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Form 19
Rule 9.32



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

No. VID 790 of 2014

Federal Court of Australia
District Registry: Victoria
Division:

INNES CREIGHTON

Applicant

AUSTRALIAN EXECUTOR TRUSTEES LIMITED (ACN 007 869 794)

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:

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

Date:

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

Filed on behalf of
Prepared by
Law firm
Tel
Email
Address for service

Mr Innes Creighton, Applicant
Odette McDonald
Slater & Gordon Limited
(03) 9602 6866 Fax (03) 9600 0290
odette.mcdonald@slateregordon.com.au
Slater and Gordon Limited, 485 La Trobe Street, Melbourne VIC 3001

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 26/06/2015 4:44:27 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:	VID790/2014
File Title:	Innes Creighton v Australian Executor Trustees Limited
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



Dated: 29/06/2015 10:24:24 AM AEST

A handwritten signature in black ink, appearing to read 'Warrick Soden'.

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.



Details of claim

On the grounds stated in the accompanying amended statement of claim, the Applicant claims:

1. Losses and/or damages pursuant to s 283F of the *Corporations Act 2001*.
2. Damages for anxiety and stress.
3. Interest.
4. Costs.

Questions common to claims of group members

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

1. What was the nature and scope of the Respondent's obligations under s 283DA of the *Corporations Act 2001*?
2. In light of what the Respondent knew, or should have known, about the financial position, performance and assets of Provident Capital Limited (**Provident**) ~~by 31 October 2010~~, what steps was the Respondent obliged to take from early December 2008?
3. Had the Respondent taken those steps;
 - (a) would Provident have been precluded from issuing further debentures whether because of orders made by a court or stop orders made by the Australian Securities and Investments Commission?
 - (b) would receivers have been appointed to the property of Provident secured by the fixed and floating charge and would the property available to debenture-holders have been realised?

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 all persons who:

- 1.1. ~~were issued debentures by Provident on or after 22 December 2010, but not including any debentures that were funded by a "rollover" or reinvestment of any debenture issued before 22 December 2010;~~



4.2.1.1. _____ were holders of these same debentures on 18 September 2012 when Provident entered voluntary administration, holders of debentures issued by Provident; and

4.3.1.2. _____ suffered loss or damage as a result of the Respondent's contraventions of s 283DA of the *Corporations Act 2001* as alleged in the Statement of Claim prior to 22 December 2010.

Applicant's address

The Applicant's address for service is:

Place: Slater and Gordon Limited, 485 La Trobe Street, Melbourne, Victoria

Email: odette.mcdonald@slatnergordon.com.au

The Applicant's address is: 30 Lakeland Drive Doreen, Victoria.

Service on the Respondent

It is intended to serve this application on the Respondent.

Date: 26 June 2015 ~~23 December 2014~~.

A handwritten signature in black ink, appearing to be 'Odette McDonald'.

Signed by Odette McDonald
Lawyer for the Applicant