

## NOTICE OF FILING AND HEARING

### 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
Court of Filing:	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	25/10/2023 4:44:16 PM AEDT
Date Accepted for Filing:	26/10/2023 2:15:49 PM AEDT
File Number:	VID891/2023
File Title:	REBECCA LEE GATT v TAYLORS BUSINESS PTY LTD ACN 107 445 723
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.



**Originating application starting a representative proceeding under  
Part IVA of the Federal Court of Australia Act 1976**

No.                      of 2023

Federal Court of Australia  
District Registry: Victoria  
Division: General

**Rebecca Lee Gatt**

Applicant

**Taylor's Business Pty Ltd (ACN 107 445 723)**

Respondent

To the Respondent

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

The Court ordered that the time for serving this application be abridged to

Date:

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

.....  
Filed on behalf of (name & role of party)      Rebecca Lee Gatt  
Prepared by (name of person/lawyer)      Galit Aflalo  
Law firm (if applicable)      Consumer Action Law Centre  
Tel      (03) 9670 5088      Fax      Not applicable  
Email      Nhirushni@consumeraction.org.au  
**Address for service**      Level 6, 179 Queen Street, Melbourne VIC 3000  
(include state and postcode)      .....



## 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 Statement of Claim, the Applicant claims on her own behalf, and on behalf of Group Members:

1. Pursuant to section 177 of the NCCP Act, or section 12GD of the ASIC Act, an injunction restraining the Respondent from enforcing any term of any of the Pawn Contracts, or exercising any right said to accrue from any of the Pawn Contracts.
2. Pursuant to section 39(1) of the CCV Act, sections 179 or 180 of the NCCP Act, or section 12GM of the ASIC Act, a declaration that the Pawn Contracts are and have at all times been void and unenforceable.
3. Pursuant to section 23 of the *Federal Court of Australia Act 1976* (Cth), sections 178, 179 and 180 of the NCCP Act, sections 23, 112, 113, 114, 118 or 124 of the Code, or section 12GF and 12GM of the ASIC Act:
  - a. orders that Taylors return the Pawned Goods at its own expense to Ms Gatt and the Group Members;
  - b. orders that Taylors refund Ms Gatt and the Group Members any amounts paid in respect of the Interest Charge for the Pawn Contracts (including for any extensions of the Pawn Contracts);
  - c. declarations that Ms Gatt and the Group Members are not liable for any further charges in respect of the Interest Charge for the Pawn Contracts.
4. Pursuant to section 77 of the Code, or section 12GM of the ASIC Act, orders setting aside the Pawn Contracts.
5. Pursuant to sections 113 and 115 of the Code:
  - a. a declaration that Taylors has contravened a key requirement in connection with the Pawn Contracts;
  - b. orders that Taylor pay penalties to Ms Gatt and the Group Members.
6. Pursuant to sections 12BF and 12GND of the ASIC Act, a declaration that the Interest Charge is an unfair term, and are and have at all times been void and unenforceable.
7. Costs.
8. Such further or other order as the Court thinks fit.



### **Questions common to claims of group members**

The questions of law or fact common to the claims of the Group Members are:

1. Whether the Pawn Contracts are and have at all times been void or unenforceable by reason of the amount of interest sought to be levied pursuant to the Interest Charge, because of subsection 39(3) of the CCV Act, or subsection 32A(1) of the Code.
2. Whether Taylors was required to hold an Australian Credit Licence when offering the Pawn Contracts, and if so, whether the Pawn Contracts are and have at all times been void or unenforceable by reason of them being entered into because of Taylors not holding such a licence.
3. Whether the Pawn Contracts were unjust transactions, and if so, whether the Court ought to reopen them and what remedies should issue.
4. Whether the Interest Charge is a term in the Pawn Contracts that is unfair, and if so, what remedies should issue.
5. Whether the entry into the Pawn Contracts was unconscionable conduct on part of Taylors.

The Applicant claims interlocutory relief, on her own behalf, and on behalf of Group Members:

1. Pursuant to section 177(1) of the NCCP Act and section 23 of the *Federal Court of Australia Act 1976* (Cth), or rule 7.32 of the *Federal Court Rules 2011*, an injunction restraining the Respondent from dealing with any of the Pawned Goods until the determination of this proceeding, subject to further order.

### **Representative action**

The Applicant sues in a representative capacity under Part IVA of the *Federal Court of Australia Act 1976* (Cth). The Group Members to whom this proceeding relates are all persons who entered into one or more contracts styled as 'pawn contracts' with the Respondent on or from 15 November 2022 to the commencement of this proceeding.

### **Applicant's address**

The Applicant's address for service is:

Place: Level 6, 179 Queen Street, Melbourne VIC 3000



Email: [nhirushni@consumeraction.org.au](mailto:nhirushni@consumeraction.org.au)

The Applicant's address is c/- Consumer Action Law Centre, Level 6, 179 Queen Street,  
Melbourne VIC 3000

**Service on the Respondent**

It is intended to serve this application on the Respondent.

Date: 25 October 2023

A handwritten signature in black ink, appearing to read "Galit Aflalo".

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Signed by Galit Aflalo  
Lawyer for the Applicant