

'SCHEDULE A'

SUPREME COURT OF VICTORIA

COOLAROO RECYCLING PLANT CLASS ACTION

MURILLO

v

SKM SERVICES PTY LTD

(SCI 2017 02779)

IMPORTANT NOTICE

On 21 July 2017, Mr Murillo (**plaintiff**) commenced this group proceeding in the Supreme Court of Victoria against the operator of the Coolaroo Recycling Plan, SKM Services Pty Ltd (**SKM**). This group proceeding arises out of the fire that commenced at the Coolaroo Recycling Plant on 13 July 2017 (**Coolaroo Fire**) and is brought by the plaintiff on his own behalf and on behalf of persons who suffered personal injury or loss of or damage to property as a result of the fire that commenced at the Coolaroo Recycling Plant on 13 July 2017 (**Coolaroo Fire**).

The Supreme Court has ordered that this notice be published for the information of persons who might be group members on whose behalf this group proceeding is brought and who may be affected by it.

You should read this notice carefully as it may affect your rights. Any questions you have concerning the matters contained in this notice should not be directed to the Court. If there is anything in this notice that you do not understand, you should seek legal advice.

1. What is a group proceeding?

A group proceeding, also known as a class action, is a proceeding brought by the plaintiff on his own behalf and on behalf of group members against the defendant, where the plaintiff and the group members have similar claims against the defendant.

Group members are bound by any judgment or settlement entered into in the group proceeding unless they choose not to participate by "opting out" of the proceeding. This means that:

- (a) if the group proceeding is successful or settles, group members may be eligible for a share of any settlement monies of Court-awarded damages;
- (b) if the group proceeding is unsuccessful, group members are bound by that result; and
- (c) regardless of the outcome of the group proceeding, group members will not be able to pursue their claims against the defendant in separate legal proceedings unless they have opted out.

2. What is the Coolaroo Recycling Plant Class Action?

The plaintiff alleges that SKM owed him and the group members a duty to take reasonable precautions to prevent a fire starting at and the emissions from any such fire spreading from the Coolaroo Recycling Plant. The plaintiff alleges SKM breached that duty by allowing the Coolaroo Fire to start at and emissions from the Coolaroo Fire to spread from the Coolaroo Recycling Plant across the suburbs of Coolaroo and Dallas causing the plaintiff and group members to suffer loss or damage.

The claims made by the plaintiff are set out in a "Statement of Claim" filed in the Court and dated 6 October 2017. SKM has filed a defence and denies liability in respect of the allegations and is defending the class action.

3. Are you a group member?

You are a group member in the class action if you:

- (a) suffered personal injury or loss of or damage to property as a result of the Coolaroo Fire or are the legal personal representative of the estate of any deceased person who would otherwise have qualified as a group member;
- (b) are not any of the following:
 - (i) A related party of SKM;
 - (ii) A related body corporate of SKM;
 - (iii) An associated entity of SKM; or
 - (iv) An officer or a close associate of SKM.

4. What is opt out?

The plaintiff in group proceedings does not need to seek the consent of group members to commence a group proceeding on this behalf. However, group members can cease to be group members by “opting out” of the group proceedings. If you have been included as a group member in the Coolaroo Recycling Plant Class Action but you do not want to continue to be a group member, you can opt out now.

5. What should group members do?

If you fit the definition of a “group member” the following three options are available to you:

Option 1: Register

If you wish to remain a group member and make a claim for loss or damage you claim to have suffered a result of the Coolaroo Fire, you should contact Maddens Lawyers to tell them what your loss and damage is, as follows:

Postal: Brendan Pendergast
 Maddens Lawyers
 PO Box 320
 Warrnambool VIC 3280

Email: coolaroofire@maddenslawyers.com.au

Group members who register with the Maddens will be bound by the outcome of the group proceeding. If the group proceeding is successful, you will be entitled to share in the benefit of any order, judgment or settlement in favour of the plaintiff and group members. You may have to satisfy certain conditions and establish elements of your claim that are relevant specifically to you before your entitlement arises.

If the Coolaroo Recycling Plant Class Action is unsuccessful or is not as successful as you might have wished, you will not be able to sue on the same claim in any other proceeding.

If you wish to remain a group member, even if you do not wish to retain Maddens Lawyers to act for you as a client, you may wish to contact Maddens to “**register**” as a group member to ensure that future notices about the group proceeding can be sent to you directly.

Option 2: Do Nothing

If you do nothing, you will remain a group member and remain bound by any order, judgment or settlement in the Coolaroo Recycling Plant Class Action. The plaintiff will continue to bring the proceeding on your behalf up to the

point where the Court determines the questions that are common to the claims of the plaintiff and the group members.

However, unless you identify yourself as a “group member” no one may be aware that you are a group member and you may not be able to share in any benefit flowing from the proceeding. You may also have to satisfy certain conditions before your entitlement to a share in any benefit arises.

Option 3: Opt Out

If you do not wish to be a group member you should opt out of the proceeding by completing the “Opt Out Notice” below. If you opt out then you will cease to be a group member and will not be affected by any orders made in the group proceeding.

If you wish to bring your own claim against the defendants, you should seek your own legal advice about your claim and the applicable time limit before opting out.

You must decide what to do BEFORE 31 October 2018. If you want to opt out you must send your “Opt Out Notice” to the Supreme Court so that it arrives **before** that deadline.

6. Will you be liable for legal costs?

Group members will not become liable for any legal costs simply by remaining or registering as group members. Group members in a group proceeding **are not** legally liable for the legal costs associated with bringing the proceedings.

However, if there is a judgment or settlement that results in compensation becoming payable to group members, then:

- (a) If the preparation or finalisation of your personal claims requires work to be done in relation to issues specific to your claim, you can engage Maddens Lawyers or other solicitors to do that work for you. You may be liable for costs associated with the determination of issues concerned only with your claim;
- (b) If any compensation becomes payable to you as a result of any order, judgment or settlement in the group proceeding, the Court may make an order that some of that compensation be used to help pay a share of the costs which are incurred by the plaintiff in running the group proceeding but which are not able to be recovered from the defendant. The plaintiff will ask the Court to make such an order if the occasion arises; and

- (c) Group proceedings are often settled out of Court. If this occurs in this proceeding, you may be able to claim from the settlement amount without retaining a lawyer.

7. Where can you obtain copies of relevant documents?

Copies of relevant documents, including the Statement of Claim and Defence, may be obtained by:

- (a) downloading them from www.maddenslawyers.com.au;
- (b) telephone Maddens Lawyers on 1800 815 228 and requesting a copy to be posted or emailed;
- (c) inspecting them by visiting the Registry of the Supreme Court of Victoria in Melbourne at Level 2, 436 Lonsdale Street, Melbourne; or
- (d) on the Supreme Court website at <https://www.supremecourt.vic.gov.au/law-and-practice/class-actions/murillo-class-action-0>

Please consider the above matters carefully. If you are not sure whether you are a group member or want further information, you can contact the plaintiff's solicitors Maddens Lawyers on 1800 815 228, or seek your own legal advice. You should not delay in making your decision as the deadline for the opt out is **4pm, on 31 October 2018**.

This notice is published pursuant to Orders made by the Supreme Court on 14 September 2018.

NOTICE OF OPTING OUT BY GROUP MEMBER

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
MAJOR TORTS LIST

S CI 2017 02779

BETWEEN:

Castor Murillo

Plaintiff

and

**SKM Services Pty Ltd
(ABN 55 130 867 220)**

Defendant

To: The Prothonotary, Supreme Court of Victoria
Registry, Level 2, 436 Lonsdale Street
Melbourne VIC 3000

Maddens Lawyers
PO BOX 320
Warrnambool, VIC 3280

Meridian Lawyers
Level 12
357 Collins Street
Melbourne VIC 3000

I, (print name), a group member in the
above group proceeding, give notice under section 33J(2) of the **Supreme Court Act 1986**
that I am opting out of this proceeding.

Dated:

Signature of group members or the group member's
solicitor:.....

Address of group member:

.....
.....

