

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Originating Application Starting a Representative Proceeding under Part IVA
Federal Court of Australia Act 1976 - Form 19 - Rule 9.32

Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)

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File Number: WAD229/2022

File Title: PITA AWATERE TE TAU O TE RANGI v WILSON SECURITY PTY LTD
(ABN 90 127 406 295)

Registry: WESTERN AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA

Reason for Listing: To Be Advised

Time and date for hearing: To Be Advised

Place: To Be Advised



Sia Lagos

Registrar

Important Information

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 of the filing of the document is determined pursuant to the Court's Rules.



Second Further Amended Originating application starting a representative proceeding under Part IVA of the Federal Court of Australia Act 1976

No. WAD229 of 2022

Federal Court of Australia
District Registry: Western Australia
Division: Fair Work Division

Paul Hamilton Pita Awatere Te Tau O Te Rangī

Applicant

**Wilson Security Pty Ltd
(ABN 90 127 406 295)**

Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place:

The Court ordered that the time for serving this application be abridged to

Date:

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

Filed on behalf of (name & role of party) Paul Hamilton Pita Awatere Te Tau O Te Rangī (Applicant)

Prepared by (name of person/lawyer) Rory Markham

Law firm (if applicable) Adero Law

Tel (02) 6189 1022 Fax _____

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Address for service 3 Hobart Place, Canberra, ACT 2601
(include state and postcode)



Details of claim

On the grounds stated in the accompanying statement of claim, the Applicant claims:

1. Order(s) pursuant to section 545(1) of the *Fair Work Award 2009* (**FWA**) directing Wilson to pay to the Applicant and other Group Members any underpayment of wages as may be determined, including interest on any sum ordered pursuant to section 547(2) of the FWA.
2. Order(s) pursuant to section 546(1) of the FWA for penalties to be imposed against the Respondent in respect of any proven contraventions detailed in the Statement of Claim.

Questions common to claims of group members

The questions of law or fact common to the claims of the group members:

1. Did the Respondent contravene the *Security Services Industry Award 2020* (**Award**) as detailed in the Statement of Claim?
2. Did the Respondent through its system of engagement and work direct the Applicant and Group Members to arrive at the identified work site 15 minutes prior to the start of a rostered shift and to attend a 'handover'?
3. Was the Respondent's direction to the Applicant, to perform work and complete paperwork outside of rostered hours (**Additional Work**) to be taken as work for the purposes of quantifying entitlement under the Award?
 - a. Did any Additional Work by Group members pursuant to paragraph 3 constitute 'ordinary working time' pursuant to clause 31.2(b) of the Award?
 - b. For the purposes of clause 13.3(g) of the Award, did the commencement of the shift as defined in the Award commence at the time the Additional Work started?
4. Was a direction by Respondent to require that the Applicant and Group Members drive company vehicles to and from the designated work site outside of rostered hours (**Outside Work**) taken to be work within the meaning of the Award?
 - a. Did any Outside Work by Group members pursuant to paragraph 4 constitute 'ordinary working time' pursuant to clause 31.2(b) of the Award?
 - b. For the purposes of clause 13.3(g) of the Award, did the commencement of the shift as defined in the Award commence at the time the Outside Work started?
5. Did the Applicant and Group Members perform work meeting the categorisation or classification of Level 4 or 5 security officer under the Award?



6. Did the Applicant and Group Members who performed rostered hours consistent with the Statement of Claim, be eligible to be paid the Permanent Night Shift rate under the Award?

Representative action

The Applicant brings this application as a representative party under Part IVA of the *Federal Court of Australia Act 1976*.

The group members to whom this proceeding relates to are described as persons to whom ALL the following ~~SIX~~FIVE CONDITIONS simultaneously applied for a period, or periods, between 31 March 2015 and 27 October 2022, in that they were:

1. FIRST CONDITION

- a. Covered under the Security Services Industry Award 2010 which became the Security Services Industry Award 2020 (Award) when it commenced on 18 June 2020;

2. SECOND CONDITION

- a. Employed by the First Respondent, Wilson Security Pty Ltd as a “full time employee” or “part time employee” within the meaning of the Award;

3. THIRD CONDITION

- a. Employed by the first respondent, Wilson Security Pty Ltd ~~on a fly-in and fly-out basis~~

4. FOURTH CONDITION

- a. Worked at one or more of the following sites located on the Burrup Peninsula, near Karratha, namely:
- i. Karratha Gas Plant;
 - ii. Pluto LNG Park;
 - iii. King Bay Supply Base; and
 - iv. Burup Materials Facility.

5. FIFTH CONDITION

- ~~a. Was required to reside at one or more camps located in or near Karratha, Western Australia;~~

~~6. SIXTH CONDITION~~

- ~~a. In addition to conditions 1 to 54 above;~~



- i. Was a Group Member of the proceedings WAD138/2021 (Wilkinson & Ors v Wilson Security & Anor) (Wilkinson Proceedings);
- ii. Who had not opted out of the Wilkinson Proceedings; and
- iii. Who had the benefit of Order 2 of Justice Colvin's orders made on 27 September 2022 in the Wilkinson Proceedings freezing the running of the limitation period until 28 October 2022.

Group Membership includes the deceased estates of persons to whom ALL ~~SIX~~FIVE of the above conditions simultaneously applied.

Pursuant to section 33H(2) of the Federal Court of Australia Act 1976, the Group members are not specifically named.

Applicant's address

The Applicant's address for service is:

Place:

C/- Rory Markham

Adero Law

3 Hobart Place

Canberra ACT 2601

Email: Andrew.chakrabarty@aderolaw.com.au

The Applicant's address is 3 Hobart Place, Canberra ACT 2601.

Service on the Respondent

It is intended to serve this application on all Respondents.

Date: ~~2 May 2023~~ 22 August 2023

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

Signed by Rory Markham
Lawyer for the Applicant