

## NOTICE OF FILING AND HEARING

### Filing and Hearing Details

Document Lodged:	Originating Application - Form 15 - Rule 8.01(1)
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	20/05/2025 4:05:20 PM AEST
Date Accepted for Filing:	20/05/2025 4:10:15 PM AEST
File Number:	VID635/2025
File Title:	AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v RESIMAC LIMITED (ACN 002 997 935)
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



A handwritten signature in blue ink that reads "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 APPLICATION

Form 15

Rules 8.01(1); 8.04(1)

No: of 2025

Federal Court of Australia  
District Registry: Melbourne  
Division: General

**Australian Securities and Investments Commission**  
Applicant

**Resimac Limited (ACN 002 997 935)**  
Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

**Time and date for hearing:**

**Place:** 305 William Street  
Melbourne, Victoria 3000

The Court ordered that the time for serving this application be abridged to

Date: 20 May 2025

Signed by an officer acting with the authority  
of the District Registrar

Filed on behalf of (name & role of party)	Australian Securities and Investments Commission (Applicant)		
Prepared by (name of person/lawyer)	John Fogarty	Ref	451775/2
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## Details of claim

A This is an application for:

- 1.1 declaratory relief pursuant to section 166(2) of the *National Consumer Credit Protection Act 2009* (Cth) (**Credit Act**) and/or section 21 of the *Federal Court of Australia Act 1976* (Cth) (**Federal Court Act**);
- 1.2 orders for pecuniary penalties pursuant to sections 167(1) and (2) of the Credit Act;
- 1.3 adverse publicity orders pursuant to section 182 of the Credit Act;
- 1.4 costs; and
- 1.5 such further or other orders as the Court sees fit.

B The legislative basis of the Court's jurisdiction to hear the application and to grant the relief sought is found in section 187 of the Credit Act and/or sections 21 and 23 of the Federal Court Act.

On the grounds stated in the accompanying Concise Statement, the Applicant (**ASIC**) claims:

## Declarations

1. A declaration that the Respondent (**Resimac**) contravened sections 47(1)(a) and 47(4) of the Credit Act between 1 January 2022 and 15 February 2024 (**Relevant Period**) by:
  - (a) engaging in a practice whereby Resimac typically responded to hardship notices (also referred to as **hardship applications**) made under s 72(1) of the *National Credit Code* by debtors who were vulnerable (**Vulnerable Debtors**) by requiring them to return, in writing, a completed statement of financial position form and supporting documentation (together, **Standard Information**), without Resimac assessing whether all of the Standard Information was relevant and reasonably necessary, in the circumstances of a Vulnerable Debtor and by reference to information already known or communicated to Resimac about the Vulnerable Debtor, to deciding whether the debtor was or would be unable to meet the debtor's obligations under the credit contract or how to change the credit contract if the debtor was or would be unable to meet those obligations; and
  - (b) failing to have in place, or to apply, an adequate set of policies and procedures that:
    - i. was tailored to support the management of its hardship function insofar as that management related to the conduct referred to in (a) above;
    - ii. ensured that the practice of requesting Standard Information from Vulnerable Debtors was varied in appropriate cases; and
    - iii. ensured that an extra level of care was consistently provided to Vulnerable Debtors who gave hardship notices.
2. A declaration that Resimac contravened sections 47(1)(a) and 47(4) of the Credit Act in the Relevant Period by:
  - (a) engaging in a practice whereby Resimac typically did not assess, and instead summarily rejected, hardship applications made by Vulnerable Debtors under s 72(1) of the Code if the debtor returned none of the Standard Information within the required timeframe without regard to the circumstances of the Vulnerable Debtor or information held by Resimac in



respect of the Vulnerable Debtor, and without considering alternatives to the practice of summarily rejecting hardship applications in such circumstances; and

- (b) failing to have in place, or to apply, an adequate set of policies and procedures that was tailored to support the management of its hardship function insofar as that management related to the conduct referred to in (a) above and that ensured the practice of rejecting hardship applications by Vulnerable Debtors who provided none of the Standard Information was varied in appropriate cases.
3. A declaration that Resimac contravened sections 47(1)(k) and 47(4) of the Credit Act by:
- (a) during the Relevant Period, failing to have adequate arrangements and systems to ensure compliance with its obligations under s 47(1)(a) of the Credit Act insofar as those obligations concerned requesting information in relation to, and assessing, hardship notices given under s 72(1) of the Code; and
  - (b) during that part of the Relevant Period prior to October 2023, failing to have a written plan that documented those arrangements and systems.

#### **Pecuniary penalties**

4. An order pursuant to sections 167(1) and (2) of the Credit Act that Resimac pay a pecuniary penalty to the Commonwealth for its contraventions of section 47(4) of the Credit Act, fixed at an amount the Court considers is appropriate.

#### **Other orders**

5. An adverse publicity order pursuant to section 182 of the Credit Act that requires Resimac to:
- (a) disclose the contraventions the subject of the declarations in paragraphs 1, 2 and 3 above, and the circumstances giving rise to those contraventions; and
  - (b) publish by form, means and channels to be determined by the Court, at Resimac's own expense, those disclosures.
6. An order that Resimac pay ASIC's costs.
7. Such further or other orders as the Court considers appropriate.

#### **Applicant's address**

The Applicant's address for service is:

Place: DLA Piper Australia, Level 14, 80 Collins Street, Melbourne VIC 3000

Email: john.fogarty@dlapiper.com

The Applicant's address is: DLA Piper Australia, Level 14, 80 Collins Street, Melbourne VIC 3000

Service on the Respondent

It is intended to serve this application on the Respondent.

Date: 20 May 2025

A handwritten signature in black ink, appearing to read 'Jwf', is written over a horizontal dotted line.

Signed by John Fogarty  
**DLA Piper Australia**  
Lawyer for the Applicant