

**SUPREME COURT OF NEW SOUTH
WALES**

**KUHN & ANOR
v
INFIGEN ENERGY LIMITED**

(2017/00131194)

IMPORTANT NOTICE

**REPRESENTATIVE ACTION REGARDING
THE FIRE ON 17 JANUARY 2017
AT CURRANDOOLEY**

On 2 May 2017, Mr Kuhn and Ms Stewart (the **plaintiffs**) commenced this representative proceeding in the Supreme Court of New South Wales against Infigen Energy Limited (**Infigen**). This representative action is brought by the plaintiffs on their own behalf and on behalf of persons who suffered personal injury, loss or damage to property and/or economic loss consequential to injury or damage to property as a result of the fire that commenced in Currandooley, NSW, on 17 January 2017 (**Currandooley Fire Class Action**). 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 representative action 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 representative proceeding?

A representative proceeding is commonly known as a class action. It is an action that is brought by the plaintiffs on their own behalf and on behalf of group members against the defendant, where the Plaintiffs 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 choose to not participate by “opting out” of the proceeding. This means that:

- (a) if the representative action is successful or settles, group members may be eligible

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

2. What is the Currandooley Fire Representative Action?

On 17 January 2017, a bush fire commenced in the Currandooley region of NSW which affected a number of properties. The plaintiffs in the Currandooley Fire Representative Action allege that the defendant, Infigen, owed to them and the group members a duty of care to take reasonable precautions against harm to their person and property arising from Infigen's operation of overhead transmission lines in the region. The plaintiffs allege that Infigen failed to take reasonable precautions in this regard and as a result the **Currandooley fire** commenced and caused the plaintiffs and group members to suffer damage.

The plaintiffs' claims are made on their own behalf and on behalf of group members. The allegations are detailed in the Amended Statement of Claim filed on 23 June 2017. Infigen denies liability in respect of the allegations and is defending the action on various grounds.

3. Are you a group member?

Group members include persons who:

- (a) suffered personal injury (whether physical injury or psychiatric harm) as a result of the Currandooley fire;
- (b) suffered loss of or damage to property as a result of the Currandooley fire;
- (c) suffered economic loss consequential upon personal injury or property damage; or
- (d) are the legal personal representative of the estates of any persons in (b) or (c) above as at the commencement of this proceeding but have since died.

Group members do not include persons who have suffered only economic loss as a result of the Currandooley Fire.

4. What is opt out?

The Plaintiffs in representative proceedings do not need to seek 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" of the representative proceedings. If you have been included as a group member in the Currandooley Fire Representative Action 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 representative proceeding, the following

three options are available to you:

Option 1: 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 the Currandooley Fire, you should contact Maddens Lawyers to tell them what your loss and damage is, as follows:

Postal: Brendan Pendergast
 Maddens Lawyers
 PO BOX 320
 Warrnambool VIC 3280

Email: acb@maddenslawyers.com.au

Group members who register with the Plaintiff's solicitors will be bound by the outcome of the representative proceeding. If the representative 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 representative 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 Maddens Lawyers to act for you as a client, you may wish to contact Maddens to "**register**" as a group member to ensure that future notices about the representative 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 representative proceeding. The plaintiffs 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 plaintiffs 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 representative proceeding.

If you wish to bring your own claim against Infigen, 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 28 July 2017. 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 representative action **are not** legally liable for the legal costs associated with bringing the proceedings, but may in some circumstances be called upon to contribute a sum by way of security for legal costs of the Defendant.

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 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 representative 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 plaintiffs in running the representative proceeding but which are not able to be recovered from Infigen. The plaintiffs will ask the Court to make such an order if the occasion arises; and
- (c) Representative 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 Amended Statement of Claim and Defence, may be 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) inspecting them by visiting the Registry of the Supreme Court in Sydney at Level 5, Law Courts Building, Queens Square, 184 Phillip Street, Sydney NSW or on the Supreme Court website

(http://www.supremecourt.justice.nsw.gov.au/supremecourt/sco2_class_action/).

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 plaintiffs' 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 28 July 2017.

This notice is published pursuant to Orders made by the Supreme Court on 29 June 2017.