

NOTICE OF FILING

Details of Filing

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File Title: OLIVIA IOB & ORS v LOVISA PTY LIMITED
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



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.

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Amended Reply

No. VID66 of 2025

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

OLIVIA IOB and others named in the schedule

Applicants

LOVISA PTY LIMITED

Respondent

1. The Applicants join issue with the allegations in the Amended Defence to the Further Amended Statement of Claim (FASOC) dated 11 May 2026 ~~18 September 2025~~ (Amended Defence), save insofar as the same consists of admissions, or is the subject of specific comment in this Amended Reply. Unless otherwise indicated, defined terms used in this Amended Reply have the meaning given to them in the FASOC and the Amended Defence.
2. In response to paragraph 35 of the Amended Defence, the Applicants deny that the rosters were made available to Group members to whom the 2014 Agreement applied two (2) weeks in advance of the relevant week to which the roster applied and say further that:
 - a. the timing during which the rosters were provided to the employees was typically 7 days, and often fell short of a two (2) week period;
 - b. on a proper construction of clause 4.2(a) of the 2014 Agreement, the Respondent was required to provide fortnightly rosters to the Applicants and the Group Members four days in advance of the commencement of the relevant fortnight; and
 - c. therefore, a roster covering one week at a time did not satisfy the requirement in clause 4.2(a) of the 2014 Agreement regardless of when it was provided to the Applicants and the Group Members.

Filed on behalf of (name & role of party)	The Applicants, Olivia Iob & Ors	
Prepared by (name of person/lawyer)	Corinne Armanini	
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Particulars

- (i) Ms Kelso's Regional Manager, Ms Maggie Horton, prepared the rosters and notified Ms Kelso when the rosters were available via WhatsApp. Ms Kelso then (on)sent the rosters to her team members also via WhatsApp. The timing during which the rosters were provided to Ms Kelso and her team members was typically no more than one (1) week in advance of the commencement of that roster.
 - (ii) The timing during which the rosters were provided to Ms Wesley varied. Ms Wesley typically received the rosters one (1) week in advance of the commencement of her shifts. On some occasions on dates she cannot now recall, Ms Wesley received the rosters a couple of days before the commencement of the shifts in that roster.
 - (iii) Ms Iob does not recall the timing during which she received the rosters.
3. In response to paragraphs 38 and 39 of the Amended Defence, the Applicants say that:
- (a) the Respondent:
 - (i) required Ms Kelso, Ms Wesley, and the Group Members who commenced their employment with the Respondent during the 2014 Agreement Period, to review and sign off on various documents as a condition of accepting employment; and
 - (ii) complete various LOLA training modules, prior to commencing their first shift with the Respondent; and
 - (b) each of the matters referred to in paragraphs 3(a)(i) and (ii) above constituted the performance of work for which Ms Kelso, Ms Wesley, and the Group Members who commenced their employment with the Respondent in the 2014 Agreement Period, ought to have been paid.

3A. In response to paragraph 76 of the Amended Defence, the Applicants say as follows:

- a) being "on call" (that is, required to be available to work but with the possibility that no work may in fact be required to be done) is distinct from actually working or performing duties some or all of their break;
- b) to the extent that an Applicant or Group Member is "on call" they are not completely relieved of their duties and are expected to monitor and, if required, work as needed

and are therefore not able to take, and accordingly, were properly provided with, a break.

3B. In response to paragraph 81 of the Amended Defence, the Applicants refer to paragraph 3A above.

4. In response to paragraph 157(b) of the Amended Defence, the Applicants admit that public transport was available for use by Ms Kelso but say further that on a proper construction of clause 6.9 of the 2014 Agreement, the entitlement to travel allowance was not dependent on, or in any way related to, the availability of public transport for use by a Group Member in relation to whom that agreement applied.

~~5. In response to paragraphs 164 and 165 of the Defence, Ms Iob:~~

~~(a) admits that on 12 February 2020, the Respondent paid her a gross amount of \$303 and issued a payslip in relation to that payment;~~

~~(b) says that the payslip did not specify that the payment was in respect of the incorrect rate of pay received by her in the period between 13 January 2020 and 2 February 2020 and therefore, she did not know that she had been back paid for that period; and~~

~~(c) in light of the allegations in paragraphs 164 to 165 of the Defence, now withdraws her claim in respect of paragraphs 164 to 165 of the ASOC.~~

5A. In response to paragraph 165DD of the Amended Defence, save that Ms Iob admits that overtime within clause 4.6(a) of the 2014 Agreement does not include work performed pursuant to a roster of less than 3 hours in the case of training or stocktake, which may be undertaken in a 2-hour shift, she otherwise joins issue with the Defence and says that she was rostered to undertake shifts less than 2 hours during each of the occasions alleged.

Particulars

Ms Iob was rostered to work:

(a) 1 hour and 45 minutes on 16 June 2020; and

(b) 1 hour on 17 June 2020.

Ms Iob does not press the occasion referred to in the Schedule A on 22 June 2020 as the hours exceed more than 3 hours.

5B. In response to paragraph 165H of the Amended Defence, the First Applicant responds as follows:

- (a) in respect paragraph 165H(a) and (b), the First Applicant says that:
- a. in each of 2019, 2020 and 2021, in or about October of that year, Ms Job (but not in 2021) and the 2014 Agreement Group Members who were employed by the Respondent at the time were asked to complete an internal survey referred to as the “IFA Letter” by selecting either “YES, I would like to accept this agreement” or “NO, I would not like to accept this agreement” (IFA Letter).
 - b. the IFA Letter in 2019 (2019 IFA Letter) purported to vary clause 4.3 and clause 4.6 of the 2014 Agreement;
 - c. the 2019 IFA Letter:
 - (i) did not provide an explanation of each term of the enterprise agreement that was to be varied in accordance with cl 6.3(d)(i);
 - (ii) did not provide any explanation on how the application of each term had been varied by agreement between Lovisa and the team member in accordance with cl 6.3(d)(iii); and
 - (iii) was not signed by Lovisa and the relevant Applicant or the 2014 Group Member as is required by clause 6.3(d)(vi).
 - d. the IFA Letter in 2020 (2020 IFA Letter) and the IFA Letter in 2021 (2021 IFA Letter) each purported to vary clause 4.6(d) of the 2014 Agreement
 - e. each of the 2020 IFA Letter and the 2021 IFA Letter:
 - (i) did not provide an explanation of each term of the enterprise agreement that is to be varied in accordance with cl 6.3(d)(i); and
 - (ii) was not signed by Lovisa and the relevant Applicant or the 2014 Group Member as is required by clause 6.3(d)(vi).
 - f. further, the First Applicant and the relevant 2014 Agreement Group Members were not provided with a signed individual flexibility agreements arising out of the 2019 IFA Letter, 2020 IFA Letter and 2021 IFA Letter in accordance with clause 6.3(e) of the 2014 Agreement.
 - g. by reason of the above, each of the IFA Letters were not individual flexibility agreements pursuant to clause 6.3 of the 2014 Agreement.
- (b) the Applicants do not make any allegations of 2014 Agreement Further Hours of Work Breaches with respect to the Second Applicant.

5C. In response to paragraph 165I and 165J of the Amended Defence, the First Applicant says that:

- (a). on each occasion in which the First Applicant was rostered outside of the conditions in Part 4 of the 2014 Agreement as alleged in paragraph 165I, she did work outside of the conditions in Part 4 of the 2014 Agreement (unless the First Applicant was not at work due to an entitlement not to be at work); and
- (b). rostered hours which are not worked due to an entitlement not to be at work (such as sick leave or annual leave) count as hours worked for the purposes of assessing whether the First Applicant was entitled to overtime.

6. In response to paragraph 169 of the Amended Defence, the Applicants refer to and repeat paragraph 2 insofar as it relates to Ms Kelso and Ms Wesley (not Ms Iob), Group Members who were covered by the 2022 Agreement (not the 2014 Agreement) and clause 4.2(a) of the 2022 Agreement (not clause 4.2(a) of the 2014 Agreement).

7. In response to paragraphs 172 and 173 of the Amended Defence, the Applicants say that:

- (a) the Respondent:
 - (i) required Ms Figueiredo and the Group Members who commenced employment with the Respondent in the 2022 Agreement Period to review and sign off on various documents as a condition of accepting employment; and
 - (ii) complete various LOLA training modules, prior to commencing their first shift with the Respondent; and
- (b) each of the matters referred to in paragraphs 7(a)(i) and (ii) above constituted the performance of work for which Ms Figueiredo, and the Group Members who commenced their employment with the Respondent in the 2022 Agreement Period, ought to have been paid.

7A. In response to paragraph 207 of the Amended Defence, Ms Kelso and Ms Wesley repeat paragraph 3A above.

7B. In response to paragraph 212 of the Amended Defence, Ms Kelso and Ms Wesley repeat paragraph 3B above.

8. In response to paragraph 284(b) of the Amended Defence, the Ms Kelso and Ms Wesley Applicants say that on a proper construction of clause 3.8(a) of the 2022 Agreement, a Group Member was not required to perform the duties of a higher position or role that

was covered by the 2022 Agreement in order for the entitlement to the higher rate of pay pursuant to that clause to be payable to that employee.

9. In response to paragraph 287 of the Amended Defence, each of Ms Kelso and Ms Wesley deny the allegations in sub-paragraphs (b) and (c) and say further that:
- a. in or about October 2022, Ms Kelso, Ms Wesley and 2022 Agreement Group Members were asked to complete an internal survey referred to as the “Roster Choice Form” (**First Standard Form Agreement**);
 - b. the First Standard Form Agreement stated that:
 - i. as per “clause 4.3 of the Enterprise Agreement, team members can agree to reduce the required break between shifts from 12 to 10 hours. By clicking YES box below, you agree to work with a minimum of 10-hour break between shifts”;
 - ii. “the Lovisa Enterprise Agreement 2022 allows you to make a series of roster choices, including the ability to work additional hours. This is a great opportunity for you to have more hours”;
 - c. Ms Kelso, Ms Wesley and some Group Members selected “YES, I agree to the above roster choices”, which was then recorded on LOLA;
 - d. further, Ms Kelso, Ms Wesley and 2022 Agreement Group Members who worked in or around November to January of each year were provided by the Respondent with a standard form document with the heading “Individual Flexibility Agreement” via LOLA in or about October of each year in the Relevant Period (**Second Standard Form Agreement**);
 - e. the Applicants and 2022 Agreement Group Members were asked to indicate via LOLA whether each of them would like to accept the Second Standard Form Agreement.
 - f. Ms Kelso, Ms Wesley and some Group Members selected the option “Yes, I would like to accept this agreement” in relation to the Second Standard Form Agreement, which was recorded on LOLA;
 - g. the First Standard Form Agreement and the Second Standard Form Agreement:
 - i. was not signed by Lovisa or the team member as required by clause 6.3(c)(iii) of the 2022 Agreement;
 - ii. was not provided by the Respondent to the team members once finalised, as required by clause 6.3 (d) of the 2022 Agreement;

- h. by reason of the above, each of the First Standard Form Agreement and Second Standard Form Agreement was not an individual flexibility agreement pursuant to clause 6.3 of the 2022 Agreement;
- i. further, the First Standard Form Agreement further did not include, as required by clause 6.3(c)(iv) and (v) of the 2022 Agreement,
 - i. details of the 2022 Agreement that will be varied by the arrangement;
 - ii. how the arrangement will vary the effect of the terms;
 - iii. how the team member will be better off overall in relation to the terms and conditions of employment as a result of the arrangement;
 - iv. the day on which the arrangement commences; and
 - v. how the arrangement can be terminated.
- j. by reason of the above, the First Standard Form Agreement was not an individual flexibility agreement pursuant to clause 6.3 of the 2022 Agreement;
- k. further, on a proper construction of clause 4.3(g), any agreement made pursuant to that clause required the Respondent to explain to, or inform, the employee to whom the 2022 Agreement applied the impact or consequence of making such an agreement, that is, the employee would no longer be entitled to overtime if the break between shifts was not 12 hours **(the cl 4.3(g) required explanation)**;
- l. each of the First Standard Form Agreement and Second Standard Form Agreement did not contain the cl 4.3(g) required explanation;
- m. by reason of the above, neither the First Standard Form Agreement nor Second Standard Form Agreement, whether in substance or form, constituted agreements pursuant to clause 4.3(g) of the 2022 Agreement;
- n. further and in the alternative, Ms Wesley and some Group Members to whom the 2022 Agreement applied completed the survey for the First Standard Form Agreement prior to 18 October 2022, before the commencement of the 2022 Agreement, and therefore, did not constitute an agreement pursuant to clause 4.3(g) of the 2022 Agreement;

- o. further and in the alternative, the Second Standard Form Agreement did not deal with the issue of the length of time between shifts, let alone whether that time was to be reduced from 12 hours to 10 hours;
- p. by reason of the above, the Second Standard Form Agreement did not constitute an agreement pursuant to clause 4.3(g) of the 2022 Agreement;
- q. further and in the alternative, the Second Standard Form Agreement did not purport to operate during all occasions in which Ms Kelso and Ms Wesley claim that they were rostered to work shifts with less than a 12-hour break in between; and

Particulars

- (i) The Second Standard Form Agreement purported to operate between 21 November 2022 and 1 January 2023. The period of time in which Ms Kelso claims that they were rostered to work shifts with less than a 12-hour break is between 18 January 2023 and 6 May 2023. The period of time in which Ms Wesley claims that they were rostered to work shifts with less than a 12-hour break is between 22 October 2022 and 20 June 2023, with only two occasions falling within the 21 November 2022 and 1 January 2023 period.
- r. by reason of the above, the Second Standard Form Agreement did not constitute an agreement pursuant to clause 4.3(g) of the 2022 Agreement.

9A. In response to paragraph 290E of the Amended Defence, Ms Kelso refers to and repeats paragraph 9(d) to (j) above.

9B. In response to paragraph 290F and 290G of the Amended Defence, Ms Kelso says that:

- (a) on each occasion in which that she was rostered outside of the conditions in Part 4 of the 2022 Agreement as alleged in paragraph 290F, they did work outside of the conditions in Part 4 of the 2022 Agreement (unless Ms Kelso was not at work due to an entitlement not to be at work); and
- (b) rostered hours which are not worked due to an entitlement not to be at work (such as sick leave or annual leave) count as hours worked for the purposes of assessing whether the First Applicant was entitled to overtime.

9C. In response to paragraph 290K of the Amended Defence, to the extent that the provision of the new roster is alleged to have been a written variation of the regular pattern of work:

- a) the roster did not represent such a written agreement as the roster did not indicate or evidence the written consent of the Applicant or Group Member to the proposed variation;
- b) further, the roster did not constitute an agreement to vary the regular pattern of work because it did not provide the original pattern of work, nor how the pattern was to be amended by the alleged agreement, nor how such an agreement would affect the entitlements of the relevant Applicants or the 2022 Agreement Group Members.

9D. In response to paragraph 313 of the Amended Defence, the First Applicant denies the allegations contained therein and further says that the claim is statute barred by reason of section 5(1)(a) of the *Limitations of Actions Act 1958 (Vic)*.

Date: ~~18 November 2025~~ 25 May 2026

Marc Felman

Nilanka Goonetillake



Signed by Corinne Armanini
Lawyer for the Applicant

This pleading was prepared by Corinne Armanini, lawyer

Certificate of lawyer

I Corinne Armanini certify to the Court that, in relation to the reply filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non admission in the pleading.

Date: 25 May 2026



Signed by Corinne Armanini
Lawyer for the Applicant

Schedule of Parties

No. VID66/2025

Federal Court of Australia

District Registry: Victoria

Division: Fair Work

Applicants

First Applicant: Ms Olivia Iob

Second Applicant: Ms Ayesha Kelso

Third Applicant: Ms Vivian Wesley (also known as Finn Wesley)

Respondent: Lovisa Pty Ltd (ACN 120 675 890)

Dated: 25 May 2026