

# 7-ELEVEN CLASS ACTION MEDIATION PARTICIPATION NOTICE

A class action (VID180/2018) has been commenced in the Federal Court of Australia by Davaria Pty Limited and Kaizenworld Pty Ltd on behalf of 7-Eleven franchisee companies against 7-Eleven Stores Pty Limited (**7-ELEVEN**).

A separate but related class action (VID182/2018) has been commenced by Pareshkumar Davaria, Khushbu Davaria, Jatinder Pal Singh and Suman Meet Kaur on behalf of 7-Eleven franchisee directors and guarantors against 7-ELEVEN.

You are receiving this MEDIATION PARTICIPATION NOTICE because you are a group member or you are a director of a company which is a group member in one or both of the above class actions.

# You should read this MEDIATION PARTICIPATION NOTICE carefully.

#### 1. Participation in mediation

By no later than 28 June 2021, the parties will participate in a mediation of these class actions to attempt to reach a negotiated resolution of the claims made in the class actions. For the purpose of mediation, the parties would benefit from an understanding of the estimated total value of the potential claims made by group members (i.e. you or your franchisee company).

On 5 March 2021, the Federal Court provided for group members to register for the mediation by completing a "Loss and Damage Form" and returning it by 4 pm on 17 May 2021 to the Registrar of the Federal Court of Australia at the following address:

By email to vicreg@fedcourt.gov.au

or

By post to: The Registrar

Federal Court of Australia Victorian District Registry

Owen Dixon Commonwealth Law Courts Building

305 William Street

MELBOURNE Victoria 3000

The information in the Loss and Damage Forms allows you to provide information about any financial loss you allege you have suffered as a group member. That information will assist the parties to work out the total loss that may have been suffered by group members.

In summary, if you wish to **REGISTER NOW** for the mediation, please complete and return the Loss and Damage Forms to the Registrar of the Federal Court of Australia at either the email or postal address above by 4 pm on **17 May 2021**. The solicitors for 7-ELEVEN will be entitled to view any Loss and Damage Forms that you return. If you register now, you will not be required to register after any settlement of the proceeding in order to be entitled to receive any benefit under (or monetary compensation from) any settlement of the proceedings which is reached at, or within 6 weeks of, the mediation.

#### 2. Completing the Loss and Damage Form(s)

Should you require any assistance in completing the Loss and Damage Forms, contact Levitt Robinson Solicitors, the solicitors running the class actions. Levitt Robinson Solicitors may be contacted on 02 9286 3133 or **711@levittrobinson.com**. You may alternatively seek your own legal advice.

Read more background information on the class actions at <a href="http://levittrobinson.com/class-actions/7-eleven-class-action/">http://levittrobinson.com/class-actions/7-eleven-class-action/</a>.

# Davaria Pty Ltd -v-7-Eleven Stores Pty Ltd & Ors Federal Court Proceedings VID180/2018 and VID182/2018

#### LOSS AND DAMAGE FORM FOR MEDIATION

Subject to settlement negotiation privilege under section 131 of the Evidence Act 1995 (Cth)

#### **Instructions to Complete this Form**

If you are a Franchisee (companies, sole traders, partnerships and trustees of trusts)

For a current or former 7-Eleven franchisee (usually a company that operated a store) – if you wish to lodge a claim, please complete all the sections of this form marked "Everyone to complete" and "Franchisees only to complete". The person lodging the form on behalf of the franchisee must sign and date the form on the last page and state the capacity in which they are authorised to do so (for example Director, Partner or Trustee).

If you have (or have previously) operated multiple stores during the time period 20 February 2012 to 19 February 2018 and wish to claim for those additional stores, please complete the same details for each store. **Section F** of this form contains sections for additional stores.

If you are a Nominated Director and/or Guarantor (usually individuals)

If you are or were:

- a nominated director named in a store agreement between a franchisee and 7-Eleven; or
- a **guarantor** who provided a guarantee to 7-Eleven in a store agreement or a guarantee in favour of ANZ Bank for that store agreement;

please complete all of the sections of this form marked "Everyone to complete" and "Directors/Guarantors only to complete". You must also sign and date the form on the last page.

If you are lodging a claim on behalf of both a franchisee and a nominated director or guarantor, please complete the whole form.

If there is more than one **nominated director** or more than one **guarantor** for a franchisee, each person must lodge their own form and sign and date on the last page. You can obtain additional forms by making copies of this form or sending an email to **711@levittrobinson.com**.

#### How do you fill out this form?

Everyone	to complete
	Section A
	Section E
	Section F
	Section G
Franchises	es to also complete (companies, sole traders, partnerships and trustees of trusts) Section B Section C
Nominate	d Directors/Guarantors to also complete (individuals) Section D

**Everyone** to sign and date the form on the last page.

## 1. Registration and contact details

# [Everyone to complete]

If you have (or have previously had) more than one store during the period and you wish to lodge a claim for each store, please complete the section at **Section F** of this form for each additional store

for each store, please complete the section at <b>section F</b> of this form for each additional store			
Store number (4 digits + 1 letter):			
Name and ACN of the franchisee (the company name, sole trader, partnership or trustees of a trust that operates/operated the store):			
Names of each of the Nominated Directors over the term of the Store Agreement:			
1.			
2.			
3.			
4.			
Names of Guarantors (as stated in the Store Agreement):			
1.			
2.			
3.			
4			
Date of Store Agreement (and any dates of renewals, excluding lease renewals):			
Did you operate any other stores prior to 20 February 2012? If yes, please insert the store numbers and locations below			

## **SECTION B**

Initial investment when the franchisee bought the store	
(excluding GST)	
Goodwill paid to former franchisee	\$
Goodwill paid to 7-Eleven (if you bought a corporate store)	\$
Franchise Fee paid to 7-Eleven	\$
Application Fee paid to 7-Eleven	\$
Stock paid to 7-Eleven	\$
Legal advice	\$
Accounting	\$ \$ \$ \$ \$ \$ \$
Company registration	\$
Uniforms	\$
GST paid on any of the above amounts that were	•
not returned as GST input tax credits	\$
Tatal	•
Total	\$
Sale amount (if franchisee has sold the store)	
Goodwill or other payment received (excluding GST and any p	ayments via vendor finance)
\$	
ppropriate box.	
f you do not know the information for Section B above, please appropriate box.  I have provided documents to support the figures provide you should provide supporting documents. Examples include:  Agreements and/or Deeds for the purchase of the franchise  Agreements and/or Deeds for the sale of the franchise  Bank statements showing amounts paid	<b>d above.</b> chise
I have provided documents to support the figures provide  ou should provide supporting documents. Examples include:  Agreements and/or Deeds for the purchase of the fran  Agreements and/or Deeds for the sale of the franchise	<b>d above.</b> chise
I have provided documents to support the figures provide fou should provide supporting documents. Examples include:  ■ Agreements and/or Deeds for the purchase of the fran  ■ Agreements and/or Deeds for the sale of the franchise  ■ Bank statements showing amounts paid	d above. chise , including any vendor finance
I have provided documents to support the figures provide  You should provide supporting documents. Examples include:  ■ Agreements and/or Deeds for the purchase of the fran  ■ Agreements and/or Deeds for the sale of the franchise  ■ Bank statements showing amounts paid  Profit/Loss  You MUST provide copies of your company financial statements	d above. chise , including any vendor finance
I have provided documents to support the figures provide fou should provide supporting documents. Examples include:  • Agreements and/or Deeds for the purchase of the fran end of the franchise end of the franchise end of the sale of the franchise end of the sale of the franchise end of the franchise en	d above.  chise , including any vendor finance s and tax returns for the years
I have provided documents to support the figures provide fou should provide supporting documents. Examples include:  • Agreements and/or Deeds for the purchase of the fran end of the sale of the franchise end of the franchise	d above. chise , including any vendor finance
I have provided documents to support the figures provide fou should provide supporting documents. Examples include:  • Agreements and/or Deeds for the purchase of the fran end for Deeds for the sale of the franchise end for the franchise end	d above.  chise , including any vendor finance s and tax returns for the years
I have provided documents to support the figures provided ou should provide supporting documents. Examples include:  • Agreements and/or Deeds for the purchase of the franchise  • Agreements and/or Deeds for the sale of the franchise  • Bank statements showing amounts paid  Profit/Loss  You MUST provide copies of your company financial statements that it operated a 7-Eleven store.  FION C  3. Details of business loans  Was money borrowed to purchase the store?   Yes	d above.  chise , including any vendor finance  s and tax returns for the years  [Franchisees only to complete
I have provided documents to support the figures provide fou should provide supporting documents. Examples include:  • Agreements and/or Deeds for the purchase of the fran examples and/or Deeds for the sale of the franchise examples and/or Deeds for the sale of the franchise examples and/or Deeds for the sale of the franchise examples and/or Deeds for the sale of the franchise examples and/or Deeds for the sale of the franchise examples and/or Deeds for the purchase of the franchise examples and/or Deeds for the purchase of the franchise examples and/or Deeds for the purchase of the franchise examples and/or Deeds for the purchase of the franchise examples and/or Deeds for the purchase of the franchise examples include:  Profit/Loss  You MUST provide copies of your company financial statement that it operated a 7-Eleven store.  PION C  B. Details of business loans  Was money borrowed to purchase the store?	d above.  chise , including any vendor finance  s and tax returns for the years  [Franchisees only to complete

When answering questions about your loan below, this should be done by referring to documents recording that information, which can be obtained from your (current or former) lender. You will need to provide copies of these documents.

Loan
Name of Lender:
Name of Borrower:
Date of loan:
Total amount borrowed:
\$
Was any portion of the loan used for personal reasons?  ☐ Yes — approximately: % ☐ No
☐ Yes – approximately: % ☐ No
Term of the loan (number of years):
How often did the borrower make repayments? (For example, monthly):
now often did the borrower make repayments: (For example, monthly).
Further details to be obtained from your lender and inserted below:
- What was the initial interest rate?%
- What are or were the amount of the monthly repayments? \$
- How much is left outstanding on the loan (if any)? \$
Total Colored and the all Colored A
- Total interest paid on this loan to date: \$
- Total fees paid on this loan to date: \$
Total rees paid on this foun to date: \$
If you have sold your store, was the loan paid back in full at the time of sale?
☐ Yes ☐ No – reason and
amount outstanding
at time of sale:
☐ I have provided documents to support the loan details provided above.
You should provide supporting documents. Examples include:
Initial loan letter from the Lender (e.g. letter of offer)
Annual interest statements (these can be obtained from your bank)
<ul> <li>Letter from Lender confirming the details of the loan terms.</li> </ul>

Was any other money borrowed to operate the store after it was purchased? (other than the original loan referred to in the previous question)				
☐ Yes	□ No			
If Yes, please complete <b>Section</b>	<b>G</b> below in relation to any such loans			

4. Your Income		[Directors/Guarantors only to complete]
	personal tax returns (as lodged ent by the ATO for all of the time	with the Australian Taxation Office (ATO)) e periods referred to below.
•	<del>-</del>	nchisee company entered into its first e or at another store as an employee or
□ Yes	□ No	
If you have answered y worked there below:	es, please insert the store numb	per/location and time period that you
Where did you work in	n the three years prior to acquir	ime you acquired your 7-Eleven store? ing your 7-Eleven store? r to acquiring your 7-Eleven store?
Financial Year	Average hours per week	Total (annual) hours
ended 30 June		,
1. Y Y Y Y		
2. Y Y Y		
<b>3.</b> Y Y Y Y		
		<u> </u>
•	e did you receive in the three ye	ars prior to your franchisee company

entering into its first Store Agreement with 7-Eleven?

From your personal tax returns, please insert your annual income for the three years prior to first operating the Store (and as recorded in your tax returns):

Financial Year	Total amount of Gross Income for that year
ended 30 June	(amount including superannuation and allowances,
	and before paying any income tax)
1. Y Y Y Y	\$
2. Y Y Y	\$
3. Y Y Y Y	\$

If you were self-employed prior to entering into the franchise, please provide total annual salary and profits received from the pre-franchise business.

If you have operated more than one store, please answer these questions by reference to the position when you bought your first store.

-	ven store?	o receive any of this perso	nal income afte	r you commenced operating your
contin	-	that role after signature of th		working in a call centre. If you at (even if you changed your hours), you
-		ed 'Yes' above, please com d from other sources durii	-	below to indicate what personal the Store Agreement.
	Financial Ye	ar Total amount of G	ross Income for	that year
	ended 30 Ju	ne (amount including and before paying	•	
1.	YYYY	\$		
2.	YYYY	\$		
3.	YYYY	\$		
4.	YYYY	\$		
5.	YYYY	\$		
6.	YYYY	\$		
7.	YYYY	\$		
8.	YYYY	\$		
9.	YYYY	\$		
10.	YYYY	\$		
(Whe	n we refer to  L) Did the fra (either via the second of th	franchisee we refer to connectisee pay you any wage the 7-Eleven system or out eive any of the drawings to e, as a dividend from the form	s for your work side the system that the store pranchisee)	in the store?
		· ·	·	
	d 30 June	Total wages received from (question (1) above) (amount including superarend allowances, and beforen income tax)	dı nnuation (q	otal amount received from rawings or other income juestion (2) above)
ك ت	<u> </u>	, 	<u>ې</u>	

Financial Year ended 30 June	Total wages received from the store (question (1) above) (amount including superannuation and allowances, and before paying any income tax)	Total amount received from drawings or other income (question (2) above)
YYYY	\$	\$

ш	ı nave	provided	copies	OT:

	Signad	Individual	tax returns,	as ladged	with the	$\Lambda T \cap$
ш	Signed	muividuai	tax returns,	as lougeu	with the	AIU

 $\square$  All notices of assessment from the ATO for the period three years prior to the date of the Store Agreement and at least up until the date on which any Store Agreement ended (or to date, if the Store Agreement is still current).

How many hours did you work in your 7-Eleven store?

	Financial Year	Average hours per week	Total (annual) hours
	ended 30 June		
1.	YYYY		
2.	YYYY		
3.	YYYY		
4.	YYYY		
5.	YYYY		
6.	YYYY		
7.	YYYY		
8.	YYYY		
9.	YYYY		
10.	YYYY		
11.	YYYY		
12.	YYYY		

☐ I have provided cop ☐ Pay slips ☐ Rosters ☐ Payroll syster					
Please provide only co	Please provide only copies of documents created at the relevant time				
SECTION E					
5. Details of claim	for loss and damage		[Everyone to complete]		
Please detail below the amount of loss and damage you intend to claim.  Please also provide an explanation of how you have calculated this amount.					

9

#### 6. Additional Stores

# [Complete, if applicable]

If you have more than one store, or operated more than one store during the period 20 February 2012 to 19 February 2018, please enter the details below for each additional store.

If you need more space please provide the additional store information required below on a separate document when you return this form.

Additional Store 1	
Store number (4 digits + 1 letter):	
Names of each of the Nominated Directors over the relevant period:	1. 2. 3. 4.
Names of guarantors (as stated in the Store Agreement):	1. 2. 3. 4.
Date of Store Agreement (and any dates of renewals):	
Goodwill Paid (when franchisee bought the store)	\$ Amount (excluding GST)
Goodwill Received (when franchisee sold the store)	\$ Amount (excluding GST)
Sale Date (if franchisee has sold the store)	
Additional Store 2	
Store number (4 digits + 1 letter):	
Names of each of the Nominated Directors over the relevant period:	1. 2. 3. 4.
Names of guarantors (as stated in the Store Agreement):	1. 2. 3. 4.
Date of Store Agreement (and any dates of renewals):	
Goodwill Paid (when franchisee bought the store)	\$ Amount (excluding GST)

store)	\$ Amount (excluding GST)
Sale Date (if franchisee has sold the store)	
Additional Store 3	
Store number (4 digits + 1 letter):	
Names of each of the Nominated Directors over the relevant period:	1. 2. 3. 4.
Names of guarantors (as stated in the Store Agreement):	1. 2. 3. 4.
Date of Store Agreement (and any dates of renewals):	
Goodwill Paid (when franchisee bought the store)	\$ Amount (excluding GST)
Goodwill Received (when franchisee sold the store)	\$ Amount (excluding GST)
Sale Date (if franchisee has sold the store)	
Additional Store 4	
Store number (4 digits + 1 letter):	
Names of each of the Nominated Directors over the relevant period:	1. 2. 3. 4.
Names of guarantors (as stated in the Store Agreement):	1. 2. 3. 4.
Date of Store Agreement (and any dates of renewals):	
Goodwill Paid (when franchisee bought the store)	\$ Amount (excluding GST)
Goodwill Received (when franchisee sold the store)	\$ Amount (excluding GST)
Sale Date (if franchisee has sold the store)	

#### 7. Additional Loans

[Complete if applicable]

If you/the franchisee has either:

- (a) Entered into more than one loan to finance buying the store(s); or
- (b) Borrowed money after buying the store to finance the ongoing costs of the store;

please complete this section in relation to any additional loans. In each case you should refer to documents obtained from your (current or former) lender.

Additional Loan				
Name of Lender:				
Name of Borrower:				
Date of loan:				
Store that the loan relates to:				
Total amount borrowed: \$				
Was any portion of the loan used for personal reasons?				
☐ Yes – approximately: % ☐ No				
- Term of the loan (number of years):years  - How often did the borrower make repayments? (For example, monthly):  - Initial interest rate:%  - What are or were the amount of the monthly repayments? \$  - How much is left outstanding on the loan (if any)? \$  - Total interest paid on this loan to date: \$  - Total fees paid on this loan to date: \$				
If you have sold your store, was the loan paid back in full at the time of sale?  ☐ Yes ☐ No − reason:				
<ul> <li>I have provided documents to support the loan details provided above.</li> <li>Examples of the types of documents you should provide include:         <ul> <li>Initial loan letter from the Lender</li> <li>Annual interest statements (these can be obtained from your bank)</li> <li>Letter from Lender confirming the details of the loan terms entered into the table above.</li> </ul> </li> </ul>				

Additional Loan
Name of Lender:
Name of Borrower:
Date of loan:
Store that the loan relates to:
Total amount borrowed: \$
Was any portion of the lean used for personal reasons?
Was any portion of the loan used for personal reasons?
☐ Yes – approximately: % ☐ No
<ul> <li>Term of the loan (number of years):</li> <li>How often did the borrower make repayments? (For example, monthly):</li> <li>Initial interest rate:</li> <li>What are or were the amount of the monthly repayments?</li> <li>How much is left outstanding on the loan (if any)?</li> <li>Total interest paid on this loan to date: \$</li> </ul>
- Total fees paid on this loan to date: \$
If you have sold your store, was the loan paid back in full at the time of sale?
☐ Yes ☐ No – reason:
☐ I have provided documents to support the loan details provided above.
You should provide supporting documents. Examples include:
Initial loan letter from the Lender
<ul> <li>Letter from Lender confirming the details of the loan terms.</li> </ul>

Franchisee
Signature
Print Name and state Capacity to Sign (BLOCK LETTERS)
Date
Director/Guarantor
Signature
Print Name (BLOCK LETTERS)

**Signing Page** 

Date