Federal Court of Australia

District Registry: Victoria Registry

Division: General

No: VID1395/2024

BADEN GREEN
Applicant

JOHNSON AND JOHNSON PACIFIC PTY LTD (ACN 001 121 446)
Respondent

ORDER

JUDGE: Justice Moshinsky

DATE OF ORDER: 28 October 2026

WHERE MADE: Melbourne

THE COURT NOTES THAT

A. In the event that the proceeding settles (subject to Court approval) at any time between the date of these orders and 12.00 noon on the day prior to the commencement of the trial, the Respondent intends to apply to the Court for an order, which, if made, has the effect of providing that any Group Member who by the Nominated Date does not opt out and who has not registered to participate in this proceeding in accordance with these orders, will remain a group member for all purposes of this proceeding but shall not, without leave of the Court, be permitted to seek any benefit pursuant to any settlement (subject to Court approval) of this proceeding.

THE COURT ORDERS THAT:

Opt Out and Registration

1. Pursuant to ss 33J and 33ZF(1) of the *Federal Court of Australia Act 1976* (Cth) (the **FCA Act**), 4.00 pm (AEDT) on 10 February 2027 (the **Nominated Date**) be fixed as the date before which a Group Member (as defined in the Second Further Amended Statement of Claim) may opt out of this proceeding or register to participate in this proceeding in accordance with these orders.

2. Pursuant to ss 33X(5) and 33Y(2) of the FCA Act, the form and content of the notice set out in Annexure A (the **Opt Out and Registration Notice**) and Annexure B (the **Opt Out and Registration Summary**) to these orders be approved.

3. By 4.00 pm on 18 November 2026, the Applicant provide to the chambers of Justice Moshinsky, and copied to the Respondent, a social media visual (the **Social Media Visual**).

4. Subject to further order, by the Nominated Date, Group Members who wish to register to participate in the distribution of any amount agreed in any in-principle settlement of this proceeding reached by 12.00 noon on the day prior to the commencement of the trial must register by completing the registration form on the website of Omni Bridgeway at: https://portal.omnibridgeway.com/cases/register/JandJ-cold-and-flu-class-action-overview (the **Registration Form**).

5. The Registration Form is to be configured in accordance with Exhibit A1 (which was tendered at the hearing on 9 October 2026) but with the addition of a statement to the effect that, if the Group Member has documents verifying their purchases of the relevant products, they should retain those documents as they may be needed subsequently.

6. For the avoidance of doubt: (a) to the extent that the fields in Exhibit A1 (and thus the Registration Form) have an asterisk next to the field, it is necessary for the Group Member to complete that field in order to register for the purposes of paragraph 4 of these orders; and (b) to the extent that such fields do not have an asterisk, it is not necessary for the Group Member to complete that field in order to register for the purposes of paragraph 4 of these orders.

7. Pursuant to ss 33J and 33ZF(1) of the FCA Act, subject to further order, any Group Member who wishes to opt out of this proceeding must, before the Nominated Date, deliver an opt out notice in the form of Schedule B to Annexure A to these orders (the **Opt Out Form**) to the Victoria District Registry of the Federal Court of Australia.

8. A Group Member is taken to have registered for the purposes of paragraph 4 of these orders if that Group Member has registered an interest in participating in this proceeding with the Applicant's solicitors or any litigation funder supporting the proceeding.

9. At least three weeks before the date of the mediation, the Applicant provide the Respondent with de-identified registration data, namely the number of Group Members who have registered (or are taken to have registered) for the purposes of paragraph 4 above and the claim details provided by each such Group Member pursuant to Step Four of the Registration Form.

10. If, on or before the Nominated Date, the solicitors for any party to the proceeding receive a notice purporting to be an opt out notice referable to this proceeding, the solicitors must provide the notice to the Victoria District Registry of the Federal Court of Australia within three business days after receipt, and the notice shall be treated as an opt out notice received by the Court at the time it was received by the solicitors.

11. The solicitors for any party be granted leave to inspect the Court file and to copy any Opt Out Forms filed by Group Members.

Notice of opt out and registration process

12. Pursuant to ss 33X(1)(a), 33X(5), 33Y(5) and 33ZF(1) of the FCA Act, by 4.00 pm on 25 November 2026:

    a. the Applicant:

        i. cause JGA Saddler and Omni Bridgeway to display a copy of the Opt Out and Registration Notice, the Opt Out and Registration Summary and the parties' pleadings on https://coldandfluclassaction.com.au/, https://portal.omnibridgeway.com/cases/register/JandJ-cold-and-flu-class-action-overview and the JGA Saddler website (and to remain continuously so displayed up to and including the conclusion of the proceeding or until further order);

        ii. cause Omni Bridgeway to distribute via email to all pre-existing registrants a copy of the Opt Out and Registration Notice;

        iii. engage a third party to conduct a marketing campaign, including using the Social Media Visual, in accordance with the Aruga Proposal annexed at pp 13-17 of "RLJ-07" to the affidavit of Rebecca Jancauskas dated 4 September 2026 in order to notify Group Members of the existence of the Opt Out and Registration Notice and/or the Opt Out and Registration Summary until the Nominated Date, subject to consultation with the Respondent about the campaign, including consultation about the nature and content of any use of influencers as part of the campaign.

    b. The Federal Court Registry cause the Opt Out and Registration Notice, the Opt Out and Registration Summary, the parties' pleadings and these orders to be displayed on the website of the Federal Court of Australia (and to remain continuously so displayed up to and including the conclusion of the proceeding or until further order).

13. The Opt Out and Registration Notice and Opt Out and Registration Summary may be amended by the Applicant before it is posted, displayed or published in order to correct any website or email address or telephone number or other non-substantive matter. If the Opt Out and Registration Notice and/or Opt Out and Registration Summary is amended in accordance with this order, the solicitors for the Applicant will provide a copy of the amended Opt Out and Registration Notice and/or Opt Out and Registration Summary to the chambers of Justice Moshinsky and the Respondent contemporaneously.

Other

14. The costs of and incidental to the procedure set out in paragraphs 1 to 13 above be equally shared between the parties in the first instance and are to be costs in the cause.

15. The costs of the Respondent's interlocutory application dated 13 May 2026 be reserved.

Mediation

16. The parties attend a mediation by no later than 10 April 2027.

17. The mediation be conducted by a mediator agreed between the parties, with such agreement to occur before 5 February 2027.

18. The matter be listed for a case management hearing on a date to be fixed.

19. There be liberty to apply.

20. Costs otherwise be reserved.

Date orders authenticated: 28 October 2026

Registrar

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

ANNEXURE A

OPT OUT AND REGISTRATION NOTICE

FEDERAL COURT OF AUSTRALIA

Baden Green v Johnson & Johnson Pacific Pty Ltd (ACN 001 121 446) **(VID1395/2024)**

This Notice is about the **Cold & Flu Products Class Action**

The Federal Court has ordered this notice be published for the information of persons who might be Group Members. If you think you are a Group Member you should read this notice carefully. Any questions you have should not be directed to the Court. If there is anything in this notice that you do not understand or you are unsure about, you should contact:

- Omni Bridgeway at peclassaction@omnibridgeway.com (who are the litigation funder); or
- seek your own legal advice.

If you are a Group Member, you may choose to:

1. **Register now** at Omni Bridgeway's website to make sure you are eligible for compensation from any settlement reached before the commencement of trial: https://portal.omnibridgeway.com/cases/register/JandJ-cold-and-flu-class-action-overview; or
2. **Opt out** (and leave the Class Action) by completing the Opt Out Form below. (See item 7 below); or
3. **Do nothing and Remain a Group Member** (you may be asked to register at a later date if you do not do so now).

The Cold & Flu Products that are subject of this class action are (Please also see **Schedule A**):

- Benadryl PE Dry Cough & Nasal Congestion;
- Benadryl PE Chesty Cough & Nasal Congestion;
- Benadryl Mucus Relief Plus Decongestant;
- Codral Cold & Flu;
- Codral Cold & Flu + Dry Cough;
- Codral Cold & Flu (Reformulation 2);
- Codral Day & Night;
- Codral Day & Night + Dry Cough;
- Codral Night;
- Codral Plus Mucus + Cold & Flu;
- Codral Cold & Flu (powder sachet);
- Codral Dry Cough + Cold (liquid medicine);
- Codral Cold & Flu + Mucus Cough (powder sachet);
- Codral Mucus Cough + Cold (liquid medicine);
- Codral Cold & Flu + Mucus Cough;
- Codral Decongestant;
- Codral Multi Action;
- Codral Plus;
- Codral Relief Cold & Flu + Decongestant;
- Sinutab PE Sinus, Allergy & Pain Relief;
- Sudafed PE Nasal Decongestant;
- Sudafed PE Sinus + Allergy & Pain Relief;
- Sudafed PE Sinus + Anti inflammatory Pain Relief;
- Sudafed PE Sinus + Pain Relief;
- Sudafed PE Sinus + Pain Relief Day + Night; and
- Sudafed PE Night.

YOU SHOULD READ THIS NOTICE CAREFULLY.

1. Why is this notice important?

A class action has been commenced in the Federal Court of Australia against Johnson & Johnson Pacific Pty Ltd ("**J&J**") on behalf of all persons who purchased cold and flu products to be taken orally (being in tablet, syrup and powder form) that contain phenylephrine hydrochloride ("**PE**") between January 2011 to December 2024 (**Group Members**). You are automatically a Group Member in the class action if you meet the criteria set out in Section 4, below, but you may choose to opt out and not participate. A list of the specific products is at **Schedule A** below.

2. What is a class action?

A class action is a type of court case which enables a large number of claims to be pursued together, rather than as a series of individual cases for each affected person. A class action is brought by one person ("**Applicant**"), in this case Mr Baden Green, on their own behalf and on behalf of a group of similarly situated people ("**Group Members**") against another person or entity (called the Respondent, in this case J&J).

3. What is the Cold & Flu Products Class Action?

The Applicant, Mr Baden Green, alleges that J&J manufactured and distributed (and still manufactures and distributes) certain over-the-counter oral cold and flu medicines containing PE. PE is an active ingredient in various decongestant medicines. You do not need to show your ID or drivers' licence to purchase PE products. The Applicant alleges that PE does not provide—and has never provided—effective relief for symptoms of nasal congestion.

This class action alleges that J&J has failed to comply with the consumer guarantees of the Australian Consumer Law (**ACL**), namely, section 54, being to provide the products of an acceptable quality, section 56, being that the products correspond with their description, and section 59, being compliance with express warranty given by the manufacturer. The class action alleges that consumer guarantees were not complied with because the PE contained in the products was not effective for relieving nasal congestion, contrary to the claims made on the product packaging. J&J denies the allegations and is defending the class action. The class action seeks compensation for the purchase of the products identified in Schedule A within the period of 14 years between 1 January 2011 and 20 December 2024.

4. Are you a Group Member?

Have you purchased, for personal or household use, any Codral, Sudafed, Benadryl or Sinutab oral cold and flu products listed in Schedule A in Australia between 1 January 2011 and 20 December 2024?

If you answered YES to the question above, you are a Group Member. Please go to Section 5.	**If you answered NO to the question above, you are not a Group Member. THIS NOTICE DOES NOT APPLY TO YOU. You do not need to take any further action.**	**If you are unsure whether or not you are a Group Member, you can find out more information online at the website listed at Section 8 below or seek your own legal advice without delay.**

5. Will you be liable for legal costs if you remain a Group Member?

As a Group Member in this class action, you will not pay any legal or other costs out of your own pocket. Any legal or other costs will be sought to be deducted from any settlement or judgment amount ("**Resolution**").

The class action is being funded by Omni Bridgeway. The upfront costs of the class action will be paid by them. If the class action is successful, Omni Bridgeway will seek court approval for reimbursement of the upfront costs they have paid, plus a commission from any Resolution. Any costs that are approved, including legal fees incurred by JGA Saddler as the Applicant's lawyers and not paid by Omni Bridgeway, will only be deducted from, and will not exceed, the amount of compensation recovered. All amounts to be deducted must be approved by the Court. If the class action is unsuccessful then Group Members do not have to pay anything.

If the class action is successful, the commission payable to Omni Bridgeway, subject to Court approval, shall be calculated by reference to the period of time that has elapsed between commencement of the class action, being 20 December 2024, and the Resolution, as follows:

Time to Resolution	Percentage of Resolution Sum
If Resolution occurs on or after 12 months and before 24 months from the commencement date	25%
If Resolution occurs on or after 24 months and before 36 months from the commencement date	30%
If Resolution occurs on or after 36 months from the commencement date	35%

6. What will happen if I choose to remain a Group Member?

Unless you opt out, you will be bound by any Resolution of the class action. If the class action is successful, you will be entitled to share in the benefit of any Resolution in favour of Group Members, although you may have to satisfy certain conditions before your entitlement arises.

If the action is unsuccessful or is not as successful as you might have wished, you will not be able to pursue the same claims and may not be able to pursue related claims against J&J in other legal proceedings.

7. What do Group Members need to do?

(a) How can you remain a Group Member?	(b) How can you opt out of the class action?
If you wish to remain a Group Member, you can do one of two things: A. **Register now – by 10 February 2027** via the Omni Bridgeway website (if you have not already done so): https://portal.omnibridgeway.com/cases/register/JandJ-cold-and-flu-class-action-overview **OR** B. **Do nothing** – The Applicant will continue to bring the proceeding on your behalf up to the point where the Court determines those questions that are common to the claims of the Applicant and the Group Members.	**If you do not wish to remain** a Group Member you must opt out of the class action by completing and sending an opt out form to the Federal Court of Australia. **The opt out form is at Schedule B below.** If you opt out you will not be bound by or entitled to share in the benefit of any Resolution in the class action. You will be at liberty to bring your own claim against J&J, if you issue Court proceedings within the time limit applicable to your claim. If you wish to bring your own claim against J&J, you should seek your own legal advice about your claim and the applicable time limit prior to opting out.

IMPORTANT: The Applicant opposed Group Members being told there was any deadline to register now, and he intends to approach settlement negotiations on behalf of all group members, regardless of whether they register by the deadline, consistently with the claim for aggregate damages he has brought on behalf of all Group Members. If a settlement is reached, J&J intends to apply to the Court for an order which, if made, would have the effect that Group Members who have not registered by the deadline of 10 February 2027 may not, without leave of the Court be entitled to receive any payment or other benefit from that settlement.	IMPORTANT: If you wish to opt out, the Opt Out Notice must reach the Registrar by no later than 4.00 pm on 10 February 2027, otherwise it will not be effective. Each Group Member seeking to opt out should fill out a separate form.

8. Where can you obtain copies of relevant documents or verify this class action is real?

Copies of relevant court documents may be obtained at [insert Federal Court website; https://coldandfluclassaction.com.au/ or https://portal.omnibridgeway.com/cases/register/JandJ-cold-and-flu-class-action-overview].

SCHEDULE A

- Benadryl PE Dry Cough & Nasal Congestion;
- Benadryl PE Chesty Cough & Nasal Congestion;
- Benadryl Mucus Relief Plus Decongestant;
- Codral Cold & Flu;
- Codral Cold & Flu + Dry Cough;
- Codral Cold & Flu (Reformulation 2);
- Codral Day & Night;
- Codral Day & Night + Dry Cough;
- Codral Night;
- Codral Plus Mucus + Cold & Flu;
- Codral Cold & Flu (powder sachet);
- Codral Dry Cough + Cold (liquid medicine);
- Codral Cold & Flu + Mucus Cough (powder sachet);
- Codral Mucus Cough + Cold (liquid medicine);
- Codral Cold & Flu + Mucus Cough;
- Codral Decongestant;
- Codral Multi Action;
- Codral Plus;
- Codral Relief Cold & Flu + Decongestant;
- Sinutab PE Sinus, Allergy & Pain Relief;
- Sudafed PE Nasal Decongestant;
- Sudafed PE Sinus + Allergy & Pain Relief;
- Sudafed PE Sinus + Anti inflammatory Pain Relief;
- Sudafed PE Sinus + Pain Relief;
- Sudafed PE Sinus + Pain Relief Day + Night; and
- Sudafed PE Night.

SCHEDULE B

Form 21

Rule 9.34

Opt Out Notice

No. VID1395 of 2024

Federal Court of Australia

District Registry: Victoria

Division: General

Baden Green

Applicant

Johnson & Johnson Pacific Pty Ltd (ACN 001 121 446)

Respondent

To: The Registrar
Federal Court of Australia
Victoria District Registry
Owen Dixon Commonwealth Law Courts Building
305 William Street
Melbourne VIC 3000

The person named below, a group member in this representative proceeding, gives notice under section 33J of the *Federal Court of Australia Act 1976* that they are opting out of the representative proceeding.

Name of Group Member	
Postal Address of Group Member	
Telephone number	
Email address	

Date: _____

Signed by: _____
[Insert capacity eg group member / Lawyer for the group member]

Name of person completing form:_____

ANNEXURE B

COLD & FLU PRODUCTS CLASS ACTION

THIS IS AN IMPORTANT NOTICE ISSUED TO GROUP MEMBERS BY THE FEDERAL COURT OF AUSTRALIA
This notice affects your legal rights. Read it carefully. If unsure, please seek legal advice.

WHAT IS THIS NOTICE ABOUT?

This notice is for persons who may be Group Members in the Cold & Flu Products Class Action.

YOU ARE A GROUP MEMBER IF:

You purchased certain **Codral**, **Sudafed**, **Benadryl** or **Sinutab** oral cold and flu products containing phenylephrine hydrochloride (PE) in Australia between 1 January 2011 and 20 December 2024, as reflected in the long form notice [LINK].

If you do not meet the above criteria, you may disregard this notice.

OPTION 1: STAY IN THE CLASS ACTION

You remain a Group Member. You may receive compensation (for example, by a cash payment if the class action is successful)

You cannot bring your own claim against Johnson & Johnson Pacific

You will not be required to pay any out-of-pocket legal costs, even if the class action is unsuccessful.

OPTION 1A: REGISTER NOW
Register at Omni Bridgeway's website by [DATE].

The Applicant intends to approach settlement negotiations on behalf of all group members regardless of whether they register by the deadline.

J&J intends to seek an order that means those who do not register by the [RELEVANT DATE] will not receive compensation if there is a settlement, unless the Court lets them.

OPTION 1B: DO NOTHING
If you do nothing, you Remain a Group Member.

OPTION 2: OPT OUT OF THE CLASS ACTION

If you opt out, you will no longer be a group member and will not receive compensation if the class action succeeds, but you may be able to bring your own claim against Johnson & Johnson Pacific.

Complete the official opt out form and send to the Federal Court of Australia Registry by [DATE].

You are only required to complete the opt out form if you do NOT wish to participate in the class action.

NEED MORE INFORMATION?

You can verify this notice on the following websites: Federal Court of Australia, JGA Saddler or Omni Bridgeway. If you are unsure about any information in this notice, please seek your own legal advice.

LEGAL COSTS

The upfront costs of this class action are being paid by the litigation funder, Omni Bridgeway.

If the class action is successful, Omni Bridgeway will seek court approval for reimbursement of the upfront costs they have paid, plus a commission from any possible settlement or judgment amount.
If the class action is unsuccessful, Group Members do not have to pay anything.