

Date: 3 September 2026

UPDATE ON THE COLES CLASS ACTION

Pabalan v Coles Supermarkets Australia Pty Ltd | NSD 542/2020

1. Background

- 1.1 On 27 August 2026, Justice Perram delivered a judgment in the Coles class action and related proceedings, including the Woolworths class action and the Fair Work Ombudsman cases against Coles and Woolworths.
- 1.2 This judgment can read with the initial trial judgment, which was delivered on 5 September 2025. You can read our update regarding the initial trial judgment [here](#).
- 1.3 The purpose of this judgment is to provide further clarity regarding the declarations the parties are seeking and provide answers to questions that were related to the initial trial but had not been directly addressed.

2. Key Findings

- 2.1 The judgment contains many findings that are relevant for determining the claims made on behalf of group members in the Coles class action, including:
 - (a) finding that, when determining whether a meal allowance is payable:
 - (i) notice of working overtime is not given merely by the employee being aware that they are generally required to work overtime because of their usual pattern of work;
 - (ii) notice of working overtime is given if the employee has been rostered to work at least an hour of overtime and they received that roster at least 24 hours before the shift; and
 - (iii) the phrase 'ordinary time of ending work' means either the employees rostered finish time or, if the employee flexibly alters their finish time, then it is the flexibly altered finish time;
 - (b) finding that, when selecting whether a penalty rate for a short break between shifts should apply in addition to overtime rates, the employer is only required to pay the higher of the two rates rather than both;
 - (c) finding that an hour is payable at overtime rates (unless a higher penalty rate also applies) if it is outside the conditions set out at clauses 27 and 28 of the *General Retail Industry Award 2010 (Award)*, but overtime rates do not apply merely because the hour was not rostered to be worked;
 - (d) finding that hours worked in excess of 152 hours averaged over a four-week roster cycle are to be paid at overtime rates (unless a higher penalty rate also applies);
 - (e) finding that all forms of remuneration under the employment contract can be used to set off employment entitlement, including bonus payments, but the bonus payments can only set off entitlements falling within the same pay period in which the bonus is paid; and

- (f) in Coles only, declining to find that clause 28.11 of the Award is satisfied when the employee has two days in a row off work but those two days occur in two different roster periods (e.g. a Sunday in roster period 1 and a Monday in roster period 2).
- 2.2 Although the findings of the further judgment are not universally favourable for the Coles class action, when read together with the initial trial judgment, this remains a great outcome for group members.

3. Next Steps

- 3.1 The Court has ordered the next case management hearing to be held on 1 October 2026. Declarations are anticipated to be made shortly after this hearing, which would crystallise Coles' appeal rights. Coles has foreshadowed it will appeal, and the class action Applicant reserves her right to cross-appeal.
- 3.2 We encourage all group members to register with us to stay up to date on the Coles class action and be informed about how progress in the proceeding affects their claims.
- 3.3 If any of your fellow current or former Coles salaried managers have not already signed up with us to receive updates on the class action, please invite them to register using the link below so we can keep them informed and continue to build momentum for the class action:

[Coles | Registration | Adero Law](#)

- 3.4 There are approximately 40,000 total group members covered by both the Coles and Woolworths class actions, so we are currently only able to respond to enquiries by email. Please feel free to email us with any questions at coles@aderolaw.com.au.

Yours sincerely,



THE COLES CLASS ACTION TEAM