

“BLACK SATURDAY BUSHFIRES” NOTICE OF SUPREME COURT CLASS ACTION, KILMORE-KINGLAKE BUSHFIRE

People who suffered loss and damage as a result of the Kilmore East–Kingslake bushfire which occurred on 7 February 2009 (**the Kilmore-Kingslake bushfire**) should **TAKE NOTICE** that a class action is being brought in the Supreme Court of Victoria (**“the Court”**) on behalf of all persons who fit the definition of “group member”, set out below.

The Court has ordered that this notice be published to inform the group members about the action.

If you believe you have suffered damage or injury as a result of the Kilmore-Kingslake bushfire, **you should read this notice carefully**. If there is anything in it that you do not understand, you should seek legal advice. Any questions you have concerning the matters contained in this notice should not be directed to the Court.

1. What is a class action?

A class action is a legal proceeding that is brought by one person (**“the Plaintiff”**) on his or her own behalf and on behalf of a group of people (**“group members”**) against another person or persons (**“the Defendant”** or **“Defendants”**), where the Plaintiff and the group members have similar claims against the Defendant.

The Plaintiff in a class action does not need to identify each group member or seek the consent of group members when commencing a class action. Group members are bound by any judgment given or settlement made in a class action. This means that if the action is successful, group members may be eligible for a share of settlement monies or damages and if the action is unsuccessful, group members will be bound by that result. Group members **do not** become liable for any legal costs simply by being a group member in the class action.

However, group members can exclude themselves from the action by “opting out”. An explanation of how group members are able to opt out is found below in the section headed “How can you opt out of the proceeding”.

2. What is Kilmore-Kingslake class action about?

The Kilmore-Kingslake class action is brought by Mrs Matthews (the **Plaintiff**) on behalf of all persons who fit the definition of **“group members”**. The plaintiff alleges that she and the group members suffered loss and damage as a result of the bushfire.

There are five defendants to the class action.

The First Defendant is SPI Electricity Pty Ltd (**“SPI”**). SPI owned and operated an electricity distribution network, including a SWER powerline in Kilmore East. Mrs Matthews alleges that the powerline broke in the morning of 7 February 2009 and ignited the bushfire. She alleges that SPI was (among other things) negligent in its management, inspection and maintenance of the powerline and claims damages on her own behalf and on behalf of the group members.

The Second Defendant is Utility Services Corporation Ltd (**“USC”**). USC was contracted by SPI to inspect specified SPI electricity distribution assets on the SWER powerline. Mrs Matthews alleges that USC was (among other things) negligent in its inspections of the powerline assets.

The Third Defendant is the Secretary of the Department of Sustainability and Environment (**“DSE”**). Mrs Matthews alleges that DSE was (among other things) negligent in failing to reduce fuel loads in lands under its control prior to the bushfire and failing to provide adequate warnings about the bushfire.

The Fourth Defendant is the Country Fire Authority (**“CFA”**). Mrs Matthews alleges that the CFA was (among other things) negligent in failing to contain the bushfire and failing to give adequate warnings about the bushfire.

The Fifth Defendant is the State of Victoria (**“the State”**). Mrs Matthews alleges that the State is liable on the grounds that officers of Victoria Police contributed to personal injuries suffered by the plaintiff and group members, by failing to give appropriate warnings about the bushfire.

All defendants deny the allegations against them and are defending the class action. Each of SPI and UAM has filed cross-claims against all other defendants.

3. Are you a group member?

You are a group member if you:

- (a) have provided Maurice Blackburn with instructions prior to 31 January 2012 to pursue a personal injury claim on your behalf; or
- (b) suffered personal injury (whether physical or psychiatric injury) as a result of:
 - (i) the bushfire; and/or
 - (ii) the death of or injury to another person as a result of the bushfire; or
- (c) represent the estates of or are a dependant of any person who died in or as a result of the bushfire; or
- (d) suffered loss of or damage to property as a result of the bushfire; or
- (e) at the time of the bushfire resided in, or had real or personal property in, the “bushfire area” and suffered economic loss as a result of the bushfire which did not result from personal injury or property damage.

Note, “psychiatric injury” in paragraph “b” of the group definition above means nervous shock or another psychiatric or psychological injury, disturbance, disorder or condition *which has been diagnosed as such in a diagnosis given to the person by a medical practitioner prior to 31 January 2012*.

The bushfire area is also defined in the court proceedings. A list of towns affected by the bushfire and a map of the bushfire area may be accessed at the following webpage: www.mauriceblackburn.com.au/areas-of-practice/class-actions/current-class-actions/bushfire-class-action.aspx

If you are unsure whether or not you are a group member you should contact Maurice Blackburn Lawyers on 1800 99 55 70, or email bushfireca@mauriceblackburn.com.au or seek your own legal advice without delay.

4. What will happen if you choose to remain a group member?

If you fit the description of ‘group member’, you will be bound by the outcome of the class action, unless you chose to opt out.

Being “bound” means that 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. (In some cases you may have to satisfy certain conditions before your entitlement arises). However, it also means that if the 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 proceedings.

5. Will group members be liable for legal costs?

You will **not become liable for any legal costs** simply by remaining as a group member for the determination of those issues in the proceeding which are “common” as between you and the other claimants (the “common questions”). 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 may wish to engage Maurice Blackburn Lawyers or other solicitors to do that work for you. Those solicitors will be entitled to charge you for that “personal” work.
- (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 the compensation be used to help pay a share of the costs which are incurred by Mrs Matthews in running the class action, but which are not able to be recovered from the defendant(s). Mrs Matthews will ask for such an order if the occasion arises.
- (c) class actions are often settled out of court. If this occurs in the class action, you may be able to claim from the settlement amount without retaining a lawyer.

6. What to do if you want to remain a group member?

If you wish to remain a group member there is **nothing you need to do** at the present time. The Plaintiff will continue to bring the proceeding on your behalf up to the point where the Court determines those questions that are common to the claims of the Plaintiff and the group members, or until the proceeding settles.

However, if you have not already done so, you are invited to contact the Plaintiff’s solicitors, Maurice Blackburn Lawyers, on the number below and **register** as a group member so that future notices about the class action can be sent to your preferred address.

7. Ceasing to be a group member – “opting out”

If you do not wish to remain a group member you must “opt out” of the class action. If you opt out you will **not** be bound by or entitled to share in the benefit of any order, judgment or settlement in the class action, but you will be able to bring your own claim against the defendant(s), provided you do so within the time limit applicable to your claim. You should seek your own legal advice about your claim, and any applicable time limit, prior to opting out.

If you wish to opt out of the class action, you must do so by completing a **“Notice of opting out by group member”** in the form shown below, then returning it to: Denise Weir, c/- The Prothonotary, Supreme Court of Victoria – Registry, Level 2, 436 Lonsdale Street, Melbourne, Victoria, 3000.

IMPORTANT: the Notice must reach the Prothonotary by no later than 4pm on 31 January 2012 otherwise it will not be effective.

Each group member should fill out a separate Notice. If you are opting out on behalf of a company or business please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner).

8. Where can you obtain copies of relevant documents?

Copies of all relevant Court documents may be obtained by:

- (a) contacting Maurice Blackburn Lawyers on 1800 99 55 70 or emailing bushfireca@mauriceblackburn.com.au
- (b) inspecting them by visiting the Registry of the Supreme Court of Victoria at 2nd Floor, 436 Lonsdale Street, Melbourne, Victoria, 3000 or by calling the Registry on 03 9603 9300.

Important documents filed in the Kilmore-Kingslake class action are also available on the Supreme Court Class Actions website at www.scvclassactions.com.au/SitePages/Kilmore%20East%20Fire.aspx.

Please consider the above matters carefully. If you have questions, you should contact Maurice Blackburn Lawyers on 1800 99 55 70 or email bushfireca@mauriceblackburn.com.au or seek your own legal advice without delay.

IN THE SUPREME COURT OF VICTORIA

AT MELBOURNE

COMMON LAW DIVISION

SCI 2009 04788

BETWEEN :

CAROL ANN MATTHEWS Plaintiff

- and -

SPI ELECTRICITY PTY LTD (ACN 064 651 118) & Ors Defendants

NOTICE OF OPTING OUT BY OR ON BEHALF OF GROUP MEMBER

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

Full name of Group Member:

| | | | | |
|-----------------------|------------------------------------|-----|----|--------------|
| Is the Group Member:- | an individual? | Yes | No | (Circle one) |
| | a minor? | Yes | No | |
| | a person under a legal incapacity? | Yes | No | |
| | a company? | Yes | No | |
| | a partnership? | Yes | No | |
| | a sole trader? | Yes | No | |
| | the estate of a deceased person? | Yes | No | |
| | a trust? | Yes | No | |

The abovenamed Group Member gives notice under section 33J(2) of the Supreme Court Act 1986 that the Group Member is opting out of this proceeding.

Dated:.....2011

Signed:.....

Name of person signing (print):.....

If person signing is not the group member, in what capacity do you sign for the group member (eg., company director, legal guardian)?
.....

Your telephone number:.....

Your email:.....

Your postal address:.....

**Maurice
Blackburn
Lawyers**

Since 1919