NOTICE OF FILING

Details of Filing

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File Title:	EMMA GRUBB v ALINTA AUSTRALIA PTY LTD (ACN 125 486 900) & ANOR
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



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 33
Rule 16.32

Defence

No. VID453 of 2026

Federal Court of Australia

District Registry: Victoria

Division: Fair Work

Emma Grubb

Applicant

Alinta Australia Pty Ltd (ACN 125 486 900) & Anor

Respondents

In answer to the Statement of Claim filed 5 May 2026 (**Claim**), and adopting the defined terms used in the Claim except where otherwise indicated, the Respondents plead as follows:

1. In respect of paragraph 1, the Respondents:

   (a) admit that the Applicant brings this proceeding pursuant to Part IVA of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**) on her own behalf and on behalf of each person who satisfies the criteria in all of subparagraphs (b)(i) to (iii) of the Claim;

   (b) rely on the pleadings below in relation to the allegations referred to in the Claim but reserve the right to make further pleas by way of defence to allegations concerning Group Members other than the Applicant if and when those allegations are properly pleaded and particularised by the Applicant in due course; and

   (c) otherwise do not know and therefore cannot admit the paragraph.

2. The Respondents admit paragraph 2.

3. The Respondents admit paragraph 3.

4. In respect of paragraph 4, the Respondents:

   (a) admit subparagraphs (a), (b), (c) and (d); and

   (b) in respect of subparagraph (e), the Respondents:

Filed on behalf of (name & role of party) Alinta Australia Pty Ltd (ACN 125 486 900) & Mark Pinchbeck, the First and Second Respondents
Prepared by (name of person/lawyer)
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(i) say that the First Respondent's business is in designing, manufacturing and selling school uniforms through on-campus school uniform shops licensed to the First Respondent;

(ii) say further that the conduct of the First Respondent's business described at subparagraph (i) above was at all material times under the control of, and in accordance with the requirements of, the relevant school; and

(iii) otherwise deny the subparagraph.

5. The Respondents admit paragraph 5.

6. The Respondents do not plead to paragraph 6 as it contains no allegations against them.

7. In respect of paragraph 7, the Respondents:

(a) say that the Applicant was employed by the First Respondent pursuant to a contract in writing signed by the Applicant on 20 June 2024 (**2024 Contract**);

(b) say that pursuant to the 2024 Contract, the Applicant commenced casual employment on 19 June 2024 in the position of Uniform Shop Assistant;

(c) say that pursuant to the 2024 Contract, the Applicant's employment was based at the on-campus uniform shop of Flinders Christian Community College at 155 Mornington-Tyabb Road, Tyabb (**Flinders Christian – Tyabb Store**), which was licensed to the First Respondent from Flinders Christian Community College pursuant to licence agreements dated 1 November 2014 and 30 March 2025 respectively; and

(d) otherwise deny the paragraph.

Particulars

The contract and licence agreements are in writing and available for inspection upon request.

8. In respect of paragraph 8, the Respondents:

(a) refer to and repeat paragraph 7 above;

(b) deny the characterisation of the engagement in accordance with the ESSGS Award as "purported"; and

(c) otherwise admit the paragraph.

9. In respect of paragraph 9, the Respondents:

(a) admit that the duties of the Applicant in her employment by the First Respondent could include, from time to time, the duties pleaded at subparagraphs (a) to d(i), and (e) to (h);

(b) deny that the duties of the Applicant in her employment by the First Respondent included the duties pleaded at subparagraph d(ii) and say this duty was undertaken by the Applicant's supervisor;

(c) say that pursuant to the 2024 Contract, between May 2024 and April 2025, the Applicant was required to perform the duties set out in the position description at Schedule 2 of the 2024 Contract and any other or alternative duties consistent with her status and qualifications, her supervisor or her supervisor's nominees assigned to her from time to time;

(d) say that pursuant to the position description at Schedule 2 of the 2024 Contract, between May 2024 and April 2025, the principal duties of the Applicant's role were:

(i) opening and closing procedures;

(ii) receiving stock;

(iii) transferring stock;

(iv) servicing customers;

(v) actioning emails;

(vi) attending to post duties; and

(vii) ad hoc tasks/procedures as required,

(e) otherwise deny the paragraph.

Particulars

Schedule 1, Item 1 and Schedule 2 of the 2024 Contract.

10. In respect of paragraph 10, the Respondents:

(a) say that on or around 8 May 2025, the Applicant's employment was varied (**2025 Variation)**;

Particulars

The 2025 Variation was partly in writing and partly implied. To the extent it was in writing it comprised an unsigned written contract dated 10 June 2025. To the extent it was implied, it is to be implied by law and by a course of conduct.

(b) say that pursuant to the 2025 Variation:

(i) the Applicant performed work at the Flinders Christian – Tyabb Store and the on-campus uniform shop of Flinders Christian Community College at 100 Ballarto Drive, Carrum Downs (Flinders Christian – Carrum Downs Store), which was licensed to the First Respondent from Flinders Christian Community College pursuant to licence agreements dated 1 November 2014 and30 March 2025;

(ii) the Applicant was paid $33.98 per hour inclusive of casual loading;

(iii) the Applicant was notified that she was employed as a Level 3 School operational services grade 3 employee under the ESSGS Award; and

(iv) the Applicant's duties remained the same as under the 2024 Contract save that the position description included training new employees on the Point of Sale system (**POS**),

(c) otherwise deny the paragraph.

Particulars

The 2025 Variation and licence agreements, to the extent they are in writing, are available for inspection upon request.

11. In respect of paragraph 11, the Respondents:

(a) refer to and repeat paragraph 10 above;

(b) deny the characterisation of the engagement in accordance with the ESSGS Award as "purported"; and

(c) otherwise admit the paragraph.

12. In respect of paragraph 12, the Respondents:

(a) admit that the Applicant's duties in her employment by the First Respondent could include, from time to time, the duties pleaded at subparagraphs (a) and (b);

(b) deny that the Applicant performed the duties pleaded at subparagraphs (c) to (g);

(c) say that the duties listed in subparagraph (h) were performed by the Applicant rarely, and involved the following:

(i) taking stock home after completion of a shift at one store; and

(ii) delivering that stock to the other store when the Applicant was rostered to work there,

(d) say that the Applicant performed the duties pleaded at subparagraph (i) only insofar as staff of the relevant school would advise the shop if a new family was

commencing, but that otherwise all communication was with the Applicant's supervisor and the management of the school;

(e) say that pursuant to the 2025 Variation, from May 2025 to the end of the Relevant Period, the Applicant was required to perform the duties set out in the position description at Schedule 2 of the 2025 Variation and any other or alternative duties consistent with her status and qualifications, her supervisor or her supervisor's nominees assigned to her from time to time; and

(f) say that pursuant to the position description at Schedule 2 of the 2024 Contract, from May 2025 to the end of the Relevant Period, the principal duties of the Applicant's role were:

(i) opening and closing procedures;

(ii) receiving stock;

(iii) transferring stock;

(iv) servicing customers;

(v) actioning emails;

(vi) attending to post and banking duties;

(vii) ad hoc tasks/procedures as required; and

(viii) training new employees on POS,

(g) otherwise deny the paragraph.

13. In respect of paragraph 13, the Respondents:

(a) say that during the relevant time period:

(i) the Applicant's start time on Mondays varied between 8:00am and 9:00am;

(ii) the Applicant's start time varied between 1:00pm and 2:00pm on Tuesdays, Thursdays and on occasion Wednesdays; and

(iii) say that the Applicant's Saturday shift commenced only in October 2024,

(b) say that, due to changing payroll systems on or around July 2024, it no longer has access to rosters before that date;

(c) say the Applicant was not rostered to work a Saturday shift in the months of May, June, July, August, September 2024 and January and April 2025;

(d) do not know and therefore cannot admit the allegations to the extent they relate to the period May 2024 to June 2024; and

(e) otherwise admit the paragraph.

14. In respect of paragraph 14, the Respondents:

(a) deny subparagraph (e) insofar as the Applicant was not rostered to work a Saturday in the months of April or September; and

(b) otherwise admit the paragraph.

15. The Respondents do not plead to paragraph 15 of the Claim as it contains no allegations against them.

16. In respect of paragraph 16, the Respondents:

(a) say that on 25 September 2025 a letter was sent to the Applicant via email putting the Applicant on notice that the Applicant's repeated and unapproved absences may result in disciplinary action being taken, up to and including dismissal, in accordance with the First Respondent's policies and requested a written response by 30 September 2025;

(b) say that on 30 September 2025 Adero Law, on behalf of the Applicant, sent a letter to the Respondents' solicitors;

(c) say that on 3 October 2025 the Applicant forwarded a medical certificate to the First Respondent's HR email which certified that the Applicant was unfit to work for 2 days from Monday 6 October 2025;

(d) say that on 7 October 2025 Bartier Perry, on behalf of the Respondents, sent a letter to Adero Law confirming, among other things, that Applicant was not required to attend for any work duties until her work health and safety and capacity can be properly risk assessed;

(e) say that the Applicant has not attended for work since 30 September 2025 and ceased employment with the First Respondent on or around 21 August 2026; and

(f) otherwise denies the paragraph.

17. In respect of paragraph 17, the Respondents:

(a) refer to and repeat paragraphs 13 and 14 above;

(b) say the rosters do not necessarily provide an accurate description of actual hours worked;

(c) refer to and rely on the Applicant's timesheets with respect to hours worked by the Applicant during the Relevant Period; and

(d) otherwise deny the paragraph.

18. The Respondents admit paragraph 18 but say that the Applicant's employment with the First Respondent ceased on 21 August 2026.

19. Save that the Respondents deny the characterisation of the employment in accordance with the ESSGS Award as "purported", the Respondents otherwise admit paragraph 19.

20. In respect of paragraph 20:

(a) as to subparagraph (a), the Respondents:

(i) say the ESSGS Award covered employers in the school education industry and their employees employed in the classifications contained in Schedule A of the ESSGS Award;

(ii) say the "school education industry" was defined in the following terms: "**School education industry** means the provision of education including preschool or early childhood education in a school, registered and/or accredited under the relevant authority in each state or territory or in an early childhood service operated by a school, including all operations of the school."

(iii) say the typical activities of a Level 1 employee contained in Schedule A of the ESSGS Award included "Assisting in a school retail, such as a canteen, uniform shop or book shop";

(iv) say the typical activities of a Level 3 employee contained in Schedule A of the ESSGS Award included, "Responsibility for operating the school canteen, uniform shop or book shop, including supervision of employees and volunteers"; and

(v) otherwise deny subparagraph (a) and rely upon the whole of the ESSGS Award for its full force and effect,

(b) the Respondents admit subparagraph (b).

21. The Respondents deny paragraph 21 and say further that:

(a) by reason of paragraphs 4(b) and 20 above, the First Respondent was an employer in the school education industry within the meaning of the ESSGS Award; and

(b) in the premises, at all material times, the ESSGS Award covered, within the meaning of that term in s 48(1) of the Fair Work Act 2009 (Cth) (FW Act), the First Respondent.

Particulars

cll 4.1 and 4.2 of the ESSGS Award.

22. The Respondents deny paragraph 22 and say further that:

    (a) they refer to and repeat paragraphs 4(b), 20 and 21 above; and

    (b) in the premises, at all material times, the ESSGS Award covered the Applicant and the Group Members in their employment with the First Respondent.

23. The Respondents deny paragraph 23 and say further that:

    (a) they refer to and repeat paragraphs 4(b), 20, 21 and 22 above; and

    (b) in the premises, at all material times, the ESSGS Award applied, within the meaning of that term in s 47(1) of the FW Act, to the First Respondent, the Applicant and the Group Members in their employment with the First Respondent.

24. The Respondents admit paragraph 24 and otherwise rely upon the whole of the GRIA for its full force and effect.

25. In respect of paragraph 25:

    (a) in the absence of proper particulars as to the "trade and business" within the 'general retail industry' in which the First Respondent was alleged to be engaged, the paragraph ought be struck out on the basis that it is likely to cause prejudice and embarrassment in the proceeding; and

    (b) under cover of that objection, the Respondents refer to and repeat paragraph 4(b) above and otherwise deny the paragraph.

26. In respect of paragraph 26, the Respondents:

    (a) refer to and repeat paragraph 12 above;

    (b) say that the Group Members were employed as Uniform Shop Assistants to perform the duties outlined in their respective contracts of employment; and

    (c) otherwise deny the paragraph.

27. The Respondents deny paragraph 27 and refer to and repeat paragraphs 4(b), 20 and 21 above.

28. The Respondents deny paragraph 28 and say further that:

    (a) they refer to and repeat paragraphs 4(b), 20, 21 and 27 above; and

    (b) further, or alternatively, to the extent the GRIA and the ESSGS Award both covered the First Respondent (which is denied), the ESSGS Award covered the Applicant and Group Members as the Level 1 classification of the ESSGS Award

(as applicable) was most appropriate, within the meaning of cl 4.5 of the GRIA and cl 4.7 of the ESSGS Award, to the work performed by the Applicant and the Group Members and to the environment in which they normally performed their work.

29. The Respondents deny paragraph 29.

30. In respect of paragraph 30, the Respondents;

(a) say, at all material times, the NES and the ESSGS Award provided the minimum conditions of employment for the Applicant and the Group Members; and

(b) otherwise deny the paragraph.

Particulars

cl. 3.1 of the ESSGS Award.

31. The Respondents deny paragraph 31 and say further that:

(a) they refer to and repeat paragraphs 28, 29 and 30 above; and

(b) the Applicant and the Group Members were, at all material times, covered by the ESSGS Award in their employment with the First Respondent.

32. The Respondents deny paragraph 32 and say further that:

(a) they refer to and repeat paragraph 31 above;

(b) the First Respondent classified the Applicant as a Level 1 Uniform Shop Assistant in accordance with the classifications in the ESSGS Award; and

(c) otherwise deny the paragraph.

33. The Respondents deny paragraph 33 and say further that:

(a) they refer to and repeat paragraphs 28, 29 and 31 above; and

(b) in the premises, there was no requirement on the First Respondent to classify the Applicant in accordance with the classifications contained in the GRIA and therefore no “failure” as alleged.

34. The Respondents deny paragraph 34 and say further that:

(a) they refer to and repeat paragraphs 28, 29 and 31 above; and

(b) in the premises, there was no requirement on the First Respondent to classify the Group Members in accordance with the classifications contained in the GRIA and therefore no “failure” as alleged.

35. The Respondents deny paragraph 35.

36. The Respondents deny paragraph 36.

37. The Respondents deny paragraph 37 and say further that:

    (a) they refer to and repeat paragraph 31 above; and

    (b) the Applicant and the Group Members were, at all material times, covered by the ESSGS Award in their employment with the First Respondent.

38. The Respondents deny paragraph 38 and say further that:

    (a) the First Respondent notified the Applicant of her classification of Shop Assistant on 20 June 2024;

    (b) the First Respondent notified the Applicant of her classification of Level 3 employee under the ESSGS Award on 4 and 10 June 2025; and

    (c) between May 2024 and June 2025, the First Respondent notified the Applicant of her classification of Shop Assistant.

Particulars

The notification referred to at subparagraph (a) comprised the 2024 Contract.

The notification referred to at subparagraph (b) comprised a letter dated 4 June 2025 to the Applicant and the 2025 Contract.

The notification referred to at subparagraph (c) comprised the Applicant's weekly payslips.

39. The Respondents deny paragraph 39 and say further that:

    (a) they refer to and repeat paragraphs 28, 29 and 31 above; and

    (b) in the premises, there was no requirement on the First Respondent to notify the Applicant of her classification in accordance with the GRIA and therefore no "failure" as alleged.

40. The Respondents deny paragraph 40 and say further that:

    (a) they refer to and repeat paragraphs 28, 29 and 31 above; and

    (b) in the premises, there was no requirement on the First Respondent to classify the Group Members in accordance with the classifications contained in the GRIA and therefore no "failure" as alleged.

41. The Respondents deny paragraph 41.

42. The Respondents deny paragraph 42.

43. The Respondents deny paragraph 43 and say further that:

(a) the First Respondent was required to pay the Applicant and the Group Members in accordance with the requirements as set out in the ESSGS Award; and

(b) rely upon the whole of the ESSGS Award for its full force and effect.

Particulars

cl. 11.3, 18.1 of the ESSGS Award.

44. The Respondents deny paragraph 44 and say further that:

(a) the First Respondent was required to pay the Applicant and the Group Members in accordance with the requirements as set out in the ESSGS Award;

(b) rely upon the whole of the ESSGS Award for its full force and effect; and

(c) further, or alternatively, to the extent the GRIA applied (which is denied), the First Respondent was required to pay the Applicant and the Group Members the applicable minimum hourly rate prescribed by clause 17 of the GRIA and a loading of 25% for each ordinary hour worked.

Particulars

cl. 11 and 17 of the ESSGS Award.

45. The Respondents deny paragraph 45 and say further that:

(a) the First Respondent was required to pay the Applicant and the Group Members in accordance with the requirements as set out in the ESSGS Award;

(b) rely upon the whole of the ESSGS Award for its full force and effect; and

(c) further, or alternatively, to the extent the GRIA applied (which is denied):

(i) refer to and repeat paragraphs 9 and 12 above in relation to the Applicant's duties; and

(ii) the Applicant's duties were equivalent to a Retail Employee Level 1 employee within Schedule A of the GRIA.

Particulars

Schedule A.1.1(a)-(p), A.1.3(a) of Schedule A of the GRIA.

46. The Respondents deny paragraph 46 and say further that:

(a) they repeat that the GRIA did not apply;

(b) they further repeat that the ESSGS Award is the applicable award; and

(c) further, or alternatively, if the GRIA applied (which is denied), the Applicant and Group Members were required to pay the Applicant and the Group Members the

minimum hourly rate applicable to a Retail Employee Level 1 classification, within the meaning of Schedule A of the GRIA, for ordinary hours worked by the Applicant and the Group Members.

47. In respect of paragraph 47, the Respondents:

(a) say that the First Respondent paid the Applicant an hourly rate of $33.98 for each ordinary hour worked between 29 May 2025 and 18 June 2025; and

(b) otherwise admit the balance of the paragraph.

48. The Respondents deny paragraph 48 and say further that:

(a) they repeat that the GRIA did not apply;

(b) they further repeat that the ESSGS Award is the applicable award;

(c) the First Respondent paid the Applicant and the Group Members in accordance with the ESSGS Award; and

(d) further, or alternatively, if the GRIA applied (which is denied), the Applicant and Group Members were, at various times during the Relevant Period, paid more than the minimum hourly rate (with the casual loading) prescribed by the GRIA.

Particulars

The Applicant was paid above the minimum hourly rates (with the 25% casual loading) prescribed by clauses 11 and 17 of the GRIA for Retail Employee Level 1 Employees as follows:

Period	Applicant's rate	GRIA
29 May 2025 to 30 June 2025	$33.98	$32.06
1 July 2025 to 2 July 2025	$33.98	$33.19
3 July 2025 to 7 October 2025	$35.16	$33.19

The Applicant and Group Members were also paid a penalty rate of 175% (inclusive of casual loading) for ordinary hours worked on a Saturday, which is 25% more than the penalty rate prescribed by clause 22.1(b) of the GRIA.

49. The Respondents deny paragraph 49.

50. In respect of paragraph 50, the Respondents:

(a) say that the First Respondent required the Applicant and Group Members to arrive 10 minutes prior to their rostered shift start time to:

(i) turn on the computer, open and check emails and the discussion board; and

(ii) set the opening balance in the POS and process any web orders,

(b) say that the First Respondent required the Applicant and the Group Members to request permission from their supervisor before extra hours of work were completed;

(c) say that the First Respondent required the Applicant and the Group Members to clock in and out of their shifts and submit their timesheets using the payroll system for their supervisor's approval of the hours;

(d) refer to and rely on the terms of the Alinta Handbook for their full force and effect; and

(e) otherwise deny the paragraph.

Particulars

cll. 1.1, 2.2, 2.3 and 2.4.1 of the Alinta Handbook.

51. In respect of paragraph 51, the Respondents:

(a) refer to and repeat paragraph 50 above; and

(b) otherwise deny the paragraph.

52. In respect of paragraph 52, the Respondents:

(a) repeat that the ESSGS Award is the applicable award;

(b) say the First Respondent paid its employees in accordance with the ESSGS Award; and

(c) otherwise deny the paragraph.

53. In respect of paragraph 53:

(a) in the absence of proper pleadings as to the alleged hours of work performed by Group Members, the paragraph ought be struck out on the basis that it is likely to cause prejudice and embarrassment in the proceeding; and

(b) under cover of that objection, the Respondents deny paragraph 53.

54. The Respondents deny paragraph 54.

55. The Respondents deny paragraph 55.

56. In respect of paragraph 56, the Respondents:

(a) say that the Applicant and the Group Members were required to, in closing the shop:

(i) set the closing balance and close down the computer system;

(ii) at the end of each shift, tidy the shop, including vacuuming, dusting and wiping of the counter, neatly hang all size samples back onto the rack; and

(iii) post items where necessary,

(b) say that the First Respondent required the Applicant and the Group Members to allocate only half an hour per shop per week for posting items and during terms 2 and 3 to spring clean during quieter shop hours;

(c) say that the First Respondent required the Applicant and the Group Members to request permission from their supervisor before extra hours of work were completed;

(d) say that the First Respondent required the Applicant and the Group Members to clock in and out for their shifts and submit their timesheets using the payroll system for their supervisor's approval;

(e) refer to and rely on the terms of the Alinta Handbook for their full force and effect; and

(f) otherwise deny the paragraph.

Particulars

cll. 1.1 and 2.3 of the Alinta Handbook.

57. In respect of paragraph 57, the Respondents:

(a) refer to and repeat paragraph 56 above;

(b) say that in respect of subparagraph (b), the Applicant and Group Members were only asked to put post in a post box on their way home from work and were directed to record this time (0.5 hours) in their timesheets; and

(c) say that in respect of subparagraph (c) the Applicant was only tasked with transporting stock between Alinta Stores when she was working between stores, otherwise the grounds staff of the relevant school would transport stock between campuses; and

(d) otherwise deny the paragraph.

58. In respect of paragraph 58, the Respondents:

(a) refer to and repeat paragraph 57 above, and

(b) otherwise deny the paragraph.

59. In respect of paragraph 59, the Respondents:

(a) refer to and repeat paragraph 57 above;

(b) repeat that the ESSGS Award is the applicable award;

(c) say the First Respondent paid its employees in accordance with the ESSGS Award; and

(d) otherwise deny the paragraph.

60. In respect of paragraph 60:

(a) in the absence of proper pleadings as to the alleged hours of work performed by Group Members, the paragraph ought be struck out on the basis that it is likely to cause prejudice and embarrassment in the proceeding; and

(b) under cover of that objection, the Respondents deny the paragraph.

61. The Respondents deny paragraph 61.

62. The Respondents deny paragraph 62.

63. The Respondents deny paragraph 63 and say that while the First Respondent provided a free shirt to its employees, it was not an expectation that employees would wear a uniform to work but instead to adhere to its dress code.

64. Save that the Respondent denies the characterisation of the shirt as a “uniform”, the Respondents admit paragraph 64.

65. The Respondents deny paragraph 65:

(a) refer to and repeat paragraph 63; and

(b) say further that the GRIA did not apply.

66. The Respondents deny paragraph 66:

(a) refer to and repeat paragraph 63; and

(b) say further that the GRIA did not apply.

67. The Respondents deny paragraph 67 and refer to and repeat paragraph 63.

68. The Respondents deny paragraph 68:

(a) refer to and repeat paragraph 63; and

(b) say further that the GRIA did not apply.

69. The Respondents deny paragraph 69 and say further that:

(a) the Applicant and Group Members were not required to wear a uniform during their employment, only adhere to the First Respondent's dress code;

(b) the GRIA did not apply; and

(c) in the premises, there was no requirement to pay to the Applicant and the Group Members the special clothing allowance for each shift worked and therefore no "failure" as alleged.

70. The Respondents deny paragraph 70 and say further that:

(a) the Applicant and Group Members were not required to wear a uniform during their employment, only adhere to the First Respondent's dress code;

(b) the GRIA did not apply; and

(c) in the premises, there was no requirement to reimburse the Applicant and Group Members that were required to purchase uniform items in accordance with the GRIA and therefore no "failure" as alleged.

71. The Respondents deny paragraph 71.

72. The Respondents deny paragraph 72.

73. The Respondents deny paragraph 73.

74. The Respondents deny paragraph 74 and say further that:

(a) the Applicant was not required to utilise her personal motor vehicle to perform the duties particularised at paragraphs 57(a) to 57(c) and 58 above;

(b) the GRIA did not apply; and

(c) in the premises, there was no requirement on the First Respondent to pay the Applicant the motor vehicle allowance contained in the GRIA and therefore no "failure" as alleged.

75. The Respondents deny paragraph 75 and say further that:

(a) the Applicant and Group Members were not required to utilise their personal motor vehicles to perform the duties particularised at paragraphs 57(a) to 57(c) and 58 above;

(b) the GRIA did not apply; and

(c) in the premises, there was no requirement on the First Respondent to pay the Applicant the motor vehicle allowance contained in the GRIA and therefore no "failure" as alleged.

76. The Respondents deny paragraph 76.

77. The Respondents deny paragraph 77.

78. The Respondents deny paragraph 78 and say further that the GRIA did not apply.

79. In respect of paragraph 79, the Respondents:

    (a) repeat paragraphs 13, 14 and 17 above; and

    (b) otherwise deny the paragraph.

80. In respect of paragraph 80, the Respondents:

    (a) deny subparagraph (a) and repeat that the GRIA does not apply; and

    (b) admit subparagraph (b).

81. The Respondents deny paragraph 81 and say further that:

    (a) the GRIA did not apply; and

    (b) in the premises there was no requirement on the First Respondent to engage the Applicant and the Group Members in accordance with the GRIA and therefore no "failure" as alleged.

82. The Respondents deny paragraph 82.

83. The Respondents deny paragraph 83.

84. The Respondents admit paragraph 84.

85. The Respondents deny paragraph 85.

86. The Respondents deny paragraph 86.

87. The Respondents admit paragraph 87.

88. In respect of paragraph 88, the Respondents:

    (a) admit subparagraph (a);

    (b) deny subparagraph (b);

    (c) admit that, if the employee is entitled to be paid a penalty, loading or separately identifiable entitlement, s 535 of the FW Act and reg 3.33(3) required the First Respondent to make, and keep for seven years, a record that sets out the details of the loading, rate or entitlement and otherwise deny subparagraph (c);

    (d) save that the requirement is to make and keep records of any deductions made from the gross amount paid to the employee, otherwise admit subparagraph (d);

    (e) save that the requirement is to keep the records readily accessible to an inspector, otherwise admit subparagraph (e); and

(f) admit s 536(2)(b) of the FW Act and reg 3.46(1)(g), 3.46(2)(b) and 3.46(3), required the First Respondent to give employees payslips specifying, among other things, allowances paid and if the employee is paid at an hourly rate of pay, the rate of pay for the employee's ordinary hours, the number of hours in that period for which the employee was employed at that rate and the amount of the payment made at that rate, and the amount of deductions made under s 342(1) of the FW Act, and otherwise deny subparagraph (f).

89. In respect of paragraph 89, the Respondents:

(a) refer to and repeat paragraph 88; and

(b) otherwise admit paragraph 89.

90. In respect of paragraph 90:

(a) in the absence of proper particulars of the alleged failure to make or keep records, the alleged inaccuracies, alleged incomplete information and alleged internal inconsistencies, the paragraph ought be struck out on the basis that it is likely to cause prejudice and embarrassment in the proceeding; and

(b) under cover of that objection, the Respondents deny the paragraph.

91. The Respondents deny paragraph 91.

92. The Respondents admit paragraph 92.

93. The Respondents deny paragraph 93 and say:

(a) a letter was sent by Adero Law on behalf of persons listed in Attachment A of that Letter, including the Applicant, requesting access to certain employee records purportedly pursuant to s 535(3) of the FW Act and regulation 3.42(1) of the FW Regs on 22 July 2025 and 20 October 2025; and

(b) say that employee records were made available for inspection on 11 November 2025 and 18 September 2026.

Particulars

The employee records were made available for inspection by hand delivery to the office of Adero Law at Level 2.02, 276 Pitt Street, Sydney, New South Wales.

94. The Respondents admit paragraph 94.

95. The Respondents admit paragraph 95, subject to reference to the full terms of the correspondence dated 24 November 2025.

96. The Respondents deny paragraph 96 of the Claim and say that records were made available for inspection on 11 November 2025 and 18 September 2026.

97. In respect of paragraph 97, the Respondents:

    (a) say the First Respondent had understood that it had complied with its requirements at law in relation to the provision of employee records by its solicitors at the time of production on 11 November 2025;

    (b) say that further records were produced to the Applicant and Group Members on 18 September 2026;

    (c) say that the requests of 22 July 2025 and 20 October 2025 were not proper request for records; and

    (d) otherwise deny the paragraph.

98. The Respondents admit that the allegations as set out in paragraph 98 of the Claim are made by the Applicant and the Group Members but otherwise deny the underlying allegations.

99. The Respondents do not plead to paragraph 99 of the Claim as it makes no allegations against it.

100. Save that the Respondents admit s 557C(1) of the FW Act operates according to its terms, they otherwise deny paragraph 100.

101. The Respondents admit paragraph 101.

102. The Respondents deny paragraph 102.

103. In respect of paragraph 103, the Respondents:

    (a) admit an email was sent from Karley Ainsworth, HR & Payroll Officer of the First Respondent on 14 July 2025;

    (b) rely upon the whole of the email for its full force and effect; and

    (c) otherwise deny the paragraph.

104. In respect of paragraph 104, the Respondents:

    (a) refer to and repeat paragraph 103 above;

    (b) say that Ms Ainsworth stated in the letter (among other things) that, "*We have proactively contacted Fair Work to confirm our current classification. At this time, there is no legal requirement or formal advice indicating a change is necessary. [The First Respondent's] hourly rate is currently above both the Schools and Retail Award minimums, ensuring fair compensation for all staff.*"; and

    (c) otherwise deny the paragraph.

105. The Respondents admit paragraph 105.

106. As to paragraph 106:

(a) in the absence of proper particulars as to the Respondents' alleged knowledge, the paragraph ought be struck out on the basis that it is likely to cause prejudice and embarrassment in the proceeding; and

(b) under cover of that objection, the Respondents deny the paragraph.

107. The Respondents do not plead to paragraph 107 of the Claim as it makes no allegations against them.

108. The Respondents deny paragraph 108.

109. The Respondents deny paragraph 109.

110. The Respondents deny paragraph 110.

111. The Respondents deny paragraph 111.

112. The Respondents deny paragraph 112.

113. The Respondents deny paragraph 113.

114. The Respondents deny paragraph 114.

115. The Respondents deny paragraph 115.

116. The Respondents deny paragraph 116.

117. The Respondents admit paragraph 117.

118. In respect of paragraph 118, the Respondents:

(a) refer to and repeat paragraphs 50, 51, 56 and 57 above; and

(b) otherwise deny the paragraph.

119. The Respondents admit paragraph 119.

120. In respect of paragraph 120:

(a) in the absence of proper particulars as to the Respondents' alleged knowledge, the paragraph ought be struck out on the basis that it is likely to cause prejudice and embarrassment in the proceeding; and

(b) under cover of that objection, the Respondents deny the paragraph.

121. The Respondents deny paragraph 121.

122. The Respondents deny paragraph 122.

123. The Respondents deny paragraph 123.

124. The Respondents deny paragraph 124.

125. The Respondents deny paragraph 125.

126. The Respondents deny paragraph 126.

127. In respect of paragraph 127 of the Claim, the Respondents refer to and repeat paragraphs 101, 106, 117 and 119 above and otherwise do not plead to the paragraph as it makes no allegations against them.

128. In respect of paragraph 128 of the Claim, the Respondents:

(a) refer to and rely on the terms of the Alinta Handbook for their full force and effect; and

(b) otherwise deny the paragraph.

129. In respect of paragraph 129:

(a) in the absence of proper particulars as to the Respondents' alleged knowledge, the paragraph ought be struck out on the basis that it is likely to cause prejudice and embarrassment in the proceeding; and

(b) under cover of that objection, the Respondents deny the paragraph.

130. The Respondents deny paragraph 130.

131. The Respondents deny paragraph 131.

132. The Respondents deny paragraph 132.

133. The Respondents deny paragraph 133.

134. The Respondents deny paragraph 134.

135. The Respondents deny paragraph 135.

136. The Respondents admit paragraph 136.

137. In respect of paragraph 137, the Respondents refer to and repeat paragraphs 101, 106, 117 and 119 above and otherwise do not plead to the paragraph as it makes no allegations against them.

138. The Respondents deny paragraph 138 and say that further the First Respondent required the Applicant and Group Members to work shifts of less than three hours in duration through their rostered hours and any variations to those rostered hours.

139. In respect of paragraph 139:

(a) in the absence of proper particulars as to the Respondents' alleged knowledge, the paragraph ought be struck out on the basis that it is likely to cause prejudice and embarrassment in the proceeding; and

(b) under cover of that objection, the Respondents deny the paragraph.

140. The Respondents deny paragraph 140.

141. The Respondents deny paragraph 141.

142. The Respondents deny paragraph 142.

143. In respect of paragraph 143:

(a) in the absence of proper particulars as to the Respondents' alleged knowledge, the paragraph ought be struck out on the basis that it is likely to cause prejudice and embarrassment in the proceeding; and

(b) under cover of that objection, the Respondents deny the paragraph.

144. The Respondents deny paragraph 144.

145. In respect of paragraph 145:

(a) in the absence of proper particulars as to the Respondents' alleged knowledge, the paragraph ought be struck out on the basis that it is likely to cause prejudice and embarrassment in the proceeding; and

(b) under cover of that objection, the Respondents deny the paragraph.

146. The Respondents deny paragraph 146.

147. The Respondents deny paragraph 147.

148. The Respondents deny paragraph 148.

149. The Respondents deny paragraph 149.

150. In respect of paragraph 150, the Respondents deny that the Applicant and the Group Members are entitled to the relief claimed, or to any other relief.

151. Further, or alternatively, during the Relevant Period:

(a) for each of the Applicant's ordinary hours of work on a Saturday, the Applicant was paid a penalty rate of 175% of her minimum hourly rate of pay for the hours that she worked that day;

(b) If (which is denied) the GRIA applied to the Applicant's employment, then the Applicant was only entitled to be paid a penalty rate of 150% of her minimum hourly rate of pay for the hours that she worked that day;

(c) the First Respondent mistakenly believed the Applicant should be paid the additional 25% of her minimum hourly rate of pay (25% Saturday Penalty), in accordance with clause 22.3(a)(i) of the ESSGS Award;

(d) but for the mistaken belief pleaded in subparagraph (c) above, the First Respondent would not have paid the Applicant the 25% Saturday Penalty;

(e) by reason of the matters pleaded in subparagraphs (a) to (d) above, the Applicant has been unjustly enriched at the expense of the First Respondent and the First Respondent is entitled to restitution of an amount equivalent to the 25% Saturday Penalty;

(f) accordingly, the First Respondent is entitled to set off, and hereby sets off, against the amounts claimed in the Claim in respect of the Applicant, the amount in subparagraph (e) above; and

(g) Further, or alternative to the matters pleaded in subparagraphs (a) to (f) above, if the Court concludes that the amounts described in (e) above cannot be taken into account for any loss assessed for amounts claimed in the Claim in respect of the Applicant, then it would not be appropriate, within the meaning of s 545 of the FW Act, to make an order for compensation in respect of the Applicant in circumstances where such an order failed to accord with the compensatory and remedial purposes of s 545 by failing to take into account the amounts paid to the Applicant as described in subparagraph (e).

152. Further, or alternatively, during the Relevant Period:

(a) for each of the Group Members' ordinary hours of work on a Saturday, the Group Members were paid a penalty rate of 175% of their minimum hourly rate of pay for the hours that they worked that day;

(b) If (which is denied) the GRIA applied to the Group Members' employment, then the Group Members were only entitled to be paid a penalty rate of 150% of their minimum hourly rate of pay for the hours that they worked that day;

(c) the First Respondent mistakenly believed the Group Members should be paid the additional 25% of their minimum hourly rate of pay (25% Saturday Penalty), in accordance with clause 22.3(a)(i) of the ESSGS Award;

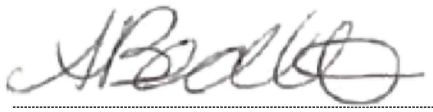
(d) but for the mistaken belief pleaded in subparagraph (c) above, the First Respondent would not have paid the Group Members the 25% Saturday Penalty;

(e) by reason of the matters pleaded in subparagraphs (a) to (d) above, the Group Members have been unjustly enriched at the expense of the First Respondent and the First Respondent is entitled to restitution of an amount equivalent to the 25% Saturday Penalty;

(f) accordingly the First Respondent is entitled to set off, and hereby sets off, against the amounts claimed in the Claim in respect of the Group Members, the amount in subparagraph (e) above; and

(g) Further, or alternative to the matters pleaded in subparagraphs (a) to (f) above, if the Court concludes that the amounts described in (e) above cannot be taken into account for any loss assessed for amounts claimed in the Claim in respect of the Group Members, then it would not be appropriate, within the meaning of s 545 of the FW Act, to make an order for compensation in respect of the Group Members in circumstances where such an order failed to accord with the compensatory and remedial purposes of s 545 by failing to take into account the amounts paid to the Group Members as described in subparagraph (e).

Date: 18 September 2026



Signed by Amanda Beattie
Lawyer for the Respondents

This pleading was prepared by Franceska Leoncio of counsel.

Certificate of lawyer

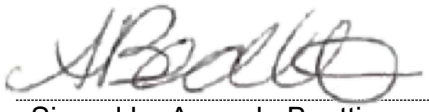
I Amanda Beattie certify to the Court that, in relation to the defence filed on behalf of the Respondent, the factual and legal material available to me at present provides a proper basis for:

(a) each allegation in the pleading; and

(b) each denial in the pleading; and

(c) each non admission in the pleading.

Date: 18 September 2026



Signed by Amanda Beattie
Lawyer for the Respondents