

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

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File Number: VID453/2026

File Title: EMMA GRUBB v ALINTA AUSTRALIA PTY LTD (ACN 125 486 900) &
ANOR

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.



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

No. _____ of 20 _____

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

Emma Grubb

Applicant

Alinta Australia Pty Ltd (ACN 125 486 900)

First Respondent

Mark Pinchbeck

Second Respondent

To the First and Second 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: [Registry will insert time and date]

Place: [address of Court]

The Court ordered that the time for serving this application be abridged to [Registry will insert date, if applicable]

Filed on behalf of (name & role of party)	The Applicant, Emma Grubb
Prepared by (name of person/lawyer)	Andrew Chakrabarty & Caitlin McIvor
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Date:

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* ('**the FCA**').

The group members to whom this proceeding relates are as set out below:

- a. a group constituted by all persons:
 - i. employed by Alinta Australia Pty Ltd (formerly Alinta Apparel Pty Ltd) ('**the First Respondent**') at any time within the period of six (6) years ending on the date of the filing of this Originating Application herein ('**the Relevant Period**');
 - ii. employed:
 - a. in the position of "Uniform Shop Assistant" or "Retail Uniform Shop Assistant" ('**the Relevant Position**');
 - b. to perform retail work in a uniform shop operated by the First Respondent;
 - c. as a "casual employee" as that term is defined in the *Fair Work Act 2009* (Cth) ('**the FWA**'); and
 - iii. who in any Pay Period during the Relevant Period worked at least one rostered hour;

(the '**Group**' and a / the '**Group Members**').

Details of claim

On the grounds stated in the accompanying Statement of Claim or other document prescribed by the Rules, the Applicant claims on her own behalf, and on behalf of Group Members, the following loss and damage, and below relief:

1. As a result of the conduct of the First Respondent in contravening:



- a. Section 45 of the FWA in respect of the 'Failure to Classify Contraventions' (as defined within the accompanying Statement of Claim);
- b. Section 45 of the FWA in respect of the 'Failure to Notify Contraventions' (as defined within the accompanying Statement of Claim);
- c. Section 45 of the FWA in respect of the 'Minimum Wage Contraventions' (as defined within the accompanying Statement of Claim);
- d. Section 45 of the FWA in respect of the 'Pre-Shift Work Contraventions' (as defined within the accompanying Statement of Claim);
- e. Section 45 of the FWA in respect of the 'Post-Shift Work Contraventions' (as defined within the accompanying Statement of Claim);
- f. Section 45 of the FWA in respect of the 'Special Clothing Allowance Contraventions' (as defined within the accompanying Statement of Claim);
- g. Section 45 of the FWA in respect of the 'Motor Vehicle Allowance Contraventions' (as defined within the accompanying Statement of Claim);
- h. Section 45 of the FWA in respect of the 'Short Shift Contraventions' (as defined within the accompanying Statement of Claim);
- i. Section 323 in respect of the 'Failure to Rectify Contraventions' (as defined within the accompanying Statement of Claim);
- j. Section 535 and 536 of the FWA in respect of the 'Record-Keeping Contraventions' (as defined within the accompanying Statement of Claim);
and
- k. Section 535(3) of the FWA in respect of the 'Inspection Contraventions' (as defined within the accompanying Statement of Claim),

(collectively, '**the First Respondent's Contraventions**'), the Applicant and Group Members have suffered loss and damage.

2. As a result of the conduct of Mr Mark Pinchbeck ('**the Second Respondent**') in contravening:

- a. Section 45 of the FWA in respect of the 'Failure to Classify Contraventions' (as defined within the accompanying Statement of Claim);



- b. Section 45 of the FWA in respect of the 'Failure to Notify Contraventions' (as defined within the accompanying Statement of Claim);
- c. Section 45 of the FWA in respect of the 'Minimum Wage Contraventions' (as defined within the accompanying Statement of Claim);
- d. Section 45 of the FWA in respect of the 'Pre-Shift Work Contraventions' (as defined within the accompanying Statement of Claim);
- e. Section 45 of the FWA in respect of the 'Post-Shift Work Contraventions' (as defined within the accompanying Statement of Claim);
- f. Section 45 of the FWA in respect of the 'Special Clothing Allowance Contraventions' (as defined within the accompanying Statement of Claim);
- g. Section 45 of the FWA in respect of the 'Motor Vehicle Allowance Contraventions' (as defined within the accompanying Statement of Claim);
- h. Section 45 of the FWA in respect of the 'Short Shift Contraventions' (as defined within the accompanying Statement of Claim);

(collectively, '**the Second Respondent's Contraventions**'), the Applicant and Group Members have suffered loss and damage.

3. The loss and damage suffered by the Applicant and Group Members as a result of the First Respondent's Contraventions and the Second Respondent's Contraventions is:
 - a. the shortfall between any remuneration paid by the First Respondent to each of the Applicant and the Group Members in any Pay Period during the Relevant Period, and any employee amounts to which the Applicant and Group Members were properly entitled in any Pay Period during the Relevant Period, within the meaning of the GRIA and the FWA, as pleaded above; and
 - b. any interest accruing on the employee amounts outlined above, on and from the conclusion of the relevant Pay Period during the Relevant Period in which those employee amounts were properly owing to the Applicant and Group Members.
4. a declaration pursuant to section 545(1) of the FWA that the First Respondent contravened civil remedy provisions in relation to the Applicant and Group Members employment, by committing the First Respondent's Contraventions;



5. a declaration pursuant to section 545(1) of the FWA that the First Respondent's Contraventions were 'serious contraventions' within the meaning of section 557A and section 557B of the FWA;
6. a declaration pursuant to section 545(1) of the FWA that the Second Respondent, by virtue of section 550 of the FWA, contravened civil remedy provisions in relation to the Applicant and Group Members employment, by committing the Second Respondent's Contraventions;
7. orders pursuant to section 545 of the FWA awarding compensation to the Applicant and Group Members in respect of the First Respondent's Contraventions and the Second Respondent's Contraventions, being:
 - a. an order pursuant to section 33Z(1)(f) and / or section 33Z(1)(g) and / or section 33ZF of the FCA awarding damages on an aggregate basis in respect of compensation; or in the alternative,
 - b. an order pursuant to section 33Z(1)(f) and / or section 33Z(1)(g) and / or section 33ZF of the FCA awarding damages for group members or individual group members, being damages consisting of specified amounts or amounts worked out in such manner as the court specifies.
8. an order pursuant to section 546 of the FWA that the First Respondent pay a pecuniary penalty to the Applicant or the relevant Group Members in relation to the First Respondent's Contraventions, on the basis that the First Respondent's Contraventions were 'serious contraventions' within the meaning of section 557A and section 557B of the FWA;
9. An order pursuant to section 546 of the FWA that the Second Respondent pay a pecuniary penalty to the Applicant or the relevant Group Members, in relation the to Second Respondent's Contraventions;
10. An order pursuant to section 547 of the FWA and / or section 51A of the FCA awarding interest up to judgement on the above amounts; and
11. Such further relief as the Court deems fit.

Questions common to claims of group members

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

Modern Award Coverage



1. Whether during the Relevant Period, the First Respondent failed to classify the Applicant and Group Members in accordance with the classifications contained in the GRIA, in contravention of clause 14.1 of the GRIA and s.45 of the FWA (defined as the 'Failure to Classify Contraventions' within the accompanying Statement of Claim);
2. Whether the First Respondent's contraventions of s.45 of the FWA in respect of the Failure to Classify Contraventions were serious contraventions within the meaning of s.557A and s.557B of the FWA;
3. Whether the Second Respondent was involved in the Failure to Classify Contraventions committed by the First Respondent, within the meaning of s.550 of the FWA;
4. Whether during the Relevant Period, the First Respondent failed to notify the Applicant and Group Members in writing of their classification under the *General Industry Retail Award 2020*, in contravention of cl 14.3 of the GRIA and s.45 of the FWA (defined as the 'Failure to Notify Contraventions' within the accompanying Statement of Claim);
5. Whether the First Respondent's contraventions of s.45 of the FWA in respect of the Failure to Notify Contraventions were serious contraventions within the meaning of s.557A and s.557B of the FWA;
6. Whether the Second Respondent was involved in the Failure to Notify Contraventions committed by the First Respondent, within the meaning of s.550 of the FWA;
7. Whether during the Relevant Period, the First Respondent failed to remunerate the Applicant and Group Members in accordance with their respective classification levels under the GRIA, in contravention of cl. 11 and 17 of the GRIA and s.45 of the FWA (defined as the 'Minimum Wage Contraventions' within the accompanying Statement of Claim);
8. Whether the First Respondent's contraventions of s.45 of the FWA in respect of the Minimum Wage Contraventions were serious contraventions within the meaning of s.557A and s.557B of the FWA;
9. Whether the Second Respondent was involved in the Minimum Wage Contraventions committed by the First Respondent, within the meaning of s.550 of the FWA;

Pre-Shift Work

10. Whether during the Relevant Period, the First Respondent failed to remunerate the Applicant and Group Members for each actual of work (or part thereof) performed, including the pre-shift work, in contravention of cl. 18.2 of the GRIA and s.45 of the FWA (defined as 'Pre-Shift Work Contraventions' within the accompanying Statement of Claim);



11. Whether the First Respondent's contraventions of s.45 of the FWA in respect of the Pre-Shift Work Contraventions were serious contraventions within the meaning of s.557A and s.557B of the FWA;
12. Whether the Second Respondent was involved in the Pre-Shift Work Contraventions committed by the First Respondent, within the meaning of s.550 of the FWA;

Post Shift Work

13. Whether during the Relevant Period, the First Respondent failed to remunerate the Applicant and Group members for each actual hour of work (or part thereof) performed, including the post-shift work, in contravention of cl. 18.2 of the GRIA and s.45 of the FWA (defined as the 'Post-Shift Work Contraventions' within the accompanying Statement of Claim);
14. Whether the First Respondent's contraventions of s.45 of the FWA in respect of the Post-Shift Work Contraventions were serious contraventions within the meaning of s.557A and s.557B of the FWA;
15. Whether the Second Respondent was involved in the Post-Shift Work Contraventions committed by the First Respondent, within the meaning of s.550 of the FWA;

Special Clothing Allowance

16. Whether during the Relevant Period, the First Respondent, by:
 - a. failing to reimburse those Group Members that were required to purchase uniform at their own cost; and/or
 - b. failing, in each Pay Period, to pay to the Applicant and Group Members with the special clothing allowance for each shift worked,has contravened cl 19.3 of the GRIA and s.45 of the FWA
(defined as the 'Special Clothing Allowance Contraventions' within the accompanying Statement of Claim).
17. Whether the First Respondent's contraventions of s.45 of the FWA in respect of the Special Clothing Allowance Contraventions were serious contraventions within the meaning of s.557A and s.557B of the FWA;
18. Whether the Second Respondent was involved in the Special Clothing Allowance Contraventions committed by the First Respondent, within the meaning of s.550 of the FWA.

Motor Vehicle Allowance



19. Whether during the Relevant Period, the First Respondent failed to remunerate the Applicant and Group Members with the motor vehicle allowance for each kilometre travelled during the performance of their work duties, in contravention of cl. 19.7 of the GRIA and s.45 of the FWA (defined as the 'Motor Vehicle Allowance Contraventions' within the accompanying Statement of Claim);
20. Whether the First Respondent's contraventions of s.45 of the FWA in respect of the Motor Vehicle Allowance Contraventions were serious contraventions within the meaning of s.557A and s.557B of the FWA;
21. Whether the Second Respondent was involved in the Motor Vehicle Allowance Contraventions within the meaning of s.550 of the FWA;

Short Shift Contraventions

22. Whether during the Relevant Period, the First Respondent failed to remunerate the Applicant and Group Members for the minimum daily engagement of three (3) hours per shift, in contravention of cl. 11.2 of the GRIA and s.45 of the FWA (defined as the 'Short Shift Contraventions' within the accompanying Statement of Claim);
23. Whether the First Respondent's contraventions of s.45 of the FWA in respect of the Short Shift Contraventions were serious contraventions within the meaning of s.557A and s.557B of the FWA;
24. Whether the Second Respondent was involved in the Short Shift Contraventions committed by the First Respondent, within the meaning of s.550 of the FWA;

Failure to Rectify

25. Whether during the Relevant Period, the First Respondent failed to pay to the Applicant and Group Members all employee amounts, allowances and wages due to them in full at the end of each calendar month in which the contraventions occurred, or within one calendar month of the contravention, in contravention of s.323 of the FWA (defined as the 'Failure to Rectify Contraventions' within the accompanying Statement of Claim);
26. Whether the First Respondent's contraventions of s.323 of the FWA were serious contraventions within the meaning of s.557A and s.557B of the FWA;
27. Whether the Second Respondent was involved in the Failure to Rectify Contraventions committed by the First Respondent, within the meaning of s.550 of the FWA;

Record Keeping Contraventions

28. Whether during the Relevant Period, the First Respondent failed to make and keep employee records in accordance with regulations 3.31, 3.32, 3.33, 3.34, 3.45 and 3.46 of the *Fair Work Regulations 2009* ('the FWR'), in contravention of s.535 and s.536 of the



FWA (defined as the 'Record-Keeping Contraventions' within the accompanying Statement of Claim);

29. Whether the First Respondent contravened s.535(3) of the FWA on each of the below occasions, by failing make full copies of the employee records available to the Applicant and the relevant Group Members for inspection and copying in accordance with regulation 3.42 of the FWR:
- a. 22 July 2025;
 - b. 20 October 2025; and
 - c. 24 November 2025,
- (defined as the 'Inspection Contraventions' within the accompanying Statement of Claim);
30. Whether the First Respondent's contraventions of s.535(3) of the FWA in respect of the Inspection Contraventions were serious contraventions within the meaning of s.557A and s.557B of the FWA;
31. Whether the First Respondent has the burden of disproving the Applicant's allegations as outlined in the accompanying Statement of Claim, by virtue of the operation of s.557C(1) of the FWA.

Applicant's address

The Applicant's address for service is:

Place: Adero Law

3 Hobart Place

Canberra City ACT 2601

Email: andrew.chakrabarty@aderolaw.com.au

caitlin.mcivor@aderolaw.com.au



Service on the Respondent

It is intended to serve this application on all Respondents.

Date: 5 MAY 2026

A handwritten signature in blue ink, consisting of a stylized letter 'A' followed by a horizontal line.

Signed by Andrew Chakrabarty
Lawyer for the Applicant