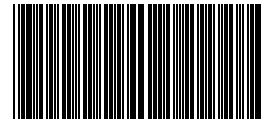




Filed: 26 June 2019 3:44 PM



D00015ETOF

Reply (UCPR 8)

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Commercial
Registry	Supreme Court Sydney
Case number	2019/00101980

TITLE OF PROCEEDINGS

First Plaintiff	GREENSHADES PASTORAL CO. PTY LTD ACN 003951933
First Defendant	Hardi Australia Pty Ltd ACN 076150617

FILING DETAILS

Filed for	GREENSHADES PASTORAL CO. PTY LTD, Plaintiff 1
Legal representative	Peter John Long
Legal representative reference	
Telephone	0477 419 164

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Lodge Document, along with any other documents listed below, were filed by the Court.

Reply (UCPR 8) (26 06 19 Reply.pdf)

[attach.]

Form 8 (version 5)
UCPR 14.4

REPLY

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Equity
List	Commercial List (Class Actions)
Registry	Sydney
Case number	2019/00101980

TITLE OF PROCEEDINGS

Plaintiff	GREENSHADES PASTORAL CO. PTY. LTD ACN 003 951 933
Defendant	HARDI AUSTRALIA PTY LTD ACN 076 150 617

FILING DETAILS

Filed for	Greenshades Pastoral Co. Pty Ltd, Plaintiff
Legal representative	Peter John Long, RURAL LAW with Peter Long
Legal representative reference	181437
Contact name and telephone	Peter Long, 0477 419 164
Contact email	peter@rurallawyer.com.au

PLEADINGS AND PARTICULARS

1. In relation to paragraphs 10(a)(ii)(C), 18(c)(iii), 20(b)(iii)(C) and 25(c)(e) of the Defendant's Defence filed 5 June 2019, the Plaintiff denies that the Warranty Terms pleaded therein has the effect pleaded by the Defendant for the following reasons:
 - (a) lack of consideration moving from the Defendant to the Plaintiff and Group Members to purchase the bargain from the Warranty Terms relied upon; and/or
 - (b) lack of consent to the Warranty Terms relied upon by the Defendant; and/or
 - (c) it is not lawful to exclude liability arising from contraventions of the ACL; and/or
 - (d) on its proper construction, the Warranty Terms do not exclude liability for the claim brought in respect of the Unit.

2. In relation to paragraphs 26 to 30 of the Defendant's Defence filed 5 June 2019, the Plaintiff says that:
- (a) these paragraphs as pleaded are vague and embarrassing and the Plaintiff is unable properly to respond to them;
 - (b) says further that:
 - (i) it used Carruthers Machinery Co., a member of the Defendant's Dealer Network, to provide maintenance services as required from time to time in respect of its Unit;
 - (ii) it was provided with maintenance services by Carruthers Machinery Co.;
 - (iii) it denies that the loss and damage suffered by it was avoided or reduced by it utilising the maintenance services referred to in paragraphs 26 and 27 thereof;
 - (iv) it denies that it failed to take reasonable care; and
 - (v) the Group Members:
 - (A) used members of the Defendant's Dealer Network to provide maintenance services as required from time to time in respect of their Units;
 - (B) were provided with maintenance services by those members of the Defendant's Dealer Network;
 - (C) suffered loss and damage that was not avoided or reduced by them utilising the maintenance services referred to in paragraphs 26 and 27 thereof; and
 - (D) deny they failed to take reasonable care.

SIGNATURE OF LEGAL REPRESENTATIVE

I certify under clause 4 of Schedule 2 to the [Legal Profession Uniform Law Application Act 2014](#) that there are reasonable grounds for believing on the basis of provable facts and a reasonably arguable view of the law that the claim for damages in this reply has reasonable prospects of success.

Signature

A handwritten signature in black ink, appearing to be 'P. J. [unclear]', written in a cursive style.

Capacity

Solicitor on Record

Date of signature

26 June 2019

AFFIDAVIT VERIFYING

Name Rosalyn Hicks
 Address [REDACTED]
 Occupation Farmer and Grazier
 Date 26th June 2019

I say on oath:

- 1 I am a Director of the Plaintiff.
- 2 I believe that the allegations of fact contained in the Reply are true.
- 3 I believe that the allegations of fact that are denied in the Reply are untrue.

SWORN at Young NSW

Signature of deponent

R Hicks

Name of witness

SOPHIE CATHERINE DAVIDSON

Address of witness

118 MAYOH PLACE YOUNG NSW 2594

Capacity of witness

~~Solicitor~~/Justice of the Peace

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
 #I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering. 1
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
 #I have confirmed the deponent's identity using the following identification document:

Drivers Licence NSW 2142A0

Identification document relied on (may be original or certified copy)²

Signature of witness

S Davidson

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

[¹ The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]