

NOTICE OF FILING AND HEARING

Filing and Hearing Details

Document Lodged: Interlocutory Application - Form 35 - Rule 17.01(1)(a)
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment: 16/01/2026 12:03:20 PM AEDT
Date Accepted for Filing: 21/01/2026 4:14:17 PM AEDT
File Number: VID973/2024
File Title: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION v
COLES SUPERMARKETS AUSTRALIA PTY LTD (ACN 004 189 708)
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing: To Be Advised
Time and date for hearing: To Be Advised
Place: To Be Advised



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.

Form 35
Rule 17.01(1)



Interlocutory application

No. VID973 of 2024

Federal Court of Australia
District Registry: Victoria
Division: General
Commercial and Corporations National Practice Area (Regulator and Consumer Protection)

Australian Competition and Consumer Commission

Applicant

Coles Supermarkets Australia Pty Ltd (ACN 004 189 708)

Respondent

To the Applicant

The Respondent applies for the interlocutory orders 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.

Time and date for hearing:

Place:

Owen Dixon Commonwealth Law Courts Building
305 William Street
Melbourne VIC 3000

Date:

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

Filed on behalf of: Coles Supermarkets Australia Pty Ltd (ACN 004 189 708), the Respondent

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Interlocutory orders sought

The following defined terms apply to these orders:

- a. **Coles** means Coles Supermarkets Australia Pty Ltd;
- b. **Coles Suppressed Material** means:
 - i. the text highlighted in the documents in Confidential Exhibit TN-2 to the Nitschke Affidavit;
 - ii. the portions of the Redacted Witness Affidavits that are highlighted;
 - iii. the text highlighted in the documents exhibited to the Redacted Witness Affidavits and the Unredacted Witness Affidavits;
 - iv. the text highlighted in the Edwards Report and the appendices to the Edwards Report, and the whole of appendix D to the Edwards Report;
 - v. the text highlighted in any documents proposed to be tendered by either party in the proceeding; and
 - vi. any other text highlighted in the documents exhibited to the Redacted Witness Affidavits, the Unredacted Witness Affidavits and in any documents proposed to be tendered by either party in the proceeding that reveals personal identifying information of Coles' employees or the employees of Coles' suppliers;
- c. **Edwards Report** means the Expert Report of Dr Geoff Edwards dated 4 December 2025;
- d. **Nitschke Affidavit** means the Affidavit of Timothy Alan Nitschke affirmed on 7 January 2026;
- e. **Redacted Witness Affidavits** means the following affidavits filed by Coles:
 - i. Affidavit of Paul Francis Carroll sworn 18 November 2025;
 - ii. Affidavit of Rebecca Thompson affirmed 24 November 2025;
 - iii. Affidavit of Eleftheria Lavdas sworn 18 November 2025;
 - iv. Affidavit of Massimo Palmisciano affirmed 24 November 2025;
 - v. Affidavit of Jack Eugene Jorgensen affirmed 20 November 2025;
 - vi. Affidavit of James Andrew Cubbon affirmed 20 November 2025;
 - vii. Affidavit of Edward Matthew McCutchan affirmed 20 November 2025;



viii. Affidavit of Matthew Peter Hankin affirmed 21 November 2025;

f. **Unredacted Witness Affidavits** means the following affidavits filed by Coles:

i. Affidavit of Katherine Ann Bailey affirmed 21 November 2025;

ii. Affidavit of Debra Maree Galle affirmed 21 November 2025.

1. Subject to orders 3 to 5 below, pursuant to s 37AF of the *Federal Court of Australia Act 1976* (Cth) (**Act**), and on the ground specified in s 37AG(1)(a) of the Act, publication or disclosure of the Coles Suppressed Material (except for the material referred to in paragraph (b)(vi) of Coles Suppressed Material) is prohibited and to be treated as confidential on the Court file (and not capable of inspection pursuant to r 2.32 of the *Federal Court Rules 2011* (Cth) (**Rules**) by a person who is not a party to the proceeding).
2. Subject to orders 3 to 5 below, pursuant to s 37AF of the Act, and on the grounds specified in s 37AG(1)(a) and (c) of the Act, publication or disclosure of the material referred to in paragraph (b)(vi) of the definition of Coles Suppressed Material is prohibited and to be treated as confidential on the Court file (and not capable of inspection pursuant to r 2.32 of the Rules by a person who is not a party to the proceeding).
3. Access to any information falling within orders 1 and 2 is to be limited to the following persons (and no other persons):
 - a. the Court, staff and any other person assisting the Court;
 - b. the parties to this proceeding and their legal representatives, for the purposes of this proceeding (or any appeal);
 - c. independent experts retained by the parties for the purposes of this proceeding; and
 - d. any person authorised by Coles or to whom the information is disclosed by Coles.
4. Nothing in order 3 restricts the right of Coles to deal with any information falling within orders 1 and 2.
5. Orders 1 and 2 will have effect for a period of 5 years from the date of these orders, or such time specified in any further order.
6. Such further order as the Court thinks fit.

Service on the Parties

It is intended to serve this application on all parties to whom this interlocutory application is addressed.



Date: 16 January 2026

A handwritten signature in black ink, appearing to read "B. Thompson", is written over a horizontal line.

Signed by Belinda Thompson
Lawyer for the Respondent