDS of which you are unsure, you should email enquiries@hotelquarantinesettlement.com.au.
46. The Supreme Court should not be contacted for legal advice.
47. This Notice was approved by the Supreme Court and published pursuant to orders made on 11 August 2026.



Schedule A to Notice

You should only fill out this form if you wish to object to the proposed settlement of the Hotel Quarantine (Business Losses) Class Action, or any particular aspect of the proposed settlement.

Hotel Quarantine (Business Losses) Class Action

Notice of Objection to Proposed Settlement

THE DEADLINE TO OBJECT IS 4.00 pm AEST ON 11 SEPTEMBER 2026

To: Civil Registry
Supreme Court of Victoria
210 William Street,
Melbourne Victoria 3000
covidblclassaction@supcourt.vic.gov.au

A. CONTACT / IDENTIFICATION DETAILS

I, *[print name]*....., am
(select **one** option only)

☐ a group member;

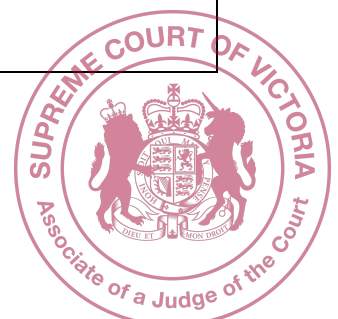
☐ a director of *[company]*which is a group member;

☐ an Executor or Administrator for the Estate of *[print name]* who is a group member;

☐ a power of attorney for *[print name]*who is a group member;

☐ a solicitor acting for *[print name]* who is a group member.

Email address:	
Postal address:	
Telephone number:	



The trading name and address of the business(es) operated by the Group Member which is (are) said to have been impacted by the “stage 3” restrictions, the “stage 4” restrictions, and/or the regional “stage 3” restrictions referred to in paragraph 1(b) of the Further Amended Statement of Claim	
ABN/ACN	



B. GROUND(S) OF OBJECTION

The ground(s) for my objection to the proposed settlement are as follows.

Please note if you are completing this form online there is a 2,000 character limit.



C. SUBMISSIONS AND EVIDENCE

☐ I attach submissions (2 page limit) and/or evidence in support of my objection.

OR

☐ I do not attach any submissions or evidence in support of my objection but wish for my objection to be considered based on my reasons set out above.

(please tick the appropriate option/s)

D. ATTENDANCE AT HEARING ON 29 September 2026

At the hearing:

☐ I will appear on my own behalf.

☐ I will be represented by a lawyer [*print name*]:

.....

OR

☐ I do not intend to appear at the hearing.

(please tick the appropriate option)

E. SIGNATURE

Signature of person completing form:

Name of person completing form:

Date of signature:

IMPORTANT NOTE – if you want this form to be considered by the Court you must ensure that you complete this form online via the Supreme Court of Victoria website OR ensure that it reaches the Supreme Court of Victoria at the postal or email address above by 4.00 pm AEST on 11 September 2026.

