

NOTICE OF FILING

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Details of Filing

Document Lodged: Reply - Form 34 - Rule 16.33
File Number: VID182/2018
File Title: PARESHKUMAR DAVARIA & ANOR v 7-ELEVEN STORES PTY LIMITED & ANOR
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 9/04/2020 12:20:03 PM AEST

A handwritten signature in blue ink that reads 'Sia Lagos'.

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 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 17
Rule 8.05(1)(a)

No: VID182/2018

Federal Court of Australia
District Registry: Victoria
Division: General

Pareshkumar Davaria and others named in the Schedule

Applicants

7-Eleven Stores Pty Ltd (ACN 005 299 427) and another named in the Schedule

Respondents

Reply to the First Respondent's Defence to the Further Amended Statement of Claim

(filed pursuant to the Orders made by Middleton J on 28 February 2020)

*This pleading is intended to be read in conjunction with the most recently filed Statement of Claim in proceeding VID180/2018 (for which leave has been granted) (**Current VID180 SOC**). Defined terms in this pleading have the same meaning as in that Statement of Claim.*

A. INTRODUCTION

1. As to paragraph 1 of the First Respondent's Defence to the Further Amended Statement of Claim (**Defence**), the Applicants:
 - (a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 1 of the SOC;
 - (b) adopt the allegation of fact that during the Relevant Period person were or commenced to be Nominated Directors under standard-form Franchise Agreements entered into with 7-Eleven; and

Filed on behalf of:	The Applicants
Prepared by:	Stewart A Levitt, Levitt Robinson Solicitors
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- (c) otherwise join issue therewith

1A. As to paragraph 1A of the Defence, the Applicants:

- (a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 1A of the SOC; and
- (b) otherwise join issue therewith.

Applicants

2. The Applicants adopt the admission in paragraph 2 of the Defence.

3. The Applicants adopt the admission in paragraph 3 of the Defence.

3A. The Applicants adopt the admission in paragraph 3A of the Defence.

3B. The Applicants adopt the admission in paragraph 3B of the Defence.

4. As to paragraph 4 of the Defence, the Applicants:

- (a) adopt any express admissions made therein, in respect of the allegations made in paragraph 4 of the SOC; and
- (b) otherwise join issue therewith.

4A. As to paragraph 4A of the Defence, the Applicants:

- (a) adopt any implied admissions made therein, in respect of the allegations made in paragraph 4A of the SOC; and
- (b) otherwise join issue therewith.

4B. As to paragraph 4B of the Defence, the Applicants:

- (a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 4B of the SOC; and
- (b) otherwise join issue therewith.

- 4C As to paragraph 4C of the Defence, the Applicants:
- (a) adopt any implied admissions made therein, in respect of the allegations made in paragraph 4C of the SOC; and
 - (b) otherwise join issue therewith.

Respondents

5. As to paragraph 5 of the Defence, the Applicants:
- (a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 5 of the SOC; and
 - (b) otherwise join issue therewith.
6. As to paragraph 6 of the Defence, the Applicants:
- (a) adopt any implied admissions made therein, in respect of the allegations made in paragraph 6 of the SOC; and
 - (b) otherwise join issue therewith.

B. FRANCHISOR DISCLOSURES – CODE BREACHES AND MISLEADING OR DECEPTIVE CONDUCT – APPLICANTS AND FRANCHISEES

7. As to paragraph 7 of the Defence, the Applicants:
- (a) adopt any implied admissions made therein, in respect of the allegations made in paragraph 6 of the SOC; and
 - (b) otherwise join issue therewith.

B1. Reliance and loss – applicants

8. As to paragraph 8 of the Defence, the Applicants:
- (a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 8 of the SOC; and

- (b) otherwise join issue therewith.
9. As to paragraph 9 of the Defence, the Applicants:
- (a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 9 of the SOC; and
 - (b) otherwise join issue therewith.
10. As to paragraph 10 of the Defence, the Applicants:
- (a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 10 of the SOC; and
 - (b) otherwise join issue therewith.
11. As to paragraph 11 of the Defence, the Applicants:
- (a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 11 of the SOC; and
 - (b) otherwise join issue therewith.
12. As to paragraph 12 of the Defence, the Applicants:
- (a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 12 of the SOC; and
 - (b) otherwise join issue therewith.
- 12A As to paragraph 12A of the Defence, the Applicants:
- (a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 12A of the SOC; and
 - (b) otherwise join issue therewith.
- 12B As to paragraph 12B of the Defence, the Applicants:
- (a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 12B of the SOC; and

(b) otherwise join issue therewith.

12C As to paragraph 12C of the Defence, the Applicants:

(a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 12C of the SOC; and

(b) otherwise join issue therewith.

12D The Applicants join issue with paragraph 12D of the Defence.

13. The Applicants join issue with paragraph 13 of the Defence.

B2. Foregone Income & Guarantee Losses – Group Member

14. As to paragraph 14 of the Defence, the Applicants:

(a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 14 of the SOC; and

(b) otherwise join issue therewith.

15. As to paragraph 15 of the Defence, the Applicants:

(a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 15 of the SOC; and

(b) otherwise join issue therewith.

16. As to paragraph 16 of the Defence, the Applicants:

(a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 16 of the SOC; and

(b) otherwise join issue therewith.

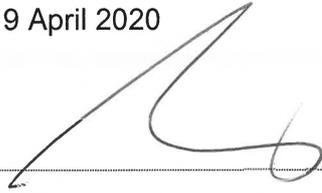
17. The Applicants join issue with paragraph 17 of the Defence.

C. BANK CLAIMS

C1. Relationship between the Bank and 7-Eleven

18. As to paragraph 18 of the Defence, the Applicants:
- (a) adopt any express or implied admissions made therein, in respect of the allegations made in paragraph 18 of the SOC; and
 - (b) otherwise join issue therewith.
19. As to paragraph 19 of the Defence, the Applicants:
- (a) join issue therewith;
 - (b) say, without reversing any onus of proof, *inter alia*, that loss and damage suffered by the Applicants and Franchisees, was:
 - (i) as to any actual or potential liability under a guarantee in respect of monies borrowed by the Applicants in VID 180/18 for the purpose of purchasing and operating the Campbelltown, Northmead or South Melbourne Stores,
 - (A) a chance of a loss that did not eventuate earlier than September 2015; and
 - (B) suffered subsequent to, and consequent upon:
 - (1) the matters pleaded in paragraphs 90 to 92(e) of the SOC; and
 - (2) in respect of the Campbelltown Store, the matters pleaded in paragraphs 94A to 94D of the SOC;
 - (ii) as to any loss stemming from the giving up of alternative employment, or from the loss of the ability to pursue alternative employment, suffered incrementally and progressively throughout the duration of the operation of Stores by the Applicants in VID 180/18.

Date: 9 April 2020



Stewart A Levitt

Levitt Robinson

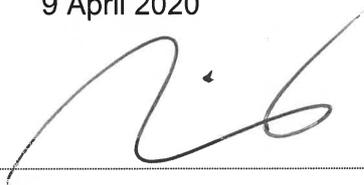
Solicitor for the Applicants

This amended pleading was prepared by Levitt Robinson and Philip Tucker.

Certificate of lawyer

I, Stewart A Levitt, certify to the Court that, in relation to the statement of claim filed on behalf of the Applicants, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 9 April 2020



Stewart A Levitt

Levitt Robinson

Solicitor for the Applicants

Schedule

No: VID182/2018

Federal Court of Australia
District Registry: Victoria
Division: General

Second Applicant:	KHUSHBU DAVARIA
Third Applicant:	JATINDER PAL SINGH
Fourth Applicant:	SUMAN MEET KAUR
Second Respondent:	ANZ BANKING GROUP LIMITED