

Former Chatime franchisee faces court

4 April 2019

The Fair Work Ombudsman has commenced legal action against a former Chatime bubble tea franchisee in Sydney, alleging it underpaid 17 workers more than \$46,000.

Facing the Federal Circuit Court is Panol DC Pty Ltd, which formerly operated the Chatime Cinema City outlet on George Street, in the Sydney CBD.

The FWO has also taken court action against Panol DC's directors, Carlo Benjamin Dela Cruz and Leiden Emmanuel Panol, for their alleged involvement in the underpayments.

Fair Work Ombudsman Sandra Parker said that inspectors discovered the alleged underpayments during proactive audits.

"Enforcing workplace laws in the fast food sector continues to be a priority for the Fair Work Ombudsman, and we are investigating compliance levels in both established and emerging franchise chains across Australia. All franchise outlets are on notice that they must pay staff lawful minimum pay rates and franchisors should take responsibility for ensuring that their franchisees comply with the law," Ms Parker said.

Between January and November 2017, employees at Chatime Cinema City were allegedly generally paid flat rates as low as \$13 to \$18.55 per hour, which resulted in underpayment of the ordinary hourly rates, casual loadings and a special clothing allowance they were entitled to under the Fast Food Industry Award 2010.

Public holiday penalty rates were allegedly also underpaid.

In total, it is alleged that 17 employees were underpaid a total of \$46,372 and that this has not been rectified. The Fair Work Ombudsman further alleges that Panol DC Pty Ltd and Mr Panol also breached record-keeping laws.

Ms Parker highlighted that the Fair Work Ombudsman allegations include that a number of junior workers aged under 21 and several visa holders, mostly international students, were underpaid by Panel DC and its directors.

"All workers in Australia have the same rights, regardless of citizenship or visa status, and we encourage anyone with concerns about their pay to contact the Fair Work Ombudsman. We have an agreement with the Department of Home Affairs that allows visa holders to seek our help without fear of their visa being cancelled," Ms Parker said.

Mr Panol and Mr Dela Cruz face penalties of up to \$12,600 per contravention and the maximum penalty for Panol DC Pty Ltd is up to \$63,000 per contravention.

The Fair Work Ombudsman is also seeking Court orders requiring Panol DC Pty Ltd, Mr Panol and Mr Dela Cruz to back-pay the employees in full.

In addition, FWO is seeking orders requiring the company to display a workplace notice detailing information about workplace laws and requiring Mr Panol and Mr Dela Cruz to register with the My account portal at www.fairwork.gov.au and complete workplace relations training.

A directions hearing is listed in the Federal Circuit Court in Sydney on 3 May 2019.

Employers and employees can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94 for free advice and assistance about their rights and obligations in the workplace. A free interpreter service is available on 13 14 50.

Information for franchises in Australia, including free advice and resources, is available at www.fairwork.gov.au/franchises (<https://www.fairwork.gov.au/franchises>).

Information for the fast food, restaurant and café sector is available at www.fairwork.gov.au/frac (<https://www.fairwork.gov.au/frac>).

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Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

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