

09 May 2022

UPDATE ON THE COLES UNDERPAYMENT CLASS ACTION
Pabalan v Coles Supermarkets Australia Pty Ltd | NSD 542 of 2020

- 1.1 The Coles class action has been scheduled for a trial in June and July 2023. The judge has not yet decided how the trial will be conducted, but it is likely that sections of the trial will happen alongside the Fair Work Ombudsman's (**FWO**) trial. This is because the FWO's legal action will cover many of the same issues as the class action, so having the trials run together avoids unnecessary duplication of efforts.
- 1.2 The judge has directed Ms Pabalan and Coles to prepare for that trial by taking the following steps:
- (a) **Create a list of questions that the parties would like the judge to answer at the trial.** The answers to these questions will apply to most or every group member in the class action, rather than just a handful of individuals. These are called the 'common questions' in a class action because the answers to those questions will determine all or most of the disputes between each group member and Coles. After the trial of the common questions has ended, each group member can then have any remaining individual issues answered to fully resolve the dispute.
 - (b) **File the evidence each party will rely upon at the trial.** The evidence may include affidavits from Ms Pabalan and witnesses, affidavits from a small selection of other group members, and reports from experts. Adero Law will contact all individuals from whom we request evidence, so you do not need to do anything unless you are contacted by the parties or the FWO.
 - (c) **Prepare legal submissions and other trial formalities.** This step includes the preparation of the list of the cases each party will rely upon to support their arguments, organising witnesses, and making objections to the other party's evidence.
 - (d) **Attend monthly case management hearings.** June 2023 may seem like a long time from now, but there is a great deal of work that needs to be done before then. Monthly hearings allow the judge to ensure that the parties and the FWO are moving in unison towards the trial next year.
- 1.3 Most of these steps involve technical legal work and minimal input from group members. Adero Law will be working hard to achieve a positive outcome at the trial, so we may not have another class action update for some time.
- 1.4 We understand that the pace of justice can at times be frustratingly slow. Please know that Adero Law remains committed to getting each group member fair compensation for every hour they worked. We are grateful for your continued support and patience.
- 1.5 For the latest information and our contact details, please visit the Coles class action website at aderolaw.com.au/class-actions/coles.

Sincerely

The Coles Class Action Team

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