

NOTICE OF FILING

Details of Filing

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File Title: ALISSAH MITCHELL v HUNGRY JACK'S PTY LTD
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



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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.

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

No. VID65 of 2026

Alissah Mitchell
Applicant

Hungry Jack's Pty Ltd
Respondent

REPLY

To the defence (**defence**) of the Respondent (**Hungry Jack's**) dated 14 April 2026 the applicant replies as follows (and terms defined in the statement of claim (**SOC**) dated 15 December 2025 or in the defence shall carry the same meaning when used in this reply):

C. INDUSTRIAL LAWS AND INSTRUMENTS

1. As to paragraph 7, the applicant admits the correction.
2. As to paragraph 9, the applicant admits the correction.
3. As to paragraph 13(b), the applicant:
 - (a) admits that the 1999 HJ Agreement was expressed to bind the persons pleaded in that paragraph; and
 - (b) otherwise denies the allegations and says that the 1999 HJ Agreement was in force until 15 April 2020.
4. As to paragraph 14, the applicant admits that clause 18 of the 1999 HJ Agreement included the words alleged, otherwise denies the allegations, and refers to paragraph 3(b) above.
5. As to paragraph 17, the applicant:
 - (a) as to subparagraph (b), refers to paragraph 3 above; and
 - (b) as to subparagraph (c), denies the allegations.

Filed on behalf of	The applicant, Alissah Mitchell		
Prepared by	Craig Allsopp		
Law firm	Shine Lawyers		
Tel	(02) 8754 7200	Fax	(02) 9267 5650
Email	callsopp@shine.com.au		
Address for service	Level 6, 299 Elizabeth Street, Sydney, NSW 2000		

6. As to paragraph 19, denies the allegation that the relevant period is the period from 23 December 2019 to 31 December 2023 and says that the 1999 HJ Agreement was in force until 15 April 2020, and the 2019 HJ Agreement operated from 16 April 2020.
7. As to paragraph 20, the applicant admits that clause 25 of the 2019 HJ Agreement included the terms alleged, but says that Sundays in South Australia were public holidays within the meaning of the 2019 HJ Agreement and otherwise denies the allegations.
8. As to paragraph 23, the applicant:
 - (a) admits that clause 26.1 of the 2019 HJ Agreement provided the rates of pay for overtime on a Sunday as alleged; but
 - (b) denies that the clause operated in the period alleged, and refers to paragraph 6 above; and
 - (c) says further that in South Australia all Sundays were, at all relevant times, public holidays including within the meaning of the 2019 HJ Agreement.
9. As to paragraph 24, the applicant admits that the reference to 'HJ Employees' was intended to be a reference to '2019 HJ Agreement Employees', and otherwise denies the allegations and refers to paragraph 8(c) above.
10. As to paragraph 27, the applicant admits the allegations.
11. As to paragraph 28, the applicant, save to say that the word 'further' appeared between the words 'For' and 'provisions' and that the clause contained these words in the period from 28 July 2022 up to and including 13 November 2022, admits the allegations.
12. As to paragraph 29, the applicant:
 - (a) says that clause 20.5 was in the terms pleaded from 28 July 2022; but
 - (b) refers to paragraph 8(c) above and otherwise denies the allegations.
13. As to paragraph 32(c), the applicant denies the allegations.

Mistaken payments

14. As to paragraph 66, the applicant does not know and therefore cannot admit the allegations.
15. As to paragraph 67, the applicant:
 - (a) admits subparagraph (a);
 - (b) does not know, and therefore cannot admit, subparagraph (b);
 - (c) does not know, and therefore cannot admit, subparagraph (c);
 - (d) denies the allegation at subparagraph (d), and says further that:
 - (i) on each occasion on which a group member was paid annual leave loading, Hungry Jack's deducted a commensurate number of hours from the group member's annual leave balance, such that the group member suffered a commensurate depletion in their annual leave entitlement;
 - (ii) the consequence of (i) was that the alleged enrichment was not, and could not have been, unjust; and
 - (iii) says further that –
 1. Hungry Jack's was required, when a group member's employment ended, to pay to a group member the amount that would have been payable to the group member had the group member taken that period of leave;
 2. where (1) occurred, the amount that would have been payable to the group member was to be calculated as at the date the employment ended;
 3. as a result of (1) and (2), the group member, when their employment ended, was entitled to be paid for their accrued but untaken annual leave, including annual leave loading, calculated at the date their employment ended; and

Particulars to (1) to (3)

Fair Work Act s 90(2).

1999 HJ Agreement cl 24(i).

2019 HJ Agreement cll 25.7, 25.8 and 29.3.

Fast Food Award up to 27 July 2022 cll 25.5 and 28.3.

Fast Food Award on and from 28 July 2022 cll 21 and 22.2.

4. by reason of wage increases that occurred between the dates on which the group members were wrongly taken to be on annual leave and the date on which the employment ended, the amount payable at the end of the group member's employment may have been higher than the amount paid to the group member during the pay periods in which the group member was wrongly taken to have been on annual leave on Sundays;
- (e) denies the allegation in subparagraph (e) and refers to subparagraph (d) above; and
- (f) denies the allegation in subparagraph (f) and refers to subparagraph (d) above.

Limitation Defence

16. As to paragraph 68, the applicant denies the allegations and says further that:
 - (a) the SOC at paragraph 3(a) pleads that the claim period is the period from 15 December 2019 to 31 December 2023;
 - (b) the originating application and statement of claim were lodged with the Court on 15 December 2025;
 - (c) the originating application and statement of claim were accepted for filing on 22 January 2026;
 - (d) in the circumstances pleaded in paragraphs (a)-(c), the application was made on 15 December 2019 for the purposes of s 544 of the FW Act;

- (e) in the premises in (a)-(d), none of the contraventions alleged in the SoC are statute barred;
 - (f) in the alternative to paragraph (e) above, the applicant will apply for an order that the application be treated as having been made on 15 December 2025; and
 - (g) further and in any event, even if the application was made on 22 January 2026 for the purposes of s 544 of the FW Act, the period that is statute-barred is 15 December 2019 to 21 January 2020, not 15 December 2019 to 21 January 2026.
17. As to paragraph 69, the applicant denies the allegations and refers to paragraph 15 above.
18. As to paragraph 70, the applicant admits the allegations.
19. As to paragraph 71, the applicant admits the allegations.
20. As to paragraph 72, the applicant denies the allegations and refers to paragraph 15 above.
21. As to paragraph 73, the applicant denies the allegations and refers to paragraph 15 above.

Save as aforesaid, and save as to the admissions contained in the defence, the applicant joins issue with Hungry Jack's upon the whole of its defence.

Date: 11 May 2026



Signed by Craig Allsopp
Lawyer for the Applicant

This pleading was prepared by Siobhan Kelly SC and Katie Gardiner, counsel for the applicant, and settled by LWL Armstrong KC.