

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 14/10/2021 11:34:09 AM AEDT and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

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
File Number:	VID685/2019
File Title:	RILEY GALL v DOMINO'S PIZZA ENTERPRISES LIMITED
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



Dated: 14/10/2021 5:35:55 PM AEDT

A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

As required by the Court's Rules, 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 Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.

Form 19
Rule 9.32



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

No. VID 685 of 2019

Federal Court of Australia
District Registry: Victoria
Division: Corporations

Riley Gall

Applicant

Domino's Pizza Enterprises Limited (ACN 010 489 326)

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: Federal Court of Australia
305 William Street
Melbourne VIC 3000

Date: ~~24 June 2019~~ 14 October 2021

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

Filed on behalf of:	Riley Gall (Applicant)
Prepared by:	Brett Spiegel, Phi Finney McDonald
Tel:	(03) 9134 7100
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Address for service:	Level 3, 325 Flinders Lane, Melbourne, Victoria 3000



Details of claim

Terms defined in the Second Further Amended Statement of Claim carry the same meaning when used in this Originating Application.

On the grounds stated in the accompanying Second Further Amended Statement of Claim, the Applicant claims on his own behalf and on behalf of Group Members:

1. a declaration that, by reason of the matters pleaded in Sections D to G of the Second Further Amended Statement of Claim, the Respondent engaged in conduct in contravention of section 18 of the *Australian Consumer Law*;
2. an order pursuant to section 236 of the *Australian Consumer Law* that the Respondent pays compensation to the Applicant and Group Members for damage caused by the conduct of the Respondent in contravention of section 18 of the *Australian Consumer Law* referred to in paragraph 1 above;
- 2A. an order pursuant to s 33Z(1)(f) and/or s 33Z(1)(g) and/or s 33ZF of the *Federal Court of Australia Act 1976* (Cth) awarding damages in an aggregate amount in respect of the compensation claimed at paragraph 2 above. ...
- 2B. alternatively, an order pursuant to s 33Z(1)(e), and / or s 33Z(1)(f) and/or s 33Z(1)(g) and/or s 33ZF of the *Federal Court of Australia Act 1976* (Cth) of an award of damages in respect of the compensation claimed at paragraph 2 above for Group Members, or sub-Group Members or individual Group Members, being damages consisting of specified amounts or amounts worked out in such manner as the Court specifies.
3. an order pursuant to section 237 of the *Australian Consumer Law* and/or section 33ZF of the *Federal Court of Australia Act 1976* (Cth) that the Respondent:
 - a. notify all Franchise Operators and former Franchise Operators that:
 - i. the Agreements do not apply to all Delivery Workers or In-Store Workers engaged to perform work in Franchise Stores;
 - ii. there is a significant risk that Franchise Operators to whom the Agreements do not apply have underpaid Delivery Workers or In-Store Workers;
 - iii. Franchise Operators ought to obtain advice to determine the extent of underpayment Delivery Workers or In-Store Workers engaged to perform work in their Franchise Stores;
 - b. conduct an audit of all Franchise Stores to determine whether there had been an underpayment of Delivery Workers or In-Store Workers engaged to perform work in Franchise Stores.



4. such further or other relief as the Court deems fit;
5. interest on any compensation or monetary amount awarded; and
6. costs.

Questions common to claims of group members

The questions of law or fact common to the claims of the Group Members are:

1. whether the Respondent made the Franchise Representations and engaged in the Franchise Conduct.
2. whether the Respondent contravened section 18 of the *Australian Consumer Law* by making the Franchise Representations and engaging in the Franchise Conduct.
3. whether during the Relevant Period, Delivery Workers in the circumstances referred to in paragraph 38 of the Statement of Claim, were entitled to the minimum rates of pay, and terms and conditions of employment, prescribed by the Award.
4. whether during the Relevant Period, In-Store Workers in the circumstances referred to in paragraph 42 of the Statement of Claim, were entitled to the minimum rates of pay, and terms and conditions of employment, prescribed by the Award.
5. whether the Delivery Workers and In-Store Workers were underpaid because of the reliance by Franchise Operators on the Franchise Representations made by Domino's and reliance on the Franchise Conduct engaged in by Domino's.
6. whether the Court ought to make an order for an aggregate award of damages to be paid to the Group Members by the Respondent pursuant to s 33Z(1)(f) and/or s 33Z(1)(g) and/or s 33ZF of the *Federal Court of Australia Act 1976* (Cth), alternatively, whether pursuant to s 33Z(1)(e), any specified amounts ought be determined in relation to any sub-Group Members or individual Group Members.

Representative action

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

The group members to whom this proceeding relates are persons who are defined in paragraph 2 of the Second Further Amended Statement of Claim.

Applicant's address

The Applicant's address for service is:

Place: Phi Finney McDonald, Level 3, 325 Flinders Lane MELBOURNE VIC 3000



Email: brett.spiegel@phifinneymcdonald.com

The Applicant's address is: c/- Phi Finney McDonald, Level 3, 325 Flinders Lane MELBOURNE VIC 3000

Service on the Respondent

It is intended to serve this application on the Respondent.

Date: ~~24 June 2019~~ 14 October 2021

A handwritten signature in black ink, appearing to read "Brett Spiegel".

Signed by Brett David Spiegel
Lawyer for the Applicant