

SHORT MINUTES OF ORDER

COURT DETAILS

Court	Supreme Court of NSW
Division	Common Law
List	General
Registry	Sydney
Case number	2014/00223271

TITLE OF PROCEEDINGS

Plaintiff	David Moore
Defendant	Scenic Tours Pty Ltd

PREPARATION DETAILS

Prepared for	David Moore , plaintiff
Legal representative	Benjamin Hemsworth Somerville Legal
Legal representative reference	CG:23951
Contact name and telephone	Cameron Graham
Contact email	cgraham@somervillelegal.com.au

DATE OF SHORT MINUTES OF ORDER

Date	28 February 2020
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The Court orders:

- 1 The plaintiff have leave to file a Fourth Further Amended Statement of Claim in the form provided to the Court, on or before Friday, 6 March 2020.
- 2 A declaration that all passengers who:
 - a. travelled on any of cruises 1-9 (incl) & 11 (as those cruises are identified in the table in paragraph 13 of the reasons for judgment dated 31 August 2017); and
 - b. booked and paid for those cruises from within Canada, the United States of America, Thailand or New Zealand, to a 'Scenic Tours' incorporated entity affiliated with, or related, but separate to, the defendant;("the International Passengers")
are eligible group members within the meaning of paragraph 2 of the Fourth Further Amended Statement of Claim.

- 3 An order pursuant to s 162(3) of the *Civil Procedure Act 2005* (NSW) (“the Act”), fixing 29 May 2020 as the date by which the International Passengers and guests from Vanuatu who entered into contracts with the defendant in the relevant period (“the Vanuatu Guests”) may opt out of the proceedings (hereafter the “opt out date”).
- 4 An order pursuant to ss 175(1)(a) and 176(1) of the Act that the Court approves the form and content of the proposed Opt Out Notice to the International Passengers and Vanuatu Guests (“the Notice”).
- 5 An order pursuant to s 176(2) of the Act that the Notice is to be given to the International Passengers and Vanuatu Guests in the following way:
 - a. On or before 17 April 2020, the plaintiff is to send a copy of the Notice by email to the International Passengers and Vanuatu Guests in respect of whom email addresses are known;
 - b. On or before 17 April 2020, the plaintiff is to send a copy of the Notice by regular prepaid post to the International Passengers and Vanuatu Guests in respect of whom email addresses are not known, but postal addresses are known;
 - c. By no later than 17 April 2020, the plaintiff’s solicitor is to cause the Notice to be displayed on the firm’s website, and is to cause the Notice to remain displayed until the opt out date.
- 6 An order that if the legal representatives of either party receive a document purporting to be an opt out notice on or before the opt out date, the legal representatives are to file the notice within 14 days of receipt whereupon the document is to be treated as a regularly received opt out notice pursuant to the Court’s orders.