

8 December 2015

**High Court ruling means leaky building owners urged to file individual claims against James Hardie before December deadline**

Following a High Court judgment last week, law firm Parker & Associates is urging homeowners who are eligible for the Cladding Action against James Hardie to move fast so that individual claims can be filed before the court closes on December 23.

Dan Parker, partner at Parker & Associates, said: "In October we filed statements of claim for the lead plaintiffs, who are suing as representatives for others with a similar interest who consent to being represented. The Supreme Court in the Feltex case ruled that the filing of the representative statement of claim stops the clock for limitation purposes.

"Also in October we filed an application seeking directions from the court to enable the Cladding Action to proceed as a class action. That application for directions cannot be heard until next year.

"In the meantime after 31 December 2015, a new limitation longstop comes into effect barring claims based on acts more than 15 years before a claim is brought. Many of the alleged negligent acts in question and affected properties date back to the 1990s.

"We sought precautionary orders to avoid class members being ruled out of time if the representative orders are not granted when that matter is argued next year. We asked for a ruling that would apply if representative orders are not made to enable consenting class members to file individual claims, which would be treated as having been brought at the same time as the representative statement of claim filed in October.

"The High Court declined that application," said Mr Parker.

Mr Parker said the plaintiffs will be appealing the recent High Court decision.

"The recent judgment does not affect the application for directions to proceed as a class action, which will be argued next year. Our view remains that the Cladding Action is entirely suitable for a class action," said Mr Parker.

"In light of the recent High Court decision we believe it is prudent for people who want to join the Cladding Action against James Hardie to contact us urgently so that individual claims can be filed before the court office closes on 23 December.

"We wanted to avoid the need for property owners to file multiple individual claims but consider this now needs to be done to avoid any potential limitation risk," Mr Parker said.

There are around 490 property owners currently registered as interested in the Cladding Action who are having their eligibility confirmed or moving to consent stage. 40 others have already formally consented to join the claim. There are four lead plaintiffs.

The Cladding Action claim alleges that cladding manufacturer, James Hardie, was negligent in its design, manufacture and supply of the Harditex cladding system. Thousands of

# **Parker** **&Associates** Barristers&Solicitors

properties were built using Harditex through the 1990s and early 2000s. James Hardie has denied any fault or failings with their product.

A second plaintiff class of owners of properties clad in James Hardie's Titanboard product is also being considered to be added to the claim.

Water damage as a result of the alleged issues with Harditex and Titanboard is often hard to detect and Parker & Associates are urging leaky home owners to investigate if Harditex or Titanboard were used in their houses and to contact them.

**Interested potential claimants can obtain further information by registering interest with Parker & Associates at 05084Parker or ph: 04 499 0390, [www.parkerandassociates.co.nz](http://www.parkerandassociates.co.nz), email [info@parkerandassociates.co.nz](mailto:info@parkerandassociates.co.nz), or [www.facebook.com/parkerandassoc](http://www.facebook.com/parkerandassoc)**

## **Notes**

Since 2001 Parker & Associates has achieved recoveries for hundreds of owners of residential houses and apartments and commercial buildings. It has dealt with most of the major Wellington multi-unit claims.

*Ends*

## **Contact:**

Dan Parker, Parker & Associates, 0272302896, [dan.parker@parkerandassociates.co.nz](mailto:dan.parker@parkerandassociates.co.nz)