

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 28/11/2014 12:09:17 PM 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:	NSD2090/2013
File Title:	Julie Gray v Cash Converters International Ltd ACN 069 141 546 & Ors
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



A handwritten signature in blue ink, reading "Warwick Soden".

Dated: 28/11/2014 1:25:10 PM AEDT

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**

(Filed on 28 November 2014 pursuant to order  
made by Jagot J on 26 November 2014)

No. NSD 2090 of 2013

Federal Court of Australia

District Registry: NSW

Division: General

**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:**

**Place:** Law Courts Building Queens Square, Sydney NSW 2000

Date:

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

Filed on behalf of	Julie Gray (Applicant)		
Prepared by	Ben Slade		
Law firm	Maurice Blackburn		
Tel	(02) 9261 1488	Fax	(02) 9261 3318
Email	bslade@mauriceblackburn.com.au		
Address for service	c/- Maurice Blackburn Pty Ltd, Level 32, 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, NSW Franchisee Lenders 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, NSW Franchisee Lenders 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 or NSW Franchisee Lenders 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
      - (AA) acting pursuant to an agreement, arrangement or understanding with a NSW Franchisee in relation to the provision of unsecured loans styled as 'cash advances' (NSW Franchisee Lender); or
      - (B) Cash Converters (Cash Advance) Pty Ltd;
  - (b) ~~repaid the NSW Cash Advance Contract within approximately one month~~ signed a document entitled 'Cash Advance Early Repayment Election'.

**Applicant's address**

The Applicant's address for service is:

Place: Level 32, 201 Elizabeth St, Sydney NSW 2000

Email: [bslade@mauriceblackburn.com.au](mailto: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: 28 November 2014

A handwritten signature in black ink, which appears to read "BSlade".

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Signed by Ben Slade  
Lawyer for the Applicant



### **Schedule**

No. NSD 2090 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: 28 November 2014