

Schedule A

SUPREME COURT OF VICTORIA

**MICHELA JOY BURKE v ASH SOUNDS PTY LTD TRADING AS THE FALLS MUSIC AND
ARTS FESTIVAL (ABN 67 160 019 152)
S CI 2017 00891**

IMPORTANT NOTICE

CLASS ACTION REGARDING THE CROWD CRUSH AT LORNE FALLS FESTIVAL WHICH OCCURRED ON 30 DECEMBER 2016

1. What is this Notice About?

On 15 March 2017, Michela Joy Burke (**the Plaintiff**) commenced this representative proceeding in the Supreme Court of Victoria against Ash Sounds Pty Ltd Trading as The Falls Music and Arts Festival (ABN 67 160 019 152) (**the Defendant**).

This representative proceeding is brought by the Plaintiff on her behalf, and on behalf of all persons who suffered injury as a result of the crowd crush which occurred in the exit of 'the Grand Theatre' at the Falls Festival in Lorne, Victoria at approximately 9.50pm on 30 December 2016 (**Falls Festival Crowd Crush**). Persons fitting that description are called **group members**.

The Plaintiff alleges that the Defendant owed the Plaintiff and the group members a duty under contract, occupier's liability and negligence and that they breached this duty by causing the incident. These allegations arise from the Defendant's duty to ensure that the Festival was run in a way which did not expose group members to risk of injury by reason of condition of the premises, of things done or omitted to be done in respect of the premises and in the scheduling of events and movement of persons throughout the premises. In general terms, the Plaintiff alleges that the Defendant failed to ensure that the Grand Theatre had an adequate means of safe exit, scheduled popular acts far away from but too close in time to each other, failed to have adequate surfacing at the exit, failed to have any form of marshalling of patrons, and failed to undertake any adequate risk assessment in respect of the movement of patrons and the style of marquee used at the Grand Theatre.

The Plaintiff also makes similar allegations in relation to her and group members' rights under the Australian Consumer Law.

The allegations are detailed in a Further Amended Statement of Claim filed on 7 April 2018. The Defendant denies that it is liable to group members and defends the representative proceeding on various grounds.

The Supreme Court has ordered that this notice be published for the information of persons who might be group members on whose behalf this representative proceeding is brought and who may be affected by it. If you think you may be a group member 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 it that you do not understand, you should seek legal advice.

2. What is a Representative Proceeding?

A representative proceeding is commonly known as a class action. It is an action that is brought by the Plaintiff on her 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 representative proceeding unless they have opted out of the proceeding. This means that:

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

The Plaintiff does not need the consent of group members to commence a representative proceeding on their behalf. However, group members can cease to be group members by opting out. An explanation of how group members are able to opt out is found below.

3. Are You a Group Member?

You are a group member in the class action if you suffered an injury as a result of the Falls Festival Crowd Crush. 'Injury' includes both physical injury and psychiatric injury. People who only lost property but were not injured are not covered by the class action.

4. What Group Members Should Do

If you fit the definition of a "group member" in the class action you must choose one of the following:

Option 1: If you wish to remain a group member and make a claim for damage that you say you have suffered as a result of the Falls Festival Crowd Crush, there is nothing you need to do.

However, you should contact Maddens Lawyers as follows, so that they can keep you informed about progress of the case:

Postal:	Ms Jess Walker Maddens Lawyers PO BOX 320 Warrnambool VIC 3280	Maddens Lawyers 219 Koroit Street Warrnambool VIC 3280
Website:	www.maddenslawyers.com.au	
Telephone:	1800 139 290	

Unless you identify yourself to Maddens Lawyers as a "group member", no-one may be aware of that fact, such that you may not be able to share in any possible benefit flowing from the class action.

You will be bound by the outcome of the class action whether you register with Maddens Lawyers or not. If the class action 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 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.

Option 2: 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 not be affected by any orders made in the class action.

However, you will not be bound by or entitled to share in the benefit of any order, judgment or settlement in the class action. You will be at liberty to bring your own claim against the Defendant, provided that you issue Court proceedings within the time limit applicable to your claim.

If you wish to bring your own claim against the Defendant, 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 4:00pm on 30 October 2018. If you want to opt out you must send your “Opt Out Notice” to the Registry of the Supreme Court so that it arrives **before** that deadline. You must also provide a copy of your “Opt Out Notice” to the Plaintiff’s solicitor.

Postal:	Ms Jess Walker Maddens Lawyers PO BOX 320 Warrnambool VIC 3280
Email:	jlw@maddenslawyers.com.au

7. Will You be Liable for Costs?

Please note, you will **not become liable** for any legal costs simply by contacting Maddens Lawyers or by doing nothing under Option 1. However:

- (a) If the preparation or finalisation of your personal claim requires work to be done in relation to issues that are 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 class action, 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 class action but which are not able to be recovered from the Defendant. Ms Burke will ask the Court to make such an Order if the occasion arises; and
- (c) Class actions are often settled out of Court. If this occurs in this class action, you may be able to claim from the settlement amount without retaining a lawyer.

8. Where Can You Obtain Copies of Relevant Documents?

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

- (a) Downloading them from <http://www.maddenslawyers.com.au>;
- (b) Telephoning Maddens Lawyers on 1800 815 228 and requesting a copy to be posted;
- (c) On the Supreme Court website at www.supremecourt.vic.gov.au

Please consider the above matters carefully. If you are not sure whether you are a group member or want further information, you can contact Ms Burke'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 opting out is **30 October 2018**.

This Notice is published pursuant to Orders made by the Supreme Court on 9 October 2018.

NOTICE OF OPTING OUT BY GROUP MEMBER

**IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION**

No. S CI 201 00891

B E T W E E N:

MICHELA JOY BURKE

Plaintiff

- and -

**ASH SOUNDS PTY LTD TRADING AS THE FALLS MUSIC
AND ARTS FESTIVAL (ABN 67 160 019 152)**

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

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:
.....