

MEDIA RELEASE

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LEGITIMACY OF PRIVATE CAR PARK “FINES” COULD FINALLY BE DECIDED

Consumer Action Law Centre has sought leave to add new claims of unconscionable conduct and harassment to its test case against private car park operator Care Park on behalf of its client, Mitchell Davis, after Care Park used new tactics to try to stop the legal proceeding from going ahead.

Consumer Action Law Centre spokesperson, Eileen Kerrigan, says if a decision is obtained on the legality of the payment demands that private car park operators impose on consumers it would help to clarify consumer rights and potentially put a stop to the practice.

“This is an important case for the thousands of drivers who’ve been hit with demands for payment, often after failing to see the notices posted at the entrance to these car parks and often where there is no boom gate to signal that a ticket is needed,” Ms Kerrigan said.

The proceedings in the Victorian Civil and Administrative Tribunal (VCAT) were issued after Mr Davis parked at the Box Hill Spotlight in February last year and failed to display a 50 cent ticket. Care Park claimed \$88 in liquidated damages, which the legal claim argues is grossly in excess of any loss the operator could have suffered.

“Our client is seeking to have VCAT declare that the amount claimed is so excessive it is an unlawful penalty and also unfair under Victoria’s unfair contract terms law. If our client is successful the judgment could have a wide reaching impact so, understandably, Care Park has been reluctant to allow the matter to continue.”

Once proceedings were instigated in VCAT, Care Park stated in documents filed with VCAT that it waived its claim against Mr Davis and that Mr Davis was banned from parking in any of its facilities again. Care park argued that VCAT no longer had jurisdiction to hear the matter given there was no longer a dispute with Mr Davis.

“A ban on ever using a Care Park car park again could leave our client open to an action in trespass even if he parks there by mistake. Consumer Action has amended Mr Davis’ claim to allege that these latest actions by Care Park amount to unconscionable conduct, harassment and coercion.”

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