

NOTICE OF FILING

Details of Filing

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File Title:	MARDY ROBERT JOHN TAYLOR v TOYOTA MOTOR CORPORATION AUSTRALIA LIMITED ACN 009 686 097
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink, reading "Sia Lagos".

Registrar

Important Information

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.

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REPLY

No. NSD 1326 of 2025

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

Mardy Robert John Taylor

Applicant

Toyota Motor Corporation Australia Limited (ACN 009 686 097)

Respondent

1. Unless stated otherwise, capitalised terms used, but not defined, in this Reply have the meanings ascribed to them in the Statement of Claim filed on 1 August 2025.
2. The applicant joins issue with the Defence filed on behalf of the respondent (**Toyota Australia**) on 19 September 2025, save to the extent that:
 - (a) the Defence contains admissions; or
 - (b) the allegations in the Defence are admitted in this Reply.
3. In respect of subparagraph 6(b) of the Defence, the applicant admits that Dealers are franchises and separate corporate entities to Toyota Australia.
4. In respect of subparagraph 20(d) of the Defence, the applicant admits that the references to "the Relevant Vehicles" in subparagraphs 20(d)(vi) and (vii) ought to be references to "the Relevant Vehicle".
5. In respect of subparagraph 44(c) of the Defence, the applicant:

Express warranty

- (a) in respect of subparagraph 44(c)(i):

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Filed on behalf of	The applicant
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3 Year Supply Warranty and 5 Year Supply Warranty

- (i) admits that Toyota Australia gave or made to the Initial Acquirer of each Relevant Vehicle supplied new:
 - (A) between 1 October 2015 and 31 December 2018, a warranty named the “Toyota New Vehicle Warranty” set out in the Warranty and Service Booklet provided with the vehicle when supplied to the Initial Acquirer (**3 Year Supply Warranty**); and
 - (B) between 1 January 2019 and 23 April 2020, a warranty named the “Toyota Warranty Advantage” set out in the Warranty and Service Booklet provided with the vehicle when supplied to the Initial Acquirer (**5 Year Supply Warranty**);
- (ii) admits that Toyota Australia gave or made to the Initial Acquirer of the Applicant’s Relevant Vehicle, Blue Empire Plumbing Pty Ltd (**Blue Empire Plumbing**), a 3 Year Supply Warranty when that vehicle was supplied to Blue Empire Plumbing (**Blue Empire Plumbing Supply Warranty**);
- (iii) admits that each 3 Year Supply Warranty and 5 Year Supply Warranty was an “express warranty” as that term is defined in section 2(1) of the ACL;
- (iv) says that each 3 Year Supply Warranty:
 - (A) commenced on around the date the applicable Relevant Vehicle was supplied new to the relevant Initial Acquirer;
 - (B) had a term of 3 years or 100,000 kilometres, whichever came first; and
 - (C) expired at the end of the term pleaded in subparagraph (B) above;
- (v) says further that each 5 Year Supply Warranty:
 - (A) commenced on around the date the applicable Relevant Vehicle was supplied new to the relevant Initial Acquirer;
 - (B) had a term of 5 years; and
 - (C) expired at the end of the term pleaded in subparagraph (B) above;
- (vi) says further that the Blue Empire Plumbing Supply Warranty:
 - (A) commenced on around 21 October 2016;
 - (B) had a term of 3 years or 100,000 kilometres, whichever came first; and

- (C) expired on around 21 October 2019;

2020 Warranty Extension Letter

- (vii) admits that from on or about 31 July 2020, Toyota Australia sent a letter to the owners of some Relevant Vehicles (**2020 Warranty Extension Letter**) but denies that the 2020 Warranty Extension Letter constituted an “express warranty” within the meaning of section 2(1) of the ACL;
- (viii) does not know and therefore cannot admit that a 2020 Warranty Extension Letter was sent to Blue Empire Plumbing;
- (ix) says further that the 2020 Warranty Extension Letter, among other things, stated that:
 - (A) the applicable Relevant Vehicle had been produced with a diesel GD engine equipped with a DPF System;
 - (B) some Toyota Australia customers had experienced an issue with the DPF which might present as substantial white smoke discharged during the regeneration process, illumination of the Engine MIL and, in some cases, as a precautionary measure, a reduction in engine power ('limp home' mode);
 - (C) Toyota Australia was extending its warranty for 10 years from the first delivery date of the applicable Relevant Vehicle when new, with no limitation on kilometres, for the issue pleaded in subparagraph (B) above;
 - (D) the warranty coverage extension referred to in subparagraph (C) above does not limit the Australian Consumer Law statutory consumer guarantees in any way;
 - (E) the rights under the warranty period pleaded in subparagraph (C) above for the issue pleaded in subparagraph (B) above are in addition to the applicable owner's rights under the Australian Consumer Law;
 - (F) if the applicable owner experienced issues with their vehicle's DPF system, Toyota Australia invited them to contact their closest/preferred Toyota Dealer to have them assess the DPF system; and
 - (G) if required, the Toyota Dealer would organise a replacement system that incorporated changes made to address the operational issues

that some customers had experienced as quickly as possible and at no cost to the applicable owner;

2024 Warranty Extension Letter

- (x) admits that from around November 2024, Toyota Australia sent a letter to the owners of some Relevant Vehicles (**2024 Warranty Extension Letter**) but denies that the 2024 Warranty Extension Letter constituted an “express warranty” within the meaning of section 2(1) of the ACL;
- (xi) says further that there were two versions of the 2024 Warranty Extension Letter, one sent to owners of Relevant Vehicles who had received the 2020 Warranty Extension Letter and another sent to owners of Relevant Vehicles who had not received the 2020 Warranty Extension Letter;
- (xii) says further that both versions of the 2024 Warranty Extension Letter, among other things, stated that:
 - (A) the applicable Relevant Vehicle had been produced with a diesel GD engine equipped with a DPF System;
 - (B) a defect in the DPF system had caused some customers to experience an issue with the DPF in their vehicle which may present as excessive white smoke discharged during the regeneration process, illumination of the Engine MIL and, in some cases, as a precautionary measure, a reduction in engine power ('limp home' mode);
 - (C) a DPF repair which involves fitting of a replacement system that incorporates changes made to address the defect was available, free of charge;
 - (D) Toyota Australia had extended the warranty for the applicable Relevant Vehicle to cover the cost of any repairs required as a result of the DPF defect, until the DPF repair has been completed for the vehicle;
 - (E) the warranty coverage extension referred to in subparagraph (D) above did not limit the Australian Consumer Law statutory consumer guarantees in any way;
 - (F) if the applicable Relevant Vehicle had not received the DPF repair, Toyota Australia or the applicable owner's Dealer would contact the owner in the coming months to find out whether they wished to have the repair installed and, if so, to organise a time that was convenient to the owner; and

- (G) if the applicable owner experienced issues with the DPF System in the Relevant Vehicle, they should contact their closest/preferred Dealer to have them assess the DPF System in their vehicle and organise a time to carry out the DPF repair (something which would be done as quickly as practicable based on demand and at no cost to the applicable owner);

2025 Warranty Extension Letter

- (xiii) admits that from around July 2025, Toyota Australia sent a letter to the owners of some Relevant Vehicles (**2025 Warranty Extension Letter**) but denies that the 2025 Warranty Extension Letter constituted an “express warranty” within the meaning of section 2(1) of the ACL;
- (xiv) does not know and therefore cannot admit that a 2025 Warranty Extension Letter was sent to Blue Empire Plumbing;

2020 and 2024 Warranty Extension Letters were misleading or deceptive

- (xv) says further that:
- (A) each of the statements pleaded in subparagraphs (ix)(D) and (E) above, made in the context of the 2020 Warranty Extension Letter, individually or cumulatively, and the statement pleaded in subparagraph (xii)(E) above, made in the context of the 2024 Warranty Extension Letters, conveyed to applicable owners that:
- (1) taking up Toyota Australia’s invitation to have the DPF system in the applicable Relevant Vehicle repaired could not have the effect or consequence of limiting the applicable owner’s rights under the ACL (**First ACL Representation**);
 - (2) Toyota Australia did not intend to contend that taking up Toyota Australia’s invitation to have the DPF system in applicable Relevant Vehicle repaired had the effect or consequence of limiting the applicable owner’s rights under the ACL (**Second ACL Representation**);
 - (3) if the applicable owner took up Toyota Australia’s invitation to have the DPF system in the applicable Relevant Vehicle repaired, that would not have the effect or consequence of limiting their rights under the ACL (**Third ACL Representation**);
 - (4) if the applicable owner took up Toyota Australia’s invitation to have the DPF system in the applicable Relevant Vehicle

repaired, Toyota Australia would not contend that that had the effect or consequence of limiting their rights under the ACL (**Fourth ACL Representation**),

(each an **ACL Representation**);

- (B) each ACL Representation was a continuing representation;
- (C) the Third and Fourth ACL Representations were representations with respect to future matters;
- (D) the First ACL Representation was misleading when made, if (as Toyota Australia contends in paragraph 44(c)(vi) of the Defence, but which the applicant denies) taking up Toyota Australia's invitation to have the DPF system in the applicable Relevant Vehicle repaired in accordance with the 2020 Warranty Extension Letter or 2024 Warranty Extension Letter had the effect or consequence of making the applicable owner ineligible to recover damages of the kind referred to in section 272(1)(a) of the ACL;
- (E) the Second ACL Representation was misleading when made, because, at the time the Second ACL Representation was made and thereafter, Toyota Australia intended to contend, that applicable owners who took up its invitation to have the DPF system in their Relevant Vehicles repaired in accordance with the 2020 Warranty Extension Letter or 2024 Warranty Extension Letter would thereby become ineligible to recover damages of the kind described in section 272(1)(a) of the ACL;
- (F) the Third ACL Representation was misleading when made, because Toyota Australia did not have reasonable grounds for making it;
- (G) the Fourth ACL Representation was misleading when made, because Toyota Australia did not have reasonable grounds for making it;
- (H) Toyota Australia failed to correct, qualify or withdraw the ACL Representations until at least 11 June 2025, or alternatively, 21 February 2025, or in the further alternative, 14 February 2025;

Particulars

- (i) On 11 June 2025, Lee J made orders in the proceeding named *Williams v Toyota Motor Corporation Australia* and numbered NSD1210/2019 (**Williams Proceeding**), approving the contents of a

letter from Toyota Australia to some Initial Acquirers annexing a Group Member Notice which stated, among other things, that: *“If you are a group member, you should be aware that if you decide to have the DPF system in your vehicle repaired, Toyota will argue in the class action that you will lose any entitlement to be paid money for reduction in value under section 272(1)(a) of the Australian Consumer Law (ACL)”*.

- (ii) On around 21 February 2025, pursuant to order 9(e) made by Lee J on 29 January 2025 in the *Williams* Proceeding, Toyota Australia started to display the Group Member Notice approved by the Court on 29 January 2025 on its website.
- (iii) From around 14 February 2025, Toyota Australia instructed Dealers to provide any customer who presents to a dealership in relation to DPF related issues in their Relevant Vehicle with a document stating:

“On 29 January 2025, the Federal Court of Australia ordered that Group Members in the DPF Class Action be made aware of the following information:

- *If you are a group member in the DPF class action; AND*
- *You take up Toyota’s invitation to have the DPF system in your vehicle repaired; THEN*
- *Toyota will argue in the class action that you will lose any entitlement to be paid money for reduction in value under section 272(1)(a) of the Australian Consumer Law”*.

- (I) Toyota Australia did not disclose, in the 2020 Warranty Extension Letter or the 2024 Warranty Extension Letter or thereafter (until the times pleaded in subparagraph (J) below), the matters pleaded in subparagraphs (xv)(D) and (E) above (**ACL Omissions Conduct**);
- (J) the ACL Omissions Conduct continued from at least August 2020 until at least 11 June 2025, or alternatively, 21 February 2025, or in the further alternative, 14 February 2025;

Particulars

The applicant refers to and repeats the particulars to subparagraph (H) above.

(K) the following conduct was conduct engaged in by Toyota Australia in trade or commerce:

(1) making, and failing to correct, qualify or withdraw the ACL Representations; and

(2) the ACL Omissions Conduct,

(together, the **Misleading Warranty Extensions Conduct**);

(L) at the times that Toyota Australia engaged in the ACL Omissions Conduct:

(1) the information the subject of the ACL Omissions Conduct was material to a reasonable consumer's decision whether to take up Toyota Australia's invitation to have the DPF system in their Relevant Vehicle repaired;

(2) it would reasonably be expected that Toyota Australia would disclose the information the subject of the ACL Omissions Conduct to applicable owners in the 2020 Warranty Extension Letter, 2024 Warranty Extension Letter and prior to the 2020 Field Fix being applied to their Relevant Vehicle; and

(3) Toyota Australia knew the matters pleaded in subparagraphs (xv)(D) and (E) above; and

(M) in the premises of paragraphs 5(a)(ix), (xii) and (xv)(A) to (L) above, the Misleading Warranty Extensions Conduct was, individually and cumulatively, conduct that was misleading or deceptive, or likely to mislead or deceive, in contravention of section 18 of the ACL; and

(xvi) otherwise denies the subparagraph;

Required

(b) in respect of subparagraph 44(c)(ii):

(i) refers to and repeats subparagraph 5(a) above;

(ii) does not know whether and therefore cannot admit that any Initial Acquirer or New Group Member required Toyota Australia to remedy the failure of a Relevant Vehicle to comply with the guarantee of acceptable quality in section 54 of the ACL within the term of the 3 Year Supply Warranty or 5 Year Supply

Warranty given or made in connection with the supply of that vehicle (as pleaded in subparagraphs 5(a)(iv) and 5(a)(v) above respectively);

- (iii) denies that any Initial Acquirer or New Group Member required Toyota Australia to remedy the failure of a Relevant Vehicle to comply with the guarantee of acceptable quality in section 54 of the ACL in accordance with an “express warranty” within the meaning of section 2(1) of the ACL at any time after the term of the 3 Year Supply Warranty or 5 Year Supply Warranty given or made in connection with the supply of that vehicle (as pleaded in subparagraphs 5(a)(iv) and 5(a)(v) above respectively) had expired; and
- (iv) otherwise denies the subparagraph;

Failed to remedy, or failed to remedy within a reasonable time

- (c) in respect of subparagraph 44(c)(iii):
 - (i) admits that the 2020 Field Fix has been, and will continue to be, effective in remedying the Core Defect and its consequences in all Relevant Vehicles to which the 2020 Field Fix has been applied correctly; and
 - (ii) otherwise denies the subparagraph;
- (d) in respect of subparagraph 44(c)(iv):
 - (i) refers to and repeats subparagraph 5(c) above;
 - (ii) says that the 2020 Field Fix has not been applied to the Applicant’s Relevant Vehicle; and
 - (iii) says further that prior to the 2020 Field Fix being applied to at least some Relevant Vehicles, Toyota Australia failed to remedy the failure of those vehicles to comply with the guarantee of acceptable quality in section 54 of the ACL;
- (e) does not know and therefore cannot admit subparagraph 44(c)(v); and
- (f) in respect of subparagraph 44(c)(vi):
 - (i) refers to and repeats subparagraphs 5(a) to 5(e) above; and
 - (ii) otherwise denies the subparagraph.

6. In respect of subparagraph 44(e) of the Defence, the applicant:

- (a) refers to and repeats paragraphs 1 and 36(a) of the Statement of Claim; and
- (b) otherwise denies the subparagraph.

7. In respect of paragraph 45 of the Defence, the applicant:
- (a) refers to and repeats subparagraphs 5 and 6 above;
 - (b) says that by reason of the matters pleaded in the Statement of Claim, the applicant and New Group Members are entitled to the relief claimed in paragraph 45 of the Statement of Claim;
 - (c) says further that
 - (i) if:
 - (A) contrary to subparagraphs 5(a)(vii), (x) and (xiii) above, the 2020 Warranty Extension Letter, 2024 Warranty Extension Letter and/or 2025 Warranty Extension Letter constitutes an “express warranty” within the meaning of section 2(1) of the ACL, which is denied;
 - (B) contrary to subparagraph 5(b)(iii) above, a New Group Member required Toyota Australia to remedy the failure of their Relevant Vehicle to comply with the guarantee of acceptable quality in section 54 of the ACL in accordance with an “express warranty” within the meaning of section 2(1) of the ACL after the term of the 3 Year Supply Warranty or 5 Year Supply Warranty given or made to the Initial Acquirer of the vehicle at the time the vehicle was supplied new to the Initial Acquirer had expired (and not beforehand), which is denied;
 - (C) contrary to subparagraphs 5(d)(iii) and 5(e) above, Toyota Australia did not fail to remedy the failure of the Relevant Vehicle referred to in subparagraph (B) above to comply with the guarantee of acceptable quality in section 54 of the ACL, or fail to do so within a reasonable time, by applying the 2020 Field Fix to the vehicle, which is denied; and
 - (D) contrary to subparagraph 5(f) above, the New Group Member referred to in subparagraph (B) above is not entitled to commence an action under section 271(1) of the ACL to recover damages of a kind referred to in section 272(1)(a) of the ACL and/or is not entitled to recover damages of the kind referred to in section 272(1)(a) of the ACL by reason of section 271(6) of the ACL, which is denied,
 - (ii) then, he claims on behalf of any such New Group Member (**Disentitled New Group Member**):

- (A) in addition to the relief sought in paragraph 45 of the Statement of Claim, injunctive relief pursuant to section 232 of the ACL, enjoining Toyota Australia from relying on section 271(6) of the ACL; or
- (B) alternatively, instead of the relief sought in subparagraph 45(a)(i) of the Statement of Claim (and in addition to the relief sought in the balance of paragraph 45 of the Statement of Claim), damages pursuant to section 236 of the ACL for the loss or damage suffered by that New Group Member because of Toyota Australia's contraventions of section 18 of the ACL pleaded in paragraph 5(a)(xv) above (in the premises pleaded in subparagraph 7(c)(i) above, which are denied); and

Particulars

- (i) The applicant says that the loss or damage each Disentitled New Group Member has suffered because of Toyota Australia's contraventions of section 18 of the ACL pleaded in paragraphs 5(a)(xv) above (in the premises pleaded in subparagraph 7(c)(i) above, which are denied) is the loss of their entitlement to recover damages of the kind referred to in section 272(1)(a) of the ACL due to the operation of section 271(6) of the ACL.
- (ii) The applicant seeks damages pursuant to section 236 of the ACL on behalf of each Disentitled New Group Member in amounts equal to the value of the entitlement to recover damages of the kind referred to in section 272(1)(a) of the ACL which that Disentitled New Group Member has lost because of Toyota Australia's contraventions of section 18 of the ACL (in the premises pleaded in subparagraph 7(c)(i) above, which are denied).

(d) otherwise denies paragraph 45.

Date: 20 October 2025



Signed by Matthew Mackenzie
Lawyer for the Applicant

This pleading was prepared by Matthew Mackenzie of Quinn Emanuel, Patrick Meagher, Peter Strickland and Tim Rogan of counsel and settled by Dr Ruth Higgins SC.

Certificate of lawyer

I Matthew Mackenzie, certify to the Court that, in relation to the reply filed on behalf of the Sample Group Member, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non admission in the pleading.

Date: 20 October 2025



Signed by Matthew Mackenzie
Lawyer for the Applicant