



Federal Court of Australia

District Registry: South Australia

Division: Fair Work

No: SAD105/2020

CHRISTOPHER PETER THOMAS

Applicant

ROMEO LOCKLEYS ASSET PARTNERSHIP, BEING THE PARTNERSHIP OPERATED BY LOCKLEYS FOODLAND PTY LTD & ROMEO LOCKLEYS HOLDINGS PTY LTD (ABN 12 244 067 815) and others named in the Schedule of Parties
Respondent

ORDER

JUDGE: JUSTICE CHARLESWORTH

DATE OF ORDER: 03 December 2021

WHERE MADE: Adelaide (in Chambers)

THE COURT NOTES THAT:

1. Subject to approval of the Court, and without admission of liability on the part of the Respondents, the Applicants and the Respondents have agreed to settle the proceedings on the terms set out in the confidential Deed of Settlement and Release and the Settlement Distribution Scheme, copies of which are annexed as annexures RRM1-1 and RRM1-2 to the confidential affidavit of Rory Michael Markham filed on 16 November 2021 (Proposed Settlement).

Proposed Settlement Approval

2. The parties do not oppose the application to approve the Proposed Settlement of the proceedings (Approval Application) being determined on the papers by the Honourable Justice Charlesworth.

THE COURT ORDERS BY CONSENT THAT:

Communications Protocol

1. Pursuant to s 33ZF of the *Federal Court of Australia Act 1976* (Cth) (Act), and on and from the date of these Orders to the date that this Court approves the settlement of the proceedings, all communications with class members by the Respondents in respect of



these proceedings is to be in accordance with the requirements set out in the protocol of Annexure A to the Orders dated 9 June 2021.

Class Closure and Registration

2. Pursuant to s 33ZF of the Act, and further to the Orders dated 4 March 2021 (March Orders), any class member who registered for the proceedings by the deadline in the March Orders is a **Registered Group Member** and a participant in the Proposed Settlement.
3. Pursuant to s 33ZF(1) of the Act, any class member who has not opted out of these proceedings and has not already registered as a class member in accordance with the March Orders (Unregistered Group Members) and who wishes to participate in the distribution of the settlement of the proceedings must, by no later than 4.00pm (ACDT) on 7 January 2022, register as a participating class member by:
 - 3.1. emailing or mailing a completed registration form, in the form set out as **Annexure A** to these Orders (Registration Form), to the settlement scheme administrator, Adero Law, at the address shown on the Registration Form; and
 - 3.2. providing, by completing the Registration Form, the following information necessary for distribution of the Proposed Settlement:
 - 3.2.1. the Unregistered Group Member's full name, residential address and email address;
 - 3.2.2. the Group Member's Tax File Number;
 - 3.2.3. a Bank State Branch (BSB), Account Number and Account name for an Australian bank account, into which any share of the Settlement Sum distributed to the Unregistered Group Member in accordance with the Settlement Distribution Scheme shall be paid; and
 - 3.2.4. proof of identity (passport number or driver's licence number).

Settlement Approval

Distribution of Notice of Proposed Settlement

4. Pursuant to s 33X of the Act, Registered Group Members and Unregistered Group Members be given notice of the:
 - 4.1. Proposed Settlement;



- 4.2. fact that they may oppose the Proposed Settlement and/or any aspect of the distribution of the settlement sum in accordance with Order 13 below; and
 - 4.3. in respect of Unregistered Group Members, that they must register if they wish to participate in the distribution of the Proposed Settlement, and that if they do nothing, they will be bound by the Proposed Settlement but will not share in the distribution of the settlement monies.
5. Pursuant to s 33X and s 33Y of the Act, the form and content of the Notice of Proposed Settlement to Registered Group Members and Unregistered Group Members (which includes the Notice of Objection to Proposed Settlement and the Registration Form) (Notice), which is **Annexure B** to these orders, is approved.
 6. Pursuant to s 33Y of the Act, the Respondents shall cause the Notice to be distributed to Registered Group Members and Unregistered Group Members by 4.00pm (ACDT) on 10 December 2021 in accordance with the following procedure:
 - 6.1. in respect of Registered Group Members, the Respondents shall cause the IVE Group to send the Notice and the template letter at **Annexure C** (Covering Communication) to these Orders:
 - 6.1.1. by email to each Registered Group Member for whom Adero Law holds a current email address; and
 - 6.1.2. if a Registered Group Member does not have an email address or the IVE Group receives a notification that the email is not received, by post to the last known address of each Registered Group Member for whom Adero Law holds a postal address;
 - 6.2. in respect of Unregistered Group Members, the Respondents shall cause the IVE Group to send the Notice and the Covering Communication:
 - 6.2.1. by email to each Unregistered Group Member for whom the Respondents hold a current email address; and
 - 6.2.2. if an Unregistered Group Member does not have an email address or the IVE Group receives a notification that the email is not received, by post to the last known address for each Unregistered Group Member for whom the Respondents hold a postal address.



7. Pursuant to s 33Y(3) of the Act, by 4.00pm (ACDT) on 10 December 2021, Adero Law shall cause a copy of the Notice, together with a copy of:
 - 7.1. Further Amended Statement of Claim dated 26 March 2021 in SAD105/2020;
 - 7.2. Amended Defence dated 15 February 2021 in SAD105/2020;
 - 7.3. Reply dated 17 February 2021 in SAD105/2020;
 - 7.4. Amended Statement of Claim dated 26 March 2021 in SAD169/2020;
 - 7.5. Defence dated 22 February 2021 in SAD169/2020;
 - 7.6. Reply dated 9 March 2021 in SAD169/2020;
 - 7.7. Notice; and
 - 7.8. these Orders,to be displayed on, or otherwise made available for download from, Adero Law's website <https://www.aderolaw.com.au/class-actions/romeos> and to remain continuously displayed or available up to and including the final determination of the Approval Application.
8. The Covering Communication and the Notice may be amended by the Applicants or the Respondents by request before it is posted, emailed or displayed in order to correct any postal, website, email address or telephone number or any typesetting or typographical error.
9. Pursuant to s 33ZF(1) of the Act, any Unregistered Group Member who does not register as a participating class member in accordance with Order 3 above by 4.00pm (ACDT) on 7 January 2022 will remain a class member in the proceedings, and will be bound by any approved settlement of these proceedings, but subject to further order, shall not be entitled to receive a distribution from the approved settlement.
10. The costs of and incidental to the procedure set out in Orders 3 and 7 above shall be borne by the Respondents.

Timetable for Settlement Approval

11. By 4.00pm (ACDT) on 18 February 2022, the Applicants shall file and serve any evidence upon which they intend to rely in support of the Approval Application. The evidence shall include material regarding:
 - 11.1. whether the Proposed Settlement is fair and reasonable in the interests of class members and as between class members;



- 11.2. the proposed scheme for the distribution of the settlement among class members;
and
- 11.3. the Applicants' costs and disbursements in conducting the proceedings and of obtaining settlement approval.
12. By 4.00pm (ACDT) on 12 January 2022, any class member who wishes to oppose any aspect of the Proposed Settlement shall file and serve a completed Notice of Objection in the form of Attachment A to the Notice by sending it by email or by post to the South Australia District Registry of the Federal Court of Australia at sareg@fedcourt.gov.au or Roma Mitchell Commonwealth Law Court Building, 3 Angas Street, ADELAIDE SA 5001.
13. The parties' solicitors file any notice purporting to be a Notice of Objection which they receive within two (2) business days of receipt. Any such notice shall be treated as a Notice of Objection received by the Court at the time it was received by the solicitors.
14. The parties have leave to inspect the Court file and to copy any Notice of Objection filed with the Court.
15. By 4.00pm (ACDT) on 18 February 2022, the Applicants shall file and serve their outline of submissions in support of the Approval Application.
16. By 4.00pm (ACDT) on 25 February 2022, the Respondents shall file and serve any outline of submissions or evidence on which they wish to rely.

Regime for Confidential Material

17. Leave is granted to the parties and any class member to file any affidavit, annexure or submissions or part thereof in respect of which confidentiality orders are to be sought by email to the Associate of Justice Charlesworth marked in the subject line with the word "confidential" and they parties be excused from any requirement to electronically file, or serve any affidavit or annexure or any part therefore on any party in that form. To the extent that any affidavit, annexure or submissions is not entirely confidential, the party shall file and serve a redacted copy of the document redacting only those parts which are claimed to be confidential.
18. The application for interim confidentiality orders will be determined as part of the determination of the Approval Application, and if settlement approval is granted, the parties can make an application for any continuing confidentiality order they seek.



Liberty to Apply

19. The Applicants and the Respondents have liberty to apply on two (2) days' notice.

Date that entry is stamped: 3 December 2021

Sia Lagos
Registrar



ANNEXURE A
REGISTRATION FORM

ROMEO CLASS ACTIONS
Thomas v Romeo Lockleys Asset Partnership (SAD 105/2020) and Shina v Romeo NSW Partnership (SAD 169/2020)

By post: Adero House
3 Hobart Place
CANBERRA ACT 2601

By email: romeos@aderolaw.com.au

The person below gives notice that the person wishes to **REGISTER** for the proposed settlement of this proceeding.

A DETAILS OF GROUP MEMBER

Name of group member:	
Telephone:	
Email:	
Postal address:	

B DETAILS REQUIRED FOR ANY DISTRIBUTION FROM THE SETTLEMENT SUM

Tax File Number	
Nominated Bank Account	BSB: Account No: Account Name:
Proof of Identity (Driver's Licence Number or Passport Number, including scanned copy)	
Signed:	



Name of person signing:	
Date:	



ANNEXURE B

NOTICE TO GROUP MEMBERS – NOTICE OF PROPOSED SETTLEMENT

Romeo's Retail Group Class Action – *Thomas v Romeo Lockleys Asset Partnership (SAD 105/2020)* and *Shina v Romeo NSW Partnership (SAD 169/2020)* (**Romeo Class Actions**)

PLEASE READ THIS NOTICE CAREFULLY

This notice is provided pursuant to the orders made by the Federal Court of Australia on 3 December 2021. It contains important information about the proposed settlement of class action proceedings brought on behalf of persons who from time to time were employed by either the Romeo Lockleys Asset Partnership or the Romeo NSW Partnership. You should read this notice carefully as it concerns your legal rights.

YOU HAVE THE FOLLOWING OPTIONS (AS DETAILED IN THIS NOTICE):

1. **If you have PREVIOUSLY REGISTERED you are a Registered Group Member and you have two options:**
 - 1.1. **Option A: DO NOTHING** (in which case you may be eligible to receive a distribution from the proposed settlement of the class action).
 - 1.2. **Option B: OBJECT TO THE PROPOSED SETTLEMENT** (if you choose to object to the proposed settlement you may still do Option A).

2. **If you have NOT previously registered and have not opted out you are an Unregistered Group Member and you have three options:**
 - 2.1. **Option A: REGISTER BY 4.00PM (ACDT) ON 7 JANUARY 2022** to participate in the class action (in which case you may be eligible to receive a distribution from the proposed settlement of the class action).

 - 2.2. **Option B: DO NOTHING** (in which case, if the proposed settlement of the class action is approved by the Court, you will not be entitled to receive a distribution from the proposed settlement, and nor will you keep your rights (if any) against the Romeo Lockleys Asset Partnership and the Romeo NSW Partnership in respect of the matters which are the subject of the class action).



- 2.3. **Option C: OBJECT TO THE PROPOSED SETTLEMENT OF THE CLASS ACTION** (if you choose to object to the proposed settlement, you may still do either of Option A or Option B).

Why are you receiving this Notice?

1. On 3 December 2021, the Federal Court of Australia (**Court**) approved the form and content of this Notice and ordered that it be distributed to group members in the following class actions:
 - 1.1. the class action commenced by Mr Christopher Thomas, on behalf of certain persons who were employed by the Romeo Lockleys Asset Partnership, being the partnership between Lockleys Foodland Pty Ltd and Romeo Lockleys Holdings Pty Ltd, (**Romeos Lockleys**) between 28 July 2014 and 27 July 2020; and
 - 1.2. 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 and Romeo NSW Holdings Pty Ltd as trustee for the Romeo NSW Holding Trust (**Romeos NSW**), between 21 November 2014 and 20 November 2020,(collectively referred to as the **Romeo Class Actions**).
2. The purpose of this Notice is to inform you, as a group member, of the proposed settlement of the Romeo Class Actions and to explain your rights.
3. You should have previously received a court-approved notice in relation to the Romeo Class Actions which set out some of the background to the class actions, and which advised you of your rights as a potential group member to opt out of the class actions if you did not wish to participate in them, to register for the class actions so that your individual claims could be considered at mediation, or to do nothing.
4. The deadline for opting out has now passed. Any persons who lodged an opt out notice with the Federal Court before the deadline are no longer part of the Romeo Class Actions, and are not affected by this notice.
5. This notice is directed only to those persons who have been identified as a class member in the Romeo Class Actions and who either:
 - 5.1. previously registered to have their individual claim considered at mediation; or
 - 5.2. did not register and did not opt out of the Romeo Class Actions (by lodging an opt out notice with the Federal Court before the deadline of 2 June 2021).



6. If you have already registered to participate in the Romeo Class Actions and have your individual claim considered at mediation, you are regarded as a **Registered Group Member**. You should read this notice carefully as it will affect your rights.
7. If you have not previously registered or opted out of the Romeo Class Actions, you are regarded as an **Unregistered Group Member**. You should read this notice carefully as it will affect your rights.
8. The Federal Court of Australia will be asked to approve the proposed settlement and the proposed settlement distribution scheme (**Settlement Approval**). Group members have a right to lodge an objection to the proposed settlement.
9. If you are a Registered Group Member you are automatically considered as a participant in the proposed settlement.
10. If you are an Unregistered Group Member and wish to participate in the proposed settlement, you must take the steps outlined in paragraph 54 of this Notice, which includes completing and sending a Registration Form by 4.00pm (ACDT) on 7 January 2022.
11. If you wish to oppose the proposed settlement or any aspect of the proposed distribution of the settlement sum, you must take the steps outlined in paragraphs 51 or 57 (as the case may be) of this Notice, which includes filing a completed Notice of Objection to Proposed Settlement by 4.00pm (ACDT) on 12 January 2022.
12. **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, you should contact the solicitors for Mr Thomas and Mr Shina, Adero Law at <https://www.aderolaw.com.au/class-actions/romeos> or romeos@aderolaw.com.au or you may seek independent legal advice.

What is a class action?

13. 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.
14. The Applicants in a class action do not need to seek the consent of Group Members to commence a class action on their behalf to identify a specific Group Member. However, Group Members can cease to be Group Members by opting out of the class action before the court-appointed deadline. An explanation of how Group Members could opt out was contained in the previous notice to Group Members and, as noted above, the deadline for opting out has now passed.



What are the Romeo Class Actions?

15. The Romeo Class Actions are class actions filed by Adero Law on behalf of a certain group of employees of Romeos Lockleys and Romeos NSW.
16. On 27 July 2020, Adero Law filed the Class Action against Romeo Lockleys on behalf of Mr Thomas, a former Assistant Store Manager and Store Manager employed by Romeos Lockleys.
17. On 20 November 2020, Adero Law filed the Class Action against Romeos NSW on behalf of Mr Thomas, a former Assistant Store Manager and Store Manager employed by Romeos NSW.
18. Mr Thomas and Mr Shina allege that their annualised salaries did not properly compensate them for all hours worked in accordance with the General Retail Industry Award 2010 (**Award**).
19. As part of the Romeo Class Actions, Mr Thomas and Mr Shina sought orders from the Court, for the benefit of themselves and a group of certain employees, awarding compensation and imposing penalties upon Romeos Lockleys and Romeos NSW for the alleged underpayments of entitlements under the Award.
20. Romeos Lockleys and Romeos NSW deny the allegations and have defended the claims brought by Mr Thomas and Mr Shina.
21. Copies of selected court documents are available at <https://www.aderolaw.com.au/class-actions/romeos>.

Group Member Definitions

22. The Romeo Class Actions do not involve all types of employment at a Romeos' supermarket. There are a number of supermarket stores that are operated by different entities of the Romeo's Retail Group that are not the subject of the Romeo Class Actions. In addition, there are a number of employee positions and types of employment that are not the subject of the Romeo Class Actions. It may be that you are a Group Member for part of your employment and not a Group Member for the balance of your employment. For example, if you were employed as a Baker and as a Customer Services Manager, you are only a Group Member for the period in which you were a Customer Services Manager (and not a Baker) provided that you worked at one of the supermarkets the subject of the Romeo Class Actions.
23. You are a Group Member if you:
 - 23.1. were employed in a manager position with a job title that included the word "manager";



- 23.2. were employed in a position in a supermarket in the “general retail industry” within the meaning of the phrase in the Award;
- 23.3. were employed on a “full time” basis as that term is defined in the Award;
- 23.4. were employed on by Romeos Lockleys at any time between 28 July 2014 and 27 July 2020 at one or more of the following supermarkets:
 - 23.4.1. Morphett Vale Foodland located at 201 Main South Road, Morphett Vale SA;
 - 23.4.2. Normanville Foodland located at 85 Main Street, Normanville SA;
 - 23.4.3. Rostrevor Foodland located at 161 Bernards Road, Rostrevor SA;
 - 23.4.4. Stirling IGA located at 5 Johnston Street, Stirling SA;
 - 23.4.5. Daw Park Foodland located at 530 Goodwood Road, Daw Park SA;
 - 23.4.6. Stirling Foodland located at 5 Johnston Street, Stirling SA;
 - 23.4.7. Aldgate IGA Fresh located at 232 Mount Barker Road, Aldgate SA;
 - 23.4.8. Salisbury East IGA Fresh located at 53-63 Northbridge Avenue, Salisbury East SA;
 - 23.4.9. Modbury Village Foodland located at Modbury Triangle Shopping Centre, Modbury SA;
 - 23.4.10. Old Reynella Foodland located at 221 Old South Road, Old Reynella SA;
 - 23.4.11. Athelstone Foodland located at 320 Gorge Road, Athelstone SA;
and
 - 23.4.12. Fairview Park Foodland located at 325 Hancock Road, Fairview Park SA;
- 23.5. were employed by Romeos NSW at any time between 21 November 2014 and 20 November 2020 at one or more of the following supermarkets:
 - 23.5.1. Romeo’s Foodhall Oxford Street (also known as Romeo’s Foodhall Darlinghurst) located at 23 Oxford Street, Darlinghurst NSW;



- 23.5.2. Romeo's Foodhall St Leonards located at 201-205 Pacific Highway, St Leonards NSW;
- 23.5.3. Romeo's Foodhall Parramatta located at 37-39 George Street, Parramatta NSW;
- 23.5.4. Romeo's Foodhall St Ives located at Shop 140, 166 Moana Vale Road, St Ives NSW;
- 23.5.5. Romeo's Foodhall Summer Hill located at Shop 5, 1-11 Hardie Street, Summer Hill NSW;
- 23.5.6. Romeo's Foodhall Castlecrag located at 100 Edinburgh Road, Castlecrag NSW;
- 23.5.7. Romeo's Foodhall Ramsgate located at 191-201 Ramsgate Road, Ramsgate Beach NSW;
- 23.5.8. Romeo's Foodhall Sutherland located at 561 President Avenue, Sutherland NSW;
- 23.5.9. Romeo's Foodhall Paddington located at 1 Newcombe Street, Paddington NSW;
- 23.5.10. Romeo's Supa IGA Doonside (also known as Romeo's Rainbow Doonside) located at the corner of Bungarribee Road and Rosenthal Street, Doonside NSW;
- 23.5.11. Romeo's Foodhall IGA North Sydney located at Greenwood Plaza 24/36 Blue Street, North Sydney NSW;
- 23.5.12. Romeo's Foodhall IGA Mortdale located at 42-44 Morts Road, Mortdale NSW;
- 23.5.13. Romeo's Foodhall IGA Martine Place located at L4 MLC Centre 19-29 Martin Place, Sydney NSW; and
- 23.5.14. Romeo's Cellar located at 166 Moana Vale Road, St Ives NSW;
- 23.6. worked in any "pay period" in the above relevant periods a rostered hour:
 - 23.6.1. which was on a Monday to Friday on what was for the purposes of the Award an evening;
 - 23.6.2. outside the spread of hours from time to time in the Award for undertaking ordinary hours; or



- 23.6.3. on a Saturday, Sunday or Public Holiday;
- 23.7. were paid an annualised salary that did not properly compensate you for hours worked in accordance with the Award; and
- 23.8. you did not opt out of the Romeo Class Action on or before 2 June 2021.
24. If you meet the above criteria and are either a Registered Group Member (i.e. you have already registered to participate in the Romeo Class Actions) or an Unregistered Group Member (i.e. you have not previously registered or opted out of the Romeo Class Actions), you should read this notice carefully as it will affect your rights.
25. You will only be entitled to receive a distribution from the proposed settlement if you:
- 25.1. are a Registered Group Member; or
- 25.2. you are an Unregistered Group Member and you complete and submit a Registration Form by 4.00pm (ACDT) on 7 January 2022; and
- 25.3. are eligible to receive a distribution from the proposed settlement in accordance with the settlement distribution scheme.
26. If you do not register your claim in the Romeo Class Actions, you will be bound by the terms of the settlement but will not be entitled to receive any settlement distribution from it.

The Proposed Settlement

27. The Court directed the parties to attend a mediation. The mediation was conducted on 25 and 26 August 2021. Ultimately, the parties agreed an in-principle settlement of the Romeo Class Actions under which Romeos Lockleys and Romeos NSW agreed to pay:
- 27.1. the following settlement amounts (**Settlement Proceeds**):
- 27.1.1. \$1.55 million (inclusive of interest) in full and final settlement of the claims of the Applicants and Registered Group Members as calculated in accordance with the settlement distribution scheme; and
- 27.1.2. an amount to be determined in accordance with the settlement distribution scheme for Unregistered Group Members who register their claim by 4.00pm (ACDT) on 7 January 2022 (**Additional Registered Group Members**) in full and final settlement of the claims of Unregistered Group Members; and



27.2. an amount of \$825,000.00 (inclusive of GST) in respect of Adero Law's legal costs by way of a contrition and contribution payment which will be payable on account of Adero Law's legal costs,

(Proposed Settlement).

28. The Proposed Settlement is without admission of liability by Romeos Lockleys and Romeos NSW.
29. The Settlement Proceeds are to be distributed to eligible Registered Group Members and Additional Registered Group Members in accordance with a settlement distribution scheme to be approved by the Court, which will establish how Registered Group Members' and Additional Registered Group Members' entitlements are to be calculated, and the process to distribute the Settlement Proceeds as efficiently as possible.
30. If the Court approves the Proposed Settlement, there will be \$1.55 million of the Settlement Proceeds available for distribution to eligible Registered Group Members.
31. The distribution of Settlement Proceeds to eligible Additional Registered Group Members will be calculated on the same basis as the distribution for eligible Registered Group Members.
32. At the present time, it is not possible to determine how the value of the Settlement Proceeds that eligible Additional Registered Group Members will receive by way of a distribution from the Proposed Settlement, because the value will depend upon factors including the:
 - 32.1. number of hours recorded in the time attendance data for Additional Registered Group Member; and
 - 32.2. amount paid by way of annualised salary to Additional Registered Group Member.
33. If the Proposed Settlement is approved, all Group Members (whether a Registered Group Member, Additional Registered Group Member or Unregistered Group Member) agree to release Romeos Lockleys and Romeos NSW from any claim arising out of or in connection with:
 - 33.1. the Romeo Class Actions; and
 - 33.2. employee entitlements for the relevant periods, whether arising at common law, in equity, under the General Retail Industry Award (2010), the *Fair Work Act 2009* (Cth) or another statutory instrument.



34. In other words, all Group Members (whether a Registered Group Member, Additional Registered Group Member or Unregistered Group Member) will be bound by the settlement, and will not be permitted to make any subsequent claim against Romeos Lockleys and Romeos NSW in relation to alleged unpaid employee entitlements for the relevant periods.
35. If the Proposed Settlement is not approved by the Court, the Romeo Class Actions will continue and there will be no distribution of Settlement Proceeds to Group Members unless and until the Applicants are successful in the proceedings or a further settlement is reached.

Settlement Distribution Scheme

36. The process by which the Settlement Proceeds is proposed to be distributed will be outlined in the Settlement Distribution Scheme (**Scheme**).
37. The costs of administering the settlement under the Scheme will be borne by Romeos Lockleys and Romeos NSW.
38. The Scheme will detail:
 - 38.1. the criteria for determining whether Registered Group Members and Additional Group Members are eligible to receive a distribution of the Settlement Proceeds; and
 - 38.2. how each eligible Registered Group Member's and Additional Registered Group Member's entitlement to a share of the Settlement Proceeds will be calculated.
39. The portion of the Settlement Proceeds that will be distributed to each Registered Group Members and Additional Registered Group Member under the Proposed Settlement will depend upon a number of factors such as the:
 - 39.1. period of employment;
 - 39.2. position title of the employee;
 - 39.3. Award level of the employee;
 - 39.4. age of the employee;
 - 39.5. number of hours recorded in the employee's time attendance records;
 - 39.6. days and times on which those hours were worked;
 - 39.7. rostered hours recorded in the employee's time attendance records;



- 39.8. pay history records in respect of that employee;
 - 39.9. leave taken by that employee;
 - 39.10. time off in lieu taken by that employee;
 - 39.11. whether the employee worked during periods where he or she was overpaid;
and
 - 39.12. any interest.
40. Importantly, Group Members' entitlements will be calculated using an agreed entitlement calculation model that has regard to the factors described above (**Calculation Model**). The Calculation Model is based on what Adero Law regards as a reasonable and just application of provisions of the Award. Some of the provisions can be applied in different ways. The Applicants and the Respondents have agreed the Calculation Model to reflect what Adero Law considers to be a just and reasonable application of the Award, with a discount built into the Calculation Model. The discount included in the Calculation Model addresses a range of risk factors, including the risks associated with the application of different interpretations of the Award, risks associated with litigation (including the costs of litigation and the Respondents' contention that the Romeo Class Actions lack jurisdiction) and the risks associated with factual disputes. The discount is applied equally to eligible Registered Group Members and Additional Registered Group Members.
41. The Calculation Model will be used to determine entitlements for Registered Group Members and Additional Registered Group Members alike. The Calculation Model will be verified by an independent forensic accountant and will be required to be approved by the Court. By registering to participate in the Romeo Class Actions and the Proposed Settlement, Registered Group Members and Additional Registered Group Members are deemed to agree the value of the entitlements calculated using the Calculation Model and that the value so calculated represents full and final compensation for any and all entitlements payable to Group Members in respect of issues raised in the Romeo Class Actions or as applicable under the Award.
42. The Scheme and the agreed Calculation Model described above must also be approved by the Court.
43. If the Court approves the Proposed Settlement, Adero Law (as the Administrator of the Scheme) will be appointed to supervise and manage the distribution of the Settlement Proceeds to Registered Group Members and Additional Registered Group Members in accordance with the Scheme, under directions of the Court and as verified by Vincent's Accounting. As the Settlement Proceeds relate to employee entitlements, the



Settlement Proceeds will need to be processed and paid by Romeos Lockleys and Romeos NSW (as the case may be).

The Settlement Approval Process

44. The Proposed Settlement does not come into effect unless it is approved by the Court. Before approving the Proposed Settlement, the Court must be satisfied that the Proposed Settlement is fair and reasonable and in the interests of all Group Members. The Court will also determine whether the amount allocated for payment to Adero Law on account of legal costs is also reasonable.
45. You may file a Notice of Objection to the Proposed Settlement and/or any aspect of the proposed distribution of the Settlement Proceeds to eligible Group Members. The Court will take any objections into account in deciding whether or not to approve the Proposed Settlement.

Are Group Members Liable for Legal Costs?

46. If the Proposed Settlement is approved by the Court, Romeos Lockleys and Romeos NSW pay an amount of \$825,000.00 (inclusive of GST) to Adero Law on account of legal costs, which payment is intended as a contribution and contrition payment in lieu of the civil penalties originally sought by the Applicants. In the circumstances, Group Members will have no liability or obligation to pay Adero Law any amounts. It is noted that there is no general entitlement for Group Members to recover legal costs from the Respondents.

What do Registered Group Members need to do?

47. If you have previously registered for the Romeo Class Actions and are a **Registered Group Member**, you may do the following things:
 - 47.1. **Option A** – do nothing, in which case you may be eligible to receive a distribution from the Proposed Settlement; and/or
 - 47.2. **Option B** – object to the Proposed Settlement by completing the form attached as **Attachment 2** to this notice (if you choose to do this, you may still do Option A).
48. There are different consequences depending on which of the above steps you choose.
49. If you are a Registered Group Member and the Proposed Settlement is approved, you may be eligible to receive a distribution from the \$1.55 million (inclusive of interest) amount that forms part of the Settlement Proceeds.



50. As a Registered Group Member, you will not be eligible to receive a distribution if you:
- 50.1. have previously settled and released either or both of Romeos Lockleys and Romeos NSW from claims arising out of or in connection with your employee entitlements the subject matter of the Romeo Class Actions;
 - 50.2. do not have any time attendance data of purported hours worked by you; or
 - 50.3. were overpaid for hours worked by you as determined using the Calculation Model.
51. You also have the right, if you wish, to make submissions as to why the Court should, or should not, approve the Proposed Settlement, or any particular aspect of it. If you wish to exercise that right, you must complete the Notice of Objection to Proposed Settlement form that is attached to this Notice as **Attachment 2** and submit it to the address on the form by no later than 4.00pm (ACDT) on 12 January 2022. Any objections received by the Court will be considered by the Court, along with all of the other evidence and submissions filed by the parties, in determining whether or not the Proposed Settlement should be approved.

What do Unregistered Group Members need to do?

52. If you have not opted out of the Romeo Class Actions and have not previously registered to participate in the class action so that you are therefore an **Unregistered Group Member**, you may do the following things:
- 52.1. **Option A** – register to participate in the Proposed Settlement by 4.00pm (ACDT) on 7 January 2022, in which case you may be eligible to receive a distribution from the Proposed Settlement;
 - 52.2. **Option B** – do nothing, in which case, if the Proposed Settlement is approved by the Court, you will not be entitled to receive a distribution from the Proposed Settlement, and nor will you keep your rights (if any) against Romeos Lockleys and Romeos NSW in respect of the matters the subject of the Romeo Class Action and the Deed of Settlement and Release;
 - 52.3. **Option C** – object to the Proposed Settlement by completing the form attached as **Attachment 2** to this notice (if you choose to do this, you may still do Option A or B).
53. There are different consequences depending on which of the above steps you take.
54. **Option A** – Unregistered Group Members who wish to participate in the Proposed Settlement and receive a distribution from the Proposed Settlement must register their claim by no later than 4.00pm on (ACDT) on 7 January 2022 by completing and



submitting the Registration Form attached as **Attachment 1** to this Notice and return it to Adero Law at the address on the Registration Form. If you register, you may be eligible to receive a distribution from the Settlement Proceeds. The precise amount of that distribution is presently uncertain and will be determined using the Calculation Model once the number of Additional Registered Group Members is known. There is no cost associated with registering your claim.

55. If you become an Additional Registered Group Member, you will not be eligible to receive a distribution if you:
- 55.1. have previously settled and released either or both of Romeos Lockleys and Romeos NSW from claims arising out of or in connection with your employee entitlements the subject matter of the Romeo Class Actions;
 - 55.2. do not have any time attendance data of purported hours worked by you; or
 - 55.3. were overpaid for hours worked by you on application of the Scheme.
56. **Option B** – Unregistered Group Members who do nothing (i.e. do not register before the applicable deadline) will remain a Group Member for all purposes but will not, unless the Court determines otherwise, be entitled to receive a distribution from the Settlement Proceeds. Accordingly, if the Court approves the Proposed Settlement, Unregistered Group Members who do nothing will be bound by the approved settlement and, therefore, will not be able to pursue the same or similar claims against Romeos Lockleys and Romeos NSW in the future, even though they do not receive any of the Settlement Proceeds.
57. **Option C** – If you are an Unregistered Group Member, you have the right, if you wish, to make submissions as to why the Court should, or should not, approve the Proposed Settlement, or any particular aspect of it. If you wish to exercise that right, you must complete the Notice of Objection to Proposed Settlement form attached to this Notice as **Attachment 2** and submit it to the address on the form by no later than 4.00pm (ACDT) on 12 January 2022. Any objections received by the Court will be considered by the Court, along with all of the other evidence and submissions filed by the parties, in determining whether or not the proposed settlement should be approved.

Further Information

58. If you have any questions or queries, you may contact the Applicants' solicitors (Adero Law) at <https://www.aderolaw.com.au/class-actions/romeos> or at romeos@aderolaw.com.au.



ATTACHMENT 1

REGISTRATION FORM

ROMEO CLASS ACTIONS

Thomas v Romeo Lockleys Asset Partnership (SAD 105/2020) and Shina v Romeo NSW Partnership (SAD 169/2020)

By post: Adero House
3 Hobart Place
CANBERRA ACT 2601

By email: romeos@aderolaw.com.au

The person below gives notice that the person wishes to **REGISTER** for the proposed settlement of this proceeding.

A DETAILS OF GROUP MEMBER

Name of group member:	
Telephone:	
Email:	
Postal address:	

B DETAILS REQUIRED FOR ANY DISTRIBUTION FROM THE SETTLEMENT SUM

Tax File Number	
Nominated Bank Account	BSB: Account No: Account Name:
Proof of Identity (Driver's Licence Number or Passport Number, including scanned copy)	



Signed:	
Name of person signing:	
Date:	



ATTACHMENT 2
NOTICE OF OBJECTION TO PROPOSED SETTLEMENT

Notice of Objection to Proposed Settlement

ROMEO CLASS ACTIONS

Thomas v Romeo Lockleys Asset Partnership (SAD 105/2020) and Shina v Romeo NSW Partnership (SAD 169/2020)

By post: Federal Court of Australia (SA Registry), 3 Angas Street,
ADELAIDE SA 5000

By email: Associate.CharlesworthJ@fedcourt.gov.au

The person below gives notice that the person or entity **OBJECTS** to the proposed settlement of this proceeding.

A DETAILS OF OBJECTOR

Name of Group Member:	
Telephone:	
Email:	
Postal address:	

B GROUND(S) OF OBJECTION

My submissions in support of my objection to the proposed settlement are as follows *[set out below any submissions, attaching additional pages if necessary and any affidavit evidence]*:



Signed:	
Name of person signing:	
Date:	



**ANNEXURE C
COVERING COMMUNICATION**

Dear Group Member

**ROMEO CLASS ACTIONS – THOMAS V ROMEO LOCKLEYS PARTNERSHIP
(SAD105/2020) & SHINA V ROMEO NSW PARTNERSHIP (SAD169/2020)**

You are receiving this correspondence because you may be a Group Member in the Romeo Class Actions.

THE NOTICE ENCLOSED WITH THIS CORRESPONDENCE HAS BEEN APPROVED BY THE FEDERAL COURT OF AUSTRALIA. IT PROVIDES YOU WITH INFORMATION CONCERNING:

- 1. THE PROPOSED SETTLEMENT OF THE ROMEO CLASS ACTIONS;**
- 2. YOUR RIGHT TO OBJECT TO THE PROPOSED SETTLEMENT OF THE ROMEO CLASS ACTIONS AND/OR ANY ASPECT OF THE PROPOSED DISTRIBUTION OF THE SETTLEMENT PROCEEDS; AND**
- 3. WHAT YOU NEED TO DO TO REGISTER TO PARTICIPATE IN THE PROPOSED SETTLEMENT BEFORE THE DEADLINE OF 4.00pm (ACDT) ON 7 JANUARY 2022**

It is therefore very important that you read the enclosed Notice carefully. If you have any questions, please visit the Romeo Class Actions website at <https://www.aderolaw.com.au/class-actions/romeos> or contact Adero Law directly at romeos@aderolaw.com.au.

Alternatively, you may wish to seek your own independent legal advice regarding the matters set out in the Notice.

Sincerely,

Romeo's Retail Group



Schedule of Parties

No: SAD105/2020

Federal Court of Australia

District Registry: South Australia

Division: Fair Work

Second Respondent LOCKLEYS FOODLAND PTY LTD (ACN 108 166 276)

Third Respondent ROMEO LOCKLEYS HOLDINGS PTY LTD (ACN 108 157 928)