



# Claim by Homer

**Prepared for Burns Motors**

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## 1. Context

- 1.1 Homer purchased his new Burnsmobile car 2 months ago.
- 1.2 The car has been at the dealer having a mechanical problem fixed for a week.
- 1.3 The mechanical problem is a known manufacturing defect.
- 1.4 Homer has claimed from Burnsmobile the cost of:
  - a hire car
  - extra drinks at Moe's Tavern to cheer him up because of the problem with the car
  - donuts purchased while waiting for 4 hours for a tow truck to arrive.

## 2. Question

- 2.1 Is Burns Motors required to pay Homer these costs?

### 3. Answer

- 3.1 Burns Motors must pay for Homer's reasonable hire car costs, but not for the extra drinks or donuts.
- 3.2 Burns Motors must pay for costs that arise from a 'reasonably foreseeable' consequence of a failure of a 'consumer guarantee'<sup>1</sup>
- 3.3 A known manufacturing defect will be a failure of a consumer guarantee<sup>2</sup>.
- 3.4 It is 'reasonably foreseeable' that:
- while a defect is being rectified, Homer will need to rent a car
  - Homer will need sustenance while waiting 4 hours for the tow truck to arrive.
- 3.5 Extra drinks are not 'reasonably foreseeable'.

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<sup>1</sup> Section 271 and 272(2) of the ACL

<sup>2</sup> The consumer guarantee of acceptable quality in s54 of the ACL