

COURT OF NEW SOUTH WALES

Joe Cachia v DPG Services Pty Ltd (previously known as Principal Healthcare Finance No 3 Pty Ltd)

No. 2018/68746

IMPORTANT PUBLIC NOTICE

Quakers Hill Nursing Home Class Action

On 2 March 2018 Joe Cachia ("**the Plaintiff**") commenced this representative proceeding in the Supreme Court of New South Wales against DPG Services Pty Ltd ("**the Defendant**"). The proceeding arises out of the alleged injury and loss suffered by close family members of residents of Quakers Hill Nursing Home who died in or as a result of fires ("**the fires**") deliberately lit in the nursing home by an employed registered nurse, Roger Dean, on 18 November 2011 ("**Quakers Hill Nursing Home Class Action**").

The Supreme Court of NSW has ordered that this Notice be published for the information of individuals who might be group members on whose behalf this representative action is brought and who may be affected by it.

If you think that 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 a proceeding that is brought by the Plaintiff on his own behalf and also on behalf of a group of people ("**the 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 in the representative proceeding unless they choose to not participate by "opting out" of the proceeding. This means that:

- (a) if the representative proceeding is successful, group members may be eligible for a share of any settlement monies or Court-awarded damages;
- (b) if the representative proceeding is unsuccessful, group members are bound by that result; and
- (c) regardless of the outcome of the representative proceeding, 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 Quakers Hill Nursing Home Class Action?

The Quakers Hill Nursing Home Class Action is brought by the Plaintiff on his behalf and on behalf of all persons who are group members as defined in the proceeding.

In September 2011, Roger Dean commenced employment with the Defendant as a registered nurse at the Quakers Hill Nursing Home. He worked on night shifts. In the early hours of the morning of 18 November 2011, Roger Dean lit a fire in beds in Ward 19 of the A2 Wing and Ward 3 of the A1 wing of the Quakers Hill Nursing Home. The fires took hold and destroyed part of the nursing home buildings which housed the A Wing. A substantial roof collapse occurred in the A1 Wing.

The Plaintiff alleges that the Defendant is liable to the Plaintiff by reason of negligence, breach of contract and/or breach of the Australian Consumer Law by the Defendant in:

- (a) employing registered nurse Roger Dean;
- (b) failing to supervise Roger Dean;
- (c) permitting Roger Dean to work unsupervised;
- (d) allowing Roger Dean unrestricted access to the treatment room where Schedule 8 medication was stored;
- (e) failing to exclude Roger Dean from the nursing home after 16 November 2011.

The Plaintiff claims that by reason of the failures of the Defendant described above, his mother Emmanuela Cachia and 13 other nursing home residents died in or as a result of the fire.

The Plaintiff claims that he and group members suffered injury and loss as a result of the death of their close family members who were residents of the nursing home at the time of the fire.

The Defendant has not accepted liability for the loss and harm claimed by the Plaintiff and has not yet filed a defence to the proceedings.

3. Are you a Group Member?

You are a group member if you are a “close family member” of a resident of Quakers Hill Nursing Home who died in or as a result of the fire, and you have suffered an injury by way of psychiatric illness in consequence of that death.

You are a close family member if you are:

- (a) a parent of a deceased nursing home resident or other person with parental responsibility for a deceased resident, or
- (b) the spouse or partner of a deceased nursing home resident, or
- (c) a child or stepchild of a deceased nursing home resident or any other person for whom a deceased resident has parental responsibility, or
- (d) a brother, sister, half-brother or half-sister, or stepbrother or stepsister of a deceased nursing home resident.

4. What is Opt Out?

The Plaintiff in a representative proceeding does not need to seek the consent of group members to commence a representative proceeding on their behalf or to identify a specific group member. However, group members can cease to be group members by opting out of the representative proceeding. If you have been included as a group member of the Quakers Hill Nursing Home Class 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 any injury and loss which you claim to have suffered as a result of the death of

your relative in or as a result of the fire at the Quakers Hill Nursing Home, you should contact Shine Lawyers to tell them what your injury and loss is, as follows:

Post:	Mr James Chrara	Shine Lawyers
	Shine Lawyers	Level 6
	PO BOX 589	299 Elizabeth Street
	Darlinghurst NSW 1300	Sydney NSW 2000

Website: www.shine.com.au

Telephone: 13 11 99

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 Shine Lawyers to act for you as a client, you may wish to contact Shine 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 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 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 completion an “Opt Out Notice”. 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 the Defendant, you should seek your own legal advice about your claim and the applicable limitation period or time limit before opting out.

You must decide what to do BEFORE 4pm on Wednesday 25 July 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 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 Shine 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 Plaintiff in running the representative proceeding but which are not able to be recovered from DPG. The Plaintiff 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. Further Information

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact the Plaintiff's lawyer, Shine Lawyers at www.shine.com.au or by calling **13 11 99**, or seek your own legal advice.

Copies of the Amended Statement of Claim and other relevant documents (including the Defence to the Amended Statement of Claim, the orders of the Court regarding this notice and directions for the ongoing conduct of the proceedings) may be obtained by:

- (a) downloading them from <http://www.shine.com.au>; or
- (b) inspection them, by appointment, between 9.00am and 5.00pm at an office of Shine Lawyers, details for which are available by calling **13 11 99**; or
- (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/Pages/sco2_classaction/sco2_class_action.aspx

DO NOT DELAY TAKING LEGAL ADVICE OR MAKING A DECISION BECAUSE THE DEADLINE FOR OPTING OUT IS 4PM ON WEDNESDAY 25 JULY 2018.

This Notice is published pursuant to orders of the Supreme Court made on 31 May 2018.

OPT OUT NOTICE

COURT DETAILS

Court	Supreme Court of New South Wales
Division	General
Registry	Sydney Registry
Case number	2018/68746

TITLE OF PROCEEDINGS

First Plaintiff	Joe Cachia
Defendant	DPG Services Pty Ltd

FILING DETAILS

Filed for

[person opting out of representative proceedings]

Legal representative

Legal representative reference

Contact name and telephone

Contact email

OPT OUT NOTICE

Name of person opting out

Address of person opting out

I, a group member in these representative proceedings, opt out of the proceedings.

I understand that in opting out:

- a) I forego the right to share in any relief obtained by the representative party in the representative proceedings;
- b) I am not entitled to receive any further notification about the conduct or disposition of the proceedings; and

- c) To the extent that I have a claim against the Defendant(s), any limitation period suspended by the commencement of the representative proceedings has recommenced to run.

SIGNATURE

Signature of legal representative

OR

Signature of or on behalf of
person opting out if not legally
represented

Capacity

[eg solicitor, authorised officer of person opting out,
person opting out]

Date of signature

NOTICE TO PERSON OPTING OUT

You must, within the time specified in the notice to group members:

- 1 file this form in the registry of the court at the address below, or in the manner provided in the notice to group members; and
- 2 serve a copy of this form on the representative party at the address, or in the manner provided, in the notice to group members.

REGISTRY ADDRESS

Street address	Supreme Court of NSW Law Courts Building, Queen's Square 184 Phillip Street Sydney NSW 2000
Postal address	Supreme Court of NSW GPO Box 3 Sydney NSW 2001
DX	Supreme Court of NSW DX 829 Sydney
Telephone	1300 679 272