

NOTICE OF FILING

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File Title: ROBBIE LEIGH WHITTOME v WOOLWORTHS GROUP LTD (ACN 000 014 675)
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Sia Lagos

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Important Information

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Reply

No. VID1246 of 2024

Federal Court of Australia
District Registry: Victoria
Division: General

Robbie Leigh WHITTOME

Applicant

WOOLWORTHS GROUP LTD (ACN 000 014 675)

Respondent

A. INTRODUCTION AND OVERVIEW

1. In response to paragraph 1 (and its several subparagraphs) of the Defence filed 04 April 2025 (**Defence**), the Applicant:
 - a) does not know and therefore cannot admit the allegations in subparagraph 1(a);
and
 - b) does not know and therefore cannot admit the allegations in subparagraph 1(b);
and
 - c) [*Not used*]; and
 - d) does not know and therefore cannot admit the allegations in subparagraph 1(d);
and
 - e) [*Not used*]; and
 - f) denies the characterisation of an “undiscounted retail price (**Undiscounted Price**)”, and otherwise does not know and therefore cannot admit the allegations in subparagraph 1(f); and
 - g) denies the characterisation of an “Undiscounted Price”, does not know and therefore cannot admit whether retail prices were “supported in most instances

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by funding provided by suppliers”, and otherwise admits the allegations in subparagraph 1(g); and

- h) repeats his pleadings in respect of subparagraphs 1(f) and 1(g) above, admits that “each of the Affected Products had its retail price dropped”, and denies that “the “Prices Dropped” statement was accurate for each of the Affected Products”; and
- i) denies the allegations in subparagraph 1(i); and
- j) admits the allegations in subparagraph 1(j); and
- k) does not know and therefore cannot admit the allegations in subparagraph 1(k); and
- l) [*Not used*].

2. In response to paragraph 2 (and its several subparagraphs) of the Defence, the Applicant:

- a) repeats his pleadings in respect of paragraph 1 above; and
- b) admits the allegations in subparagraph 2(b); and
- c) repeats his pleadings in respects of paragraphs 16 to 18 of the Statement of Claim filed 14 November 2024 (**SoC**), and otherwise denies the allegations in subparagraph 2(c); and
- d) [*Not used*].

3. [*Not used*].

B. IMPORTANT FACTS GIVING RISE TO THE CLAIM

4. In response to paragraph 4 (and its several subparagraphs) of the Defence, the Applicant:

- a) admits the allegations in subparagraph 4(a) of the Defence; and
- b) does not know and therefore cannot admit the approximate numbers of “Woolworths Supermarkets”, on the one hand, and “Woolworths Metro Stores”, on the other hand, during the Relevant Period, and otherwise repeats his pleading in respect of paragraph 4 of the SoC; and
- c) [*Not used*].

B.1 The ‘Prices Dropped’ Programme

5. [*Not used*].

6. [*Not used*].

7. In response to paragraph 7 (and its several subparagraphs) of the Defence, the Applicant:
- a) admits the allegations in subparagraph 7(a) of the Defence; and
 - b) denies the characterisation of an “Undiscounted Price”, and otherwise admits the allegations in subparagraph 7(b) of the Defence; and
 - c) does not know and therefore cannot admit the allegations in subparagraph 7(c) of the Defence
 - d) —
 - i. does not know and therefore cannot admit the allegations in subparagraph 7(d)(i) of the Defence; and
 - ii. does not know and therefore cannot admit the allegations in subparagraph 7(d)(ii) of the Defence; and
 - e) —
 - i. does not know and therefore cannot admit the allegations in subparagraph 7(e)(i) of the Defence; and
 - ii. does not know and therefore cannot admit the allegations in subparagraph 7(e)(ii) of the Defence; and
 - iii. does not know and therefore cannot admit the allegations in subparagraph 7(e)(iii) of the Defence; and
 - f) does not know and therefore cannot admit the allegations in subparagraph 7(f) of the Defence; and
 - g) denies the characterisation of an “Undiscounted Price”, and otherwise does not know and therefore cannot admit the allegations in subparagraph 7(g) of the Defence; and
 - h) does not know and therefore cannot admit the allegations in subparagraph 7(h) of the Defence; and
 - i) [*Not used*].
8. In response to paragraph 8 (and its several subparagraphs) of the Defence, the Applicant:
- a) repeats his pleadings in respect of paragraph 7(a) above; and
 - b) [*Not used*].

9. In response to paragraph 9 (and its several subparagraphs) of the Defence, the Applicant:
- a) repeats his pleadings in respect of paragraphs 7 and 8 above; and
 - b) —
 - i. admits the allegations in subparagraph 9(b)(i) of the Defence; and
 - ii. admits the allegations in subparagraph 9(b)(ii) of the Defence; and
 - iii. admits the allegations in subparagraph 9(b)(iii) of the Defence; and
 - c) [*Not used*].
10. In response to paragraph 10 (and its several subparagraphs) of the Defence, the Applicant:
- a) repeats his pleadings in respect of subparagraph 9(b) above; and
 - b) [*Not used*].
11. In response to paragraph 11 (and its several subparagraphs) of the Defence, the Applicant:
- a) repeats his pleadings in respect of subparagraph 1(j) above; and
 - b) [*Not used*].
12. In response to paragraph 12 (and its several subparagraphs) of the Defence, the Applicant:
- a) repeats his pleadings in respect of subparagraphs 1(g) and 1(j) above; and
 - b) [*Not used*].
13. In response to paragraph 13 (and its several subparagraphs) of the Defence, the Applicant:
- a) repeats his pleadings in respect of paragraph 14 below; and
 - b) [*Not used*]; and
 - c) [*Not used*].

B.2 The 'Prices Dropped' Representation

14. In response to paragraph 14 (and its several subparagraphs) of the Defence, the Applicant:
- a) admits the allegations in subparagraph 14(a) of the Defence; and
 - b) repeats his pleadings in respect of subparagraphs 1(g) and 1(j) above; and

- c) —
 - i. admits the allegations in subparagraph 14(c)(i) of the Defence; and
 - ii. admits the allegations in subparagraph 14(c)(ii) of the Defence; and
 - d) [*Not used*].
15. In response to paragraph 15 (and its several subparagraphs) of the Defence, the Applicant:
- a) repeats his pleadings in respect of paragraph 14 above; and
 - b) [*Not used*].
16. In response to paragraph 16 of the Defence, the Applicant denies that paragraphs 16 of the SoC “is not a proper characterisation of the correct position” and:
- a) repeats his pleadings in respect of paragraphs 16 to 18 of the SoC, and denies the allegations in subparagraph 16(a) of the Defence; and
 - b) denies the allegations in subparagraph 16(b) of the Defence; and
 - c) [*Not used*]; and
 - d) [*Not used*].

B.3 Misleading representations in relation to the Affected Products

17. In response to paragraph 17 (and its several subparagraphs) of the Defence, the Applicant:
- a) repeats his pleadings in respect of paragraphs 1, 2 and 16 above; and
 - b) [*Not used*].
18. In response to paragraph 18 (and its several subparagraphs) of the Defence, the Applicant:
- a) repeats his pleadings in respect of paragraph 17 above; and
 - b) denies the allegations in subparagraph 18(b) of the Defence; and
 - c) denies the characterisation of a “pre-inflationary undiscounted price (**Pre-Inflationary Undiscounted Price**)”, and otherwise does not know and therefore cannot admit the allegations in subparagraph 18(c) of the Defence; and
 - d) —
 - i. denies the allegations in subparagraph 18(d)(i) of the Defence; and
 - ii. denies the allegations in subparagraph 18(d)(ii) of the Defence; and
 - e) [*Not used*].

C. THE APPLICANT AND GROUP MEMBERS' LOSS OR DAMAGE**C.1 The Applicants' purchases of one or more Affected Products**

19. [Not used].

20. In response to paragraph 20 (and its several subparagraphs) of the Defence, the Applicant:

a) repeats his pleadings in respect of paragraphs 16 to 19 above; and

b) [Not used].

21. In response to paragraph 21 (and its several subparagraphs) of the Defence, the Applicant:

a) repeats his pleadings in respect of paragraphs 16 to 19 above; and

b) [Not used].

C.2 The Group Members' purchases of Affected Products

22. [Not used].

23. In response to paragraph 23 (and its several subparagraphs) of the Defence, the Applicant:

a) repeats his pleadings in respect of paragraphs 16 to 18 above; and

b) [Not used].

24. [Not used].

25. In response to paragraph 25 (and its several subparagraphs) of the Defence, the Applicant:

a) repeats his pleadings in respect of paragraphs 16 to 18 above; and

b) denies the allegation in subparagraph 25(b) of the Defence; and

c) [Not used].

C.3 The Applicant's loss or damage

26. [Not used].

C.4 Group Members' loss or damage

27. [Not used].

D. PRIMARY LEGAL GROUNDS FOR RELIEF CLAIMED

28. [Not used].

29. [Not used].

E. COMMON QUESTIONS OF LAW OR FACT

30. [Not used].

F. RELIEF CLAIMED

31. [Not used].

Date: 16 May 2025



Signed by Gregory John Mackey
Lawyer in the employ of David Cossalter
Lawyer for the Applicant

This pleading was prepared by Gregory John Mackey, solicitor, and settled by Dr Peter Cashman and Dr David J. Townsend, both of counsel

Certificate of lawyer

I, David Cossalter, 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: 16 May 2025



Signed by Gregory John Mackey
Lawyer in the employ of
David Cossalter
Lawyer for the Applicant