

NOTICE OF FILING AND HEARING

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. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged:	Originating Application - Form 15 - Rule 8.01(1)
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
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



A handwritten signature in blue ink that reads 'Sia Lagos'.

Dated: 22/09/2021 12:48:15 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 Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

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.



Date:

Signed by an officer acting with the
authority of the District Registrar



Representative Action

Each of the Applicants bring this application as representative party under Part IVA of the Federal Court of Australia Act 1976.

Details of claim

In respect of each contravention of each civil remedy provision alleged in the Statement of Claim filed herewith the Applicants, on the grounds stated therein (and adopting the terms therein defined), claims on his own behalf, and on behalf of each Group Member of the Sub-group of which he is the representative:

1. an order pursuant to s 545(2)(b) FWA that Woolworths Group Limited or Woolworths (South Australia) Pty Limited P/L, as the case may be, pay to the Applicants or the relevant Sub-group Member compensation for the loss she or he suffered because of that contravention;
2. an order pursuant to s 546(1) and (3) FWA that Woolworths Group Limited or Woolworths (South Australia) Pty Limited P/L, as the case may be, pay a pecuniary penalty:
 - (a) to the Applicants or the relevant Sub-group Member,
 - (b) on the basis that each contravention was a “serious contravention” within the meaning of s 557A FWA; and
3. pursuant to s 547 FWA, interest up to judgment on the above amounts.

The Groups

4. The First Applicant brings these proceedings:
 - (1) for himself, and
 - (2) as the representative of a group constituted of 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**”);
 - (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) ~~who were employed which was undertaken~~ as a “full time employee” or “part time employee” as those terms are defined in the Award;
- (d) ~~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 included the word, “manager”~~ (a “**Salaried Manager Position**”); 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**”).

5. The Second Applicant brings these proceedings:

- (1) for himself; and
- (2) as the representative of a group constituted of 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) ~~who were employed which was undertaken~~ as a “full time employee” or “part time employee” as those terms are defined in the Award;
- (d) ~~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 included the word, “manager”~~ (a **“Salaried Manager Position”**); and
- (e) who in any Pay 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”**).

6. 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.

Common Questions

- 7. Whether the Award applied to each Group Member in respect of his or her employment from time to time in the Relevant Period by Woolworths or Woolworths SA as the case may be.
- 8. Whether the Award as it applied to the Applicants and each Group Member from time to time during the Relevant Period required that any work undertaken by any Group Member be paid at a rate attracting one or more of the:
 - (1) Evening Work Loadings;
 - (2) Night Time Work Loadings;



- (3) Saturday Work Loadings;
- (4) Sunday Work Loadings;
- (5) Public Holidays Work Loadings; ~~or~~
- (6) Overtime Rates;
- (7) Break Between Work Rates;
- (8) First Meal Allowance Term;
- (9) Further Meal Allowance Term;
- (10) Annual Leave Loading; and
- (11) Payment Term.

Applicants' address for Service

Place: Adero Law
3 Hobard Place
City ACT 2601

Email: rory.markham@aderolaw.com.au | nathan.schofield@aderolaw.com.au

Service on the Respondents

It is intended to serve this further amended application on the Respondents.

Date: 22 September 2021

A handwritten signature in black ink, appearing to be "RM", written over a horizontal line.

Signed by Rory Markham
Lawyer for the Applicants