

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 8/08/2017 8:36:22 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 Starting a Representative Proceeding under Part IVA Federal Court of Australia Act 1976 - Form 19 - Rule 9.32
File Number:	NSD724/2016
File Title:	Biljana Capic v Ford Motor Company of Australia Ltd ACN 004 116 223
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	Case Management Hearing & Interlocutory Hearing
Time and date for hearing:	30/08/2017, 10:15 AM
Place:	Court Room 22A, Level 17 Law Courts Building Queen's Square, Sydney



A handwritten signature in blue ink, reading 'Warwick Soden'.

Dated: 8/08/2017 1:52:56 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.



~~Pursuant to leave granted by Perram J on 7 October 2016~~  
**Second Further Amended Originating application starting a  
representative proceeding under Part IVA of the Federal Court of  
Australia Act 1976**

**Filed with Leave of the Court Granted 11 July 2017**

No. 724 of 2016

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Biljana Capic**

Lead Applicant

**Ford Motor Company of Australia Limited (ACN 004 116 223)**

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:** Wednesday 30 August 2017

**Place:** Law Courts Building, Queens Square, 184 Phillip Street, Sydney NSW 2000

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

Filed on behalf of (name & role of party)	<u>Biljana Capic</u>
Prepared by (name of person/lawyer)	<u>Natasa Matijevic</u>
Law firm (if applicable)	<u>Bannister Law, Suite 1, Level 2, 155 Castlereagh Street, Sydney 2000</u>
Tel	_____ Fax _____
Email	<u>charles@bannisterlaw.com.au</u>
<b>Address for service</b> (include state and postcode)	<u>Bannister Law, Suite 1, Level 2, 155 Castlereagh Street, Sydney 2000</u>



Date:

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

### Details of claim

On the grounds stated in the accompanying statement of claim, the Applicant claims for herself and for the Group Members described below whom the Applicant represents in these proceedings:

1. Damages pursuant to s. 236 of the ACL and s. 271 and s 272 of the ACL including, but not limited to, diminution in value of the Affected Vehicle, any amounts paid for repairs, car hire, taxi fares, additional finance costs, and any additional expenses and costs incurred as a result of the necessity to replace the Affected Vehicle and obtain a different vehicle;
2. Costs

### Questions common to claims of group members

The questions of law or fact common to the claims of the group members are:

- ~~1. Whether the Group Members acquired an interest in Ford Affected Vehicles (as defined in paragraph 1(i) of the accompanying Statement of Claim) between January 2011 and 16 May 2016 (the relevant period);~~
- ~~2. Whether the Affected Vehicles sold in Australia during the relevant period contained a DPS 6-speed dry dual clutch PowerShift transmission;~~
- 2A Is the DPS 6-speed dry dual clutch Powershift transmission (the PowerShift transmission) a Defect in the Affected Vehicles (as defined in the Second Further Amended Statement of Claim);
3. Whether the Affected Vehicles fitted with the PowerShift transmission were not of acceptable quality (within the meaning of s. 54 of the ACL);
5. Whether the Respondent made the PowerShift Representations, and, if so, whether the PowerShift Representations were misleading or deceptive, or likely to mislead or deceive, in contravention of s 18 of the ACL;



6. Whether the PowerShift Representations were liable to mislead the public as to the nature, the characteristics, or the suitability for purpose of the Affected Vehicles, in contravention of s 33 of the ACL;
- ~~7. Whether there were Defects in the Affected Vehicles, as pleaded at paragraph 20A of the Amended Statement of Claim;~~
8. Whether the Respondent disclosed to the public, and to prospective purchasers, the existence of the Defects in the Affected Vehicles;
9. Whether a ~~that~~ failure to disclose the existence of the Defects in the Affected Vehicles was conduct that was misleading or deceptive, or likely to mislead or deceive, and in contravention of s 18 of the ACL;
10. Whether a ~~that~~ failure to disclose the existence of the Defects in the Affected Vehicles was liable to mislead the public as to the nature, the characteristics or the suitability for their purpose of the Affected Vehicles, in contravention of s 33 of the ACL;
11. Whether the guarantee that the Affected Vehicles were of acceptable quality (as specified by s. 54 of the ACL) was complied with;
12. Whether the contraventions of the ACL caused loss and damage to the Group Members.

### **Representative action**

The Applicant brings this application as a representative party under Part IVA of the *Federal Court of Australia Act 1976*.

The Group Members to whom this proceeding relates are consumers (within the meaning of s. 3(1) of the ACL), who acquired an interest in an Affected Vehicle as specified in the Second Further Amended Statement of Claim

### **Applicant's address**

The Applicant's address for service is:

Place: Suite 1, Level 2, 155 Castlereagh Street, Sydney NSW 2000

Email: charles@bannisterlaw.com.au

The Applicant's address is c/- Bannister Law, Suite 1, Level 2, 155 Castlereagh Street Sydney NSW 2000.



**Service on the Respondent**

It is intended to serve this application on the Respondent.

Date: ~~11 October 2016~~ 7 August 2017

A handwritten signature in blue ink is written over a horizontal dotted line. The signature is stylized and appears to be "N. Matijevic".

Signed by Natasa Matijevic

Lawyer for the Applicant