



Annexure A

NOTICE TO GROUP MEMBERS – OPT OUT AND CLAIM REGISTRATION
ROMEO RETAIL GROUP CLASS ACTION – *Thomas v Romeo Lockleys Partnership*
(SAD105/2020) & *Shina v Romeo NSW Partnership* (SAD169/2020)

This Notice is important. It relates to your right to:

- (a) **opt out** of this class action;
- (b) **register** your claim as part of this class action;
- (c) **do nothing**

SECTION 1 – INFORMATION ABOUT THE CLASS ACTION

Why have you received this Notice?

1. The following class actions have been commenced in the Federal Court of Australia:
 - (a) the class action commenced by Mr Christopher Thomas, on behalf of certain persons who were employed by the Romeo Lockleys Partnership, being the partnership between Lockleys Foodland Pty Ltd & Romeo Lockleys Holdings Pty Ltd (**Romeos Lockleys**), between 28 July 2014 and 27 July 2020; and
 - (b) the class action commenced by Mr Martin Shina, on behalf of certain persons who were employed by the Romeo NSW Partnership, being the partnership between Romeo NSW Investments Pty Ltd & Romeo NSW Holdings Pty Ltd as trustee for Romeo NSW Holding Trust (**Romeos NSW**), between 21 November 2014 and 20 November 2020.
2. The class actions commenced by Mr Thomas and Mr Shina will be referred to as the “**Romeo Class Actions**” in this Notice.
3. The employers, Romeo Lockleys Partnership and the Romeo NSW Partnership, will be referred to as the “**Romeos**” in this Notice.
4. The Romeo Class Actions cover those persons who were employed in the position of a salaried manager on a full-time basis in a Romeos Foodland, Foodhall or IGA supermarket operated by Romeos Lockleys and Romeos NSW.
5. The Federal Court of Australia has ordered that this notice be published for the information of persons who might be members of the class on whose behalf the action is brought and may be affected by the class action. **You should read this notice carefully. Any questions you have concerning the matters contained in this notice should not be directed to the Court.** If there is anything in this notice that you do not understand then you should seek legal advice.



What is a Class Action?

6. A class action is also called a ‘representative proceeding’. It is a case brought by one party (**Applicant(s)**) on their own behalf and on behalf of a class of people (**Group Members**) against another person or entity (**Respondent(s)**) where the Applicants and the Group Members have similar claims against the Respondents.
7. The Applicants in a class action do not need to seek the consent of Group Members to commence a class action on their behalf or to identify a specific Group Member. However, Group Members can cease to be Group Members by opting out of the class action.
8. Group Members are “bound” by the outcome in the class action, unless they have opted out of the proceeding. A binding outcome can happen in one of two ways: a *judgment* following a trial, or a *settlement* at any time that is approved by the Court. If there is a judgment or a settlement of a class action, Group Members will not be able to pursue the same claims and may not be able to pursue similar or related claims against the Respondents in other legal proceedings. Group Members should note that:
 - (a) in a *settlement* of a class action, where the settlement provides for compensation to Group Members, the settlement is likely to extinguish all rights to compensation which a Group Member might have against the Respondents which arise in any way out of the events or transactions which are the subject-matter of the class action. Any settlement of the Romeos Class Actions may include releases that are commonly sought in relation to the settlements of class actions, which include releases of the Respondents, their related entities, and their current and former directors, officers, employees, contractors and agents, in respect of:
 - (i) all claims made by Group Members against Romeos in the class action; and
 - (ii) any claims Group Members may have against Romeos and their related entities:
 - (A) which are raised in the Romeos Class Action;
 - (B) which were at any time the subject of the Romeos Class Action or any part of the class action; or
 - (C) which relate to the matters or issues the subject of the Romeos Class Action or any part of the class action,whether arising at common law, equity or under statute; and
 - (b) in a judgment following trial, the Court will decide various common factual and legal issues in respect of the claims made by the Applicants and Group Members. Group Members are bound by those findings, whether or not they are favourable to them (unless they are successfully appealed). Importantly, if there are other proceedings between a Group Member and Romeos, neither of them will be permitted to raise arguments in that



proceeding which are inconsistent with a factual or legal issue decided in the trial of common issues in the class action. This means that if the issues are decided against the Applicants, Group Members will be unable to pursue claims they have which are the same as the Applicants' claims, and will not be able to pursue other claims which are dependent upon common issues which have been decided against the Applicants.

9. If you consider you have claims against Romeos which are based on your individual circumstances or are otherwise additional to the claims described in the class action, then it is important that you seek independent legal advice about the potential binding effects of the class action before the deadline for opting out (see below).

What are the Romeos Class Actions?

10. The Romeos Class Actions are class actions filed by Adero Law on behalf of employees of Romeos Lockleys and Romeos NSW.
11. On 27 July 2020, Adero Law filed the Class Action against **Romeos Lockleys** on behalf of Mr Thomas, a former Assistant Store Manager and Store Manager employed by Romeos Lockleys.
12. On 20 November 2020, Adero Law filed the Class Action against **Romeos NSW** on behalf of Mr Shina, a former Assistant Store Manager and Store Manager employed by Romeos NSW.
13. Mr Thomas and Mr Shina bring their claims on their own behalf and on behalf of all other persons who:
 - (a) were employed in a manager position with a job title that included the word "manager";
 - (b) were employed in a position in a supermarket in the 'general retail industry' within the meaning of that phrase in the General Retail Industry Award 2010 (the **Award**);
 - (c) were employed on a "full-time" basis as that term is defined in the Award;
 - (d) were employed by **Romeos Lockleys** at any time between 28 July 2014 and 27 July 2020 at one or more of the following supermarkets:
 - (i) Morphett Vale Foodland located at 201 Main South Road, Morphett Vale SA;
 - (ii) Normanville Foodland located at 85 Main Street, Normanville SA;
 - (iii) Rostrevor Foodland located at 161 St Bernards Road, Rostrevor SA;
 - (iv) Stirling IGA located at 5 Johnston Street, Stirling SA;
 - (v) Daw Park Foodland located at 530 Goodwood Road, Daw Park SA;
 - (vi) Stirling Foodland located at 5 Johnston Street, Stirling SA;
 - (vii) Aldgate IGA Fresh located at 232 Mount Barker Road, Aldgate SA;
 - (viii) Salisbury East IGA Fresh located at 53-63 Northbridge Avenue, Salisbury East SA;
 - (ix) Modbury Village Foodland located at Modbury Triangle Shopping Centre, Modbury SA;



- (x) Old Reynella Foodland located at 221 Old South Road, Old Reynella SA;
 - (xi) Athelstone Foodland located at 320 Gorge Road, Athelstone SA; and
 - (xii) Fairview Park Foodland located at 325 Hancock Road, Fairview Park SA;
- (e) were employed by **Romeos NSW** at any time between 21 November 2014 and 20 November 2020 at one or more of the following supermarkets:
- (i) Romeo's Foodhall Oxford Street (also known as Romeo's Foodhall Darlinghurst) located at 23 Oxford Street, Darlinghurst NSW;
 - (ii) Romeo's Foodhall St Leonards located at 201-205 Pacific Highway, St Leonards NSW;
 - (iii) Romeo's Foodhall Parramatta located at 37-39 George St, Parramatta NSW;
 - (iv) Romeo's Foodhall St Ives located at Shop 140, 166 Moana Vale Rd, St Ives NSW;
 - (v) Romeo's Foodhall Summer Hill located at Shop 5, 1-11 Hardie Street, Summer Hill, NSW;
 - (vi) Romeo's Foodhall Castlecrag located at 100 Edinburgh Road, Castlecrag NSW;
 - (vii) Romeo's Foodhall Ramsgate located at 191-201 Ramsgate Road, Ramsgate Beach NSW;
 - (viii) Romeo's Foodhall Sutherland located at 561 President Ave, Sutherland NSW;
 - (ix) Romeo's Foodhall Paddington located at 1 Newcombe Street, Paddington NSW;
 - (x) Romeo's Supa IGA Doonside (also known as Romeo's Rainbow Doonside) located at the corner of Bungaribee Road and Rosenthal Street, Doonside NSW;
 - (xi) Romeo's Foodhall IGA North Sydney located at Greenwood Plaza 24/36 Blue Street, North Sydney NSW;
 - (xii) Romeo's Foodhall IGA Mortdale located at 42-44 Morts Road, Mortdale NSW;
 - (xiii) Romeo's Foodhall IGA Martin Place located at L4 MLC Centre 19-29 Martin Place, Sydney NSW;
 - (xiv) Romeo's Cellar located at 166 Mona Vale Road, St Ives NSW;
- (f) who worked in any 'pay period' in the above relevant periods a rostered hour:
- (i) which was on a Monday to Friday on what was for the purposes of the Award an evening;
 - (ii) outside the spread of hours from time to time prescribed in the Award for undertaking ordinary hours; or
 - (iii) on a Saturday, Sunday or Public Holiday.

14. If you meet these criteria, you may be a Group Member.



15. As part of the Romeos Class Actions, Mr Thomas and Mr Shina seek orders from the Court, for the benefit of themselves and Group Members, awarding compensation and imposing penalties upon Romeos for the alleged underpayments.
16. The allegations made by Mr Thomas and Mr Shina against Romeos are set out in the Applicants' Amended Statement of Claim, and Statement of Claim respectively, copies of which are available at: <https://www.aderolaw.com.au/class-actions/Romeos/>.
17. Romeos are defending the claims brought by Mr Thomas and Mr Shina and have filed a defence in each proceeding. Copies of Romeos' Defences are available at: <https://www.aderolaw.com.au/class-actions/Romeos/>.
18. On 4 March 2021, the Court made orders referring the Romeos Class Actions to a mediation to be conducted by 27 August 2021 (the **Mediation**). As part of this process, the Court also made orders which require any Group Member who wishes to opt out of the Class Action to do so by 2 June 2021 (the **Deadline**). The Court also approved the sending of this notice to Group Members, which gives Group Members an opportunity to register their details (if they have not already signed a retainer agreement with Adero Law) so that their specific claims can be considered at the Mediation. Any settlement agreed will be subject to Court approval.

Will Group Members be liable for legal costs?

19. In the event that the Romeos Class Actions are successful (that is, if money compensation is recovered), the Court will be asked to distribute the legal costs incurred by the Applicants in pursuing that class action from the money recovered, fairly among all persons who have benefitted from the class action. The effect of any such order, if made, would be that all Group Members who benefit will contribute to the legal costs. This ensures that all Group Members are treated equally.
20. In the event that the class action is unsuccessful, Group Members have no liability to pay any legal and/or funding costs.

What do Group Members need to do?

21. You have three options:
 - (a) Opt out of the Romeos Class Actions;
 - (b) Register and provide details of your employment with the Romeos so that your individual claim can be taken into account by the parties in the Mediation and any other settlement discussions with a view to settling your claim without having to go to trial (subject to court approval of any settlement agreement); or
 - (c) Do nothing.
22. There are different consequences depending on which option you choose. Each of these options is explained in greater detail in **Section 2** below.



23. For Group Members who **opt out** of the Romeos Class Actions, you will no longer be a Group Member. If you want to bring your own claim, you will need to do that separately with your own legal representation should you choose and at your own cost. You will not receive any payment from any settlement or judgment in the Romeos Class Actions if the Romeos Class Actions succeed.
24. For Group Members who **register**, account can be taken of your individual claim at the Mediation.
25. For Group Members who **do nothing** (i.e. have not already signed a retainer with Adero Law, and now neither register to participate in the Romeos Class Actions nor opt out of the proceeding) you will remain a Group Member in the Romeos Class Actions subject to the matters in paragraph 42 to 47 below.
26. If you wish to **Opt out** of the Romeos Class Actions, you **must** do so by the Deadline, being **2 June 2021**.
27. If you wish to ensure that account can be taken of your individual claim at the Mediation, you should **register** by the Deadline. Please note that you are under no obligation to enter into a retainer agreement with Adero Law if you choose to register.
28. Further information about each of the options set out above is contained in **Section 2** below. **Please read the information about your options carefully.**

Where can I get more information?

29. For more information about the Romeos Class Actions, you can visit the website of Adero Law at <https://www.aderolaw.com.au/class-actions/Romeos/>.
30. If you are unsure of what to do, you should seek independent legal advice.



SECTION 2 – YOUR OPTIONS

Option 1: Opt out

31. If you opt out of the Romeos Class Actions, you will no longer be a Group Member. This means you will:
- (a) not be affected by any orders made in the Romeos Class Actions;
 - (b) not be entitled to receive any distribution arising from any damages awarded or settlement sum paid in relation to any section of the Romeos Class Actions;
 - (c) not be bound by any settlement or judgment in the Romeos Class Actions; and
 - (d) be able to commence separate proceedings against Romeos on your own behalf if you so wish. You will need to arrange your own legal representation and funding for your claim.
32. If you wish to opt out of one or more of the Romeos Class Actions, you must complete the ‘Opt Out Notice’ attached at **Schedule A** below by ticking the box to opt out and submit it to the Court by the Deadline. As noted above, the Deadline is **2 June 2021**.
33. The Opt Out Notice must be submitted to the South Australian District Registry of the Federal Court of Australia by post or email at the following addresses:
- (a) sareg@fedcourt.gov.au, with the email subject line: 'Opt Out Notice SAD105/2020 & SAD169/2020'; or
 - (b) Federal Court of Australia Registry, GPO Box 1350, Adelaide, SA, 5001.

Option 2: Register for one or more of the Romeos Class Actions (if you have not already signed a retainer with Adero Law)

34. You do not have to register to remain a Group Member.
35. However, registration is a way of providing current contact details, which will facilitate the distribution of further notices to you in future with information about the progress of the Romeos Class Actions (including after any settlement, or after any judgment following the trial of common issues).
36. Moreover, registration for one or more of the Romeos Class Actions involves providing details about you and your claim to Adero Law and Romeos. This allows Adero Law and Romeos to consider and take into account your claim at the Mediation and in any other settlement discussions. Any settlement will still be subject to Court approval, but you will not need to do more to participate in any settlement sum negotiated on your behalf.
37. If you have already signed a retainer agreement with Adero Law, you do not need to register again and no further action is required other than providing Adero Law with information about your employment with Romeos if you have not already done so. If necessary, Adero Law may contact you requesting further information.



38. If you have not already signed a retainer agreement with Adero Law, you can register for one or more of the Romeos Class Actions by completing the Romeos Class Actions ‘Group Member Registration’ form online at web address <https://www.aderolaw.com.au/class-actions/Romeos/RegistrationForm> by the Deadline. As noted above, if you wish to ensure that your individual claim can be taken into account at the Mediation, you should register prior to **2 June 2021**.
39. If you are considering becoming a **Registered Group Member**, you should read this Notice carefully and if you do not understand everything, you should get independent legal advice.
40. Please note that you are under no obligation to enter into a retainer agreement with Adero Law if you choose to register.
41. If you want to register and ensure your individual claim is taken into account at the Mediation, you must provide (or take reasonable steps to provide) the information requested in the Registration Form by the Deadline. Registrations received after the Deadline may not be accepted, with the result that you will be treated as having not responded to this Notice unless you have completed and submitted an Opt Out Notice in accordance with Option 1 above.

Option 3: Do nothing

42. If you do not register for, or opt out of, one or more of the Romeos Class Actions by the Deadline (and you have not already signed a Retainer Agreement with Adero Law), you will be an **Unregistered Group Member**. You will remain a Group Member in the proceedings and await the outcome.
43. If the parties agree to settle the Romeos Class Actions at the Mediation or before the trial of the common issues commences, your individual claims may not have been taken into account at the Mediation and in any settlement agreement that may be reached at the Mediation. The parties will then seek the Court’s approval of any settlement agreement. In considering whether you can participate in any settlement sum, the Court may take into account at that time that you had not registered by the Deadline and provided details of your individual claim.
44. If you are permitted to receive any part of the settlement sum, you will have to register in any event in order to participate.
45. As a Group Member you will be bound by any settlement approved by the Court that affects you or by any judgment given in the Romeos Class Actions after the trial of common issues.
46. If the parties do not agree to settle the class action at the Mediation or before the commencement of the trial on common issues, you will remain a Group Member and be bound by the Court’s judgment in respect of them. You may have your claim considered at any further mediation or as part of any settlement that takes place at some later time.



47. Again, registration now is a way of providing current contact details, which will facilitate the distribution of further notices to you in future with information about the progress of the Romeos Class Actions (including after any settlement, or after any judgment following the trial of common issues) as well as allowing the parties to consider your claims and take them into account at the Mediation and any other settlement discussions.



**Schedule A
OPT OUT NOTICE**

**COMPLETE THIS FORM IF YOU WISH TO NOT PARTICIPATE IN THE CLASS
ACTION**

If you complete this form then you will not be affected by the Class Action. You can pursue your own claim separately if you wish to but you will not be able to receive payment from any settlement or favourable judgment in the Class Action.

Federal Court of Australia
District Registry: South Australia
Division: Fair Work

SAD105/2020

Christopher Thomas

Applicant

Romeos Lockleys Partnership and others

Respondents

SAD169/2020

Martin Shina

Applicant

Romeos NSW Partnership and others

Respondents

To: sareg@fedcourt.gov.au

Subject Line: Opt Out Notice SAD105/2020 & SAD169/2020

OR

Federal Court of Australia Registry
GPO Box 1350
Adelaide SA 5001



The person named below as a Group Member in this class action gives notice under section 33J of the *Federal Court of Australia Act 1976* (Cth) that the Group Member is opting out of the following Class Action(s):

I would like to Opt Out of the following class action(s):	<input type="checkbox"/>
<ul style="list-style-type: none"> SAD105/202 – <i>Thomas v Romeo Lockleys Partnership</i>; and/or SAD169/2020 – <i>Shina v Romeo NSW Partnership</i>. 	

Choose either A or B below:

A. I am completing this Opt Out Form on my own behalf:

Name of Group Member (print):	
Postal address of Group Member:	
Romeos Employee ID (optional):	
Telephone:	
Email:	

B. I am signing as the solicitor or representative of a Group Member:

Name of person completing this form (print):	
Authority of person completing this form (e.g. power of attorney, lawyer):	
Postal address of person completing this form:	
Telephone of person completing this form:	
Email of person completing this form:	

Date:

Signature: Print name: