

# OUTCOME DETAILS

**Supreme Court - Civil  
at Supreme Court Sydney  
on 8 December 2021**

**2018/00009555-001 / Statement of Claim: Owen Brewster v BMW AUSTRALIA LTD**

HH makes orders in terms of the Proposed Minutes of Order initialled and dated today's date.

THE COURT NOTES THAT:

(A) In these orders:

“Administration Costs” means the costs of the Administrator incurred in the administration of the Registration and the Settlement Scheme payable from the total settlement sum.

“Affected Group Members” means those Group Members:

(i) for whom the Settlement Administrator holds email addresses pursuant to Orders 8, 9 and 19 of the orders made on 13 September 2021; and

(ii) does not include those Group Members:

1. where Epiq is able to identify that they were initially able to register because their email address can be matched to a VIN that was on the Claims Database as at 18 October 2021; or
2. who have opted out of the proceedings; or
3. whose email has returned as “undeliverable” to the Administrator; or
4. who have advised the Administrator that they do not wish to be contacted further in relation to the proceedings.

“Claims Database” means the confidential database established by the Administrator for the management of the Contact Data, NEVDIS Data, VIN List and any data provided for the purposes of facilitating the registration of eligible Group Members.

"The Act" means the Civil Procedure Act 2005 (NSW).

Settlement administrator

1 By no later than 5 business days prior to the distribution of notices referred to in orders 4 to 8 below, Epiq in its capacity as the Settlement Administrator is to confirm in writing to the Plaintiffs and Defendants that it has uploaded to the Settlement Website all 2,108,428 VINs in the form provided to Epiq by the Defendants on 21 October 2021 (and as contained in Annexure 1 to the Deed of Release and Settlement dated 19 August 2021) for the purpose of determining preliminary eligibility of Group Members.  
Supplementary notification of proposed settlement

2 The form and content of:

(a) the email to Affected Group Members set out at Annexure A to these orders (Supplementary Email Notice);

(b) the notice set out at Annexure B to these orders (Supplementary Newspaper Notice),  
are approved for the purposes of sections 175(4) and 176(1) of the Act (Supplementary  
Notices).

#### Distribution of Supplementary Notices

3 Pursuant to section 176(2) of the Act, notice is to be provided to Group Members in  
accordance with the procedures set out in orders 4 to 8 below.

4 Orders 7(a) and (b) of the orders made on 13 September 2021 be varied to so as to include,  
by 13 December 2021, the following additional text to accompany the link on the Australian  
domain of the Defendants' public websites and the Australian Facebook pages belonging to  
the Defendants:

**IMPORTANT NOTE:** If you tried to register to participate in the Takata Airbag Class Action  
Settlement at [www.airbagclassaction.com](http://www.airbagclassaction.com) between 10:00 am AEDT, 18 October 2021 and  
10:00 am (AEDT), 27 October 2021, you may have incorrectly received a "Not Eligible"  
notification. This is because a number of VINs were inadvertently omitted from the Settlement  
Website. This issue was rectified on 27 October 2021.

If you received a "Not Eligible" notification during this period, please revisit the Settlement  
Website ([www.airbagclassaction.com](http://www.airbagclassaction.com)) and try to register again. Please make sure that you  
have entered your VIN correctly. If you have more than one vehicle, please enter each VIN  
individually.

If you have any difficulties with registering, please email the Settlement Administrator at  
[info@airbagclassaction.com](mailto:info@airbagclassaction.com).

5 The solicitors for the Plaintiffs are to instruct Epiq that by no later than 13 December 2021,  
the following text is to be made visible in a prominent location of the landing page of the  
Settlement Website (as defined in the orders made on 13 September 2021):

**IMPORTANT NOTE:** If you tried to register to participate in the proposed settlement between  
10:00 am AEDT, 18 October 2021 and 10:00 am (AEDT), 27 October 2021, you may have  
incorrectly received a "Not Eligible" notification. This is because a number of VINs were  
inadvertently omitted from the website. This issue was rectified on 27 October 2021.

If you received a "Not Eligible" notification during this period, please try to register again.  
Please make sure that you have entered your VIN correctly. If you have more than one  
vehicle, please enter each VIN individually.

If you have any difficulties with registering, please email the Settlement Administrator at  
[info@airbagclassaction.com](mailto:info@airbagclassaction.com).

6 The solicitors for the Plaintiffs are to instruct Epiq, in the week commencing 13 December  
2021, to send the Supplementary Email Notice to each Affected Group Member for whom an  
email address has been provided pursuant to Orders 8, 9 and 19 of the orders made on 13  
September 2021.

7 The solicitors for the Plaintiffs are to instruct Epiq, in the week commencing 13 December  
2021, to promptly provide written confirmation to the parties that the Supplementary Email  
Notice to Affected Group Members has been sent and the date (or dates) on which the  
Supplementary Email Notices was (or were) sent.

8 The solicitors for the Plaintiffs will, in the week commencing 13 December 2021, cause a copy of the Supplementary Newspaper Notice to be published in a weekday edition of the following newspapers:

- (a) The West Australian;
- (b) The Advertiser;
- (c) The Age;
- (d) The Mercury;
- (e) The Sydney Morning Herald;
- (f) The Canberra Times;
- (g) Courier Mail; and
- (h) Northern Territory News.

9 The costs of and incidental to orders 5 to 8 above will form part of the Administration Costs to be approved by the Court.

Data protection

10 Epiq must not use the VINs for any purpose other than for the purposes of complying with these orders.

Miscellaneous

11 By no later than 13 December 2021, the solicitors for the Plaintiffs are to provide Epiq with a copy of these orders.

12 Liberty to apply on three days' notice.

ANNEXURE A  
Supplementary Email Notice

[\*\*To be sent to AFFECTED GROUP MEMBERS with the following email subject line  
IMPORTANT UPDATE: Takata Airbags Class Actions – Settlement Website]

Dear Sir/Madam  
IMPORTANT UPDATE: Takata Airbags Class Actions –Settlement Website

We have previously written to you about the proposed settlement of the Takata Airbag Class Actions. You are receiving this follow up email because the Settlement Website ([www.airbagclassaction.com](http://www.airbagclassaction.com)) was affected by a temporary error.

If you tried to register to participate in the proposed settlement between 10:00 am (AEDT) on 18 October 2021 and 10:00 am (AEDT) on 27 October 2021, you may have incorrectly received a 'Not Eligible' notification which said that you are not eligible to participate. This issue arose because a number of VINs were inadvertently omitted from the Settlement Website. This issue was rectified on 27 October 2021.

PLEASE TRY TO REGISTER AGAIN before 4:00 pm AEDT on 18 February 2022. Please make sure to enter the VIN correctly. If you have more than one vehicle, each VIN must be entered separately. If you have any difficulties registering, please contact the Settlement Administrator at [info@airbagclassaction.com](mailto:info@airbagclassaction.com).

If you have successfully registered on the Settlement Website ([www.airbagclassaction.com](http://www.airbagclassaction.com)), or submitted an objection, please ignore this email.

If you have not yet registered, but would like to do so please visit the Settlement Website ([www.airbagclassaction.com](http://www.airbagclassaction.com)).

**IMPORTANT NOTE:** The deadline to register for a settlement payment is 4:00 pm AEDT on 18 February 2022. Group Members are also entitled to object to the terms of settlement. The deadline to object is 4:00 pm AEDT on 18 February 2022.

To view the court-approved settlement notices please visit:  
[www.airbagclassaction.com/Home/Notices](http://www.airbagclassaction.com/Home/Notices)

This communication has been made pursuant to Court orders available here: [insert]

## ANNEXURE B Newspaper Advertisement

### Takata Airbag Class Actions – Update to the Settlement Website

The Supreme Court of New South Wales has ordered that this notice be published to notify Group Members of important information in relation to the proposed settlement of the Takata Airbag Class Actions. The Takata Airbag Class Actions refers to six separate proceedings that were commenced on behalf of consumers in relation to approximately 2 million Toyota, Lexus, Subaru, Honda, BMW, Nissan and Mazda branded vehicles affected by the Takata airbag recalls.

**IMPORTANT NOTE:** If you tried to register to participate in the proposed settlement between 10:00 am (AEDT) on 18 October 2021 and 10:00 am (AEDT) on 27 October 2021, you may have incorrectly received a 'Not Eligible' notification which said that you are not eligible to participate. This issue arose because a number of VINs were inadvertently omitted from the Settlement Website. This issue was rectified on 27 October 2021.

**PLEASE TRY TO REGISTER AGAIN** before 4:00 pm AEDT on 18 February 2022. Please make sure to enter the VIN correctly. If you have more than one vehicle, each VIN must be entered separately. If you have any difficulties registering, please contact the Settlement Administrator at [info@airbagclassaction.com](mailto:info@airbagclassaction.com).

If you have successfully registered on the Settlement Website ([www.airbagclassaction.com](http://www.airbagclassaction.com)), or submitted an objection, please ignore this notice.

If you have not yet registered, but would like to do so please visit the Settlement Website ([www.airbagclassaction.com](http://www.airbagclassaction.com)).

**Please Note:** The deadline to register for a settlement payment is 4:00 pm AEDT on 18 February 2022. Group Members are also entitled to object to the terms of settlement. The deadline to object is 4:00 pm AEDT on 18 February 2022.

To view the court-approved settlement notices, please visit:  
[www.airbagclassaction.com/Home/Notices](http://www.airbagclassaction.com/Home/Notices)

Note 1: If you owned or leased a Toyota Corolla vehicle (Model Years 2003-2005) affected by recall notice PRA 2020/18579 issued in September 2020, then you should also visit the Settlement and Opt Out Notice at [www.airbagclassaction.com/Content/Documents/ATGM%20Notice.pdf](http://www.airbagclassaction.com/Content/Documents/ATGM%20Notice.pdf)

Justice M Ball

Signed

Date