

PLAINTIFF'S CHRONOLOGY

COURT DETAILS

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

TITLE OF PROCEEDINGS

Plaintiff **David Moore**

Defendant **Scenic Tours Pty Limited**

CHRONOLOGY OF EVENTS

Date	Event	Reference
30 June 2009	Scenic Tours Pty Ltd ("Scenic") enters into services agreement with Scenic Tours Europe AG	CB Vol. 5; 1356 – 1392.
12 October 2009	Scenic Rivercruise AG & Riverland Cruises AG enter into Fleet Management Contract (Nautical and Technical) with KD Branch office Limassol. (Addendums added throughout period 17 Jan 2010 to 24 September 2012)	CB Vol. 5; 1393 – 1412.
October 2011	David Moore obtains marketing and promotional material for European river cruises offered by Scenic.	CB Vol. 3; 548. CB Vol. 3; 562 – 781.
15 December 2011	David Moore books PACR310513.1 and paid a deposit of \$500.00. At the time of paying the deposit, David Moore becomes bound to the terms and conditions of Scenic	CB Vol. 3; 549. CB Vol. 3; 773, 782.

	This tour incorporated the Jewels of Europe River Cruise from Amsterdam to Budapest (“ AMS-BUD ”)	
March 2012	Scenic Tours Europe AG enters into time charter agreement re MS Amadeus Silver	CB Vol. 5; 1442 – 1457.
10 May 2012	Richard Britten books FRCR190513.1 and paid the deposit at the time of booking. This cruise was on the South of France Route (“ South of France ”). At the time of paying the deposit, Richard Britten becomes bound to the terms and conditions of Scenic	CB Vol. 2; 422. CB Vol. 2; 439 - 440.
16 May 2012	Harold Childs books STC030613.1. [AMS - BUD]	CB Vol. 2; 293. CB Vol. 2; 310 - 311.
13 June 2012	Martin Willems contacts Evergreen Tours to book the Cruise	CB Vol. 2; 218.
13 June 2012	Martin Willems receives email from Evergreen Tours enclosing Quotation and requests deposit of \$6,000.00 by 19 June 2012.	CB Vol. 2; 218. CB Vol. 2; 237 – 240.
19 June 2012	Martin Willems receives email from Evergreen Tours enclosing Booking Advice requesting deposit of \$6,000.00 by 23 June 2012.	CB Vol. 2; 218. CB Vol. 2; 245 - 248.
19 June 2012	Martin Willems pays deposit to book EGRC080613.1 this incorporated the Jewels of Europe River Cruise from Budapest to Amsterdam (“ BUD – AMS ”). At the time of paying the deposit, Martin Willems becomes bound to the terms and conditions of Scenic. [BUD - AMS]	CB Vol. 2; 219.
2 October 2012	Frank Holgye books STC270513.1. At the time of booking Frank Holgye paid the initial deposit of \$6,110.00. At the time of paying the deposit,	CB Vol. 2; 399.

	Frank Holgye becomes bound to the terms and conditions of Scenic. [AMS - BUD]	
5 October 2012	Andrew Cairncross books STC270513.1. At the time of booking Andrew Cairncross pays the initial deposit of \$3,110.00. [AMS - BUD]	CB Vol. 2; 354.
22 November 2012	Riverland Cruises AG, KD Cruise Services Ltd enter contracts of agency & services with AGIS)	CB Vol. 5; 1518 - 1531
31 January 2013	Richard Britten makes final payment to Scenic. [South of France]	CB Vol. 2; 422. CB Vol. 2; 446.
30 April 2013	Lucas Sandmeier reports to Melanie Koch that the rising water levels on the Rhone were jeopardizing cruising. Tarascon could not be reached. [South of France]	CB Vol. 5: 1535
30 April 2013	Another cruise operator (Circuit Travel) records that the Rhone and Saone rivers were being affected by high water levels. [South of France]	CB Vol. 5: 1532
30 April 2013	Justin Brown informs Aleisha Fittler that the Saone river is impossible to get to. [South of France]	CB Vol. 5: 1534
April 2013	Richard Britten is provided with a booklet containing the Scenic Terms and Conditions, Map and Itinerary. [South of France]	CB Vol. 2; 422. CB Vol. 2; 449 – 468.

1 May 2013	Sylvie Alison (Tour Guide) indicates that "water levels still rising and river closed to all passenger ships". [South of France]	CB Vol. 5; 1585 – 1605.
1 May 2013	Melanie Koch advises that the lock between Chateauneuf and Avignon was about to be closed due to very high water levels. [South of France]	CB Vol. 5: 1538.
2 May 2013	Sylvie Alison (Tour Guide) indicates that "River still rising. Cannot sail between Tarascon and Avignon" and that the "ship will not be able to sail back to Saone on Saturday due to the high water". [South of France]	CB Vol. 5; 1585 – 1605.
3 May 2013	Sylvie Alison (Tour Guide) indicates that the "Water level on the Rhone is still rising and the Ship is unable to sail from Avignon tomorrow to get back to Chalon for embarkation on Monday". [South of France]	CB Vol. 5; 1585 – 1605.
3 May 2013	Another cruise operator (Circuit Travel) records that water levels are continuing to increase on the Rhone and that river authorities halted all ships from navigating the river. [South of France]	CB Vol. 5: 1541.
4 May 2013	Sylvie Alison (Tour Guide) indicates that "The captain informed me this morning that we would not be sailing today – he has been ordered by his superiors to stay in Avignon". [South of France]	CB Vol. 5; 1585 – 1605.
4 May 2013	Melanie Koch advises several people that due to high water the Saone is closed.	CB Vol. 5: 1546 – 1547.

	[South of France]	
4 May 2013	Alexandra Graeff advises that the empty sailing previously scheduled from Avignon to Chalon sur Saone is impossible. The river Saone is closed to all passenger ships due to high water! [South of France]	CB Vol. 5: 1548 – 1549.
5 May 2013	Alexandra Graeff advises Kim Scoular that the Rhone situation is not getting any better and that sailing to Lyon is actually impossible. [South of France]	CB Vol. 5: 1543 – 1544.
6 May 2013	Another cruise operator (Circuit Travel) acknowledges that the sudden rise in temperature has caused snows of the past European winter to melt rapidly causing high water levels in the river Rhone. [South of France]	CB Vol. 5: 1555.
6 May 2013	Scenic advised customers that there was flooding and that the cruise would be operated in the opposite direction. [South of France]	CB Vol. 5: 1563.
6 May 2013	Sylvie Alison (Tour Guide) indicates that she started her briefing with an explanation of the non-sailing situation and re-arranging the program. [South of France]	CB Vol. 5; 1585 – 1605.
6 May 2013	Kim Scoular advises that due to high water levels currently on River Saone, the sailing of all passenger ships has been suspended. [South of France]	CB Vol. 5: 1558 – 1559.

6 May 2013	Scenic receives a complaint (indirectly) from a guest expressing a preference for cancellation of the tour, rather than a bus tour of France.	CB Vol. 5; 1563.
6 May 2013	<p>Lucas Sandmeier advises Justin Brown that the British guests who have been informed when still in England have chosen not to fly to France at all and have cancelled.</p> <p>Sandmeier asks Brown what is Scenic's position on reimbursing the unused portion of the cruise.</p> <p>Brown's response is not to offer refunds to guests who cancel, although Chris (Townson) may offer 'action' to UK guests.</p> <p>[South of France]</p>	CB Vol. 5: 1556; 1562.
7 May 2013	<p>Sylvie Alison (Tour Guide) indicates that the Police had advised that Scenic were breaking the law by docking in Avignon during a period of high water.</p> <p>[South of France]</p>	CB Vol. 5; 1585 – 1605.
7 May 2013	<p>Lucas Sandmeier sends email to Leo Beilmann regarding sailing schedule subject to water conditions. It foresees to stay in Avignon through May 9, and hopefully the situation has eased by then and will enable cruising north.</p> <p>[South of France]</p>	CB Vol. 5: 1571.
8 May 2013	<p>Sylvie Alison (Tour Guide) indicates that "at present the river is closed downstream".</p> <p>[South of France]</p>	CB Vol. 5; 1585 – 1605.
8 May 2013	<p>Leo Beilmann advises Lucas Sandmeier that sailing to Tarascon is impossible at the moment because the water has overflowed the pontoon.</p> <p>[South of France]</p>	CB Vol. 5; 1572 – 1573.

9 May 2013	Sylvie Alison (Tour Guide) indicates that it is "still impossible to navigate downstream today. Unable to sail today". [South of France]	CB Vol. 5; 1585 – 1605.
9 May 2013	Alexandra Graeff advises Scoular and others that the Scenic Emerald is still stuck in Avignon and that sailing upstream is not possible. [South of France]	CB Vol. 5: 1574 – 1575.
10 May 2013	Sylvie Alison (Tour Guide) indicates that locks in Valence have been closed because of high water and that sailing was not possible with passengers on board. [South of France]	CB Vol. 5; 1585 – 1605..
10 May 2013	Commencement of the Relevant Period	CB Vol. 1: 71.
11 May 2013	Sylvie Alison (Tour Guide) indicates that passengers (despite feeling ill) were unable to stay on board and that there was no re-opening of the waterways for navigation with passengers.	CB Vol. 5; 1585 – 1605.
11 May 2013	Another cruise operator (Circuit Travel) acknowledges that passenger vessels are not allowed to move any further from Viviers towards Tournon and that the ban on the movement of passenger vessels will continue. It is estimated that there is "not much hope" that a ship scheduled to embark on 13 May will be able to sail along the Seine. [South of France]	CB Vol. 5: 1576 – 1577.
16 May 2013	David Moore received a copy of the Itinerary for the cruise following full payment. [AMS – BUD]	Exhibit DM-1 to the Affidavit of David Moore sworn 2 June 2015; page 229 –

		234; CB Vol. 3; 790 – 795.
16 May 2013	Letter sent from Scenic to client's advising of High Water levels on the Rhone & Saone, resulting in a revised itinerary. [South of France]	CB Vol. 5: 1579.
18 May 2013	The 'Avalon Scenery' ship makes it to Viviers, before getting stuck there.	CB Vol. 5; 1582 – 1584.
19 May 2013	FRCR190513.1 embarks [South of France]	CB Vol.4; 1145 – 1146.
20 May 2013	STC200513.2 embarks [BUD – AMS]	CB Vol.4: 1059 – 1060.
20 May 2013	Yvonne De Sera (Tour Director) indicates that on the "river cruise embarkation day" she has informed passengers of the water situation (the high water level) and that they will not be sailing to Tournus. [South of France]	CB Vol. 5; 1585 – 1605.
21 May 2013	Yvonne De Sera (Tour Director) indicates that she had received confirmation from the Captain that cruising could only be undertaken early to Macon due to high water levels. [South of France]	CB Vol. 5; 1585 – 1605.
22-30 May 2013	First Captain of the Scenic Emerald reports that the ship is forced to stay in the Saone area during this period due to high water.	CB Vol. 5; 1738 – 1739.
23 May 2013	Yvonne De Sera (Tour Director) indicates that she had to pass information onto passengers about high water and altered programs. [South of France]	CB Vol. 5; 1585 – 1605.

24 May 2013	Lucas Sandmeier advises Justin Brown that the critical water level for Pont la Feuillee is 2.65m and the current level is 3.15m. [South of France]	CB Vol. 5: 1606.
24 – 28 May 2013	As the ship was stuck in Macon, all excursions were done for Macon.	CB Vol. 5; 1648 – 1650.
25 May 2013	Alexandra Graeff advises that due to high water the river Saone is closed to all passenger ships. [South of France]	CB Vol. 5: 1626.
25 May 2013	EGFC250513.1 embarks [AMS – BUD]	CB Vol.4: 1283 – 1284.
26 May 2013	Lucas Sandmeier advises Justin Brown (in email titled 'Rooms booked in Avignon) that there was "nochance (sic) for the ship to move. Water level is raising." Chances are slim to continue sailing. [South of France]	CB Vol. 5: 1632.
26 May 2013	Lucas Sandmeier advises Justin Brown that the ship is still stick in Macon. [South of France]	CB Vol. 5: 1648.
26 May 2013	Patrick Doyle (Cruise Director of STC200513.2) records that the River Main is closed, with high water threatening program. [BUD - AMS]	CB Vol. 5; 1814 – 1818.
27 May 2013	Patrick Doyle records cruise STC200513.2 is being weather affected. [BUD-AMS]	CB Vol. 5; 1814 – 1818.
27 May 2013	Marin Dimow records variation for STC200513.1 as a result of rising river levels on Danube	CB Vol. 5; 1805 – 1813.

	[AMS – BUD]	
27 May 2013	Sandmeier informs Leo Beillmann of temporary disembarkation of guests from Scenic Emerald	CB vol. 5; 1633 – 1634.
27 May 2013	STC270513.1 embarks [AMS – BUD]	CB Vol.4; 1057 - 1058
27 May 2013	STC270513.2 embarks [BUD – AMS]	CB Vol.4; 1059 - 1060
28 – 31 May 2013	Partial, if not complete closures on the Main River, at Steinbach, Wurzburg and Schweinfurt. STC200513.2 remains in Bamberg. [AMS - BUD][BUD - AMS]	CB Vol. 6: 2109 – 2114.
28 May 2013	Leo Beilmann informs Sandmeier that although water was definitely going down, the level along the River Saone was still too high to cruise south in the next hours. Lock Couzon won't be possible to sail through. Pont de La Feuillie still too high. [South of France]	CB Vol. 5; 1651.
28 May 2013	Melanie Koch advises that Scenic Emerald is stuck in Macon. [South of France]	CB Vol. 5; 1649 - 1650
29 May 2013	STC290513.1 embarks [AMS - BUD]	CB Vol.4; 1057 - 1058
29 May 2013	STC290513.2 embarks [BUD - AMS]	CB Vol.4; 1059 - 1060
29 May 2013	David Moore arrives in Paris, France for the commencement of the Tour	CB Vol. 3; 550.

	[AMS - BUD]	
29 May 2013	<p>Lucas Sandmeier advises that the Scenic Emerald is still in Macon and provides details of water levels at Pont de Feuillee in Lyon for safe passage. At the time of the email, safe passage is not possible.</p> <p>[South of France]</p>	CB Vol. 5: 1681 – 1682.
29 May 2013	<p>Marin Dimow records Scenic Crystal (STC200513.1) had to wait in front of the Lock Kachlet (5km before Passau).</p> <p>[AMS – BUD]</p>	CB Vol. 5; 1805 – 1813.
29 May 2013	<p>Lucas Sandmeier advised that STC200513.2 is still stuck in Bamberg (and had been since 25/05/13) due to high water levels and that the Scenic Jewel will not likely be able to make it to Amsterdam in time for embarkation of STC270513.1.</p> <p>[AMS - BUD]</p>	CB Vol. 5: 1697 – 1698.
29 May 2013	<p>Justin Brown seeks advice from Emma Lindsay about the UK Travel package regulations and its effect on the terms and conditions of Scenic. Emma Lindsay advises Justin Brown that the UK Travel package regulations “trump” Scenic’s Terms and Conditions.</p> <p>Emma Lindsay subsequently indicates to Justin Brown that UK passengers “certainly aren’t as easy as the Aussie guests”.</p> <p>[South of France]</p>	CB Vol. 5: 1652 – 1655.
29 May 2013	<p>In response to indication from Melanie Koch that certain guests were wanting to leave the group, Justin Brown explains to Melanie Koch and Donna Willis (with reference to the</p>	CB Vol. 5; 1666 – 1667.

	FRCR190513.1 cruise) that Scenic won't offer refunds or compensation if guests choose to leave tours.	
29 May 2013	Nevena Robertova emails Lucas Sandmeier, expressing concerns about having to run parts or all of EGFC250513.1 as a "land tour"	CB Vol. 5; 1745.
30 May 2013	Letter from Scenic Tours indicating adverse weather conditions over the past few months have caused various levels of disruption to all forms of navigation on many major European waterways. [South of France][AMS - BUD][BUD - AMS]	CB Vol. 5: 1717A
30 May 2013	Scenic Jewel (STC200513.2) is stuck in Bamberg & won't make it to Amsterdam in time for disembarkation. [AMS - BUD][BUD - AMS]	CB Vol.5: 1722A – 1722C.
30 May 2013	Alexandra Graeff advises Angus Chrichton & another (Evergreen) that the water level on the Main has increased since yesterday again and that the ship could be stuck in Wurzburg for 4 days (4 June). [AMS - BUD]	CB Vol. 5: 1722 – 1725.
30 May 2013	Email from Emma Lindsay to Kim Scoular regarding cancellation of cruises and UK Travel package regulations and its effect on cruises. [South of France]	CB Vol. 5: 1726 – 1727.
31 May 2013	Other cruise operators (APT) indicated that River Main is closed altogether and various bridges are impassable.	CB Vol. 5: 1740.
31 May 2013	The Avalon Luminary is stuck in Frankfurt	CB Vol. 5; 1746 – 1749.

1 June 2013	The Scenic Jewel is stuck in Bamberg. The Scenic Sapphire is stuck in Melk.	CB Vol. 5: 1762.
1 June 2013	Prior to leaving Paris for Amsterdam, David Moore receives a letter from Scenic advising of high water levels, the necessity for a ship swap and impacts on all river cruises in that region. [AMS - BUD]	CB Vol. 3; 550, 796.
1 June 2013	Lucas Sandmeier advises Justin Brown (and others) that navigation on the Main river has stopped and that there is high water levels on the Rhone/Saone, Rhine, Danube (where a lock in Melk is closed) and Main-Danube Canal (where the canals between Danube and Main Rivers may be closed). [AMS - BUD][BUD - AMS][South of France]	CB Vol. 5: 1744.
1 June 2013	Kim Scoular advised guests that Scenic had experienced high was levels on several European waterways which prevented navigation.	CB Vol. 2; 295. CB Vol. 2; 316.
2 June 2013	Justin Brown notes that Avalon and Viking have started to cancel cruises.	CB Vol. 5; 1775.
2 June 2013	Lucas Sandmeier advises Justin Brown that the water level in Basel is increasing significantly. Coblence (Germany) forecasted to be closed for navigation on Monday (3 June) [AMS - BUD][BUD - AMS]	CB Vol. 5: 1780 – 1782.
2 June 2013	David Moore leaves Paris for Amsterdam [AMS - BUD]	CB Vol. 3; 550.
2 June 2013	Justin Brown advises Kim Scoular that the situation worsens on the Rhine/Main and that	CB Vol. 5: 1776

	<p>cancellation should be considered as Scenic may not be able to make land alternatives part of their strategy.</p> <p>[AMS - BUD][BUD - AMS]</p>	
2 June 2013	<p>Justin Brown advises Lucas Sandmeier that Scenic's advantage is that they have their cruises underway in comparison to their competitors (Avalon & Viking).</p> <p>Anticipates that, beyond Tuesday (4/6), one option is to offer guests a partial refund and to return home.</p> <p>[AMS - BUD][BUD - AMS]</p>	CB Vol. 5: 1777
2 June 2013	<p>Justin Brown advises that moving to land (coach and hotel) is challenging and capacity is limited.</p> <p>[AMS - BUD][BUD - AMS]</p>	CB Vol. 5: 1775.
3 June 2013	<p>STC030613.1 embarks</p> <p>[AMS - BUD]</p>	CB Vol.4; 1057 - 1058
3 June 2013	<p>STC030613.2 embarks</p> <p>[BUD - AMS]</p>	CB Vol.4; 1059 - 1060
3 June 2013	<p>Other cruise operators (APT) note that the Main and Danube is closed altogether and the Rhine will probably be closed from 3 June 2013.</p> <p>[AMS - BUD][BUD - AMS]</p>	CB Vol. 5: 1796.
3 June 2013	<p>David Moore is advised by Patrick Doyle of Scenic that the "Scenic Jewel had been stuck in Bamberg for 8 days."</p> <p>[AMS - BUD]</p>	Affidavit of David Moore sworn 2 June 2015; page 4; paragraph 22; CB Vol. 3; 550.
3 June 2013	<p>By 3 June 2013, Scenic has 4 ships stuck due to high water levels:</p>	CB Vol. 5: 1802.

	<p>Scenic Pearl (STC290513.2)</p> <p>Scenic Sapphire (STC270513.2)</p> <p>Scenic Diamond (STC290513.1)</p> <p>Scenic Jewel (STC270513.1)</p> <p>[AMS - BUD][BUD - AMS]</p>	
3 June 2013	<p>Evergreen's Amadeus Silver is currently docked at Wurzburg</p>	CB Vol. 6; 1872.
3 June 2013	<p>Alexandra Graeff advises Kim Scoular that bridges in Salzburg are closed and that Cesky Krumlov is under water.</p> <p>[AMS - BUD]</p>	CB Vol. 6: 1942 – 1945.
4 June 2013	<p>Kim Scoular notes that the Czech Government has declared a state of emergency in response to widespread flooding in most regions of Bohemia</p>	CB Vol. 6; 1855 – 1857.
4 June 2013	<p>APT cancels cruises due to “unprecedented flooding in Central Europe that is causing major disruptions to both towns and waterways”.</p>	CB Vol. 6: 1870.
4 June 2013	<p>Viking cancels 9 June ('Viking Prestige') cruise (from Budapest to Nuremburg)</p>	CB Vol. 5; 1821 – 1822.
4 June 2013	<p>APT cancels cruises commencing 6, 7 and 8 June 2013 due to safety concerns due to high flood waters and inability to offer itinerary close to what is brochure.</p>	CB Vol. 5: 1836.
4 June 2013	<p>Circuit Travel reports flooding along town centers along rivers Main & Danube.</p> <p>City centers closed in Prague, Regensburg & Passau.</p>	CB Vol. 5; 1826 – 1830.
4 June 2013	<p>Angus Crichton sends email to Glen Moroney and Justin Brown enclosing a daily bulletin</p>	CB Vol. 6: 1859 – 1866.

	regarding flooding disrupting river cruises in Central Europe.	
4 June 2013	<p>Lucas Sandmeier reports re-opening for navigation of various rivers is very uncertain. Passau (along Upper Danube) has experienced its highest water level in 600 years.</p> <p>Justin Brown responds by explaining Scenic's position as to customers who wish to "exit" cruises: those wanting to leave would be facilitated. Scenic would only cancel if it couldn't offer reasonable services and there was a risk to the planned disembarkation place & time.</p>	CB Vol. 5; 1823 - 1825
4 June 2013	<p>Lucas Sandmeier sends email to Angus Crichton requesting they provide update to passengers in Prague "to avoid the airport assistant in Budapest having to break the news".</p> <p>[BUD - AMS]</p>	CB Vol. 6: 1869.
4 June 2013	Justin Brown tells Glen Moroney that guests (on the 10 & 12 June) scheduled cruises who voluntarily want to cancel could do so without penalty. Scenic had not advertised that option.	CB Vol. 6; 1851 – 1852.
4 June 2013	Kim Scoular emails Justin Brown, preparing for calls from agents and guests. Anticipates first few days of EGRC080613.1 will be accommodated in hotel. If guests are anxious about departure, can look to assisting them to later sailing in 2013-14, with the possibility of offering refunds.	CB Vol. 6; 1847 – 1850.
4 June 2013	Justin Brown sends email to Donna Willis & Kim Scoular regarding 10 and 12 June 2013 cruises and the unexpected high water situation which has impacted navigation.	CB Vol. 6: 1840.

	<p>Brown tells them that in response to queries about voluntary cancellation, Scenic would provide a full refund, but its position was to operate next week's cruises.</p> <p>[AMS - BUD][BUD - AMS]</p>	
4 June 2013	<p>Scenic had acknowledged that certain individuals could cancel their cruise if requested.</p> <p>Brown tells Scoular, Willis & others that if guests request cancellation of bookings for 10 & 12 June, Scenic would agree to this.</p> <p>Evergreen would also accept requests for cancellation on 8 June.</p>	CB Vol. 6: 1854.
4 June 2013	<p>Martin Willems received update from Evergreen Tours that the Amadeus Silver is stuck in Wurzburg and that there would be a variation to [BUD - AMS]</p>	<p>CB Vol. 2; 220 - 221.</p> <p>CB Vol. 2; 259.</p>
5 – 8 June 2013	<p>Full closures along Main River, Danube (German Border), Danube (Vienna) and Danube (Budapest)</p>	CB Vol. 6; 2109 – 2114.
5 June 2013	<p>Evergreen informs its passengers on the cruise scheduled to commence on 8 June 2013 (Amadeus Silver, docked in Wurzburg) that their itinerary will commence with land touring for at least the first 48-72 hours.</p> <p>[AMS - BUD]</p>	CB Vol. 6: 1899 – 1900.
5 June 2013	<p>Scenic were aware that the Upper Danube was experiencing severe flooding and that Passau had reached its highest point in 600 years. Indicates that there will be a minimum of 4 stationary days.</p>	CB Vol. 6: 1876
5 June 2013	<p>Circuit Travel records Rhine closed between Bonn & Strasburg, Main River closed between</p>	CB Vol. 6; 1877 – 1881.

	Mainz and Bamberg, Danube Canal closed entirely between Bamberg & Regensburg	
6 June 2013	Kim Scoular (for Evergreen Tours) distributes letter to passengers advising that the continuing high water levels on the river Main and the localised flooding in these areas is making navigation impossible for Amadeus Silver (EGFC250513.1). [BUD - AMS]	CB Vol. 6; 1950.
6 June 2013	George Dracos (Passenger) emails Glen Moroney regarding cruise and particularly correspondence received from Lucas Sandmeier indicating knowledge of adverse weather conditions over the preceding months. [South of France]	CB Vol. 6; 1913 – 1915.
6 June 2013	Email from Glen Moroney to Justin Brown indicating that Lucas Sandmeier admitted to passengers there was bad weather much earlier than guests' departure from home. [AMS - BUD][BUD - AMS][South of France]	CB Vol. 6: 1920.
6 June 2013	Motorway between Passau and Regensburg was closed affecting coach travel.	CB Vol. 6: 2001.
6 June 2013	Uniwold Cruises indicate cancellation of cruises on 7 June & 9 June, indicating intent to issue full refund and provision of \$500 credit.	CB Vol. 6; 1954.
6 June 2013	David Moore is advised by Patrick Doyle (Cruise Director) that due to rising river levels, the cruise was unable to proceed up the Rhine Gorge and as a result the boat would be returning to Koblenz. [AMS - BUD]	CB Vol. 3; 552.

6 June 2013	Justin Brown advises Scenic Guests that current high water levels in Europe has dramatically impacted sailing.	CB Vol. 2; 296. CB Vol. 2; 321.
7 June 2013	<p>Angus Crichton tells Lucas Sandmeier & others that the Amadeus Silver, scheduled to cruise on 8 June 2013, may only get 6-7 days cruising, almost 50%.</p> <p>He advises recipients of his message to work on passengers' "European dreams", making sure they get to experience "as much as possible, but just on a different form of transport".</p> <p>[BUD - AMS]</p>	CB Vol. 6: 1969.
7 June 2013	<p>Anna Wolfsteiner email to various people indicates expectation that the ships scheduled to embark at Budapest on 10 & 12 June won't be able to embark on those dates.</p> <p>The situation on the Danube continues to be a concern. Flooding may not allow for uninterrupted cruising on 10 & 12 June departures.</p>	CB Vol. 6; 1955.
7 June 2013	<p>Justin Brown indicates items taken into consideration for cancellation of cruises and acknowledges that passengers had deviations and missed itinerary items.</p> <p>Indicates that an "equitable" refund will be given to all guests.</p>	CB Vol. 6: 1958.
7 June 2013	<p>Kim Scoular indicates that river levels are dropping in the Main, but there are still parts of the river that are not navigable.</p> <p>Peak water levels are expected in Budapest on 9-10 June.</p>	CB Vol. 6: 1960.

	<p>Ship STC270513.1 is only able to sail as far as Vienna or Krems.</p> <p>Ship STC100613.2, scheduled to embark in Budapest will now embark in Vienna.</p> <p>[AMS - BUD][BUD - AMS]</p>	
7 June 2013	<p>David Moore is advised by Patrick Doyle (Cruise Director) that the rivers were too high and that they could not cruise from this location. He advised that they would be abandoning this ship and boarding the Scenic Jewel in Wurzburg.</p> <p>[AMS - BUD]</p>	<p>Affidavit of David Moore sworn 2 June 2015; page 7; paragraph 41; CB Vol. 3; 553.</p>
7 June 2013	<p>Martin Willems contacts Scenic to enquire as to river navigation and advises that he does not wish to spend 2 weeks on a coach.</p>	<p>CB Vol. 6: 1975A – 1975Q.</p>
7 June 2013	<p>Mr and Mrs Gould seek to come home from Tour and they are advised that they will get a full refund of tour price.</p>	<p>CB Vol. 6: 2129 – 2137.</p>
7 June 2013	<p>Letter sent to travel agents notifying clients on scheduled cruise STC100613.2 that Scenic Space-Ship will not be able to sail into Budapest due to high water levels, and that clients would be put up at the Four Seasons Hotel for one night and would join the ship at Vienna.</p>	<p>CB Vol. 6; 1973.</p>
7 June 2013	<p>Lucas Sandmeier provides river update for several people. Stretch between Bingen and Bad Salzig (along Rhine) not open for navigation. Various parts along Danube closed.</p>	<p>CB Vol. 6; 1976 – 1977.</p>
8 June 2013	<p>EGRC080613.1 embarks</p> <p>[BUD - AMS]</p>	<p>CB Vol.4; 38 - 39</p>
8 June 2013	<p>Martin Willems is advised by Herbert Huetter (Cruise Director) of Evergreen Tours that they</p>	<p>Affidavit of Martinus John Willems sworn</p>

	<p>will remain in Budapest for a period of 2 days and then be transferred to the ship by bus.</p> <p>[BUD - AMS]</p>	<p>23 April 2015; page 11 - 12; paragraph 58; CB Vol. 2; 225 - 226.</p>
8 June 2013	<p>David Moore is transferred from the Spaceship Ruby to the Scenic Jewel</p> <p>[AMS - BUD]</p>	<p>Affidavit of David Moore sworn 2 June 2015; page 7 - 8; paragraph 43 - 48; CB Vol. 3; 553 - 554.</p>
8 June 2013	<p>Sandmeier river update to several people.</p> <p>Only daylight cruising allowed along Main River; Lock Hausen (between Bamberg & Nuremberg, along Main-Danube Canal) closed during work.</p> <p>Various parts along Danube closed.</p>	<p>CB Vol. 6; 1985 – 1986.</p>
9 June 2013	<p>David Moore is advised by Patrick Doyle (Cruise Director) that they would be stationary in Bamberg for a couple of days waiting for the river levels to subside prior to cruising.</p> <p>[AMS - BUD]</p>	<p>Affidavit of David Moore sworn 2 June 2015; page 9; paragraph 54; CB Vol. 3; 555.</p>
9 June 2013	<p>Sandmeier advises Graeff and Koch that the ships will not be able to reach Budapest for embarkation of <u>STC120613.2</u>. He states that the first night of the cruise will be in Budapest and the second day of the cruise would be a city tour of Budapest followed by transfer to ship at a location to be advised. It shows variations of 2 of 15 days.</p>	<p>CB Vol. 6; 1989A.</p>
9-14 June 2013	<p>There are full closures along the Danube German Border, Danube (Vienna) and Danube (Budapest)</p>	<p>CB Vol. 6; 2109 – 2114.</p>
10 June 2013	<p>STC100613.1 embarks</p> <p>[AMS - BUD]</p>	<p>CB Vol.4; 1057 - 1058</p>

10 June 2013	STC100613.2 embarks [BUD - AMS]	CB Vol.4; 1059 - 1060
10 June 2013	<p>Lucas Sandmeier river update to several people.</p> <p>Faulbach (along the Main River) closed.</p> <p>Bamberg to lock Hausen (along Main-Danube-canal) closed.</p> <p>Various parts along Danube closed. Between Vienna and Budapest, reopening for navigation expected to be no earlier than Weds (12 June)</p> <p>Between Budapest and Mohacs (Hungary) reopening for navigation is to be no earlier than Sat (15 June).</p> <p>Sandmeier records Hungarian Government declaring state of emergency for 3 counties, including Budapest.</p>	CB Vol. 6; 1987 – 1988.
10 June 2013	<p>Justin Brown advises Glen Moroney that there were a number of unplanned stationary days for cruises commencing on 27 and 29 May 2013 and that STC030613 is stuck in Bamberg and will not be able to cruise for at least 48 hours.</p> <p>[AMS - BUD][BUD - AMS]</p>	CB Vol. 6: 2002.
10 June 2013	<p>Justin Brown indicates to Glen Maloney that cruises STC270513.1, 270513.2, 290513.1 & 290513.2 have a major loss of sailing days (at least 50%) and missed attractions. Anticipates demands for refunds and, in this regard, Brown proposes refunds of \$150 per person per lost day.</p> <p>Moroney tells Brown that circumstances were beyond Scenic's control and that claims should be forwarded to the travel insurer.</p> <p>[AMS - BUD]</p>	CB Vol. 6: 1995 – 1996.

10 June 2013	<p>Justin Brown emails to Lucas Sandmeier an attachment revealing <u>non-sailing</u> days for Scenic cruises (as at 7 June):</p> <p>STC 270513.1: 10 days</p> <p>STC 270513.2: 6 days</p> <p>STC 290513.1: 10 days</p> <p>STC 290513.2: 8 days</p>	CB Vol. 6; 1999 – 2000.
11 June 2013	<p>Lucas Sandmeier advises that the Main-Danube Canal remains closed, the water authorities have extended the navigation ban on the upper Danube, various locks on the Danube remain closed, the Danube running through Slovakia remains closed and the flooding is scheduled to peak between Hungary and Budapest, which cruise path is expected to be closed until Saturday (15/6).</p> <p>[AMS - BUD][BUD - AMS]</p>	CB Vol. 6: 2012 – 2014.
11 June 2013	<p>Scenic Jewel is still stationary in Bamberg.</p> <p>[AMS - BUD]</p>	Affidavit of David Moore sworn 2 June 2015; page 9; paragraph 56; CB Vol. 3; 555.
11 June 2013	<p>APT updates travel agents, advising parts of the Main and Danube rivers and Main-Danube canals continue to be affected.</p>	CB Vol. 6; 2022 – 2023.
12 June 2013	<p>STC120613.1 embarks</p> <p>[AMS - BUD]</p>	CB Vol.4; 1057 - 1058
12 June 2013	<p>STC120613.2 embarks</p> <p>[BUD - AMS]</p>	CB Vol.4; 1059 - 1060
12 June 2013	<p>David Moore is advised by Patrick Doyle (Cruise Director) that they would be required to travel</p>	CB Vol. 3; 555 - 556.

	<p>from Bamberg to Vienna on 13 June 2013 to enact a further ship swap.</p> <p>[AMS - BUD]</p>	
12 June 2013	<p>APT river update records Ennshafen (part of Danube) is closed. Although the Main River is open, there is much delay for passenger ships.</p>	CB Vol. 6; 2027.
13 June 2013	<p>APT river update refers to closure along Danube (Kelheim to Regensburg & Regensburg to Vilshofen), with a lot of traffic and delay along the Main River.</p>	CB Vol. 6; 2067.
13 June 2013	<p>Kim Scoular advises Justin Brown and Donna Willis about the number of missed items on STC290513.1 and possible compensation.</p> <p>[AMS - BUD]</p>	CB Vol. 6: 2054.
13 June 2013	<p>Sandmeier email to several people notes information received that the off-shore terminal of the lock in Altenworth (between Melk and Vienna) was washed out as a result of the floods, and is threatening to collapse. For this reason, the lock remained closed through to June 18.</p> <p>Also, the ban on navigation between Vienna and Budapest will not be lifted prior to midday, June 14.</p>	CB Vol. 6; 2050 – 2051.
13 June 2013	<p>Further email by Sandmeier. High water levels reached again along Main-Danube-Canal, resulting in regular stoppage of navigation. Lock between Krems and Tulln is not operating until June 19.</p> <p>Scenic Jewel (STC030613.1) stuck in Bamberg</p>	CB Vol. 6; 2052 – 2053.

13 June 2013	Viking Cruises records that Altenworth lock (along the Danube) is damaged and closed for repairs until 20 June.	CB Vol. 6; 2067.
14 June 2013	Sonia Gioranelli email to Angus Chrichton (& anor) records EGRC080613.1 could not sail to Regensburg.	CB Vol. 6; 2068 – 2070.
9 July 2013	Alexandra Graeff advises Justin Brown that <u>STC270513.1</u> only operated as scheduled for days 1 – 4 of 15 day cruise. [AMS - BUD]	CB Vol. 6; 2255 – 2256.
11 July 2013	Tour itinerary variation (Mr & Mrs Chalmers) for <u>EGFC250513</u> , revealing variation of 9 out of 15 days. [AMS- BUD]	CB Vol. 6; 2126 – 2128.
19 July 2013	Tour itinerary variation (Mr and Mrs Britten) for <u>FRCR190513</u> which shows a variation on 10 of 14 days. [South of France]	CB Vol. 2; 433. CB Vol. 2; 499 – 501.
22 July 2013	Tour itinerary variation (Mr & Mrs Wilson) for <u>STC290513.1</u> , revealing variation of 11 of 14 days [AMS – BUD]	CB Vol. 6; 2149 – 2151.
23 July 2013	Tour itinerary variation for <u>STC 270513.2</u> , shows variation of 8 of 15 days [BUD – AMS]	CB Vol. 6; 2157 – 2158.
24 July 2013	Tour itinerary variation (Mr & Mrs Daly) for <u>PACP240513.1</u> which shows a variation on 10 of 14 days. [South of France]	CB Vol. 6; 2176 – 2178.

24 July 2013	Tour itinerary variation (Mr and Mrs Kerr) for <u>STC290513.2</u> shows variation of 7 of 15 days	CB Vol. 6; 2182 – 2183.
25 July 2013	Letter from Warwick & Marilyn Shaw to Scenic Tours regarding <u>STC100613.2</u> which shows a variation on 6 of 15 days.	CB Vol. 6; 2191 – 2193.
26 July 2013	Tour itinerary variation (Mr and Mrs Childs) for <u>STC030613.1</u> which shows a variation on 10 of 15 days. [AMS - BUD]	CB Vol. 2; 303. CB Vol. 2; 347 - 348.
31 July 2013	Tour itinerary variation (Mr and Mrs Holgye) for <u>STC270513.1</u> which shows a variation on 11 of 15 days. [AMS - BUD]	CB Vol. 2; 412 – 416.
Late July 2013	Tour itinerary variation (Mr & Mrs Moore) for <u>PACR310513.1</u> which shows a variation on 10 of 15 day cruise [AMS - BUD]	CB Vol. 3; 558. CB Vol. 3; 813 - 814.
23 August 2013	David Moore received confirmation from Cover-More insurance of partial payment based on a letter provided by Scenic Tours for missed attractions and daylight cruising experience. [AMS - BUD]	CB Vol. 3; 559. CB Vol. 3; 821 - 823.
24 September 2013	Scenic sends letter to Mr & Mrs Madigan enclosing itinerary variation for <u>EESC200513.1</u> which shows a variation on 10 of 15 days. [AMS - BUD]	CB Vol. 6: 2203 – 2205.
17 July 2015	Tour Notes of Eric De Jong for <u>STC120613.1</u> which shows a variation on 3 of 15 days.	CB Vol. 6; 2093 – 2098.
Undated	Tour Itinerary Variation for <u>EGRC080613.1</u> which shows a variation on 8 of the 15 days.	CB Vol. 7; 2853 – 2855.

	[BUD - AMS]	
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SIGNATURE

Signature of legal representative



Capacity

Solicitor

Date of signature

19 April 2016