

1. Docket to same Judge as NSD 2089/2013 (same parties).

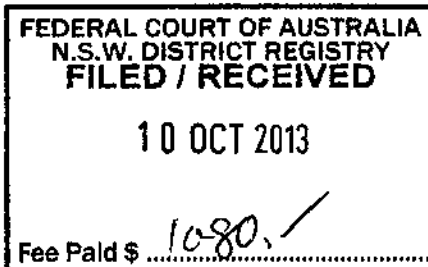
ORIGINAL NSD 2090 / 2013

Form 19
Rule 9.32

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

Federal Court of Australia
District Registry: NSW
Division: General

No. of 2013



Julie Gray
Applicant

Cash Converters International Ltd ACN 069 141 546 and others named in the schedule
Respondents

To the Respondents

The Applicant applies for the relief set out in this application.

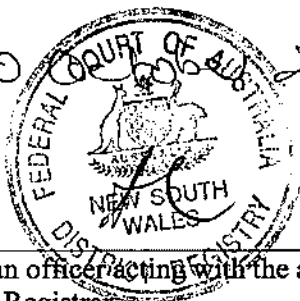
The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

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: 13 NOV 2013 *Wednesday at 9:30am*

Place: Law Courts Building Queens Square, Sydney NSW 2000

Date: 10



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

Filed on behalf of

Julie Gray (Applicant)

Prepared by

Miranda Nagy

Law firm

Maurice Blackburn (First Applicant)

Tel (02) 9261 1488

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Email mnagy@mauriceblackburn.com.au

Address for service

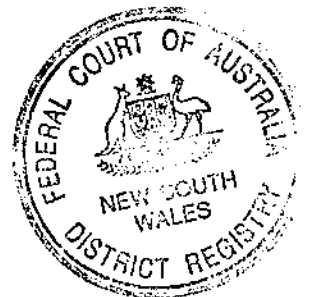
c/- Maurice Blackburn Pty Ltd, Level 20, 201 Elizabeth Street, Sydney NSW 2000

Details of claim

Terms defined in the accompanying statement of claim carry the same meaning when used in this originating application.

On the grounds stated in the accompanying statement of claim, the applicant claims on her own behalf and in a representative capacity:

1. As against CC International:
 - (a) Statutory compensation pursuant to s 12GF(1) of the ASIC Act in relation to the Gray Cash Advance Contracts and the NSW Cash Advance Contracts;
 - (b) Such further or other orders as the nature of the case requires;
 - (c) Interest; and
 - (d) Costs.
2. As against CCPL:
 - (a) Statutory compensation pursuant to s 12GF(1) of the ASIC Act in relation to the Gray Cash Advance Contracts and the NSW Cash Advance Contracts;
 - (b) Such further or other orders as the nature of the case requires;
 - (c) Interest; and
 - (d) Costs.
3. As against Ja-Ke Holdings:
 - (a) Statutory compensation pursuant to s 12GF(1) of the ASIC Act in relation to the Gray Cash Advance Contracts;
 - (b) A declaration that the provision in each of the Gray Cash Advance Contracts for the payment of the deferred establishment fee is void;
 - (c) Such further or other orders as the nature of the case requires;
 - (d) Interest; and
 - (e) Costs.

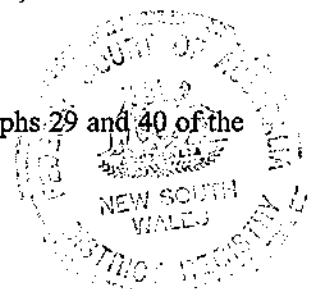


Questions common to claims of group members

In accordance with paragraph 2.1(c) of *Practice Note CM 17 – Representative Proceedings under Part IVA of the Federal Court of Australia Act 1976 (Cth)*, the applicant specifies the following questions of fact or law which are common to the claims of the Group Members:

1. Whether the provision in each Gray Cash Advance Contract and NSW Cash Advance Contract for the payment of the deferred establishment fee is void pursuant to cl 5(2) of Schedule 3 of the NSW Act?
2. In the circumstance where the CAERE is signed and given to the provider of credit or its agent:
 - (a) on the same occasion as; or
 - (b) prior to;

the provision of credit, is the deferred establishment fee ‘ascertainable’ for the purposes of the calculation in cl 7(2) of Schedule 3 of the NSW Act?
3. If the answer to question 1 is ‘yes’, was the payment of the deferred establishment fee by Ms Gray and each of the Group Members unconscionable within the meaning of section 12CB(1) of the ASIC Act?
4. Where the signed Contract Form and the CAERE were given by the borrower to the credit provider at the same time, was the term of the cash advance the term provided for by the CAERE such that no deferred establishment fee was payable?
5. If the answer to question 4 is ‘yes’, in such cases was the receipt and retention of the deferred establishment fee by the credit provider unconscionable within the meaning of section 12CB(1) of the ASIC Act?
6. Whether CC International and CCPL had effective control over the conduct of Ja-Ke Holdings, NSW Franchisees and CC Cash Advance as pleaded in paragraphs 26 and 37 of the statement of claim?
7. Whether CC International and CCPL required or encouraged Ja-Ke Holdings and NSW Franchisees and CC Cash Advance to act as pleaded in paragraphs 27, 28, 38 and 39 of the statement of claim?
8. Whether CC International and CCPL had the knowledge alleged in paragraphs 29 and 40 of the statement of claim?



9. Whether either of:

- (a) CC International; or
- (b) CCPL;

was involved in the contraventions of section 12CB(1) of the ASIC Act by the NSW Franchisees within the meaning of section 12GF(1) of the ASIC Act?

10. Whether CC International was involved in the contraventions of section 12CB(1) of the ASIC Act by CC Cash Advance within the meaning of section 12GF(1) of the ASIC Act?

Representative action

1. This application is brought by the applicant on her own behalf and as a representative party under *Part IVA* of the *Federal Court of Australia Act 1976* (Cth) (**FCA Act**).
2. The applicant and the persons whom she represents are natural persons (**Group Members**) who:
 - (a) entered into one or more credit contracts in New South Wales between 1 July 2010 and 30 June 2013, being the provision of credit to which the *National Credit Code* (Code) applies:
 - (i) in which \$1,000 or less was advanced; and
 - (ii) in respect of which the lender was either:
 - (A) a franchisee of a franchise in which the franchisor was the second respondent (NSW Franchisee); or
 - (B) Cash Converters (Cash Advance) Pty Ltd;

(NSW Cash Advance Contracts); and
 - (b) repaid the NSW Cash Advance Contract within approximately one month.

Applicant's address

The Applicant's address for service is:

Place: Level 20, 201 Elizabeth St, Sydney NSW 2000

Email: bslade@mauriceblackburn.com.au

The Applicant's address is 45 Rugby Street, Cambridge Park NSW 2747.

Service on the Respondent

It is intended to serve this application on all Respondents.

Date: 10 October 2013



Signed by Ben Slade
Lawyer for the Applicant

Level 20, 201 Elizabeth Street,
Sydney NSW 2000
An Australian Legal Practitioner
within the meaning of the
Legal Profession Act 2004

Schedule

No. of 2013

Federal Court of Australia
District Registry: NSW
Division: General

Respondents

Second Respondent:

Cash Converters Pty Ltd ACN 009 288 804

Third Respondent:

Ja-Ke Holdings Pty Ltd ACN 072 118 720

Date: 10 October 2013

