

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating Application Starting a Representative Proceeding under Part IVA
Federal Court of Australia Act 1976 - Form 19 - Rule 9.32

Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)

Date of Lodgment: 8/08/2024 3:12:46 PM AEST

Date Accepted for Filing: 8/08/2024 3:21:18 PM AEST

File Number: NSD1010/2022

File Title: LEAH MAREE GREENTREE & ANOR v JAGUAR LAND ROVER
AUSTRALIA PTY LTD ACN 004 352 238

Registry: NEW SOUTH WALES 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.



Consolidated originating application starting a representative proceeding under Part IVA of the Federal Court of Australia Act 1976

No. NSD 1010 of 2022

Federal Court of Australia

District Registry: NSW

Division: General

Leah Maree Greentree and others named in Schedule 1

Applicants

Jaguar Land Rover Australia Pty Ltd (ACN 004 352 238)

Respondent

To the Respondent

The Applicants apply for the relief set out in this consolidated application.

The Court will hear this consolidated 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: 184 Phillip Street, Sydney NSW 2000

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

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

Filed on behalf of	The Applicants
Prepared by	Lee Taylor / Matt Mackenzie
Law firm	Maurice Blackburn / Gilbert + Tobin (as agent)
Tel	(03) 9605 2700 Fax (03) 9258 9600
Email	ltaylor@mauriceblackburn.com.au; mmackenzie@gtlaw.com.au
Address for service	Level 21, 380 La Trobe St, Melbourne VIC 3000



Representative action

The Applicants bring this consolidated application as representative parties under Part IVA of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**).

The Group Members to whom this proceeding relates are described in paragraph 1 of the accompanying Consolidated Statement of Claim (**CSOC**), being persons who:

- (a) at any time during the period commencing on 1 July 2015 to the date upon which the CSOC was filed (**Relevant Period**), in Australia, acquired (by way of purchase or lease) a Jaguar or Land Rover motor vehicle having:
 - (i) a diesel combustion engine; and
 - (ii) a diesel exhaust after-treatment system designed to comply with emissions standards set out in EC (European Commission) Regulation No. 715/2007 (**Euro 6 Standards**); and
 - (iii) a:
 - (A) 'D8' vehicle platform;
 - (B) 'D7u' vehicle platform;
 - (C) 'D7a' vehicle platform;
 - (D) 'PTA' vehicle platform; or
 - (E) 'MLA' vehicle platform,**(Affected Vehicle)**; and
- (b) either:
 - (i) acquired the Affected Vehicle:
 - (A) from the Respondent (**JLR**), an authorised JLR dealership (**Dealer**) or other retailer (including used car dealers);
 - (B) other than by way of sale by auction; and
 - (C) other than for the purpose of re-supply; or



- (ii) acquired the Affected Vehicle other than for the purpose of re-supply from a person who acquired the Affected Vehicle in the circumstances described in subparagraph (b)(i) above; and
- (c) are not:
 - (i) a person described in subsection 33E(2) of the FCA Act; or
 - (ii) a Justice of the Federal Court of Australia or the High Court of Australia.

Details of claim

On the grounds stated in the CSOC, the Applicants claim the following relief on their own behalf and on behalf of Group Members:

1. an order or orders that the Respondent pay damages:
 - 1.1 pursuant to section 236 of Schedule 2 of the *Competition and Consumer Act 2010* (Cth), being the Australian Consumer Law (**ACL**), for loss and damage suffered by the Applicants and Group Members because of the Respondent's contraventions of sections 18, 29 and 33 of the ACL;
 - 1.2 pursuant to sections 271 and 272 of the ACL for:
 - (a) the reduction in the value of the Affected Vehicles resulting from the failure to comply with the guarantee as to acceptable quality in section 54 of the ACL; and
 - (b) other reasonably foreseeable loss or damage suffered by the Applicants and Group Members because of the failure to comply with the guarantee as to acceptable quality in section 54 of the ACL,

including, at the conclusion of the initial trial:

- 1.3 pursuant to subsection 33Z(1)(e) of the FCA Act, an award or awards of damages for Group Members, being damages consisting of specified amounts, or amounts worked out in such manner as the Court specifies, in respect of:
 - (a) all of the damages described in subparagraph 1.2(a) above to which Group Members are entitled; and



- (b) some of the damages described in subparagraph 1.2(b) above to which Group Members are entitled, being those heads of damages that are amenable to determination on a common basis; and
- 1.4 in the alternative to paragraph 1.3 above, pursuant to subsection 33Z(1)(f) of the FCA Act, an award of damages in an aggregate amount without specifying amounts awarded in respect of individual Group Members, in respect of:
- (a) all damages described in subparagraph 1.2(a) above to which Group Members are entitled; and
 - (b) some of the damages described in subparagraph 1.2(b) above to which Group Members are entitled, being those heads of damages that are amenable to determination on a common basis; and
2. interest pursuant to section 51A of the FCA Act;
3. costs; and
4. such other orders as the Court thinks fit.

Questions common to claims of Group Members

The questions of law or fact common to the claims of Group Members are set out in Schedule 2 hereto.



Schedule 1

Applicants

Second Applicant: Adam Greentree

Third Applicant: Michelle Jennings



Schedule 2

Questions common to claims of Group Members

Defined terms used in this schedule have the meanings ascribed to them in the CSOC.

The questions of law or fact common to the claims of the Group Members are:

1. Whether the Vehicle Defects were present in each Affected Vehicle that was supplied in the circumstances described in paragraph 1(b)(i) of the CSOC, at the time the Affected Vehicle was supplied.
2. Whether each Affected Vehicle that was supplied in the circumstances described in paragraph 1(b)(i) of the CSOC was subject to the statutory guarantee as to acceptable quality in section 54(1) of the ACL.
3. Whether the Affected Vehicles were of an acceptable quality, within the meaning of section 54 of the ACL, at the time they were supplied in the circumstances described in paragraph 1(b)(i) of the CSOC.
4. Whether JLR made:
 - 4.1 the Vehicle Representations; and
 - 4.2 the Future Vehicle Representations,
(Alleged Representations).
5. Whether the Alleged Representations were:
 - 5.1 misleading or deceptive, or likely to mislead or deceive, in contravention of section 18 of the ACL;
 - 5.2 false and misleading representations in contravention of subsections 29(1)(a) or 29(1)(g) of the ACL;
 - 5.3 liable to mislead the public as to the nature, characteristics, and/or suitability for purpose of the Affected Vehicles, in contravention of section 33 of the ACL.
6. Whether JLR engaged in the Omissions Conduct.
7. Whether the Omissions Conduct was:



- 7.1 misleading or deceptive, or likely to mislead or deceive, in contravention of section 18 of the ACL;
- 7.2 liable to mislead the public as to the nature, characteristics, and/or suitability for purpose of the Affected Vehicles, in contravention of section 33 of the ACL.
8. Whether Group Members are entitled to recover from JLR any damages of the kind described in section 272(1)(a) of the ACL.
9. In respect of any damages of the kind described in section 272(1)(a) of the ACL that Group Members are entitled to recover from JLR, whether it is appropriate to:
 - 9.1 make an award of damages for Group Members pursuant to section 33Z(1)(e) of the FCA Act; or
 - 9.2 award damages in an aggregate amount pursuant to section 33Z(1)(f) of the FCA Act.
10. If it is appropriate to make an award of damages pursuant to section 33Z(1)(e) or section 33Z(1)(f) of the FCA Act in respect of any damages of the kind described in section 272(1)(a) of the ACL that Group Members may be entitled to recover from JLR:
 - 10.1 what is the appropriate form of the order awarding damages; and
 - 10.2 what is the appropriate quantum of damages to be awarded?
11. Whether Group Members are entitled to recover from JLR damages pursuant to section 272(1)(b) of the ACL in respect of loss or damage arising from excess GST paid in acquiring their Affected Vehicles and/or the costs of fuel consumed by the Affected Vehicles in excess of that which would have been consumed, but for the Vehicle Defects.
12. In respect of any damages of the kind described above in Question 11 that Group Members are entitled to recover from JLR, whether it is appropriate to:
 - 12.1 make an award of damages for Group Members pursuant to section 33Z(1)(e) of the FCA Act; or
 - 12.2 award damages in an aggregate amount pursuant to section 33Z(1)(f) of the FCA Act.



13. If it is appropriate to make an award of damages pursuant to sections 33Z(1)(e) or 33Z(1)(f) of the FCA Act in respect of any damages of the kind described above in Question 11 that Group Members are entitled to recover from JLR:
 - 13.1 what is the appropriate form of the order awarding damages; and
 - 13.2 what is the appropriate quantum of damages to be awarded?
14. Whether Group Members are entitled to recover from JLR damages under section 236 of the ACL on the basis pleaded in paragraph 71 of the CSOC.
15. In respect of any damages of the kind described above in Question 14 that Group Members are entitled to recover from JLR, whether it is appropriate to:
 - 15.1 make an award of damages for Group Members pursuant to section 33Z(1)(e) of the FCA Act; or
 - 15.2 award damages in an aggregate amount pursuant to section 33Z(1)(f) of the FCA Act.
16. If it is appropriate to make an award of damages pursuant to sections 33Z(1)(e) or 33Z(1)(f) of the FCA Act in respect of any damages of the kind described above in Question 14 that Group Members are entitled to recover from JLR:
 - 16.1 what is the appropriate form of the order awarding damages; and
 - 16.2 what is the appropriate quantum of damages to be awarded?

Applicants' address

The Applicants' address for service is:

Maurice Blackburn

Level 21, 380 La Trobe Street

Melbourne, VIC, 3000

Email: ltaylor@mauriceblackburn.com.au / mmackenzie@gtlaw.com.au

The First and Second Applicants' address is 13A Pioneer Drive, Forster NSW 2428.

The Third Applicant's address is 161 Kent Street, Rockhampton City Qld 4700.



Service on the Respondent

It is intended to serve this consolidated application on the Respondent.

Date: 7 August 2024

A handwritten signature in black ink, appearing to read "Lee Taylor", written over a horizontal dotted line.

Signed by Lee Taylor
Lawyer for the Applicants