

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 11/04/2022 10:27:58 AM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged:	Originating Application - Form 15 - Rule 8.01(1)
File Number:	VID181/2022
File Title:	AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION v DARRANDA PTY LTD (ACN 005 663 561) & ANOR
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



Dated: 11/04/2022 11:36:17 AM AEST

A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

As required by the Court's Rules, 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 Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.

Form 15
Rules 8.01(1); 8.04(1)



Originating application

No. of 2022

Federal Court of Australia
District Registry: Victoria
Division: General

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Applicant

DARRANDA PTY LTD (ACN 005 663 561)

First Respondent

RENT4KEEPS (AUST) PTY LTD (ACN 006 507 811)

Second Respondent

To the Respondents

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:

Date:

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
Georgina Thomas

Prepared by (name of person/lawyer)

Lawyer, Australian Securities and Investments Commission

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Address for service
(include state and
postcode)

Attention: Georgina Thomas
Level 7, 120 Collins Street, Melbourne Vic 3000



Details of claim

On the grounds stated in the Concise Statement, the Applicant claims:

Rate Cap declarations

1. Pursuant to ss 113 of the *National Credit Code* (**the Code**) and 21 of the *Federal Court of Australia Act 1976* (Cth) (**the Federal Court Act**), a declaration that, between 1 April and 30 June 2019 (**the Relevant Period**), the First Respondent (**Darranda**) entered into 533 contracts (**Hire Contracts**) that were credit contracts with an annual cost rate that exceeded 48% (**the Rate Cap**) in contravention of s 32A(1) of the Code.
2. Pursuant to s 21 of the Federal Court Act, a declaration that the Second Respondent (**Rent4Keeps**) was involved in each of Darranda's contraventions of s 32A(1) of the Code.
3. Pursuant to ss 113 of the Code and 21 of the Federal Court Act, a declaration that, during the Relevant Period, Darranda entered into 533 Hire Contracts that were credit contracts that exceeded the Rate Cap, being a monetary liability exceeding the amount that may be charged consistently with the Code in contravention of s 23(1) of the Code.
4. Pursuant to s 21 of the Federal Court Act, a declaration that Rent4Keeps was involved in each of Darranda's contraventions of s 23(1) of the Code.
5. Pursuant to ss 166 of the *National Consumer Credit Protection Act 2009* (Cth) (**the Credit Act**) and 21 of the Federal Court Act, a declaration that, during the Relevant Period, Darranda entered into 533 Hire Contracts that were credit contracts on terms imposing a monetary liability prohibited by s 23(1) of the Code in contravention of s 24(1) of the Code.
6. Pursuant to ss 166 of the Credit Act and 21 of the Federal Court Act, a declaration that Rent4Keeps was involved in each of Darranda's contraventions of s 24(1) of the Code and is thereby taken to have contravened s 24(1) of the Code pursuant to s 169 of the Credit Act.

Disclosure requirement declarations

7. Pursuant to ss 113 of the Code and 21 of the Federal Court Act, a declaration that during the Relevant Period, Darranda entered into 533 Hire Contracts that were credit contracts that failed to disclose the following matters in contravention of ss 17(3), (4), (5) and (6) respectively of the Code:
 - (a) the cash price of the goods;
 - (b) the annual percentage rate under the contract;
 - (c) the method of calculation of the interest charges payable under the contract;
 - (d) the total amount of interest charges payable under the contract.



8. Pursuant to s 21 of the Federal Court Act, a declaration that Rent4Keeps was involved in each of Darranda's contraventions of ss 17(3), (4), (5) and (6) of the Code.

General obligations declarations

9. Pursuant to ss 166 of the Credit Act and 21 of the Federal Court Act, a declaration that, during the Relevant Period, on each of the 533 occasions that Darranda entered into a Hire Contract, it failed to do all things necessary to ensure that the credit activities authorised by its licence were engaged in efficiently, honestly and fairly in contravention of s 47(1)(a) of the Credit Act by, among other things, adopting and implementing a business model and processes that included using standard form contracts that contained gifting clauses, that it never intended to, and never did, enforce, as a device to avoid the obligations that apply to credit contracts so as to generate financial reward for itself at the expense of its clients.
10. Pursuant to ss 166 of the Credit Act and 21 of the Federal Court Act, a declaration that Rent4Keeps was involved in each of Darranda's contraventions of s 47(1)(a) of the Credit Act and is thereby taken to have contravened s 47(1)(a) of the Credit Act pursuant to s 169 of the Credit Act.

Pecuniary penalties

11. Pursuant to s 167 of the Credit Act and/or s 113 of the Code, Darranda pay pecuniary penalties in respect of its contraventions of ss 32A(1), 23(1), 24(1), 17(3), 17(4), 17(5) and 17(6) of the Code and s 47(1)(a) of the Credit Act.
12. Pursuant to s 167 of the Credit Act, Rent4Keeps pay pecuniary penalties in respect of its contraventions of s 24(1) of the Code and s 47(1)(a) of the Credit Act.

Injunctions

13. Pursuant to s 177 of the Credit Act, an injunction restraining Darranda from:
- (a) entering into contracts substantially in the form of its standard form contracts; and
 - (b) using the Quick Rental Calculator to determine the price payable for contracts substantially in the form of its standard form contracts or for any other credit contracts.
14. Pursuant to s 177 of the Credit Act, an injunction restraining Rent4Keeps from authorising its franchisees including Darranda to:
- (a) enter into contracts substantially in the form of its standard form contracts; and
 - (b) use the Quick Rental Calculator to determine the price payable for contracts substantially in the form of its standard form contracts or for any other credit contracts.

**Other orders**

15. An order that the Respondents pay the Applicant's costs.
16. Such further or other orders as the Court considers appropriate.

Applicant's address

The Applicant's address for service is:

Attention: Georgina Thomas, Level 7, 120 Collins Street, Melbourne Vic 3000

Email: georgina.thomas@asic.gov.au

The Applicant's address is Level 7, 120 Collins Street, Melbourne Vic 3000.

Service on the Respondents

It is intended to serve this application on all Respondents.

Date: 11 April 2022

A handwritten signature in blue ink, appearing to be 'G. Thomas'.

Signed by Georgina Thomas
Australian Securities and Investments
Commission

Lawyer for the Applicant