

**SUPREME COURT OF VICTORIA
HAMILTON-BYRNE CLASS ACTION**

CREESE

v

**LIFE FOR ALL CREATURES LTD & ORS
(S CI 2017 03007)**

IMPORTANT NOTICE

NOTICE OF PROPOSED SETTLEMENT OF HAMILTON-BYRNE CLASS ACTION

The Supreme Court has ordered that this notice be published to inform you about (a) the right to participate in a proposed settlement of the class action and (b) the right to object to the proposed settlement. You should read this notice carefully as the matters set out below may affect your legal rights.

This Notice applies to children of Anne Hamilton-Byrne who suffered personal injury as a result of cruel and inhumane treatment by Anne Hamilton-Byrne and/or her servants or agents during the period from 1968 to 1987. Any person who is a group member, as defined below, and who:

- A. wishes to claim compensation for their injuries from any settlement of the proceeding must register their claims according to the procedure described in this Notice;
- B. wishes to object to the proposed settlement of the class action must complete and send a Notice of Objection to Mills Oakley Lawyers.

A failure to register a claim or object to the proposed settlement has serious consequences. If the proposed settlement is approved by the Court, you will only be permitted to claim compensation from the settlement amount if you have registered your claim, and you will lose the right to sue the defendants separately.

There is a deadline of 5 February 2021 to register a claim to participate in any settlement of the Hamilton-Byrne class action proceeding and/or to object to the proposed settlement of the class action.

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 the class action about?

The plaintiff commenced the class action on her own behalf and on behalf of persons who suffered personal injury as a result of alleged cruel and inhumane treatment by

Anne Hamilton-Byrne and/or her servants or agents of children of Anne Hamilton-Byrne, and persons who believed themselves to be Anne Hamilton-Byrne's children, raised by her during the period from 1968 to 1987.

The defendants to the class action are:

- (a) Life For All Creatures Ltd, a company to whom Anne Hamilton-Byrne transferred two properties in Olinda in 2010;
- (b) Roger Leonard Butcher and Geoffrey John Benjamin Dawes in their capacity as executors of the deceased estate of Anne Hamilton-Byrne.

The plaintiff alleges that during the period from 1968 to 1987, Anne Hamilton-Byrne (deceased) was the head of and the administrator of a group of adults and children constituting a sect known as "The Family".

The plaintiff alleges that during this period, she and the group members were subjected to cruel and inhumane treatment by Anne Hamilton-Byrne and/or her servants or agents acting on her behalf, and at her direction, including assault/s and/or physical or sexual abuse and, as a result, suffered physical injury and psychiatric injury.

The plaintiff further alleges that during this period, Anne Hamilton-Byrne owed to her and the group members a duty of care to take reasonable precautions against harm to their person arising from the relationship of dependence between the plaintiff and group members on the one hand, and Anne Hamilton-Byrne on the other. The plaintiff alleges that Anne Hamilton-Byrne failed to take reasonable precautions in this regard, breaching her duty of care, and as a result caused the plaintiff and group members to suffer damage.

As against Life For All Creatures Ltd, the plaintiff alleges that in 2010, Anne Hamilton-Byrne transferred two properties in Mount Dandenong Tourist Road, Olinda to Life For All Creatures Ltd with the intention to defraud the plaintiff and group members, and seeks orders that those transfers be set aside.

The Registrar of Titles is also a defendant to the proceeding for formal reasons in the event that the Court orders the transfers of the Olinda properties to Life For All Creatures Ltd.

The full allegations and responses of the parties are set out in a statement of claim and defences which may be accessed at the website <http://millsoakleylawyers.com.au>.

2. Am I a group member?

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

- (a) are a person who is or believed yourself to be a child of Anne Hamilton-Byrne;
and

- (b) suffered personal injury (whether physical injury or psychiatric harm) as a result of Anne Hamilton-Byrne's and/or her servants' or agents' cruel and inhumane treatment during the period from 1968 to 1987.

3. The proposed settlement

The plaintiff, Life For All Creatures Ltd and the executors of the deceased estate of Anne Hamilton-Byrne have agreed to a settlement of the class action, under which Life For All Creatures Ltd and the executors of the deceased estate of Anne Hamilton-Byrne have agreed to pay \$600,000 (**Settlement Sum**) inclusive of the plaintiff's legal costs. The terms of the settlement of the proceeding are set out in a Settlement Agreement that has been signed on behalf of the plaintiff, Life For All Creatures Ltd and the executors of the deceased estate of Anne Hamilton-Byrne (**Agreement**).

The settlement cannot take effect without Court approval. The plaintiff has asked the Court to approve:-

- (a) the proposed settlement;
- (b) the payment of the plaintiff's legal costs from the Settlement Sum; and
- (c) a scheme for the distribution of the balance of the Settlement Sum to Registered Group Members (**Settlement Distribution Scheme**).

The Court will consider whether or not to approve the settlement, the plaintiff's legal costs and the Settlement Distribution Scheme on 29 March 2021.

4. Participation in the proposed settlement

If the settlement is approved, only those group members who have registered with Mills Oakley Lawyers (**Registered Group Members**) will be entitled to participate in the settlement and receive compensation. Registered Group Members will be entitled to participate in the settlement in accordance with the terms of a Settlement Distribution Scheme approved by the Court.

Registered Group Members will be bound by the settlement and will not be able to bring any further claim against the defendants in relation to any personal injury suffered as a result of Anne Hamilton-Byrne's conduct during the period from 1968 to 1987.

Registered Group Members who are also applicants for further provision from the estate of Anne Hamilton-Byrne (deceased) pursuant to Part IV of the *Administration and Probate Act* 1958 in proceeding No. S ECI 2020 02646 (**Part IV Proceeding**) and who are clients of Mills Oakley Lawyers will not be able to bring any further claim against the Executors or the estate of Anne Hamilton-Byrne (deceased) as a result of, or arising out of, or in connection with, the subject of the Part IV Proceeding.

Group members who suffered loss as a result of cruel and inhuman treatment by Anne Hamilton-Byrne but who are not Registered Group Members will **not** be

entitled to participate in the settlement or receive compensation under the Settlement Distribution Scheme. Those group members **will be** bound by the settlement and **will not** be entitled to bring a separate claim against the defendants in relation to any personal injury suffered as a result of Anne Hamilton-Byrne's conduct during the period from 1968 to 1987.

If you are unsure whether you are a Registered Group Member (and therefore entitled to participate in any settlement that may be approved) or a group member, please contact Mills Oakley Lawyers on 03 9670 9111 or seek your own legal advice immediately.

If you are not currently a Registered Group Member and you **do** want to participate in the settlement then you **must** complete the "Claimant Registration Notice" which is Annexure 1 to this Notice and you **must** return the Claimant Registration Notice to Mills Oakley Lawyers before **4:00pm** on **5 February 2021**.

If you do not submit a completed Claimant Registration Notice by the deadline you will lose the right to make any claim against the defendants in relation to any personal injury suffered as a result of Anne Hamilton-Byrne's conduct during the period from 1968 to 1987.

If you are a group member but you **do not** want to participate in the proposed settlement then there is nothing you need to do. After the deadline passes you will lose the right to make any claim against the defendants in relation to any personal injury suffered as a result of Anne Hamilton-Byrne's conduct during the period from 1968 to 1987.

Legal costs

If the settlement is approved, the plaintiff's legal costs payable to Mills Oakley Lawyers, including the costs of Mills Oakley Lawyers administering the Settlement Distribution Scheme, will be paid from the Settlement Sum. The plaintiff's costs will be assessed by an independent costs assessor and the assessment will be provided to the Court. Only costs approved by the Court will be payable.

If you want to seek your own advice on the proposed settlement, you are responsible for your own costs in obtaining that advice.

Plaintiff's reimbursement payment

If the settlement is approved, the plaintiff will receive \$25,000.00 from the Settlement Sum. This payment is intended to compensate her for the personal burden of being the lead plaintiff, a role which has benefited group members as a whole. This amount is in addition to any amount she may be entitled to by way of compensation under the Settlement Distribution Scheme for loss suffered as a result of cruel and inhuman treatment by Anne Hamilton-Byrne.

Distribution of the balance of the Settlement Sum

If the settlement is approved, the balance of the Settlement Sum will be distributed to

Registered Group Members in accordance with the approved Settlement Distribution Scheme.

You may request a copy of the proposed Settlement Distribution Scheme from Mills Oakley Lawyers on a confidential basis.

Under the proposed Settlement Distribution Scheme, the plaintiff and each Registered Group Member will be determined by the Administrator of the Settlement Distribution Scheme based on the information which Mills Oakley Lawyers has received and obtained in relation to each Registered Group Member's personal injury.

Subject to the discretion of the Administrator, under the proposed Settlement Distribution Scheme all Registered Group Members will receive an equal proportion of the balance of the Settlement Sum.

5. Further information about the proposed settlement

Registered Group Members can contact Mills Oakley Lawyers on 03 9670 9111 for further information in relation to the proposed settlement, including legal costs, on a confidential basis.

6. What you must do

There are up to four options which you must consider.

Option 1 ***If you are not currently a Registered Group Member*** and you **do not** want to participate in the settlement then you do not need to do anything.

Option 2 ***If you are not currently a Registered Group Member*** and you **do** want to participate in the settlement then you **must** complete the "Claimant Registration Notice" which is Annexure 1 to this Notice. You must return the Claimant Registration Notice to Mills Oakley Lawyers before **4:00pm** on **5 February 2021**.

You may also wish to **object to the settlement** (see options 3 and 4 below).

Option 3 ***Registered Group Members who oppose the settlement*** and wish to object must complete the "Notice of Objection to Proposed Settlement" which is Annexure 2 to this Notice. You must return the Notice of Objection to Mills Oakley Lawyers before **4:00pm** on **5 February 2021**. You may be invited to come to Court on 29 March 2021 to argue your objection. You will be notified in advance of the exact date.

Option 4 ***Registered Group Members who support the settlement*** do not need to do anything.

If you are not sure what to do, you should contact Mills Oakley Lawyers or seek independent legal advice. You must act quickly because the deadline to register with Mills Oakley Lawyers and for objections and is **4:00pm on 5 February 2021**.

When will any objection(s) be considered

The Court has ordered that any objections to the proposed settlement (made in accordance with Option 3 above) will be considered by the Court at the Supreme Court, Melbourne, Victoria on 29 March 2021.

If there are no objections, or the objections are overruled, then the proposed settlement will be given final approval by the Court. It will then take effect. When it takes effect, Registered Group Members will have their claims assessed in accordance with the Settlement Distribution scheme to determine their compensation entitlements.

7. Addresses for questions

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

Contact details for Mills Oakley Lawyers

Att: Sophie Caldwell
Hamilton-Byrne Class Action
Mills Oakley Lawyers
Level 6, 530 Collins Street
Melbourne Vic 3000
Telephone: (03) 9670 9111
Email: caldwell@millssoakley.com.au

Contact details for the Supreme Court of Victoria

Note: Questions you have concerning the matters contained in this notice should **not** be directed to the Court.

Att: Class Actions Coordinator – Common Law
Supreme Court
Level 2, 436 Lonsdale Street, Melbourne 3000
Telephone: 03 8600 2000
Email: cldclassactions@supcourt.vic.gov.au