

**IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMERCIAL COURT
GROUP PROCEEDINGS LIST**

S ECI 2023 01521

BETWEEN:

JAMES KENDALL MCCOY

Plaintiff

and

HINO MOTORS LTD & ANOR
(and another named in the Schedule attached)

Defendants

ORDERS

JUDGE:

The Honourable Justice M Osborne

DATE MADE:

15 December 2023

ORIGINATING PROCESS:

Writ filed 17 April 2023

HOW OBTAINED:

Summons dated 6 October 2023

ATTENDANCE:

C Moore SC with R May of counsel for the plaintiff

Dr P K Cashman with Dr D J Townsend of counsel
for the plaintiffs in proceeding no S ECI 2022 03869

C Winnett with L Mills of counsel for the defendants

OTHER MATTERS:

The Court notes that:

- A. There is substantive overlap between this proceeding and S ECI 2022 03869 (the 'Maglio proceeding'), with respect to both group membership and the factual and legal issues raised by the two proceedings.
- B. Pursuant to orders dated 15 December 2023, the Maglio proceeding has been permanently stayed.

THE COURT ORDERS THAT:

Multiplicity of proceeding

1. This proceeding continue as a group proceeding in accordance with Part 4A of the *Supreme Court Act 1986* (Vic) (the 'Act').

Group costs order

2. Pursuant to s 33ZDA of the Act the legal costs payable to the solicitors for the plaintiff and group members, Maurice Blackburn Pty Ltd, be calculated as a percentage of the amount of any award or settlement that may be recovered in the proceeding, in accordance with the following table:

For each dollar of any award or settlement that is recovered:	The applicable percentage (including GST) is:
Between \$0 to \$75,000,000	25%
Between \$75,000,001 to \$150,000,000	22.5%
Between \$150,000,001 to \$225,000,000	20%
Over \$225,000,000	17.5%

3. Liability for payment of the legal costs pursuant to order 2 is to be shared among the plaintiff and all group members.

Other matters

4. The defendants are to file and serve a defence by **4:00pm on 28 February 2024**.
5. The parties (including the plaintiffs in S ECI 2022 03869) should confer as to appropriate orders as to costs, and submit an agreed order as to costs or competing orders as to costs by **4:00pm on Thursday 21 December 2023**.
6. The proceeding be listed for a case management conference on a date to be fixed.



7. Liberty to apply.

DATE AUTHENTICATED: 15 December 2023


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The Honourable Justice M Osborne



SCHEDULE OF PARTIES

BETWEEN:

JAMES KENDALL MCCOY

Plaintiff

and

HINO MOTORS LTD

First Defendant

**HINO MOTOR SALES AUSTRALIA PTY LTD
(ACN 064 989 724)**

Second Defendant

