

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 22/09/2021 12:42:48 PM AEST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged: Statement of Claim - Form 17 - Rule 8.06(1)(a)  
File Number: NSD2004/2019  
File Title: CAMERON BAKER & ANOR v WOOLWORTHS LIMITED ABN 88 000 014 675 & ANOR  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Dated: 22/09/2021 12:48:18 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 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.



Federal Court of Australia  
New South Wales District Registry  
Fair Work Division

**Cameron Baker**  
First Applicant

**Rhys Piro**  
Second Applicant

**Woolworths Group Limited**  
(ABN 88 000 014 675)  
First Respondent

**Woolworths (South Australia) Pty Limited**  
(ABN 34 007 873 118)  
Second Respondent

**Further Amended**  
**Statement of claim**  
*(dated 22 September 2021)*

1. The First Applicant (“**Mr Baker**”) brings this proceeding pursuant to Part IVA of the Federal Court of Australia Act 1976 (Cth):
  - (1) for himself; and
  - (2) as the representative of a group constituted by all persons:
    - (a) employed by the First Respondent (“**Woolworths**”) at any time within the period of 6 years ending on the date of the filing of the Originating Application herein (the “**Relevant Period**”);

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Filed on behalf of	The Applicants, Cameron Baker and Rhys Piro		
Law firm (if applicable)	Adero Law		
Tel	(02) 6189 1022	Fax	n/a
Email	rory.markham@aderolaw.com.au   nathan.schofield@aderolaw.com.au		
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- (b) employed in a position in a:
  - (i) supermarket; or
  - (ii) Big W Discount Department Store (including Big W Optical),  
in the “general retail industry” within the meaning of that phrase in the General Retail Industry Award 2010 (the “**Award**”);
- (c) whose remuneration, at any period pleaded at paragraph (a) above, was calculated by reference to an annual salary the title of which position was, or the title of which included the word, “manager” (a “**Salaried Manager Position**”));
- (d) who were employed which was undertaken as a “full time employee” or “part time employee” as those terms are defined in the Award; and
- (e) who in any Pay Period in the Relevant Period worked 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;~~

(the “**Woolworths Sub-group**” and a/the “**Woolworths Sub-group Member/s**”).

2. The Second Applicant (“**Mr Piro**”) brings this proceeding pursuant to Part IVA of the Federal Court of Australia Act 1976 (Cth):

- (1) for himself; and
- (2) as the representative of a group constituted by all persons:
  - (a) employed by the Second Respondent (“**Woolworths SA**”) at any time within the period of 6 years ending on the date of the filing of the Originating Application herein (the “**Relevant Period**”);

- (b) employed in a position in a:
- (i) supermarket; or
  - (ii) Big W Discount Department Store (including Big W Optical),  
in the “general retail industry” within the meaning of that phrase in the General Retail Industry Award 2010 (the “**Award**”);
- (c) whose remuneration, at any period pleaded at paragraph (a) above, was calculated by reference to an annual salary the title of which position was, or the title of which included the word, “manager” (a “**Salaried Manager Position**”));
- (d) who were employed ~~which was undertaken~~ as a “full time employee” or “part time employee” as those terms are defined in the Award; and
- (e) who in any Pay Period in the Relevant Period worked 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,~~
- (the “**Woolworths SA Sub-group**” and a/the “**Woolworths SA Sub-group Member/s**”).

3. Hereinafter:

- (1) the Woolworths Sub-group and the Woolworths SA Sub-Group are collectively ~~hereinafter~~ referred to as the Group; and
- (2) the Woolworths Sub-group Member/s and the Woolworths SA Sub-group Member/s are collectively ~~hereinafter~~ referred to as a/the Group Member/s.

4. Each of Woolworths and Woolworths SA was at every time material to any claim herein (“**at all material times**”):

- (1) a corporation under the Corporations Act 2001 (Cth), able to sue, and liable to be sued in its corporate name and style;
  - (2) a constitutional corporation within the meaning of s 12 and s 14 of the Fair Work Act 2009 (the “**FWA**”); and
  - (3) a national system employer within the meaning of s 12 and s 14 of the FWA.
5. The Award at all material times:
- (1) covered throughout Australia any employer engaged in the general retail industry and employees of any such employer,
  - (2) commenced on 1 January 2010, was from time to time thereafter varied and remained in force throughout the Relevant Period.
6. Pursuant to an offer in writing:
- (1) from Woolworths dated 6 May 2014,
  - (2) accepted by Mr Baker in writing on 7 May 2014,
- Mr Baker, on 13 May 2014, commenced full-time employment with Woolworths at its supermarket at Camberwell in Victoria in a position entitled “Replenishment Team Manager” (the “**Baker Position**”) at a then base salary of ~~\$65,000.00~~ \$60,000.00 (the “**Baker Contract**”).
7. Pursuant to an offer in writing:
- (1) from Woolworths SA dated on or about 24 August 2013,
  - (2) accepted by Mr Piro in writing on or about 24 August 2013,
- Mr Piro, on ~~or about~~ 2 September 2013, commenced full-time employment with Woolworths SA at its supermarket at Newton Village Shopping Centre in South Australia in a position entitled “Replenishment Team Manager” (the “**Piro Position**”) at a then base salary of about ~~\$48,000.00~~ \$49,200.00 (the “**Piro Contract**”).

8. The Award permitted, and the Baker and Piro Contracts, as the case may be, required, that base salary and any other monetary entitlements to which either might thereunder become entitled to be paid to him in any fortnight (“a **Pay Period**”) in arrears within 14 days after the end thereof.
9. Mr Baker remained in the Baker Position until ~~the end of the shift commenced by him on~~ 18 June 2019 whereupon he ceased to be employed with Woolworths (the “**Baker Termination**”).
10. Mr Piro remained in the Piro Position until the end of the shift commenced by him 8 May 2016 ~~on or about 17 April 2017~~ whereupon he ceased to be employed in the Piro Position with Woolworths SA (the “**Piro Termination**”). Mr Piro remained employed by Woolworths SA in a non-salaried position until the end of the shift commenced by him ~~on or about 15~~ 22 July 2018.
11. Each of the Baker and Piro Positions was:
  - (1) in a supermarket or Big W Discount Department Store in the general retail industry as defined in the Award;
  - (2) a Salaried Manager ~~Manager~~ Position; and
  - (3) within the Award classification of “Retail Employee Level 6”.
12. The Award as amended from time to time applied to, among others, Mr Baker and Mr Piro and all Group Members in respect of her or his employment with Woolworths or Woolworths SA as the case may be.
13. On and from 13 May 2014 to 18 June 2019, Mr Baker’s ordinary roster was:
  - (1) from Tuesday night to Saturday night,
  - (2) from 13 May 2014 to 7 April 2019, from 10:00pm to 7:00am, and
  - (3) from 8 April 2019, from 9:00pm to 6:00am,(the “**Baker Roster**”).

14. In the premises pleaded in paragraphs 4 to 6, 8, 9 and 11 to 13 above Mr Baker was, throughout the period of his employment with Woolworths, a “full time employee” as defined in the Award.

Award cl. 11

15. On and from 2 September 2013 to 9 May 2016, Mr Piro’s ordinary roster was:
- (1) from Monday to Tuesday and Thursday to Saturday in the first week of a given fortnight,
  - (2) from Monday to Friday in the second week of a given fortnight,
  - (3) from 2 September 2013 to 4 January 2015, from 1:00pm to 10:00pm, and
  - (4) thereafter, from 3:00pm to 12:00am.

(the “**Piro Roster**”).

16. In the premises pleaded in paragraphs 4, 5, 7, 8, 10 to 12 and 15 above Mr Piro was, throughout the period of his employment with Woolworths SA, a “full time employee” as defined in the Award.

Award cl. 11

17. Other than when he was for any reason on leave, each of Mr Baker and Mr Piro for so long as he was employed by Woolworths or Woolworths SA as the case may be worked:

- (1) the days and hours specified in the Rosters as was from time to time operative, including any day that was for the purposes of the Award a “Public Holiday”-, and
- (2) periods outside the days and hours specified in the Rosters as was from time to time operative, as required from time to time by Woolworths or Woolworths SA as the case may be.

18. Throughout the periods in which the Rosters operated, the hours worked by Mr Baker and Mr Piro in accordance with the Roster relevant to him, insofar as they were within the span of hours from time to time prescribed in the Award for

undertaking ordinary hours, were for the purpose of the Award his “ordinary hours” of work.

19. **The Evening Work Contraventions.** For each Pay Period in the period in which his Roster operated, it was a term of the Award applicable to the employment of Mr Baker and Mr Piro as the case may be in his Position that for any “ordinary hour” worked by him after 6:00pm on any Monday to Friday he would be paid an additional loading of 25% (the “**Evening Work Term/Loading**”).

Award cl. 29.4(a)

20. In contravention of the Evening Work Term Woolworths or Woolworths SA as the case may be did not in any Pay Period pleaded in 19 above, in respect of any hour worked by Mr Baker or Mr Piro after 6:00pm on any Monday to Friday, pay him the Evening Work Loading or any part thereof (collectively the “**Evening Work Contraventions**”).

21. In respect of each Evening Work Contravention Mr Baker and Mr Piro suffered loss; the difference between:

- (1) what he was paid for each Evening Work hour undertaken by him, and
- (2) the hourly rate that the Evening Work Term required be paid to him for that hour.

22. **The Night Work Contraventions.** For each Pay Period in the period in which his Roster operated, it was a term of the Award applicable to the employment of Mr Baker and Mr Piro in his Position that ordinary hours worked after 11:00pm on any day were to be paid at:

- (1) time and a half for the first three hours so worked; and
- (2) double time thereafter until the end of the shift that had commenced before or at 11:00pm,

(the “**Night Work Term/Loading**”).



23. In contravention of the Night Work Term Woolworths or Woolworths SA as the case may be did not in any Pay Period referred to in 22 above:
- (1) in respect of any hour worked by Mr Baker and Mr Piro after 11:00pm on any day,
  - (2) pay him the applicable Night Work Loading or any part thereof,
- (collectively, the “**Night Work Contraventions**”).
24. In respect of each Night Work Contravention, Mr Baker and Mr Piro suffered loss; the difference:
- (1) between what he was paid for each Night Work hour undertaken by him, and
  - (2) the hourly rate that the Night Work Term required be paid for that hour.
25. **The Saturday Work Contraventions.** For each Pay Period in which his Roster operated it was a term of the Award applicable to the employment of Mr Baker and Mr Piro as a full-time employee that “an additional 25% loading” would apply for “ordinary hours” worked at any time on a Saturday (the “**Saturday Work Term/Loading**”).
- Award cl. 29.4(c)
26. In contravention of the Saturday Work Term, Woolworths or Woolworths SA as the case may be did not in any Pay Period pleaded in 25 above, in respect of any hours worked by Mr Baker or Mr Piro on a Saturday, pay him the Saturday Work Loading or any part thereof (collectively the “**Saturday Work Contraventions**”).
27. In respect of each Saturday Work Contravention Mr Baker and Mr Piro suffered loss; the difference between:
- (1) what he was paid for each Saturday Work hour undertaken by him, and

(2) the hourly rate that the Saturday Work Term required be paid for that hour.

28. **The Sunday Work Contraventions.** For each Pay Period in which his Roster operated it was a term of the Award that “ordinary hours” worked at any time on a Sunday:

(1) between 1 January 2010 and 30 June 2017 would be paid an additional 100% loading;

(2) between 1 July 2017 and 30 June 2018 would be paid an additional 95% loading; and

(3) between 1 July 2018 and the Terminations would be paid an additional 80% loading,

(the “**Sunday Work Term/Loading**”).

2010 Award cl. 28.4  
2017 Award cl. 29.4(e)

29. In contravention of the Sunday Work Term Woolworths or Woolworths SA as the case may be did not in any Pay Period pleaded in 28 above pay Mr Baker or Mr Piro for any hours worked by him on a Sunday the applicable Sunday Work Loading (collectively the “**Sunday Work Contraventions**”).

30. In respect of each Sunday Work Contravention, Mr Baker and Mr Piro suffered loss; the difference between:

(1) what he was paid for each Sunday Work hour undertaken by him, and

(2) the hourly rate that the Sunday Work Term required he be paid for that hour.

31. **The Public Holiday Contraventions.** For each Pay Period in which his Roster operated it was a term of the Award applicable to Mr Baker and Mr Piro as a full-time employee that hours worked by him on a Public Holiday:

(1) between 1 January 2010 and 30 June 2017 be compensated by payment at the rate of an additional 150%; and

- (2) between 1 July 2017 and the Terminations be compensated by payment of an additional 125%,

(the “**Public Holiday Work Term/Loading**”).

2010 Award cl. 28.4(d)  
2017 Award cl. 29.4(a)

32. In contravention of the Public Holiday Work Term Woolworths or Woolworths SA as the case may be did not in any Pay Period pleaded in 31 above, pay Mr Baker or Mr Piro for any hours worked by him on a Public Holiday the applicable Public Holiday Loading or any part thereof (collectively the “**Public Holiday Contraventions**”).

33. In respect of each Public Holiday Contravention Mr Baker and Mr Piro suffered loss; the difference between:

- (1) what he was paid for each Public Holiday hour undertaken by him, and  
(2) the hourly rate that the Public Holiday Term required be paid for that hour.

34. **The Overtime Contraventions.** In each pay period in which his Roster operated it was a term of the Award applicable to Mr Baker and Mr Piro that:

- (1) any hours worked by him as required by Woolworths or Woolworths SA were overtime, if the hours worker were:

- a. in excess of ordinary hours;

Award, cl 29.2(a)

- b. outside the ~~space-span~~ span of hours (excluding shiftwork); or

Award, cl 29.2(a)

- c. outside the roster conditions prescribed in cls 27 and 28 of the Award, including the following conditions:

Award, cl 29.2(a)

- i. an employee will not be required to work ordinary hours on more than 19 days in each four week cycle;

Award, cl 28.5

- ii. ordinary hours will be worked on not more than five days in each week, subject to the exception that ordinary hours may be worked on six days in one week if ordinary hours in the following week will be worked on no more than four days;

Award, cl 28.10

- iii. ordinary hours will be worked so as to provide an employee with two consecutive days off each week or three consecutive days off in a two week period;

Award, cl 28.11(a)

- iv. ordinary hours and any reasonable additional hours may not be worked over more than six consecutive days;

Award, cl 28.12

- v. an employee who regularly works Sundays will be rostered so as to have three consecutive days off each four weeks and the consecutive days off will include Saturday and Sunday;

Award, cl 28.13(a)

- vi. the employer will exhibit staff rosters on a notice board, which will show for each employee the number of ordinary hours to be worked each week, the days of the week on which work is to be performed and the commencing and ceasing time of work for each day of the week;

Award, cl 28.14(a)

- vii. the employer will retain superseded notices for twelve months;

Award, cl 28.14(b)

viii. any permanent roster change will be provided to the employee in writing with a minimum seven days notice and if the employee disagrees with the roster change they will be given a minimum of fourteen days written notice during which there will be discussions aimed at resolving the matter in accordance with the dispute resolution clause;

Award, cl 28.14(d)

ix. where an employee's roster is changed with the appropriate notice for a once-only event that does not constitute an emergency and the roster reverts to the previous pattern in the following week, the extra work done by the employee because of the change of roster will be paid at the overtime rate; and

Award, cl 28.14(e)

x. an employee's roster may not be changed with the intent of avoiding payment of penalties, loading or other benefits.

Award, cl 28.14(f)

~~as required by Woolworths or Woolworths SA were overtime~~

(2) Any such overtime hours were to be paid at:

a. time and a half for the first three such hours and double time thereafter; and-

Award, cl 29.2(a)

b. double time on a Sunday and double time and a half on a public holiday,

Award, cl 29.2(d)

(collectively, the "Overtime Term/Rate").

35. Throughout the period in which he was employed, each of Mr Baker and Mr Piro from time to time were required by Woolworths or Woolworths SA as the case may be to work hours:
- (1) contiguous to but prior to the commencement of his rostered shift on any day;
  - (2) contiguous to but after the scheduled end of his rostered shift on any day; and/or
  - (3) after the end of a single contiguous period of work of any day (i.e. discontinuously with that period) and before the commencement of his next rostered shift.
36. In contravention of the Overtime Term Woolworths or Woolworths SA as the case may be did not in any Pay Period pleaded in 35 above, pay Mr Baker or Mr Piro as the case may be the Overtime Rate or any part thereof for any hour worked by him as overtime (collectively the “**Overtime Contraventions**”).
37. In respect of each Overtime Contravention Mr Baker and Mr Piro suffered loss; the difference between:
- (1) what he was paid for each Overtime hour worked by him, and
  - (2) the hourly rate that the Overtime Term required be paid for that hour.
38. **The Break Between Work Periods Contraventions.** In each Pay Period in which his Roster operated it was a term of the Award applicable to the employment of Mr Baker and Mr Piro in his Position that:
- (1) Mr Baker and Mr Piro were entitled to a 12-hour rest period between:
    - (a) the completion of work, including any reasonable additional hours or overtime, on one day; and
    - (b) the commencement of work on the next day; and

Award cl 31.2(a)

- (2) if he recommenced work again without having had 12 hours off work, then Woolworths or Woolworths SA as the case may be was required to pay him at double the rate he would otherwise be entitled to until such time as he was released from duty for 12 consecutive hours (the “**Break Between Work Rate**”).

Award cl 31.2(b)

(the “**Break Between Work Term**”).

39. In contravention of the Break Between Work Term, Woolworths or Woolworths SA as the case may be did not in any Pay Period pleaded in 38 above:

- (1) in respect of any hour worked by Mr Baker and Mr Piro without having had 12 hours off work,
- (2) pay him the applicable Break Between Work Rate or any part thereof,

(collectively, the “**Break Between Work Contraventions**”).

40. By reason of each Break Between Work Contravention, each of Mr Baker and Mr Piro suffered loss, being the difference:

- (1) between what he was paid for each hour worked by him without having had 12 hours off work, and
- (2) the hourly rate that the Break Between Work Term required be paid for that hour.

41. **The Meal Allowance Contraventions.** In each Pay Period in which his Roster operated it was a term of the Award applicable to the employment of Mr Baker and Mr Piro in his Position that:

- (1) if Mr Baker or Mr Piro was required to work more than one hour of overtime after his ordinary time of ending work,
- (2) without being given 24 hours’ notice,
- (3) then Woolworths or Woolworths SA as the case may be was required to provide him with a meal or pay him an initial meal allowance of:

- (c) \$16.99 for the period between 1 July 2014 and 30 June 2015;
- (d) \$17.34 for the period between 1 July 2015 and 30 June 2016;
- (e) \$17.73 for the period between 1 July 2016 and 30 June 2017;
- (f) \$17.92 for the period between 1 July 2017 and 30 June 2018; and
- (g) \$18.29 for the period between 1 July 2018 and 30 June 2019,

(the “**First Meal Allowance/Term**”).

- (4) if the duration of the overtime that Mr Baker or Mr Piro was required to work, referred to in paragraph 41(1) above, exceeded four hours then Woolworths or Woolworths SA as the case may be was required pay him a further meal allowance of:

- (h) \$15.38 for the period between 1 July 2014 and 30 June 2015;
- (i) \$15.70 for the period between 1 July 2015 and 30 June 2016;
- (j) \$16.05 for the period between 1 July 2016 and 30 June 2017;
- (k) \$16.23 for the period between 1 July 2017 and 30 June 2018; and
- (l) \$16.57 for the period between 1 July 2018 and 30 June 2019,

(the “**Further Meal Allowance/Term**”).

Award, cl 20.1(a)

42. In contravention of the Meal Allowance and Further Meal Allowance Terms, Woolworths or Woolworths SA as the case may be did not in any Pay Period pleaded in 41 above:

- (1) in respect of any overtime of more than one hour after his ordinary time of ending work that Mr Baker or Mr Piro was required to work, without being given 24 hours’ notice, provide him with a meal or pay him the First Meal Allowance or any part thereof; and



(2) in respect of any overtime pleaded in paragraph 42(1) above, where the duration of the overtime exceeded four hours, pay him the Further Meal Allowance or any part thereof,

(collectively, the “Meal Allowance Contraventions”).

43. By reason of each Meal Allowance Contravention, each of Mr Baker and Mr Piro suffered loss, being the difference:

(1) between what he was paid for overtime of more than one hour, or alternatively four hours, after his ordinary time of ending work, without being given 24 hours’ notice, and

(2) the amount that the Meal Allowance Term required be paid for that overtime.

44. **The Annual Leave Loading Contraventions.** In each Pay Period in which his Roster operated it was a term of the Award applicable to the employment of Mr Baker and Mr Piro in his Position that during a period of annual leave he was entitled to receive a loading of 17.5% or the relevant weekend penalty rates whichever is the greater (the “Annual Leave Loading/Term”).

Award, cl 32.3

45. In contravention of the Annual Leave Term, Woolworths or Woolworths SA as the case may be did not in any Pay Period pleaded in 44 above:

(1) in respect of any period of annual leave taken by Mr Baker and Mr Piro,

(2) pay him the applicable Annual Leave Loading or any part thereof,

(collectively, the “Annual Leave Loading Contraventions”).

46. By reason of each Annual Leave Loading Contravention, each of Mr Baker and Mr Piro suffered loss, being the difference:

(1) between what he was paid for each hour for any period of annual leave taken, and

(2) the hourly rate that the Annual Leave Term required be paid for that hour.

47. **The Payment Contraventions.** In each Pay Period in which his Roster operated it was a term of the Award applicable to the employment of Mr Baker and Mr Piro in his Position that Woolworths or Woolworths SA as the case may will:

- (1) pay the wages of Mr Baker and Mr Piro, including any applicable loadings or allowances, weekly or fortnightly,
- (2) according to the actual hours worked each week or fortnight, or by averaging over a period of a fortnight,

(the “Payment Term”).

Award, cl 23.1

48. In the premises pleaded in 20, 23, 26, 29, 32, 36, 39, 42 and 45 above, in contravention of the Payment Term, Woolworths or Woolworths SA as the case may be did not in any Pay Period pleaded in paragraph 47 above:

- (1) pay the wages of Mr Baker and Mr Piro, including any applicable loadings or allowances, weekly or fortnightly,
- (2) according to the actual hours worked each week or fortnight, or by averaging over a period of a fortnight,

(collectively, the “Payment Term Contraventions”).

49. By reason of each Payment Term Contravention, each of Mr Baker and Mr Piro suffered loss, being the difference:

- (1) between the wages paid to him, and
- (2) the amount that the Payment Term required be paid for the actual hours worked by him.

50. **The Record Keeping Contraventions.** It was a requirement of the FWA in respect of Mr Baker and Mr Piro as an employee of Woolworths or Woolworths SA as the case may be, that Woolworths or Woolworths SA as the case may be make and retain records of the following:

- (1) the number of overtime hours worked by him during each day; and
  - (2) when he started and ceased working overtime hours,
- (the “**Record Keeping Obligation**”).

FWA s 535  
Fair Work Regulations  
2009 (Cth) cl 3.34

51. In contravention of the Record Keeping Obligation Woolworths or Woolworths SA as the case may be did not in of any pay period in which Mr Baker or Mr Piro worked hours:

- (1) contiguous to but before the commencement of a rostered shift,
- (2) contiguous to but after the scheduled conclusion of a rostered shift, or
- (3) after the end of a single contiguous period of work on any day (i.e. discontinuous with that period) and before the commencement of his next rostered shift,

record the number of overtime hours worked by Mr Baker or Mr Piro during each day or when Mr Baker or Mr Piro started and ceased working overtime hours (collectively the “(the **Record Keeping Contraventions**)”).

52. The conduct of Woolworths or Woolworths SA as the case may be constituting each:

- (1) Evening Work Contravention;
- (2) Night Time Work Contravention;
- (3) Saturday Work Contravention;
- (4) Sunday Work Contravention;~~and~~
- (5) Public Holiday Contravention;
- (6) Overtime Contravention;
- (7) Break Between Work Contravention;

- (8) Meal Allowance Contravention;
- (9) Annual Leave Loading Contravention; and
- (10) Payment Term Contravention,

was prohibited by s.45 FWA and, together with the Record Keeping Contraventions, each was by operation of s.539 FWA a civil remedy provision for the purposes of ss. 545 and 546 FWA.

### **Group Members and their claims**

53. Each Group Member was, by reason of:

- (1) working a Pay Period,
- (2) in the Relevant Period,

one or more hours as described in paragraphs 1(2)(e) and 2(2)(e) above, as the case may be, entitled in respect of any such hour to a payment of one or more of the following:

- (3) the Evening Work Loading;
- (4) the Night Time Work Loading;
- (5) the Saturday Work Loading;
- (6) the Sunday Work Loading; ~~and~~
- (7) the Public Holiday Work Loading;
- (8) Overtime Rates;
- (9) Break Between Work Rates;
- (10) First Meal Allowance Term;
- (11) Further Meal Allowance Term;
- (12) Annual Leave Loading; and

(13) Payment Term.

54. Woolworths and Woolworths SA as the case may be did not pay any Group Member employed by it in respect of any hour referred to in 42 any, or any part of any, applicable Loading or Rate referred to in 53(3) to (13) above.
55. The omissions of Woolworths and Woolworths SA referred to in 53 above was a contravention by Woolworths and Woolworths SA as the case may be of a term of the Award and conduct prohibited by s.45 FWA which has to the extent of the non-payment caused the relevant Group Member loss.

**Particulars**

Particulars in relation to Group Members' loss or damage will be provided if and when it is necessary for a determination to be made of the individual claims of those Group Members.

Date: 22 September 2021



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Signed by Rory Markham  
Lawyer for the Applicants

**Certificate of lawyer**

I, Rory Markham, certify to the Court that, in relation to the further amended statement of claim filed on behalf of the Applicants, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 22 September 2021

A handwritten signature in black ink, consisting of the letters 'RM' followed by a long horizontal stroke.

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Signed by Rory Markham  
Lawyer for the Applicants