



Case: S ECI 2023 00959

Filed on: 28/06/2023 02:53 PM

KIA CLASS ACTION

Jane Victoria Moroney v Kia Australia Pty Limited

Supreme Court of Victoria

GROUP PROCEEDING SUMMARY STATEMENT

Date of Document:	27 June 2023	Solicitors Code: 564
Filed on behalf of:	The Plaintiff	
Prepared by:	Maurice Blackburn Lawyers	Telephone: 03 9605 2700
	Level 21 380 La Trobe Street	Ref: 3053077
	Melbourne, VIC 3000	Email: ABSdefect@mauriceblackburn.com.au

1. What is a class action?

Where seven or more people have claims that arise out of similar circumstances (such as in this case), a class action can be brought by a lead plaintiff on their own behalf and as a representative of others. The class action will resolve the common issues of fact or law for the class through the vehicle of the lead plaintiff's case. This is an efficient way for the Court to determine the common issues that apply to claims involving large numbers of people.

2. Who is the Kia Class Action against, and what is the claim for?

The claim is against Kia Australia Pty Limited. The claim alleges that Kia manufactured and sold numerous defective vehicles in Australia between 2014 and 2023, and in doing so failed to comply with the guarantee of acceptable quality within the meaning of s 54 of the Australian Consumer Law (being Schedule 2 of the *Competition and Consumer Act 2010* (Cth)) and made misleading representations as to the quality of the defective vehicles.

3. Who is a group member in the Kia Class Action?

Group members in the Kia Class Action are persons who acquired in Australia by way of purchase, exchange, taking on lease or hire-purchase one or more of the following vehicles:

- a) A Kia Sportage model year 2016, 2017, 2018, 2019, 2020 or 2021 with a Vehicle Identification Number (VIN) recorded in the Excel spreadsheet attached to a recall notice for these vehicles published on 16 May 2021, at any time prior to 16 May 2021;
- b) A Kia Stinger model year 2017, 2018 or 2019 with a VIN recorded in the Excel spreadsheet attached to a recall notice for these vehicles published on 16 May 2021, at any time prior to 16 May 2021;

- c) A Kia SLe Sportage model year 2014 or 2015 with a VIN recorded in the Excel spreadsheet attached to a recall notice for the vehicles published on 19 January 2023, at any time prior to 19 January 2023.

A complete definition of group members is available in paragraph 1 of the Statement of Claim.

4. What is the role and responsibility of the lead plaintiff?

The role of the lead plaintiff is to be the representative for the class. They will give instructions to Maurice Blackburn regarding the conduct of the case and may give evidence during the proceeding. In hearing the lead plaintiff's case, the Court will be asked to make findings in relation to questions of fact and/or law that are common to all group members. In this case the lead Plaintiff is Ms Jane Victoria Moroney.

5. Who is the law firm acting for the lead Plaintiff?

Maurice Blackburn.

6. How is the Kia Class Action funded?

The lead Plaintiff and group members will not be asked to pay anything upfront. Costs will only be payable in the event of a successful settlement or judgment and then only as approved by the Court.

The lead Plaintiff intends to make an application for a Group Costs Order in the Kia Class Action. If a Group Costs Order is made, then subject to the Court's further orders, that order will govern the costs to be charged by Maurice Blackburn.

A Group Costs Order is an order of the Court in which the legal costs payable to the law practice representing the lead plaintiff and the group members are calculated as a percentage of the amount of any award or settlement. The percentage is determined by the Court.

Maurice Blackburn is acting on a "no win no fee" basis until the lead Plaintiff's application for a Group Costs Order is determined.

If a Group Costs Order is not made Maurice Blackburn may elect to continue the proceeding on a no win no fee basis, procure litigation funding or terminate its retainer.

Maurice Blackburn has entered into a Costs Sharing agreement with CF FLA Australia Investments 3 Pty Ltd (**Vannin**).

It is important to note that the Costs Sharing agreement with Vannin will not affect the amount of any recovery that is returned to group members pursuant to any Group Costs Order.

7. How are legal fees and disbursements charged?

The lead Plaintiff's legal fees and disbursements are 'conditional', meaning that they are only recoverable by Maurice Blackburn if there is a successful outcome in the class action. Amounts recoverable by Maurice Blackburn 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. Those deductions will never exceed a group member's recovery.

If there is a successful outcome, the lead Plaintiff's legal fees and disbursements will be charged in one of two ways:

- (a) calculated using time-based billing for professional fees, with disbursements (for example, fees for experts and barristers) charged at cost; OR
- (b) the Court may make a "group costs order" which is an order that the lead Plaintiff's lawyers are to be paid a percentage of the amount of any damages award or settlement. The percentage would be approved by the Court.

If there is a successful outcome, the liability for the lead Plaintiff's legal fees and disbursements will be shared among the lead Plaintiff and all group members.

If there is not a successful outcome the lead Plaintiff and group members will not be asked to pay Maurice Blackburn's costs or disbursements. Also, group members cannot be pursued for costs by Kia 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.

8. Are there currently any other class actions against Kia?

Maurice Blackburn is aware that another law firm, Bannister Law has filed a group proceeding in the Federal Court of Australia against Kia, in relation to similar claims.

The Courts are in the process of determining how the competing proceedings are to be managed.

9. Who can group members contact for further information about the case?

Group members may contact Maurice Blackburn, at no out of pocket cost, via:

Email	ABSdefect@mauriceblackburn.com.au
Phone	1800 879 148
Post	Maurice Blackburn Kia ABS Defect Class Action Level 21, 380 La Trobe Street, Melbourne VIC 3000