

NOTICE OF MOTION

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
List	Common Law General
Registry	Sydney
Case number	2022/00238642

TITLE OF PROCEEDINGS

Plaintiff	Darran Kelly
Defendant	Scenic Tours Pty Ltd (ACN 002 715 602)

FILING DETAILS

Person seeking orders	Scenic Tours Pty Ltd (ACN 002 715 602) , Defendant
Filed in relation to	Plaintiff's claim
Legal representative	Susan Moran, SWS Lawyers Pty Ltd
Legal representative reference	SGM:2441
Contact name and telephone	Susan Moran, 02 4040 9640
Contact email	s.moran@swslawyers.com.au

PERSON AFFECTED BY ORDERS SOUGHT

Darran Kelly, Plaintiff

HEARING DETAILS

This motion is listed at

[on separate page]

ORDERS SOUGHT

- 1 An order pursuant to rule 14.28 of the *Uniform Civil Procedure Rules* 2005 that the following parts of the pleadings and particulars in the statement of claim filed on 12 August 2022 are struck out:
 - a. paragraph 2;
 - b. paragraph 5, the words “and the Group Members” and, or alternatively, “or other entities”;
 - c. paragraph 6, the words “and the Group Members”;
 - d. paragraph 7, the words “and the Group Members”;
 - e. paragraphs 9 to 13 inclusive.

- 2 A declaration that the proceeding is not properly commenced under Part 10 of the *Civil Procedure Act* 2005 insofar as it concerns persons other than those who:
 - a. participated in the "Jewels of Europe" cruise from Budapest to Amsterdam, commencing on 30 July 2018 (being “Mr Kelly’s Cruise” as defined in the statement of claim); and
 - b. entered into agreements with the defendant.

- 3 Pursuant to sections 166(1) and, or alternatively, 183 of the *Civil Procedure Act* 2005, the proceeding no longer continue as a representative proceeding insofar as it concerns persons other than those who:
 - a. participated in the "Jewels of Europe" cruise from Budapest to Amsterdam, commencing on 30 July 2018 (being “Mr Kelly’s Cruise” as defined in the statement of claim); and
 - b. entered into agreements with the defendant.

- 4 The plaintiff pay the defendants costs of the motion.

SIGNATURE

Signature of legal representative



Capacity

Solicitor on record

Date of signature

1 December 2022

NOTICE TO PERSON AFFECTED BY ORDERS SOUGHT

If you do not attend, the court may hear the motion and make orders, including orders for costs, in your absence.

REGISTRY ADDRESS

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