



Annexure A

FURTHER NOTICE TO GROUP MEMBERS

**SALARIED MANAGER UNDERPAYMENT CLASS ACTION PROCEEDINGS
BROUGHT AGAINST DRAKES SUPERMARKETS**

Schoneweiss v The Fourth Force Pty Ltd & Another, SAD 156/2020 (Proceeding)

You are receiving this Further Notice to Group Members because you are a group member in a class action which has been filed in the Federal Court of Australia against Drakes Supermarkets.

Some group members may have already received a copy of the notice in approximately the second half of April earlier this year (the April Notice). The parties are aware this notice was not distributed to all group members.

Therefore, please consider the information below to determine which section is relevant to you.

SECTION A – I DID NOT RECIEVE A COPY OF THE APRIL NOTICE

Please read the information set out in Section A on pages 2 to 4 if you did not receive a copy of the April Notice by post or by email.

SECTION B – I DID RECIEVE A COPY OF THE APRIL NOTICE

Please read the key dates change summary table set out in Section B on page 5.

You should be aware the Deadline and key dates to register or opt out of the proceeding have changed.

Please note the general process the parties have agreed to prepare for the mediation has not otherwise changed.

If you have already registered for the mediation with Adero Law, or have retained Adero Law as your representative, you do not need to register again.

If you have already chosen to opt out of the class action by completing the opt out form and sending it to the Court, and you wish for that opt out to remain in force, you do not need to take any further action.

SECTION C – IMPORTANT INFORMATION FOR ALL GROUP MEMBERS

Section C includes important information about the protection of your rights to freely choose to participate or not participate in this class action.

It is strongly recommended that all group members read the information in this section.



SECTION A

NOTICE OF YOUR RIGHT TO REGISTER, OPT OUT, OR DO NOTHING

Information Summary

You are receiving this notice because it is likely that you are a group member in the underpayment class action legal proceeding that has been filed in the Federal Court of Australia against Drakes Supermarkets. The case has been referred to mediation by the Court, which means there will be discussions between the parties which could lead to a settlement.

You can do one of three things in response to this notice:

1. Register

If you would like to participate in the class action legal proceeding and have your claim considered as part of the mediation discussions, you can register by following the link included below. The Deadline for registration is 2 September 2021.

2. Opt out

You can exclude yourself from the class action legal proceeding by opting out, which means you cannot receive any share in a settlement agreed between Mr Schoneweiss and Drakes Supermarkets as part of the mediation process, but you keep your right to make your own claim on your own behalf if you so wish. The Deadline for opt out is 2 September 2021.

3. Do nothing

If you choose to do nothing before the Deadline of 2 September 2021, this will result in you remaining part of the class action legal proceeding but any claim you might have in the proceeding will not be considered as part of the mediation. However, if the matter does not settle and the case proceeds to trial, and the Court makes an order for compensation in its judgement, you will be entitled to a portion of that compensation.

You should read this notice carefully. If there is anything you do not understand, you should seek your own independent legal advice.



ABOUT THE CLASS ACTION

A class action is a legal proceeding brought by someone on behalf of a group of people with similar claims (called “group members”).

This class action has been commenced in the Federal Court of Australia against the two companies Dramet Pty Ltd and The Fourth Force Pty Ltd which together make up ‘Drakes Supermarkets’ (**Drakes**). It is made on behalf of salaried employees who worked at a Drakes Supermarket in South Australia or Queensland from 27 October 2014 to when the legal proceeding was filed on 26 October 2020 (the **Relevant Period**) whose position title was, or included the word, manager.

The class action alleges that, if a manager's entitlement under the General Retail Industry Award 2010 (the **Award**) was higher than their annual salary during the Relevant Period, then they should have been paid the higher amount. The class action seeks to recover any additional amounts that should have been paid, and have penalties imposed on Drakes. If ordered by the Court, compensation for underpayments and penalties may be paid to eligible group members.

The allegations made by Mr Schoneweiss against Drakes are set out in his Statement of Claim, a copy of which is available at: <https://www.aderolaw.com.au/class-actions/Drakes/>. Drakes are defending the claims brought by Mr Schoneweiss and has filed a defence in the proceeding. A copy of Drakes’ defence is also available at the above link.

The Applicant in a class action does 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.

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) a judgment following a trial, or
- b) a settlement at any time, which must be 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.

For Group Members who opt out of the Class Action, 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 Class Action if the Class Action succeeds.

You may seek to resolve any individual claim of underpayment directly (and informally) with Drakes at no cost to you. You may do so without affecting your ability to participate in the Drakes Class Action. Any deeds of release offered by Drakes in exchange for resolving your underpayment directly with Drakes may limit your ability to obtain payment if the Drakes Class Action is successful.

COSTS OF THE CLASS ACTION

In the event that if the Drakes Class Action is successful (that is, if money compensation is recovered), the Court will be asked to distribute the legal costs incurred by the Applicant 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.



In the event that the class action is unsuccessful, Group Members have no liability to pay any legal and/or funding costs.

POSSIBLE SETTLEMENT

The Applicant and Drakes have been ordered to take part in a mediation by no later than 29 October 2021.

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. If settlement is reached, it will not become effective unless it is approved by the Court. That involves the Court assessing whether it is a fair and reasonable compromise.



YOUR OPTIONS

You have three options to choose from below.

THE DEADLINE FOR CHOOSING ONE OF THE THREE OPTIONS IS 2 September 2021.

Option 1 - Register to participate

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 Class Action (including after any settlement, or after any judgment).

Second, registering for the Class Action involves providing details about you and your claim to Adero Law. This allows Adero Law and Drakes to consider your claim at the mediation and in any other settlement discussions.

You do not need to enter into a retainer agreement with Adero Law if you choose to register.

If you have already signed a retainer agreement with Adero Law, or you received the April Notice, you do not need to register again.

You can register online at <https://www.aderolaw.com.au/class-actions/drakes/>.

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 2 below.

Option 2 - Opt out of the class action

If you opt out, you will no longer be a group member. This means that you will not be affected by any orders in the class action, and you will not be entitled to any compensation as a result of it (either by way of mediation or Court decision). However, you will be able to bring your own separate claim, if you would like to. If you would like to opt out, please complete the Opt Out Notice at Schedule A and send it to the Federal Court either:

- a) By email to: sareg@fedcourt.gov.au, with the subject line: Opt Out Notice SAD156/2020.
 - b) By post to: Federal Court of Australia Registry, GPO Box 1350, Adelaide SA 5001.
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Option 3 - Do nothing

If you do not register (or have not already registered) and do not opt out before the Deadline, you will be an "Unregistered Group Member". You will remain a group member and will have the opportunity to share in any compensation ordered by the Court, but your claim will not be considered as part of mediation.

THE DEADLINE FOR CHOOSING ONE OF THE THREE OPTIONS IS 2 September 2021.



SECTION B

NOTICE OF CHANGES TO KEY DATES APPEARING IN THE APRIL NOTICE

The Applicant and Drakes Supermarkets are aware the April Notice was not distributed to all group members.

Accordingly, it has become necessary for the parties to delay the mediation, and also the Deadline which was set out in the April Notice, to permit those group members to receive and consider the information in this Further Notice to Group Members.

If you have already registered for the mediation with Adero Law, or have retained Adero Law as your representative, you do not need to register again. Similarly, if you have already chosen to opt out, you do not need to take any further action.

Please see the table below for a summary of changes to key dates:

KEY DATE	DATE AS PER APRIL NOTICE	NEW DATE
Deadline for Registration	25 May 2021	2 September 2021
Deadline for Opt Out	25 May 2021	2 September 2021
Mediation	No later than 28 July 2021	No later than 29 October 2021



SECTION C

IMPORTANT INFORMATION ON YOUR RIGHT TO PARTICIPATE IN THESE PROCEEDINGS FREELY AND FAIRLY

Since the commencement of the class action, a small number of group members may have felt pressured to discuss their participation in the class action, including whether they were registering or opting out.

It is your right to freely choose from the three options above, and you are under no obligation to disclose or discuss your choice with any other person.

It is unlawful for your employer to take any action which would adversely affect your employment if you choose to participate in class action proceedings under the *Fair Work Act 2009* (Cth). 'Adverse action' may include a demotion, not being rostered shifts, or being dismissed.

Drakes Supermarkets wishes to affirm that it will not take any 'adverse action' against any of its employees for any prohibited reason.

A 'Communications Protocol' is now in place in these proceedings which regulates how the parties communicate with you and other group members. A full copy of the communications protocol can be found at www.aderolaw.com.au/class-actions/drakes/communications-protocol

If you feel that your decision to opt out or register was not made as a result of any undue influence or encouragement from any other person, you do not need to take any action.

If you feel that your decision to opt out or register was made as a result of any undue influence or encouragement from any other person, you may:

- a) **Withdraw your opt out** by signing the attached Notice of Withdrawal of Opt Out Notice and returning it by email or post to the Federal Court of Australia by 4.00pm on 2 September 2021, after which you may choose to register before the Deadline or do nothing; or
- b) **Withdraw your registration** by emailing Adero Law at drakes@aderolaw.com.au with the subject line 'Withdrawal of Registration' and your name, date of birth, and phone number in the body of the email by 2 September 2021, after which you may choose to opt out before the Deadline or do nothing.

Withdrawing your registration is not the same as opting out, and withdrawing your decision to opt out is not the same as registering. By withdrawing any previous action you become an Unregistered Group Member.

If there is anything you are unsure about, you may contact the solicitors for the Applicant at drakes@aderolaw.com.au or otherwise seek your own independent legal advice.