

NOTICE OF FILING

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Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



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.

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Form 59
Rule 29.02(1)

Affidavit

No. 1503 of 2025

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

Dakota Jackson & Anor
Applicants

McDonald's Australia Limited & Anor
Respondents

Affidavit of: **Prajesh Shrestha**
Address: Level 7, 39 Martin Place, Sydney NSW 2000
Occupation: Senior Associate
Date: 18 December 2025

I, Prajesh Shrestha, affirm:

1. I am a Senior Associate at the firm Ashurst Australia, the solicitors for the First Respondent in these proceedings. I am assisting Ian Bolster (Partner at Ashurst) with the proceedings on behalf of the First Respondent.
2. I affirm this affidavit in relation to the Case Management Hearing set down for 19 December 2025. I make this affidavit from my own knowledge, except where otherwise indicated. Where I depose to matters of information and belief, I have identified the source of that information and believe those matters to be true.

Media Article

3. On 16 December 2025, the (online edition) of the *Australian Financial Review* published an article relating (in part) to this proceeding. A copy of that article is annexed to this affidavit and marked **PS-1**.

Filed on behalf of (name & role of party) The First Respondent

Prepared by (name of person/lawyer) Ian Bolster, Lawyer

Law firm (if applicable) Ashurst Australia

Tel +61 417 179 839 Fax _____

Email prajesh.shrestha@ashurst.com / prajesh.shrestha@ashurst.com

Address for service Level 8, 39 Martin Place, Sydney NSW 2000
(include state and postcode)

Affirmed by the deponent
at Sydney
in New South Wales
on 18 December 2025
Before me: *GEORGIA ANNE COUTER*

)
)
)
)
)



Signature of deponent



Signature of witness

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

Dakota Jackson & Anor

Applicants

McDonald's Australia Limited & Anor

Respondents

ANNEXURE CERTIFICATE

This and the following 5 page is the annexure marked "PS-1" referred to in the affidavit of Prajesh Shrestha affirmed at Sydney in the State of New South Wales on 18 December 2025.

Before me



Signature

Solicitor **GEORGIA ANNE COUTER**

39 Martin Place Sydney NSW 2000

| | |
|--|---|
| Filed on behalf of (name & role of party) | The First Respondent |
| Prepared by (name of person/lawyer) | Ian Bolster, Lawyer |
| Law firm (if applicable) | Ashurst Australia |
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| Email | prajesh.shrestha@ashurst.com / prajesh.shrestha@ashurst.com |
| Address for service (include state and postcode) | Level 8, 39 Martin Place, Sydney NSW 2000 |

Labor to 'close loophole' in McDonald's, Woolworths underpayment cases

David Marin-Guzman *Workplace correspondent*



Dec 16, 2025 – 5.55pm



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The South Australian Labor government has promised to retrospectively fix laws that could expose the state's employers to millions of dollars in underpayment claims after lawyers invoked archaic state law in a test case against two of the country's biggest private sector employers.

Shine Lawyers, backed by the Retail and Fast Food Workers Union, has launched class actions against McDonald's and Woolworths alleging they underpaid staff in South Australia based on the 1910 Public Holidays Act that treats every Sunday as a public holiday.



McDonald's and Woolworths have said they will defend the claims. **Glenn Hunt**

If upheld, the cases, which cover 2019 to 2023 when the law was repealed, could potentially apply to every employer in the state that operates on Sundays.

However, the allegations have attracted controversy, with employers and some lawyers saying they exploit obscure loopholes in workplace law and undermine genuine underpayment matters.

The Malinauskas government is seeking advice on the actions, but a spokeswoman said the law was “never interpreted to mean workers get paid public holiday rates for every Sunday they work”.

RELATED QUOTES



“That would be completely unworkable for South Australian employers and out of line with ordinary workplace practices across the country,” she said.

“To provide certainty the state government will, if necessary, step in to close this loophole by amending legislation with retrospective effect.”

Shine and the RAFFWU declined to comment on the matter ahead of a case management hearing in the Federal Court on Friday.

Woolworths released a statement to the market on Monday that confirmed the proceedings “relate to allegations regarding potential team member underpayments in SA based on SA legislation (repealed some time ago) that deemed Sundays to be public holidays”.

“Woolworths Group does not believe the proceedings are market sensitive and will defend the proceedings.”

A McDonald’s spokeswoman confirmed it was aware of legal action filed last month over alleged underpayments of SA employees and relating to the state law on Sundays as public holidays.

“McDonald’s will defend the claim,” she said.

While private sector employers are covered by federal law, the Fair Work Act's national employment standards for public holidays include considerations for "any other day" prescribed by state laws.

One class action lawyer, speaking anonymously to speak candidly, said on the letter of the law Shine's claim could be upheld, but it would result in "the biggest audit exercise ever in the country".

"It would mean superannuation, workers' compensation are wrong [in South Australia]. It just snowballs, all your accruals on termination are wrong."

However, he questioned the merit of running the case, given that no employer seriously understood they had to pay public holiday rates on Sundays.

"It's a gotcha claim. What actual damage or disruption has this [the alleged underpayment] caused to people's lives?"

The actions reflect a growing appetite for private enforcement actions in the workplace law space, particularly after the Federal Court awarded \$50 million to the Transport Workers Union in August for its case against Qantas over the illegal sacking of ground support staff.

Australian Industry Group chief executive Innes Willox said the Shine action "simply illustrates what a mess our workplace relations system has become".

"Using a pre-World War I law, more than 100 years old, that has since been repealed, to tie up the courts and disrupt businesses once again demonstrates to employers that the system is fragmented and not fit for purpose," he said.

"The award system has become a minefield of complexity that has now seen a rise in costs and dangerous class actions.

"Companies should be getting on with investing and creating jobs rather than fighting these meaningless union courtroom frolics."

Workplace Relations Minister Amanda Rishworth declined to comment on whether the federal government would intervene.

McDonald's is already facing twin class actions, lodged in 2023

[<https://www.afr.com/work-and-careers/workplace/union-slower-than-rip-van-winkle-in-maccas-wage-theft-case-20230309-p5cq00>], alleging hundreds of millions of dollars in

underpayments from unpaid rest breaks, including one by Shine Lawyers and the other run by the Shop Distributive and Allied Employees Association.

Woolworths is facing separate litigation by the Fair Work Ombudsman and class action law firm Adero Law over its underpayments that now total more than \$1 billion. It was recently hit with a shareholder class action [<https://www.afr.com/companies/retail/woolworths-hit-with-underpayments-shareholder-class-action-20251128-p5nj97>] alleging the retailer misled the market about the cost of its wage bill.

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Class action [[/topic/class-action-1myf](#)]

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<https://www.afr.com/work-and-careers/workplace/how-50m-windfall-in-qantas-case-changes-the-game-for-unions-20250818-p5mnsf>

David Marin-Guzman writes about industrial relations, workplace, policy and leadership from Sydney. *Connect with David on [Twitter](#). Email David at david.marin-guzman@afrc.com*