

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: VID66/2025

File Title: OLIVIA IOB & ORS v LOVISA PTY LIMITED

Registry: VICTORIA 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.



Form 19
Rule 9.32

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

No. _____ of 2025

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

OLIVIA IOB and two others named in the schedule

First Applicant

LOVISA PTY LIMITED (ACN 120 675 890)

Respondent

To the Respondent

The Applicants apply 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
Prepared by
Tel:
Email:
Address for service:

.....
The Applicants, Olivia Iob & Ors
Adero Law
(02) 6189 1022
corinne.armanini@aderolaw.com.au
3 Hobart Place, Canberra City, ACT 2601
.....



A. REPRESENTATIVE ACTION

1. The Applicants bring this application as a representative party under Part IVA of the *Federal Court of Australia Act 1976 (Cth)* (**FCA Act**).
 - a. for themselves; and
 - b. as representatives of a group constituted by all persons employed by Lovisa Pty Limited (**Respondent**):
 - i. on a part-time or full-time basis;
 - ii. in the positions of 'Team Member', 'Store Supervisor', 'Assistant Store Manager', 'Store Manager C', 'Store Manager B', 'Store Manager A' or 'Store Manager A+' (**Relevant Positions**); and
 - iii. during the period beginning 23 January 2019, and ending on 23 January 2025 (**Relevant Period**),

(the **Group** and a/the **Group Member/s**).
2. The Applicants and the Group Members were at all material times during the Relevant Period, national system employees within the meaning of s.13 and s.14 of the *Fair Work Act 2009 (Cth)* (**the FWA**).
3. On the date of filing this Originating Application, there were more than seven Group Members.

B. DETAILS OF THE CLAIM

4. On the grounds stated in the accompanying Statement of Claim, the Applicants claim on their own behalf, and on behalf of Group Members:
 - a. orders pursuant to s.545 of the FWA awarding compensation to the Applicants and Group Members in respect of the Respondent's contraventions referred to in 37, 46, 64, 69, 74, 79, 84, 89, 94, 99, 104, 106, 111, 113, 118, 120, 125, 127, 130, 132, 136, 145, 162, 166, 170, 174, 178, 182, 186, 190, 196, 200, 202, 206, 208, 212, 214, 219, 225, 228, 232, 239, 241 and 246 of the Statement of Claim, being:
 - i. an order pursuant to s.33Z(1)(f) or s.33Z(1)(g) or s.33ZF of the FCA Act awarding damages on an aggregate basis in respect of compensation claimed; or in the alternative
 - ii. an order pursuant to s.33Z(1)(e) or s.33Z(g) or s.33ZF of the FCA Act awarding damages for group members, sub-group members or individual group members, being damages consisting of specified amounts or



amounts worked out in such manner as the Court specifies, in respect of compensation claimed.

- b. an order pursuant to s.546 of the FWA that the Respondent pay a pecuniary penalty in relation to each of the contraventions pleaded in the Statement of Claim.
 - c. an order pursuant to s.546 of the FWA that the Respondent pay a pecuniary penalty to the Applicants or the relevant Group Members on the basis that Section 535 Contraventions (defined in paragraph 249 of the Statement of Claim) were serious contraventions within the meaning of s. 557A of the FWA as was in operation at the relevant time.
 - d. an order that any pecuniary penalty imposed on the Respondent be paid to the Applicants and/or the relevant Group Members.
 - e. an order pursuant to s.547 of the FWA or s. 51A of the FCA Act awarding interest up to judgment on the above amounts; and
 - f. such further or other relief as the Court deems fit.
5. Further, Ms Iob claims damages and interest for loss suffered in respect of paragraph **Error! Reference source not found.** of the Statement of Claim.

C. QUESTIONS COMMON TO CLAIMS OF GROUP MEMBERS

6. The questions of law or fact common to the claims of the Group Members are:
- (a). Whether during the Relevant Period, the Respondent drew up rosters that set out the start and finish times of each shift applicable to the Applicants, and the Group Members, that covered a period of one week at a time.
 - (b). Whether during the Relevant Period, the Respondent contravened clause 4.2(a) of the 2014 Agreement (defined in paragraph 32 of the Statement of Claim) and the 2022 Agreement (defined in paragraph 140 of the Statement of Claim) and thereby s.50 of the FWA by failing to draw up a roster for each fortnightly pay cycle.
 - (c). Whether during the Relevant Period, the Respondent required the Applicants, and the Group Members, to attend each shift at least approximately 15 minutes prior to the start time specified in their roster where the rostered shifts commenced at the same time as the relevant Lovisa Store (defined in paragraph 4 in the Statement of Claim) opened for trade, to perform the work pleaded in paragraph 48 and 147 in the Statement of Claim (**Pre-Shift Work**).



- (d). Whether during the Relevant Period, the Respondent required the Applicants, and the Group Members, to remain in each Lovisa Store for approximately 15 to 60 minutes after the rostered shift came to an end where the rostered shifts ended at the same time as the relevant Lovisa Store closed for trade, to perform the work pleaded in paragraph 50 and 149 in the Statement of Claim (**Post-Shift Work**).
- (e). Whether during the Relevant Period, the Respondent required the Applicants, and the Group Members, to undertake ongoing training on LOLA (defined in paragraph 35 of the Statement of Claim) outside of their rostered hours of work (**Training Outside of Rostered Hours**).
- (f). Whether during the Relevant Period, the Respondent failed to make and keep records of:
- (i) the number of overtime hours worked by the Applicant and the Group Members; or
 - (ii) when the Applicants and the Group Members started and ceased working overtime hours,
- and thereby, breached s. 535(1) of the FWA read with regulation 3.34 of the *Fair Work Regulations 2009* (Cth) (**FWR**).
- (g). Whether the Respondent's failure to keep records in accordance with s.535(1) of the FWA read with regulation 3.34 of the FWR trigger the application of s.557C(1) of the FWA.
- (h). Whether the Respondent breached s.535(3) of the FWA by knowingly keeping records of:
- (i) the number of overtime hours worked by the Applicant and the Group Members; and or
 - (ii) when the Applicants and the Group Members started and ceased working overtime hours,
- that were false or misleading.
- (i). Whether the Respondent's breaches of s.535(1), (3) and (4) were serious contraventions within the meaning of s.557A of the FWA in operation at the relevant time.
7. The questions of law or fact common to the claims of the 2014 Agreement Group Members (defined in paragraph 33 of the Statement of Claim) are:



- (a). Whether the performance of the Pre-Shift Work, the Post-Shift Work and the Training Outside of Rostered Hours, 2014 Agreement Work During Meal Breaks (defined in paragraph 56 of the Statement of Claim) and 2014 Agreement Work During Rest Breaks (defined in paragraph 59 of the Statement of Claim) constituted 'overtime' on a proper construction of clause 4.2(a) and 4.3(a) of the 2014 Agreement (**2014 Agreement overtime**).
 - (b). Whether the Respondent failed to pay overtime to the relevant Applicants and Group Members in respect of the 2014 Agreement overtime in breach of clause 4.5(b) of the 2014 Agreement.
 - (c). Whether the Respondent was required to provide a 10-hour break in between the completion one day's work and the commencement of the next day's work to the relevant Applicants and Group Members during Christmas Periods (defined in paragraph 56 of the Statement of Claim) in the 2014 Agreement Period (defined in paragraph 33 of the Statement of Claim).
8. The questions of law or fact common to the claims of the 2022 Agreement Group Members (defined in paragraph 141 of the Statement of Claim) are:
- (a). Whether the performance of the Pre-Shift Work, the Post-Shift Work and the Training Outside of Rostered Hours, 2022 Agreement Work During Meal Breaks (defined in paragraph 155 of the Statement of Claim) and 2022 Agreement Work During Rest Breaks (defined in paragraph 158 of the Statement of Claim) constituted 'overtime' in accordance with clause 4.5(a) of the 2022 Agreement (**2022 Agreement overtime**).
 - (b). Whether the Respondent failed to pay overtime to the relevant Applicants and Group Members in respect of the 2022 Agreement overtime in breach of clause 4.5(b) of the 2022 Agreement.
 - (c). Whether the Respondent was required to provide a 12-hour break in between the completion one day's work and the commencement of the next day's work to the relevant Applicants and Group Members during Christmas Periods (defined in paragraph 56 of the Statement of Claim) in the 2022 Agreement Period (defined in paragraph 141 of the Statement of Claim).
 - (d). Whether the Respondent required the relevant Applicants and Group Members to wear dress shoes and Lovisa jewellery.
 - (e). Whether the dress shoes and/or "Lovisa jewellery" constituted "special clothing" for the purposes of clause 3.8(d) of the 2022 Agreement.

**Applicants' address**

The Applicants' address for service is:

Place: Adero Law
3 Hobart Place
Canberra City ACT 2601

Email: corinne.armanini@aderolaw.com.au

Service on the Respondent

It is intended to serve this application on all Respondent/s.

Date: 23 January 2025

A handwritten signature in black ink, appearing to be 'RM' followed by a long horizontal stroke.

Signed by Rory Markham
Lawyer for the Applicants



Schedule

No. of 20

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

AYESHA KELSO

Second Applicant

FINN WESLEY (also known as Vivian Wesley)

Third Applicant

Date: 23 January 2025