

## 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: NSD542/2020

File Title: MARIA PABALAN v COLES SUPERMARKETS AUSTRALIA PTY LTD  
ABN 45 004 189 708

Registry: NEW SOUTH WALES 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.



**~~Third Further Fifth~~ Amended Originating Application  
Part IVA of the *Federal Court of Australia Act 1976*  
(Amended pursuant to leave granted by the Honourable Justice Perram on 17 April 2026)**

No. NSD 542 of 2020

Federal Court of Australia  
District Registry: New South Wales  
Division: Fair Work Division

**Maria Pabalan**

Applicant

**Coles Supermarkets Australia Pty Ltd  
(ABN 45 004 189 708)**

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:**

Date:

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



## Representative Action

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

## Details of claim

In respect of each contravention of each civil remedy provision under of the *Fair Work Act 2009 (FWA)* alleged in the Statement of Claim filed herewith the Applicant, on the grounds stated therein (and hereon adopting the terms therein defined), claims on her own behalf, or on behalf of each Group Member as the case may be:

1. an order pursuant to ss 545(2)(b) and 547 FWA that Coles pay to Ms Pabalan or the relevant Group Member:
  - (1) compensation for the loss she or he suffered because of that contravention; and
  - (2) interest up to judgment on the above amount;
2. an order pursuant to s 546(1) and (3) FWA that Coles pay a pecuniary penalty:
  - (1) to Ms Pabalan or the relevant Group Member,
  - (2) on the basis that each contravention was a “serious contravention” within the meaning of s 557A FWA; and
- 2A. an order that damages be awarded to Group Members:
  - (1) in amounts worked out in such manner as the Court specifies pursuant to s 33Z(1)(e) of the *Federal Court of Australia Act 1976 (Cth) (FCA Act)*; alternatively
  - (2) in an aggregate amount pursuant to s 33Z(1)(f) of the FCA Act; and
3. an order pursuant to s 545 of the FWA and s 54A of the *Federal Court of Australia Act 1976 (Cth)*:
  - (1) appointing a suitably qualified referee to:



- (a) audit the Roster, time, absenteeism, pay, and employee file records of Coles in respect of Ms Pabalan and each of the Group Members; and
  - (b) provide the Court with a report in accordance with r 28.66 of the *Federal Court Rules 2011* (Cth) setting out the referee's opinion as to the loss suffered by Ms Pabalan and each of the Group Members in respect of each contravention of each civil remedy provision of the FWA alleged in the Statement of Claim; and
- (2) that Coles pay the costs associated with the referee's engagement and completion of the report.

### **The Group Members**

4. Ms Pabalan brings these proceedings:

- (1) for herself; and
- (2) as the representative of a group constituted by all persons:
  - (a) who were employed by Coles at any time within the period 19 May 2014 to 18 May 2020 (the "Relevant Period"); and
  - (b) who in at any time during the Relevant Period, or in both the Relevant Period and the further period from 19 May 2020 to 28 September 2020 (the "Litigation Period"), worked in a position:
    - (i) in a supermarket in the "general retail industry" within the meaning of that phrase in the *General Retail Industry Award 2010* (the "Award"); and
    - (ii) the title of which was, or the title of which included the word, "manager", "Coles Services Team Leader" or "Coles Services Team Leader Area Support"; and
    - (iii) which was undertaken as a "full time employee" or "part time employee" as those terms are defined in the Award; and
  - (c) who in the Relevant Period worked an hour (or part thereof); and
  - (d) to whom the Award applied in relation to their employment with the Respondent during the Relevant Litigation Period.



## Common Questions

~~5.1.~~ Whether the Award applied to Ms Pabalan and each Group Member in respect of their employment by Coles ~~from time to time in the Relevant Period.~~

~~6.2.~~ Whether the Award and FWA as each applied to Ms Pabalan and each Group Member ~~from time to time during the Relevant Period~~ required that any work or annual leave undertaken:

- (1) be paid at a rate attracting one or more of:
  - (a) Evening Work Loadings;
  - (b) Night Work Loadings;
  - (c) Saturday Work Loadings;
  - (d) Sunday Work Loadings;
  - (e) Overtime Rates;
  - (f) Public Holidays Work Loadings;
  - (g) Break Between Work Rates;
  - (h) First Meal Allowance;
  - (i) Further Meal Allowance;
  - (j) Annual Leave Loading; and
  - (k) Special Clothing Allowance;
- (2) be paid in accordance with the Payment Term; and
- (3) which was an Overtime Hour be recorded and the records retained by Coles in accordance with the Record Keeping Obligation and the False or Misleading Records Prohibition.



7.3. Whether pursuant to s 557C FWA Coles bears the burden of disproving each of the allegations made by Ms Pabalan and each Group Member about matters in relation to which:

- (1) Coles was required to make and keep records in accordance with s 535 FWA; and
- (2) Coles failed to comply with that requirement.

**Applicant's address for Service**

Place: Adero Law  
3 Hobart Place  
City ACT 2601

Email: rory.markham@aderolaw.com.au | nathan.schofield@aderolaw.com.au

**Service on the Respondent**

It is intended to serve this application on the Respondent.

Date: 21 April 2026

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Signed by Rory Markham  
Lawyer for the Applicant