

NOTICE OF FILING

Details of Filing

Document Lodged:	Defence - Form 33 - Rule 16.32
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	2/05/2025 11:54:51 AM AEST
Date Accepted for Filing:	2/05/2025 11:54:57 AM AEST
File Number:	VID835/2024
File Title:	GENERAL MANAGER OF THE FAIR WORK COMMISSION v DIANA ASMAR & ORS
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



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

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.



Defence of the Fourth Respondent

No. VID835 of 2024

Federal Court of Australia
District Registry: Victoria
Division: Fair Work

GENERAL MANAGER OF THE FAIR WORK COMMISSION
Applicant

DIANA ASMAR & OTHERS as set out in the attached schedule.
Respondents

The fourth respondent claims, and reserves his right to claim, the privilege against exposure to civil penalties and says further that if by the making of any admission in this defence he waives the privilege, such waiver is intended to operate only in respect of the specific allegation in response to which the admission is made and is not intended to operate as a general waiver of privilege in this proceeding or at all.

To the statement of claim dated 23 August 2024:

1. The fourth respondent admits the allegations in paragraph 1.
2. The fourth respondent admits the allegations in paragraph 2.
3. The fourth respondent admits the allegations in paragraph 3(a) and 3(b).
4. The fourth respondent:
 - (a) admits the allegations in paragraph 4(a), 4(b) and 4(c); and
 - (b) does not know and therefore cannot admit the allegations in paragraph (e).
5. The fourth respondent:
 - (a) admits the allegations in paragraph 5(a); and
 - (b) does not know and therefore cannot admit the allegations in paragraph 5(b).
6. The fourth respondent:
 - (a) admits the allegations in paragraph 6(a); and
 - (b) does not know and therefore cannot admit the allegations in paragraph 6(b) and 6(c).
7. The fourth respondent admits the allegations in paragraph 7(a) and 7(b).

Filed on behalf of	David Asmar, the Fourth Respondent
Prepared by	Andrew O'Bryan, solicitor for the Fourth Respondent
Law firm	Galbally & O'Bryan Lawyers
Tel	(03) 9200 2533
	Fax (03) 9600 3135
Email	aobryan@galballyobryan.com.au
Address for service	259 William Street Melbourne VIC 3000

8. The fourth respondent:
 - (a) admits the allegations in paragraph 8(a); and
 - (b) does not know and therefore cannot admit the allegations in paragraph 8(b) and 8(c).
9. The fourth respondent:
 - (a) admits the allegations in paragraph 9(a); and
 - (b) does not know and therefore cannot admit the allegations in paragraph 9(b) and 9(c).
10. The fourth respondent:
 - (a) admits the allegations in paragraph 10(a); and
 - (b) does not know and therefore cannot admit the allegations in paragraph 10(b) and 10(c).
11. The fourth respondent admits the allegations in paragraph 11(a).
12. The fourth respondent admits the allegations in paragraph 12(a).

B. POWERS AND DUTIES OF THE RESPONDENTS

13. The fourth respondent does not know and therefore cannot admit the allegations in paragraph 13.
14. The fourth respondent does not know and therefore cannot admit the allegations in paragraph 14.
15. The fourth respondent does not know and therefore cannot admit the allegations in paragraph 15.
16. The fourth respondent does not know and therefore cannot admit the allegations in paragraph 16.
17. The fourth respondent does not know and therefore cannot admit the allegations in paragraph 17.
18. The fourth respondent does not know and therefore cannot admit the allegations in paragraph 18.

C. BREACHES OF DUTIES – NON-EXISTENT EXPENSES CONDUCT

C1. Claims for reimbursement of illegitimate business expenses

19. The fourth respondent does not plead to the allegations in paragraphs 19-22 because no allegations are made in relation to any claim against him.

C2. Contraventions by Ms Asmar of the FWRO Act (reimbursement of illegitimate business expenses)

23. The fourth respondent does not plead to the allegations in paragraphs 23-32 because no allegations are made in relation to any claim against him.

C7. Contraventions by Ms Georgiev of the FWRO Act (reimbursement of illegitimate business expenses)

33. The fourth respondent does not plead to the allegations in paragraphs 33-36 because no allegations are made in relation to any claim against him.

D. PLEA IN THE ALTERNATIVE – NON-EXISTANT EXPENSES CONDUCT WAS IN BREACH OF REIMBURSEMENT POLICY

D1. Conduct in contravention of Reimbursement Policy

37. The fourth respondent does not plead to the allegation in paragraph 37 because no allegations are made in relation to any claim against him.

D2. Contraventions by Ms Asmar of the FWRO Act (contravention of the Reimbursement Policy)

39. The fourth respondent does not plead to the allegations in paragraphs 39-40 because no allegations are made in relation to any claim against him.

E. BREACHES OF DUTIES – FURTHER REIMBURSEMENT CONTRAVENTIONS

E.1 Further transfers

E.1.1 Transfer 1

41. The fourth respondent does not plead to the allegations in paragraphs 41-45 because no allegations are made in relation to any claim against him.

E.1.2 Transfer 2

46. The fourth respondent does not plead to the allegations in paragraphs 46-50 because no allegations are made in relation to any claim against him.

E.1.3 Transfer 3

51. The fourth respondent does not plead to the allegations in paragraphs 51-55 because he has invoked the privilege against self-exposure to a penalty.

E.1.4 Transfer 4

56. The fourth respondent does not plead to the allegations in paragraphs 56-60 because no allegations are made in relation to any claim against him.

E.1.5 Transfer 5

61. The fourth respondent does not plead to the allegations in paragraphs 61-65 because he has invoked the privilege against self-exposure to a penalty.

E.1.6 Transfer 6

66. The fourth respondent does not plead to the allegations in paragraphs 66-70 because he has invoked the privilege against self-exposure to a penalty.

E.1.7 Transfer 7

71. The fourth respondent does not plead to the allegations in paragraphs 71-75 because he has invoked the privilege against self-exposure to a penalty.

E.2 Contraventions by Ms Asmar of the FWRO Act (further reimbursement contraventions)

76. The fourth respondent does not plead to the allegations in paragraphs 76-85 because no allegations are made in relation to any claim against him.

E.3 Contraventions by Ms Georgiev of the FWRO Act (further reimbursement contraventions)

86. The fourth respondent does not plead to the allegations in paragraphs 86-89 because no allegations are made in relation to any claim against him.

E.4 Contraventions by Mr Katsis of the FWRO Act (further reimbursement contraventions)

90. The fourth respondent does not plead to the allegations in paragraphs 90-99 because no allegations are made in relation to any claim against him.

F. BREACHES OF DUTIES - FEES FOR NO SERVICE CONDUCT**F.1 Fees for no goods or service conduct**

100. The fourth respondent does not plead to the allegations in paragraphs 100-103 because he has invoked the privilege against self-exposure to a penalty.

F.2 Cashback transactions**F.2.1 Table B, Transaction 68: 25 September 2018 – 26 September 2018**

104. The fourth respondent does not plead to the allegations in paragraphs 104-105 because he has invoked the privilege against self-exposure to a penalty.

F.2.2 Table B, Transactions 74 and 75: 24 October 2018 – 31 October 2018

106. The fourth respondent does not plead to the allegations in paragraphs 106-110 because he has invoked the privilege against self-exposure to a penalty.

F.2.3 Table B, Transaction 80: 15 January 2019 – 23 January 2019

111. The fourth respondent does not plead to the allegations in paragraphs 111-116 because he has invoked the privilege against self-exposure to a penalty.

F.2.4 Table B, Transaction 89: 15 March 2019 – 19 March 2019

117. The fourth respondent does not plead to the allegations in paragraphs 117-119 because he has invoked the privilege against self-exposure to a penalty.

F.2.5 Table B, Transaction 104: 1 July 2019 – 4 July 2019

120. The fourth respondent does not plead to the allegations in paragraphs 120-123 because he has invoked the privilege against self-exposure to a penalty.

F.2.6 Table B, Transaction 113: 2 September 2019 – 5 September 2019

124. The fourth respondent does not plead to the allegations in paragraphs 124-126 because he has invoked the privilege against self-exposure to a penalty.

F.3 Knowledge of Ms Asmar and Ms Georgiev

127. The fourth respondent does not plead to the allegations in paragraph 127 because he has invoked the privilege against self-exposure to a penalty.

F.4 Contraventions by Ms Asmar of the FWRO Act (fees for no goods or service conduct / cashback transactions)

128. The fourth respondent does not plead to the allegations in paragraphs 128-139 because he has invoked the privilege against self-exposure to a penalty.

F.5 Contraventions by Ms Georgiev of the FWRO Act (fees for no goods or service conduct)

140. The fourth respondent does not plead to the allegations in paragraphs 140-145 because he has invoked the privilege against self-exposure to a penalty.

G. ACCESSORIAL LIABILITY OF DAVID ASMAR WITH RESPECT TO THE CASHBACK TRANSACTIONS PLEADED IN PART F.2 OF THE STATEMENT OF CLAIM

146. The fourth respondent does not plead to the allegations in paragraphs 146-150 because he has invoked the privilege against self-exposure to a penalty.

H. SERIOUS CONTRAVENTIONS

151. The fourth respondent does not plead to the allegations in paragraphs 150-152 because he has invoked the privilege against self-exposure to a penalty.

I. COMMBIZ CONTRAVENTIONS

153. The fourth respondent does not plead to the allegations in paragraphs 153-174 because he has invoked the privilege against self-exposure to a penalty.

Date: 2 May 2025

AO'Bryan

Signed by Andrew O'Bryan
Galbally & O'Bryan Lawyers
Lawyers for the fourth respondent

Certificate of lawyer

I Andrew O'Bryan certify to the Court that, in relation to the defence filed on behalf of the fourth respondent the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 2 May 2025

The image shows a handwritten signature in black ink that reads "AO'Bryan". The signature is written in a cursive, slightly stylized font.

Signed by Andrew O'Bryan
Galbally & O'Bryan Lawyers
Lawyer for the fourth respondent

Schedule

Federal Court of Australia

No. VIC 835 2024

District Registry: Victoria

Division: Fair Work

Respondents**Kerry Georgiev**

Second Respondent

Nick Katsis

Third Respondent

Davis Asmar

Fourth Respondent

David Eden

Fifth Respondent

Lee Atkinson

Sixth Respondent

Rhonda Barclay

Seventh Respondent