



Issued: 25 January 2023 12:30 PM

## JUDGMENT/ORDER

### COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Corporations List
Registry	Supreme Court Sydney
Case number	2023/00025359

### TITLE OF PROCEEDINGS

First Plaintiff	Christopher Clarke Hill
Second Plaintiff	David McGrath
Number of Plaintiffs	4

First

### DATE OF JUDGMENT/ORDER

Date made or given	25 January 2023
Date entered	25 January 2023

### TERMS OF JUDGMENT/ORDER

#### VERDICT, ORDER OR DIRECTION:

Hearing of Originating Process filed 24 January 2023.

Ex tempore judgment delivered.

Black J makes orders in accordance with the Short Minutes of Order initialled by him and placed in the file.

The Court orders that:

1. Pursuant to section 447A(1) of the Corporations Act 2001 (Cth) (Corporations Act) that Part 5.3A of the Corporations Act is to operate in relation to the Plaintiffs as if s 443A(1) of the Corporations Act provides that:

(a) the liabilities of the First Plaintiffs (in their capacities as administrators of the Second Plaintiff) incurred with respect to any obligations arising out of, or in connection with any funding agreement substantially in accordance with the draft funding agreement in pages 991 to 1016 of Exhibit DMG-1 (Funding Agreement), between Eriostemon Pty Limited ACN 119 827 593 (or their nominee) and the First Plaintiffs are in the nature of debts incurred by the First Plaintiffs in the performance and exercise of their functions as joint and several administrators of the Second Plaintiff; and  
(b) notwithstanding that the liabilities referred to in Order 1(a) are debts incurred by the First Plaintiffs in the performance and exercise of their functions as joint and several administrators of the Second Plaintiff, the First Plaintiffs will not be personally liable to repay such debts or satisfy such liabilities to the extent that the property of the Second Plaintiff is insufficient to satisfy the debts and liabilities incurred by the First Plaintiffs arising out of, or in connection with, the Funding Agreement.

2. Pursuant to section 439A(6) of the Corporations Act, that the date of the convening period as defined by section 439A(5) of the Corporations Act, for the second meeting of creditors of the Second Plaintiff required by section 439A of the Corporations Act (Second Meeting), be extended up to and including 30 June 2023.

3. Pursuant to section 447A of the Corporations Act, that Part 5.3A of the Corporations Act is to operate in relation to the Company as if the Second Meeting may be convened and held at any time during the convening period, or within 5 business days after the end of the convening period as extended by the order sought in paragraph #2 above, notwithstanding the provisions of 439A(2) of the Corporations Act.

4. The First Plaintiffs take reasonable steps to cause a copy of this application and the Court's orders to be given within two business days of the making of those orders:

(a) to:

- (i) creditors of the Second Plaintiff;
- (ii) the Australian Securities & Investments Commission;
- (iii) Squadron Energy Pty Ltd ACN 615 221 559; and
- (iv) Eriostemon Pty Limited ACN 119 827 593,

(b) by:

- (i) publishing the orders on the website maintained by the Administrators in respect of the Second Plaintiff;
- (ii) to the extent that the Administrators have on record an email address for each of the recipients listed in Order 4(a), sending a copy of the published order by email to that recipient; and
- (iii) to the extent that the Administrators do not have on record an email address for any of the recipients listed in Order 4(a), sending a copy of the published order by registered post to the last known address of each recipient.

5. That any person who can demonstrate a sufficient interest have liberty to apply to vary or discharge the Court's orders on two business days' notice.

6. That the First Plaintiffs' costs of and incidental to this application be costs in the administration of the company.

7. These orders be entered forthwith.

8. The exhibits be returned.

## SEAL AND SIGNATURE



Signature                      Chris D'Aeth  
Capacity                      Principal Registrar  
Date                              25 January 2023

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document is taken to have been signed if the person's name is printed where his or her signature would otherwise appear.

**PERSON PROVIDING DOCUMENT FOR SEALING UNDER UCPR 36.12**

Name Christopher Clarke Hill, Plaintiff 1  
David McGrath, Plaintiff 2  
John Park, Plaintiff 3  
SUN CABLE PTY LTD (ADMINISTRATORS APPOINTED),  
Plaintiff 4

Legal representative Camilla Clemente  
Legal representative reference  
Telephone 0439443153

**FURTHER DETAILS ABOUT Plaintiff(s)**

First Plaintiff  
Name Christopher Clarke Hill  
Address Gateway Level 22  
1 Macquarie Place  
SYDNEY NSW 2000

Telephone  
Fax  
E-mail  
Client reference

Second Plaintiff  
Name David McGrath  
Address Gateway Level 22  
1 Macquarie Place  
SYDNEY NSW 2000

Telephone  
Fax  
E-mail  
Client reference

Third Plaintiff  
Name John Park  
Address Gateway Level 22  
1 Macquarie Place  
SYDNEY NSW 2000

Telephone  
Fax  
E-mail  
Client reference

Fourth Plaintiff  
Name SUN CABLE PTY LTD (ADMINISTRATORS APPOINTED)  
ACN 623991006  
Address c/- Gateway Level 22  
1 Macquarie Place  
SYDNEY NSW 2000

Telephone  
Fax  
E-mail  
Client reference

**Legal representative**  
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#### **FURTHER DETAILS ABOUT (s)**