

NOTICE OF MOTION

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
List	Civil
Registry	Sydney
Case number	2014/223271

TITLE OF PROCEEDINGS

Plaintiff	David Moore
Defendant	Scenic Tours Pty Ltd

FILING DETAILS

Person seeking orders	David Moore , the plaintiff
Filed in relation to	Plaintiff's claim
Legal representative	Benjamin Hemsworth Somerville Legal
Legal representative reference	CG:23951
Contact name and telephone	Cameron Graham, (02) 9923 2321
Contact email	cgraham@somervillelegal.com.au

PERSON AFFECTED BY ORDERS SOUGHT

Scenic Tours Pty Ltd, the defendant

HEARING DETAILS

This motion is listed at

ORDERS SOUGHT

Damages awards

- 1 An order pursuant to section 177(1)(e) of the *Civil Procedure Act 2005* (NSW) for an award of damages (together with interest) for group members pursuant to section 267(3)(b) of the *Australian Consumer Law* (“the Reduction in Value Damages”).
- 2 An order pursuant to section 177(1)(f) of the *Civil Procedure Act 2005* (NSW) for an award of damages (together with interest) in an aggregate amount for the disappointment and distress of group members, pursuant to section 267(4) of the *Australian Consumer Law* (“the Distress Damages”).
- 3 An order pursuant to section 177(1)(f) of the *Civil Procedure Act 2005* (NSW) for an award of damages (together with interest) in an aggregate amount for the airfares of group members, pursuant to section 267(4) of the *Australian Consumer Law* (“the Airfare Damages”).

Constitution of a fund

- 4 An order pursuant to sections 178(1)(a) and 183 of the *Civil Procedure Act 2005* (NSW) that a fund be constituted and administered in accordance with such fund distribution scheme as the Court may approve (“the Fund”), with such fund to include an order in the nature of a funding equalisation order or expense sharing order.
- 5 An order pursuant to section 178(1)(b) of the *Civil Procedure Act 2005* (NSW) that the defendant pay the Reduction in Value Damages, the Distress Damages, and the Airfare Damages (collectively, “the Damages”) into the Fund.
- 6 An order pursuant to section 177(4) of the *Civil Procedure Act 2005* (NSW) that group members may make a claim for payment from the Fund in accordance with the terms of the Fund.
- 7 An order pursuant to section 177(2) of the *Civil Procedure Act 2005* (NSW) that payment of the Damages be made to group members from the Fund in accordance with the terms of the Fund.
- 8 An order pursuant to sections 168(1) and 169(1) of the *Civil Procedure Act 2005* (NSW) providing for a time by which any individual group member may bring forward any further individual claim for damages.

- 9 An order pursuant to sections 175(5), 176(2) and/or 178(3)(a) of the *Civil Procedure Act 2005* (NSW) that a notice (“the Notice”) be given to group members of:
- a. The award of the Damages;
 - b. The constitution of the Fund;
 - c. Group members’ right to make a claim for payment from the Fund; and
 - d. Group members’ right to bring forward any further individual claim for damages.
- 10 An order pursuant to section 176(1) of the *Civil Procedure Act 2005* (NSW) that the Court approve the form and content of the Notice.
- 11 An order pursuant to section 178(2) of the *Civil Procedure Act 2005* (NSW) that the costs of the administration of the Fund be borne by the defendant.
- 12 Costs.
- 13 Such other orders as the Court thinks fit.

SIGNATURE

Signature of legal representative



Capacity

Solicitor

Date of signature

31 July 2020

NOTICE TO PERSON AFFECTED BY ORDERS SOUGHT

If you do not attend, the court may hear the motion and make orders, including orders for costs, in your absence.

REGISTRY ADDRESS

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