

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 2
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 23/02/2023 8:38:49 AM AEST
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File Number: QUD66/2023
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v
RACQ INSURANCE LIMITED ACN 009 704 152
Registry: QUEENSLAND REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Originating Process

Federal Court of Australia
District Registry: Queensland
Division: General

No. QUD of 2023

IN THE MATTER OF RACQ INSURANCE LIMITED
ACN: 009 704 152

Australian Securities and Investments Commission

Plaintiff

RACQ Insurance Limited ACN 009 704 152

Defendant

A. DETAILS OF APPLICATION

This application is made under ss 12DF, 12GBA, and 12GBB of the *Australian Securities and Investments Commission Act 2001* (Cth) (the **ASIC Act**) and ss 19, 21, and 43 of the *Federal Court of Australia Act 1976* (Cth) (the **Federal Court Act**).

These proceedings relate to alleged contraventions of s 12DF(1) of the ASIC Act, comprising conduct by the Defendant (**RACQ**) which was liable to mislead the public as to the nature and/or characteristics of a financial service.

Defined terms used in this Originating Process have the same meaning as that given in the accompanying Concise Statement, dated 23 February 2023.

On the facts stated in the Concise Statement, the Plaintiff seeks:

1. A declaration that, during the Relevant Period, RACQ, in trade or commerce, engaged in conduct that was liable to mislead the public as to the nature or characteristics of a financial service, in contravention of s 12DF(1) of the ASIC Act, on numerous occasions, by publishing statements in 14 different PDSs to the effect that customers would be entitled to receive certain discounts on the total premium payable for an RACQ Insurance Product if they satisfied certain criteria when, in fact, those discounts would not be applied to that part of the total premium payable by a customer relating to certain Optional Benefits Covers selected by the customer, or to the additional

Filed on behalf of the Plaintiff, ASIC
Prepared by: James Docherty
AGS lawyer within the meaning of s 55I of the *Judiciary Act 1903*

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premium charged by RACQ for household insurance purchased for unoccupied properties.

2. Orders pursuant to:

(a) s 12GBA (as in force prior to 13 March 2019); and

(b) s 12GBB (as in force on and from 13 March 2019),

of the ASIC Act that RACQ pay to the Commonwealth of Australia such pecuniary penalties as the Court determines to be appropriate in respect of RACQ's contraventions of s 12DF(1) of the ASIC Act, as set out in paragraph 1 above.

3. Orders pursuant to s 12GLB(1)(a) of the ASIC Act requiring RACQ to, within 30 days, publish at its own expense a written adverse publicity notice and an audio-visual adverse publicity notice on the terms and in the manner which the Court determines to be appropriate, on the following webpages maintained by it for a period of 90 days:

(a) <https://racq.com.au>; and

(b) <https://racq.com.au/about-us/news-and-media>.

4. An order, pursuant to s 43 of the Federal Court Act, that RACQ pay the Plaintiff's costs of and incidental to the proceeding.

5. Such further or other orders as the Court considers appropriate.

Date: 23 February 2023

James Rutherford Docherty

AGS lawyer

for and on behalf of the Australian Government Solicitor

Lawyer for the Plaintiff

This application will be heard by at the Harry Gibbs Commonwealth Law Courts Building, 119 North Quay, Brisbane, Queensland at *am/*pm on

B. NOTICE TO DEFENDANT

TO: RACQ Insurance Limited (ACN 009 704 152)
RACQ Corporate Offices and Operations Centre
2649 Logan Road
Eight Mile Plains, QLD, 4113



If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given;
- (b) directions may be given for the future conduct of the proceeding;
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

Note Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

C. FILING

Date of filing: 23 February 2023

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Registrar

This originating process is filed by the Australian Government Solicitor, for the Plaintiff.

D. SERVICE

The Plaintiff's address for service is:

Place: The Australian Government Solicitor
Level 34, 600 Bourke Street
Melbourne VIC 3000

Email: james.docherty@ags.gov.au / jessica.thrower@ags.gov.au

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It is intended to serve a copy of this Originating Process, and the accompanying Concise Statement, on the Defendant.