

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 6/09/2017 9:42:11 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:	VID971/2017
File Title:	AUSTRALIAN COMPETITION AND CONSUMER COMMISSION v JJ RICHARDS & SONS PTY LTD (ACN 000 805 425)
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	First Case Management Hearing
Time and date for hearing:	22/09/2017, 9:30 AM
Place:	Court Room Not Assigned, Owen Dixon Commonwealth Law Courts Building Level 7, 305 William Street, Melbourne



Dated: 6/09/2017 4:29:34 PM AEST

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. VID of 2017

Federal Court of Australia
District Registry: Victoria
Division: General

AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

Applicant

JJ RICHARDS & SONS PTY LTD (ACN 000 805 425)

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: Owen Dixon Commonwealth Law Courts Building
305 William Street
Melbourne VIC 3000

Date: September 2017

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

Filed on behalf of	Australian Competition and Consumer Commission		
Prepared by	Graham Phillips		
Law firm	Thomson Geer		
Tel	(03) 9641 8639	Fax	(03) 8080 3599
Email	gphillips@tglaw.com.au		
Address for service	Level 39, Rialto South Tower, Melbourne, Victoria, 3000		

This is an application for declaratory relief under s 21 of the *Federal Court of Australia Act 1976* (Cth) (**FCA**) and s 250 of the *Australian Consumer Law* (**ACL**) and for injunctive and other relief under the ACL, which is contained in Schedule 2 to the *Competition and Consumer Act 2010* (Cth) (**CCA**).

Details of claim

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

1. A declaration pursuant to s 21 of the FCA and/or s 250 of the ACL that the following terms of any small business contracts within the meaning of s 23(4) of the ACL which are standard form contracts within the meaning of s 27 of the ACL entered into, or renewed, after 12 November 2016 between the Respondent and any of its customers (**Captured Contracts**) are unfair contract terms within the meaning of s 24 of the ACL and are void by operation of s 23 of the ACL:
 - (a) automatic renewal (clause 1),
 - (b) price variation (clause 4),
 - (c) agreed times (clause 6),
 - (d) no credit without notification (clause 7),
 - (e) exclusivity (clause 9(i)),
 - (f) credit terms (clause 16),
 - (g) indemnity (clause 17) and
 - (h) termination (clause 18),

(the Impugned Terms).
2. An order under s 232 of the ACL that the Respondent is restrained, whether by itself, its servants, agents or otherwise howsoever, from applying or relying on, or purporting to apply or rely on any Impugned Term contained in a Captured Contract.
3. An order under s 232 of the ACL that the Respondent is restrained for a period of 5 years from the date of these orders, whether by itself, its servants, agents or otherwise howsoever, from entering into a standard form contract with a small business customer containing an Impugned Term.
4. An order pursuant to s 232 of the ACL and/or s 23 of the FCA that the Respondent is, within 14 days of the date of this order, to publish in a prominent place on the home page of the Respondent's website, on its customer portal, and any other URL used by the Respondent to market and supply waste management services a corrective notice in such terms as is ordered by the Court.

5. An order pursuant to s 232 of the ACL and/or s 23 of the FCA that the Respondent, at its own expense, within 14 days of the date of this order, provide a copy of these orders to each JJR Customer who is a party to a current standard form contract entered into by the Respondent.
6. An order pursuant to s 232 of the ACL and/or s 23 of the FCA that the Respondent is:
 - (a) within 90 days of this order, to establish and implement an ACL Compliance Program to be undertaken by each employee of the Respondent or other person involved in the Respondent's business who deals or who may deal with Australian customers (including small business customers of the Respondent) in relation to their contracts with the Respondent, being a program designed to minimise the Respondent's risk of future use, application or reliance on unfair contract terms in standard form contracts that are small business contracts under Part 2-3 of the ACL;
 - (b) for a period of 3 years from the date of this order, maintain and continue to implement the ACL Compliance Program referred to in order 6(a) above.
7. Costs.

Applicant's address

The Applicant's address for service is:

Place: Level 39, Rialto South Tower,
525 Collins Street
Melbourne VIC 3000

Email: gphillips@tglaw.com.au

The Applicant's address is Level 35, The Tower, 360 Elizabeth Street, Melbourne Central,
Melbourne VIC 3000.

Service on the Respondent

It is intended to serve this application on the Respondents.

Date: 6 September 2017



Signed by Graham Phillips
Lawyer for the Applicant

Released under FOI