

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 8/04/2021 5:59:07 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 - Form 15 - Rule 8.01(1)
File Number:	NSD308/2021
File Title:	QBE INSURANCE (AUSTRALIA) LIMITED (ACN 003 191 035) v DAVID COYNE IN HIS CAPACITY AS LIQUIDATOR OF EDUCATIONAL WORLD TRAVEL PTY LTD ACN 006 888 179 (IN LIQUIDATION) & ANOR
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



Sia Lagos

Dated: 9/04/2021 12:42:06 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 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.



Form 15
Rules 8.01(1); 8.04(1)

Originating application

No. of 2021

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

QBE Insurance (Australia) Limited (ACN 003 191 035)

Applicant

David Coyne in his capacity as liquidator of Educational World Travel Pty Ltd (ACN 006 888 179) (In Liquidation) and another listed in the schedule

Respondents

To the Respondents

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: Level 17, Law Courts Building
184 Phillip Street
Queens Square
Sydney NSW 2000

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

Filed on behalf of (name & role of party)	QBE Insurance (Australia) Limited (ACN 003 191 035), the Applicant		
Prepared by (name of person/lawyer)	Louise Massey		
Law firm (if applicable)	Dentons		
Tel	(02) 9931 4959	Fax	(02) 9931 4888
Email	louise.massey@dentons.com		
Address for service (include state and postcode)	Level 13, 77 Castlereagh Street Sydney NSW 2000		



Date: 8 April 2021

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



Details of claim

On the grounds stated in the Applicant's Concise Statement, the Applicant seeks the following relief:

1. A declaration that policy no. 41A843909BPK issued by the Applicant to the Second Respondent does not respond to the claim for indemnity by the Respondents.
2. A declaration that section 61A of the *Property Law Act 1958* (Vic) applies to the policy no. 41A843909BPK issued by the Applicant to the Second Respondent, such that the reference to the repealed *Quarantine Act 1908* (Cth) is to be construed as a reference to the *Biosecurity Act 2015* (Cth), such that a disease determined to be a "listed human disease" under the *Biosecurity Act 2015* (Cth) falls within the scope of the exclusion from cover for business interruption.
3. In the alternative, a declaration that the appropriate counter-factual for the purposes of the Standard Income definition in policy no. 41A843909BPK issued by the Applicant to the Second Respondent may take into account the presence and effect of COVID-19 as relevant circumstances, so that any payment to be made reflects the results that, but for the insured events, would have been obtained during the relevant period.
4. Further or alternatively, if it is found that policy no. 41A843909BPK issued by the Applicant to the Second Respondent responds and the Applicant is liable to pay an amount to the Second Respondent, a declaration that interest on that amount pursuant to section 57 of the *Insurance Contracts Act 1984* (Cth) runs from the date of adjudication of the proceeding.

Claim for interlocutory relief

The Applicant also claims interlocutory relief.

1. An order pursuant to sections 471B and 500(2) of the *Corporations Act 2001* (Cth), granting leave to proceed against the Second Respondent.

Applicant's address

The Applicant's address for service is:

Place: Dentons

Level 13, 77 Castlereagh Street

Sydney NSW 2000

Email: louise.massey@dentons.com



The Applicant's address is Level 5, 2 Park Street Sydney NSW 2000

Service on the Respondent

It is intended to serve this application on all Respondents.

Date: 8 April 2021

A handwritten signature in blue ink that reads "Louise Massey".

Signed by Louise Massey
Lawyer for the Applicant

**Schedule**

No. of 2021

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

Respondents

Second Respondent: **Educational World Travel Pty Ltd (ACN 006 888 179) (In Liquidation)**

Date: 8 April 2021