

25 July 2023

UPDATE ON THE WOOLWORTHS UNDERPAYMENT CLASS ACTION

***Baker & Anor v Woolworths Group Limited & Anor* | NSD 2004 of 2019**

- 1.1 The initial trial for the Woolworths Class Action commenced on 5 June 2023 in the Federal Court and finished on 21 July 2023. The initial trial was run alongside the regulatory proceedings brought by the Fair Work Ombudsman (**FWO**) against Woolworths and Coles and the Coles Class Action also run by Adero. The proceedings were run together because they involve many of the same legal issues, avoiding multiple hearings on similar questions of law.
- 1.2 Justice Perram heard evidence on the policies implemented in Woolworths and Coles stores and the working practices of Woolworths team managers, including in relation to its systems for rostering, clocking, whether there was a requirement for employees to work overtime to ensure completion of all tasks and time off in lieu. Cameron Baker, the lead applicant, gave evidence on Woolworths' requirement for him to work overtime. The parties also made submissions to the Court on how clauses in the General Retail Industry Award (the **Award**) should be interpreted.
- 1.3 Justice Perram will be deciding common questions agreed by the parties. These are questions which will apply to most or every group member in the class action. Some common questions being determined include whether Woolworths met its record keeping obligations in relation to employee records as required by the *Fair Work Regulations 2009* (Cth), how Woolworths and team managers could form agreements to vary their entitlements under the Award and how hours worked at certain times should be allocated against certain entitlements.
- 1.4 Now that the initial trial is complete, Justice Perram will give a written judgement which will decide questions of interpretation of the Award after carefully considering all evidence and submissions by the parties. Given the complex nature of the legal arguments, we are unable to say with any certainty when Justice Perram will give a written judgement. The parties will then seek to calculate group member entitlements based on the judgement before moving to any further hearing or mediation on compensation likely to occur in 2024 on any remaining individual issues of group members to fully resolve the dispute.
- 1.5 Adero Law is focused on achieving the best outcome for group members at the initial trial and expect to be able to provide a further update towards the end of the year.
- 1.6 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.
- 1.7 For the latest information and our contact details, please visit the Woolworths class action website at <https://www.aderolaw.com.au/class-actions/retail/woolworths-big-w/>.

Sincerely

The Woolworths Class Action Team

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