

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 11/08/2020 1:19:07 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged:	Submissions
File Number:	NSD714/2020
File Title:	WELLS FARGO TRUST COMPANY, NATIONAL ASSOCIATION (AS OWNER TRUSTEE) & ANOR v VB LEASECO PTY LTD (ADMINISTRATORS APPOINTED) ACN 134 268 741 & ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Dated: 11/08/2020 2:55:26 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 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.



IN THE FEDERAL COURT OF AUSTRALIA

NSD 714 of 2020

**WELLS FARGO TRUST COMPANY**

First Applicant

**WILLIS LEASE FINANCE CORPORATION**

Second Applicant

**VB LEASECO PTY LTD**

First Respondent

**VIRGIN AUSTRALIA AIRLINES PTY LIMITED**

Second Respondent

**VAUGHAN STRAWBRIDGE, SALVATORE ALGERI, JOHN GREIG AND  
RICHARD HUGHES OF DELOITTE (TOGETHER, THE 'ADMINISTRATORS')**

Third Respondent

**TIGER AIRWAYS AUSTRALIA PTY LIMITED (ADMINISTRATORS APPOINTED)**

**ACN 124 369 008**

Fourth Respondent

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**FIRST AND SECOND APPLICANTS' SUBMISSIONS  
ON LIABILITY IN RESPECT OF RENT**

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1. The Court invited the parties to provide further submissions in respect of the period of time that the administrators should be excused from liability in respect of rent pursuant to section 443B(8) of the *Corporations Act 2001* (Cth) (**Corporations Act**) (see paragraphs 69.40 to 70.13 of the transcript for the hearing of Friday, 31 July 2020).
2. The Applicants note his Honour's comments that:
  - (a) he did *not* consider it appropriate to accede to the Administrators' application; and
  - (b) he would *not* "make an order in relation to excusing non-compliance with the notice that I have held to be effectively not satisfying the requirements of the *Corporations Act*"; but
  - (c) he would be making an order "excusing the administrators for a period of time, which I will want to hear the parties further on, which will, in my view – and I will give reasons for this, obviously, is appropriate, particularly having regard to some of the steps that the administrators may have to take in the foreseeable future".

3. It appears from the transcript that it was the intention of the Court that rent should be payable by the Administrators for a limited period and the Applicants submit that period should be the period:
  - (a) commencing on 17 June 2020 being the date on which the personal liability of the Administrators commenced under section 443B(2); and
  - (b) ending on 7 August 2020, being the last date on which the Administrators provided Historical Operator Records (specifically, the HMU certification for P/N 1853M56P14 S.N BECW0406 in respect of engine 896999) – in effect the earliest date on which it could be argued that the Administrators substantially complied with the obligation under section 443B(3) to identify the location of the leased property.
2. The period for which the Administrators should therefore be excused from liability is the period commencing on 8 August 2020 and ending on 15 October 2020 (inclusive), with rent continuing to accrue from 16 October 2020 onwards until the Respondents have “*given possession*” of the “*aircraft objects*” to the Applicants in accordance with the Orders.

11 August 2020

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