

SUPREME COURT OF VICTORIA

CREESE
v
HAMILTON-BYRNE
(S CI 2017 03007)

IMPORTANT NOTICE

GROUP PROCEEDING REGARDING ANNE HAMILTON-BYRNE

On 1 August 2017, LEEANNE JOY CREESE (the **plaintiff**) commenced this group proceeding in the Supreme Court of Victoria against Anne Hamilton-Byrne. This group proceeding is brought by the plaintiff on her own behalf and on behalf of persons who suffered personal injury as a result of cruel and inhumane treatment by Anne Hamilton-Byrne and/or her servants or agents of children raised by Anne Hamilton-Byrne, and who believed themselves to be Anne Hamilton-Byrne's children, during the period from 1968 to 1987 (**Hamilton-Byrne Group Proceeding**). Persons fitting that description are defined in this proceeding as "**group members**". The group members also include any "legal personal representatives" of the estates of any deceased person who would otherwise have qualified as a group member.

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.

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.

1. What is a group proceeding?

A group proceeding is commonly known as a class action. It is a proceeding 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 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 or 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 defendants in separate legal proceedings unless they have opted out.

2. What is the Hamilton-Byrne Group Proceeding?

During the period from 1968 to 1987, Anne Hamilton-Byrne 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.

The claims made by the plaintiff are set out in a "Statement of Claim" filed in the Court and dated 1 August 2017. Anne Hamilton-Byrne has filed a defence and she denies liability in respect of the allegations and is defending the proceeding on various grounds.

3. Are you a group member?

Group members are persons who are or believed themselves to be children of Anne Hamilton-Byrne, who 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.

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 their 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 Hamilton-Byrne Group Proceeding 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" in the Hamilton-Byrne Group Proceeding, 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 as a result of Anne Hamilton-Byrne's and/or her servants' or agents' cruel and inhumane treatment, you should contact Mills Oakley to tell them what your loss and damage is, as follows:

Postal: PO Box 453, Collins Street West, Melbourne VIC 8007

Email: aharnath@millsoakley.com.au

Group members who register with the plaintiff's solicitors 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 Hamilton-Byrne Group Proceeding 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 Mills Oakley to act for you as a client, you may wish to contact Mills Oakley 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 Hamilton-Byrne Group Proceeding. 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 possible benefit flowing from the proceeding. You may also have to satisfy certain conditions before your entitlement to a share in any possible 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 4:00pm on 27 September 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 the proceedings are successful and 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 claim requires work to be done in relation to issues that are specific to your claim, you can engage Mills Oakley 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 defendants. 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) requesting a copy from the link at www.millsoakley.com.au;
- (b) telephoning Mills Oakley, solicitors for the plaintiff, on 03 9670 9111 and requesting a copy to be posted or emailed;
- (c) contacting the Supreme Court's common law class action co-ordinator on 03 9603 9300 or cldclassactions@supcourt.vic.gov.au and requesting a copy.

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 Mills Oakley on 03 9670 9111, or seek your own legal advice. You should not delay in making your decision, as the deadline for opting out is 27 September 2018.

This notice is published pursuant to Orders made by the Supreme Court on 3 August 2018.

NOTICE OF OPTING OUT BY GROUP MEMBER

LEEANNE JOY CREESE

Plaintiff

and

ANNE HAMILTON-BYRNE
(by her litigation guardian James Hamilton-Byrne)

Defendant

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

Mills Oakley
PO Box 453
Collins Street West
Melbourne VIC 8007

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 member or the group member's solicitor:.....

Address of group member:.....

.....