



RURAL NEWS



Toora dairy farmer Wendy Whelan is part of a class action against Fonterra for the 2016 milk price claw back.

photograph supplied

By MICHELLE SLATER

DAIRY farmers stung by Fonterra's 2016 milk price claw back are being invited to get involved in a class action to seek compensation against the processing giant.

Law firms Adley Burstyner and Harwood Andrews are leading the case using information from Australian Competition and Consumer Commission investigations.

Lawyer David Burstyner said the case could be worth "hundreds of millions of dollars" and so far, several hundred farmers had already jumped aboard the class action which began in June.

Mr Burstyner said they wanted to show Fonterra dairy farmers could "fight back", and prove

that large processors "cannot get away with whatever pricing mischief they can dream up".

"Fonterra is one of the big four dairy companies in the world, there is a serious power imbalance. There are small-to-medium farms with very little bargaining power when it comes to large corporations," Mr Burstyner said.

"A class action is a way we can draw a line in the sand. When we issued this case we got emails from farmers telling us they were grateful action was being taken, and they were still feeling the pain, there is still a lot of animosity towards Fonterra's behaviour."

The legal firm is alleging that Fonterra engaged in misleading, deceptive and unconscionable conduct.

It is also claiming the company breached its supply contract and its obligation to match Murray Goulburn's farmgate milk price.

Adley Burstyner is seeking orders requiring Fonterra to produce internal minutes of meetings regarding price setting and step down decisions.

Fonterra has already been ordered to produce documents containing price matching obligations.

Mr Burstyner said Fonterra was still pursuing individual farmers to claim loans it provided to make up for the price drop.

Fonterra had extended loans to suppliers who requested them to help their seasonal cash flows, which were repayable via deductions from milk payments.

Any outstanding balances were repayable in full if a farmer ceased supplying milk to Fonterra.

Toora dairy farmer Wendy Whelan is part of the class action and said the Fonterra loan meant she was still feeling the pinch two years later, even after she quit the company and went to Bega.

"You usually take on a debt willingly for something you had purchased, or to build up the business. I've lost trust in Fonterra, I will never supply them again," Ms Whelan said.

"We were being asked to pay back something that we had already sold, no other industry would buy a product at a price and then ask to have that money paid back."

Ms Whelan said she hoped the

class action would "hold Fonterra to account".

"I remember bringing the cows home and saying to myself that I'm losing two grand by just milking them when the price had dropped," she said.

A Fonterra spokeswoman said the dairy company denied the allegations in the class action and was defending the case vigorously.

"Over the past four-and-a-half years, we have completely overhauled the relationship with our farmers, starting with the recently formed Fonterra Australia Suppliers Council which replaced BSC, and the benchmark agreement," the spokeswoman said.

"We are proud of the good relationship we have with our farmers and industry."