

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

S CI 2018 01113

**BETWEEN:**

ANDREW JOHN FRANCIS

Plaintiff

- and -

POWERCOR AUSTRALIA LIMITED (ACN 064 651 109)

First Defendant

ELECTRIX PTY LIMITED (ACN 067 232 393)

Second Defendant

**GENERAL FORM OF ORDER**

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JUDGE: The Honourable Justice Nichols

DATE MADE: 20 December 2019

ORIGINATING PROCESS: Writ filed 28 March 2018

HOW OBTAINED: Summons filed 23 October 2019

ATTENDANCE: Mr T Tobin SC with Mr A Fraatz, for the plaintiff  
Mr W Newland of counsel, for the second defendant  
Mr L W L Armstrong QC with Mr D Carolan, for  
the insurer objectors  
No appearance for the first defendant

OTHER MATTERS: Not applicable

**THE COURT ORDERS THAT:**

**Confidentiality**

1. Paragraph 1 of the orders of Judicial Registrar Clayton made 24 October 2019 is vacated.
2. The exhibits to the affidavit of Ms Kathryn Emeny sworn 23 October 2019 are to be retained on the court file and available for inspection.



3. Pursuant to section 33ZF of the *Supreme Court Act 1986* (Vic) (**the Act**) and until further order of the Court, the second confidential affidavit of Kathryn Amy Emeny sworn 29 November 2019 (including exhibits) be sealed in an envelope marked '*Not to be opened without the leave of the Court or a Judge*', kept confidential and placed on the Court file.

### **Settlement Approval Orders**

4. Pursuant to section 33ZF of the Act, the Court authorises the plaintiff *nunc pro tunc* on behalf of the group members to enter into and give effect to the 'Settlement Agreement' dated 9 October 2019 between the parties in relation to Supreme Court Proceeding S CI 2018 01113 (**Deed**) executed by the parties and reproduced at exhibit KAE-1 to the affidavit of Kathryn Amy Emeny sworn 23 October 2019, and the transactions contemplated by the Deed, for and on behalf of the group members.
5. Pursuant to section 33V of the Act, the Court approves the settlement of the proceeding upon the terms set out in the Deed.
6. Pursuant to sections 33X and 33Y of the Act, the Court approves the content of the 'Notice of Settlement Approval to Group Members' (**Settlement Approval Notice**) being Annexure A.
7. By 4.00pm on 24 December 2019, notice of approval of the settlement be given to all group members by the plaintiff, by his solicitors:
  - a) causing the Settlement Approval Notice to be sent by ordinary pre-paid post to the postal address for each person recorded on the database of registered group members maintained by Maddens Lawyers, and, where Maddens Lawyers has an email address for the person, to be sent by email to the person;
  - b) causing a copy of the Settlement Approval Notice to be published on Maddens Lawyers' website; and
  - c) causing a copy of the Settlement Approval Notice to be provided to the Common Law Class Actions Coordinator to be published on the Supreme Court of Victoria's website.
8. The plaintiff file and serve an affidavit as to compliance with paragraph 7 by 4.00pm on 14 January 2020.
9. By 4.00pm on 20 January 2020, the plaintiff file any further material on which he relies for the purposes of:
  - a) his application in respect of the distribution of the Settlement Sum (as defined in the Deed);



- b) the provision of notice to group members in relation to the settlement.

DATE AUTHENTICATED:

**23 December 2019**



**THE HONOURABLE JUSTICE NICHOLS**



## Annexure A

### SUPREME COURT OF VICTORIA

### GARVOC FIRE CLASS ACTION

FRANCIS

v

POWERCOR AUSTRALIA LIMITED and ELECTRIX PTY LIMITED  
(S CI 2018 01113)

### NOTICE OF SETTLEMENT APPROVAL

This notice relates to a class action commenced in the Supreme Court of Victoria as a result of the Garvoc Fire which started on 17 March 2018 at 974 Sisters-Garvoc Road, The Sisters in the State of Victoria (**Garvoc Fire**).

The Supreme Court has ordered that this notice be provided to inform group members that a settlement of the class action on behalf of victims of the Garvoc Fire has now been approved by the Court.

#### **Settlement of the Class Action**

The defendants to the class action are Powercor Australia Limited and Electrix Pty Limited.

The parties have agreed to a settlement of the class action, under which the defendants have agreed to pay \$5,000,000.00 (\$5 million) (**Settlement Sum**) inclusive of the plaintiff's legal costs, without any admission of liability by the first or second defendant. The terms of the settlement of the proceeding are set out in a settlement agreement that has been signed on behalf of the plaintiff and the defendants.

On 20 December 2019, the Supreme Court approved the settlement. The Court approval means that the settlement becomes binding on you and all other persons who fall under the definition of group member in the proceeding.

#### **Distribution of the Settlement Sum**

The plaintiff is making application to the Supreme Court for the approval of a scheme for the distribution of the Settlement Sum between group members. On 16 December 2019 the plaintiff's solicitors were directed to file further material with the Court in relation to the plaintiff's proposed settlement distribution scheme. The Court has not yet approved a distribution scheme. Once a scheme has been approved, registered group members' individual entitlements to compensation will be assessed and the Settlement Sum will be distributed.

**You do not need to do anything at this time. You will be given further notice once a settlement distribution scheme has been approved.**



**Address for questions**

If you have any questions about the settlement or this notice, you can contact Maddens Lawyers at any time, or seek your own independent legal advice.

Maddens Lawyers contact details are:

Garvoc Fire Class Action  
Maddens Lawyers  
219 Koroit Street  
Warrnambool, Victoria 3280  
Telephone: (03) 5560 2000  
Email: [cvw@maddenslawyers.com.au](mailto:cvw@maddenslawyers.com.au)

