

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 26/09/2022 12:59:02 PM 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 Starting a Representative Proceeding under Part IVA Federal Court of Australia Act 1976 - Form 19 - Rule 9.32
File Number:	QUD182/2020
File Title:	COLIN GRAHAM INGRAM AND JUDY GAIL TULLOCH AS TRUSTEES FOR THE INGRAM SUPERANNUATION FUND v ARDENT LEISURE LIMITED (ACN 104 529 106) & ORS
Registry:	QUEENSLAND 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

Dated: 26/09/2022 4:49:38 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.



**Amended Originating application starting a representative proceeding
under Part IVA of the Federal Court of Australia Act 1976**

No. QUD 182 of 2020

Federal Court of Australia
District Registry: Queensland
Division: General

**COLIN GRAHAM INGRAM and JUDY GAIL TULLOCH as trustees for the
INGRAM SUPERANNUATION FUND**

Applicants

ARDENT LEISURE LIMITED (ACN 104 529 106)

First Respondent

ARDENT LEISURE MANAGEMENT LIMITED (ACN 079 630 676)

Second Respondent

ARDENT LEISURE GROUP LIMITED (ACN 628 881 603)

Third Respondent

CRAIG MALCOLM DAVIDSON

Fourth Respondent

To the Respondents

The Applicants apply ~~ies~~ 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.

Amended pursuant to the Order of the Court dated
26 September 2022
Piper Alderman
Piper Alderman, Lawyers for the applicants
Dated: 26 September 2022

Filed on behalf of (name & role of party)	The Applicants, Colin Graham Ingram and Judy Gail Tulloch as trustees for the Ingram Superannuation Fund		
Prepared by (name of person/lawyer)	Greg Whyte	Ref	GJW.LVR.415238
Law firm (if applicable)	Piper Alderman		
Tel	+61 7 3220 7777	Fax	+61 7 3220 7700
Email	gwhyte@piperalderman.com.au		
Address for service (include state and postcode)	Level 26, Riparian Plaza, 71 Eagle Street Brisbane QLD 4000 DX105 Brisbane		



Time and date for hearing:

Place:

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

Details of claim

On the grounds stated in the accompanying Further Amended Statement of Claim, the Applicants claim, on their own behalf as trustees for the Ingram Superannuation Fund, and on behalf of Group Members (as defined below):

1. An order that the First and Second Respondents pay to the Applicants and Group Members statutory compensation pursuant to:-
 - (a) s 1041I of the *Corporations Act 2001* (Cth);
 - (b) s 12GF of the *Australian Securities and Investments Commission Act 2001* (Cth);
 - or
 - (c) s 236 of the *Australian Consumer Law*, as applicable pursuant to the provisions pleaded in paragraph 8(e)(iii) of the Further Amended Statement of Claim.

2. An order, pursuant to s 1317HA and/or s 1325(1) of the *Corporations Act 2001* (Cth) that the First and Second Respondents compensate the Applicants and Group Members for the damage suffered by them which resulted from the First and Second Respondents' contraventions of s 674(2) of the *Corporations Act 2001* (Cth).

3. A declaration that the Third Respondent is liable to pay the Applicants and Group Members:
 - (a) the statutory compensation for which the First and Second Respondents are liable, as sought in Order 1 above; and
 - (b) the statutory compensation for which the First and Second Respondents are liable as sought in Order 2 above,

and an order that the Third Respondent pay those amounts to the Applicants and Group Members.

- 3A. Further to Orders 1 to 3, pursuant to s 33Z(1)(e) of the *Federal Court of Australia Act 1976* (Cth), an award for damages payable by the Third Respondent to the Applicants and Group Members in an amount specified by the Court, or worked out in such manner



as the Court specifies, with such damages to be quantified at a second-stage trial following the trial of common questions.

4. An order that the Fourth Respondent pay to the Applicants and Group Members statutory compensation pursuant to:-
 - (a) s 1041I of the *Corporations Act 2001* (Cth);
 - (b) s 12GF of the *Australian Securities and Investments Commission Act 2001* (Cth);
or
 - (c) s 236 of the *Australian Consumer Law*, as applicable pursuant to the provisions pleaded in paragraph 8(e)(iii) of the Further Amended Statement of Claim.
5. An order, pursuant to s 1317HA and/or s 1325(1) of the *Corporations Act 2001* (Cth) that the Fourth Respondent compensate the Applicants and Group Members for the damage suffered by them which resulted from the Fourth Respondent's contraventions of s 674(2A) of the *Corporations Act*.
- 5A. Further to Orders 4 to 5, pursuant to s 33Z(1)(e) of the *Federal Court of Australia Act 1976* (Cth), an award of damages payable by the Fourth Respondent to the Applicants and Group Members in an amount specified by the Court, or worked out in such manner as the Court specifies, with such damages to be quantified at a second-stage trial following the trial of common questions.
6. Interest pursuant to s 51A of the *Federal Court of Australia Act 1976* (Cth).
7. Costs.
8. Such further orders or other relief as the Court considers appropriate.

Questions common to claims of Group Members

Capitalised terms have the same meaning as defined in the Further Amended Statement of Claim.

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

1. Whether the First and/or Second Respondents made the Safety Representations (or any of them), namely:-
 - (a) the Website Safety Statement; and
 - (b) the Annual Report Safety Statements.
2. Whether the First and/or Second Respondents made and/or failed to withdraw or qualify the Safety Representations.



3. Having regard to Questions 1 and 2 above, whether the First and/or ~~Second~~ Respondents, through all or part (and if so, what part) of the Relevant Period, contravened s 1041H of the Corporations Act, s 12DA of the ASIC Act and/or s 18 of the ACL.
4. Whether the First and/or Second Respondents were aware during all or part of the Relevant Period (and if so, which part), within the meaning of ASX Listing Rules 3.1 and 19.12 of:
 - (a) the Incident Information (or any of it); ~~and~~
 - (b) the Incident Impact Information (or any of it);
 - (c) the Best Practice Information (or any of it); and
 - (b)(d) the Safe Environment Information (or any of it);
5. Whether the First and/or Second Respondents, throughout all or part (and if so, which part) of the Relevant Period, contravened s 674(2) of the Corporations Act by not immediately telling the ASX:
 - (a) the Incident Information (or any of it); ~~and~~
 - (b) the Incident Impact Information (or any of it);
 - (c) the Best Practice Information (or any of it); and
 - (b)(d) the Safe Environment Information (or any of it).
6. Whether the Fourth Respondent was, during the Relevant Period from 13 November 2014 or part of the Relevant Period (and if so, which part) involved in the First and/or Second Respondents' contravention of s 674(2) of the Corporations Act, so as to contravene s 674(2A) of the Corporations Act.
7. Whether any, and if so, what conduct of the First, Second and/or Fourth Respondents had the effect that the price for AAD Stapled Securities was, during the Relevant Period, higher than their true value and/or what their price would otherwise have been, and if so by how much?
8. Having regard to Question 7, whether statutory compensation is recoverable by the Applicants and Group Members from the First, Second and/or Fourth Respondent.
9. Having regard to Questions 7 and/or 8, what is the correct measure of compensation for which each of the First, Second and/or Fourth Respondents are liable?
- 9A. What are the integers necessary to allow the Court to make an award of damages against the Respondents in favour of the Applicants and Group Members, pursuant to s 33Z(1)(e) of the Federal Court of Australia Act 1976 (Cth)?



10. Whether the Third Respondent is liable to the Applicants and Group Members for the liability of the First and/or Second Respondents pleaded in the Further Amended Statement of Claim, having regard to the Scheme and the Deed of Cross Guarantee.

Representative action

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

The Group Members to whom this proceeding relates are all persons who:

- (a) acquired an interest in fully paid AAD Stapled Securities in Ardent Leisure Group (ASX:AAD) between 17 June 2014 and 25 October 2016 (**Relevant Period**);
- (b) have suffered loss or damage by reason of the conduct of the Respondents pleaded in this Further Amended Statement of Claim; and
- (c) were not during any part of the Relevant Period, and are not as at the date of this Originating Application, any of the following:
 - (i) a related party (as defined by s 228 of the *Corporations Act 2001* (Cth) (**Corporations Act**)) of the Respondents;
 - (ii) a related body corporate (as defined by s 50 of the *Corporations Act*) of the Respondents;
 - (iii) an associated entity (as defined by s 50AAA of the *Corporations Act*) of the Respondents;
 - (iv) an officer or a close associate (as defined by s 9 of the *Corporations Act*) of the Respondents; or
 - (v) a Judge or Chief Justice of the Federal Court of Australia or Justice or Chief Justice of the High Court of Australia.

Applicants' address

The Applicants' address for service is:

Place: Piper Alderman, Level 26, Riparian Plaza, 71 Eagle Street, Brisbane QLD 4000

Email: gwhyte@piperalderman.com.au


The Applicants' address is: 57 Mahogany Drive, Marcus Beach QLD 4573



Service on the Respondent

It is intended to serve this application on the Respondents.

Date: 26 September 2022 ~~17 June 2020~~



Signed by Gregory John Whyte, Partner
Lawyer for the Applicants