

FILE NO :	2022/238642	
PARTIES :	Darren KELLY v Scenic Tours Pty Ltd	
DIVISION :	COMMON LAW	
DATES :	13.3.24	
CORAM :	GARLING J	

GARLING J MAKES THE FOLLOWING ORDERS BY CONSENT:

- 1 The Defendant file and serve its Defence by 19 April 2024.
- 2 The Plaintiff to file and serve any Reply by 10 May 2024.
- 3 The Defendant to provide a first tranche of discovery pursuant to r 21.2 of the *Uniform Civil Procedure Rules 2005* (NSW) (**UCPR**) of the documents set out in the Schedule to these orders, in the following manner: :
 - a. Categories 1 – 3 and 6 – 9 to be provided by no later than 19 April 2024; and
 - b. Categories 4 and 5 to be provided by no later than 24 May 2024.
- 4 The Defendant, on or before 24 May 2024, to serve on the plaintiff a verified list of the documents described in Order 3.
- 5 List the proceedings for directions before Garling J on 14 June 24.
- 6 Liberty to apply.

SCHEDULE

In this Schedule:

- “the Cruises” refers to the cruises identified in Annexure A to the Plaintiff’s Statement of Claim (as clarified in the Plaintiff’s letters to the defendant dated 13 September 2022 and 27 September 2022).
- “the First Willis Affidavit” refers to the Affidavit of Donna Willis affirmed 15 May 2019, read in open Court in Supreme Court of NSW Proceedings No. 2019/96228 on 2 August 2019.
- “the Period” refers to the period 1 June 2018 to 31 December 2018.
- “the Second Willis Affidavit” refers to the Affidavit of Donna Willis affirmed 15 July 2019, read in open Court in Supreme Court of NSW Proceedings No. 2019/96228 on 2 August 2019.

- (1) Passenger manifests for each of the Cruises, as described in paragraphs 9 to 10 of the First Willis Affidavit and paragraph 3 of the Second Willis Affidavit.
- (2) Guest manifests for each of the Cruises, as described in paragraphs 12 to 14 of the First Willis Affidavit and paragraph 4 of the Second Willis Affidavit.
- (3) The tour notes prepared by the Defendant, its representatives, or related parties, for each of the Cruises, as described in paragraphs 16 to 17 of the First Willis Affidavit.

- (4) All emails sent or received through the "Critical Incident List" described in paragraph 21 of the First Willis Affidavit during the Period referring to any of the Cruises.
- (5) All emails (other than emails sent or received through the "Critical Incident List" described in paragraph 21 of the First Willis Affidavit) evidencing or recording any alterations to the advertised itineraries for any of the Cruises, sent or received by the "Subset Personnel" referred to in paragraph 9 of the Second Willis Affidavit.
- (6) One sample of correspondence between the Defendant and a cruise passenger evidencing or recording the total and highest number of days (if any) finally declared as disrupted for the purposes of the "River Cruise Guarantee" policy in respect of the Cruises, as described in paragraph 34 of the First Willis Affidavit.
- (7) The register of issues as it relates to the Cruises, as described in paragraph 37 of the First Willis Affidavit.
- (8) The standard form terms & conditions forming part of any contract entered into by passengers on the Cruises with the Defendant or any related entity in relation to the Cruises.
- (9) Any brochures published by the Defendant or any related entity, advertising any of the Cruises.