

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 20/12/2021 4:55:11 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged: Statement of Claim - Form 17 - Rule 8.06(1)(a)
File Number: VID760/2021
File Title: THE AUSTRALIAN SALARIED MEDICAL OFFICERS' FEDERATION
& ANOR v NORTHERN HEALTH
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 21/12/2021 11:46:27 AM AEDT

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)

Statement of Claim

VID of 2021

Federal Court of Australia

District Registry: Victoria

Division: Fair Work

The Australian Salaried Medical Officers' Federation

First Applicant

Michael John Hand

Second Applicant

Northern Health

Respondent

A THE PARTIES

A1 The Applicants and the Group Members

1. This proceeding is commenced as a representative proceeding pursuant to Part IVA of the *Federal Court of Australia Act 1976* (Cth) by:

- (a) the First Applicant, on behalf of all persons; and
- (b) the Second Applicant, on his own behalf and on behalf of all persons,

who, during the period 21 December 2015 and 20 December 2021 (**Relevant Period**):

- (c) were employed by Northern Health; and

Filed on behalf of:	The Australian Salaried Medical Officers' Federation and Michael Hand (the Applicants)		
Prepared by:	Andrew Grech		
Law firm:	Gordon Legal		
Tel:	(03) 9603 3000	Fax:	(03) 9603 3050
Email:	agrech@gordonlegal.com.au		
Address for service:	Level 22, 181 William Street, Melbourne VIC 3000		

- (d) worked at one or more of the following services operated by Northern Health:
 - (i) Northern Hospital, at 185 Cooper Street, Epping 3076;
 - (ii) the Bundoora Centre (also known as the Bundoora Subacute Care Centre), at 1231 Plenty Road, Bundoora 3083; and
 - (iii) Broadmeadows Hospital, at 35 Johnstone Street, Broadmeadows 3047.
 - (e) were, when employed by Northern Health, covered by the *Victorian Public Health Sector (AMA Victoria) – Doctors in Training (Single Interest Employers) Enterprise Agreement 2013 (2013 Agreement)* until 6 August 2018, and from 7 August 2018, the *AMA Victoria – Victorian Public Health Sector – Doctors in Training Enterprise Agreement 2018–2021 (2018 Agreement)* within the meaning of the *Fair Work Act 2009 (Cth) (FW Act)*; and
 - (f) were, when employed by Northern Health, classified as a:
 - (i) Hospital Medical Officer;
 - (ii) Medical Officer (but not a Medical Officer classified as Solely Administrative under the 2013 Agreement or the 2018 Agreement);
 - (iii) Registrar,

under the 2013 Agreement and/or the 2018 Agreement (**Doctors in Training**); and
 - (g) in the course of their employment by Northern Health, worked hours in excess of their ordinary hours, or rostered hours (**unrostered overtime**); and
 - (h) were not paid for the unrostered overtime hours worked,
- (Group Members).**

2. The First Applicant, the Australian Salaried Medical Officers' Federation (**ASMOF**), is:

- (a) an organisation registered under the *Fair Work (Registered Organisations) Act 2009 (Cth)*;

- (b) an employee organisation within the meaning of sub-paragraph (c) of Column 2 of Item 4 of the table in s 539, and s 540(6) of the FW Act;
 - (c) entitled to represent the industrial interests of persons, including the Second Applicant, and Group Members.
3. The Second Applicant, Dr Michael Hand, was employed by Northern Health:
- (a) between 8 January 2018 and 3 February 2019, and classified as a Hospital Medical Officer (**HMO**) (Year 1 – Intern) under the 2013 Agreement (until 6 August 2018) and under the 2018 Agreement (from 7 August 2018); and
 - (b) between 4 February 2019 and 2 February 2020, and classified as a HMO (Year 2) under the 2018 Agreement.

Particulars

Pursuant to his employment contract dated 5 October 2018, Dr Hand was employed as a ‘General HMO’ between 4 February 2019 and 4 August 2019, and as a ‘Paediatric HMO’ between 5 August 2019 and 2 February 2020, and classified as a HMO (Year 2) for the entire contract period. A copy of the employment contract is in the possession of the solicitors of the Applicants, and is available for inspection by request.

4. As at the date of the commencement of this proceeding, there are seven or more persons who have claims against Northern Health in respect of the matters set out in this Statement of Claim.

A2 The Respondent

5. Northern Health is and at all material times was:
- (a) a body corporate pursuant to s 65P and Schedule 5 of the *Health Services Act 1988* (Vic) and capable of suing and being sued;
 - (b) a Health Service within the meaning of the 2013 Agreement and the 2018 Agreement;
 - (c) a national system employer within the meaning of the FW Act; and

- (d) between 8 January 2018 and 2 February 2020, the employer of Dr Hand.

B THE AGREEMENTS

B1 The 2013 Agreement

Application and coverage

6. The 2013 Agreement:

- (a) is an enterprise agreement within the meaning of Part 2-4 of the FW Act;
- (b) was approved by the Fair Work Commission (**FWC**) on 10 December 2013;
- (c) commenced operation on and from 17 December 2013 and continued to operate until 6 August 2018; and
- (d) pursuant to cl 5.3, covered:
 - (i) Northern Health;
 - (ii) ASMOF;
 - (iii) employees of Northern Health who were employed in, *inter alia*, the classifications set out in paragraph 1(f) above (**Doctors**).

Doctor Responsibilities

7. Clause 14 of the 2013 Agreement provided, relevantly, that a Doctor covered by that Agreement:

- (a) provided medical services, including the keeping and maintaining of adequate medical records for hospital patients (cl 14.1); and
- (b) was required to devote their duty hours to the duties of their appointment (cl 14.2).

Hours of Work, Rostering, and Overtime

8. Clause 25.1.1 of the 2013 Agreement provided that, for full-time HMOs, ordinary hours of work must be 38 hours per week or an average of 38 hours per week for up to 4 weeks.

9. Clause 26.1.2 of the 2013 Agreement provided that rosters must include all working hours including theatre preparation, ward rounds, completing discharge summaries and (for Registrars only) Training Time as defined in clause 11.24.3.

10. Clauses 32.1 and 32.2 of the 2013 Agreement provided, relevantly:

32. OVERTIME

32.1 The provisions of this clause 32 are to be read in conjunction with clause 25 (Hours of Work).

32.2 Entitlement

32.2.1 Overtime is payable for working:

- (a) rostered hours in excess of ordinary hours, pursuant to sub clause 25.1; or
- (b) authorised hours in excess of rostered hours.

32.2.2 The payment of overtime is one and one half (1½) times the Doctor's ordinary hourly rate of pay for the first two (2) hours overtime in a week and then double the Doctor's ordinary hourly rate of pay for all additional overtime hours in that week.

B2 The 2018 Agreement

Application and coverage

11. The 2018 Agreement:

- (a) is an enterprise agreement within the meaning of Part 2-4 of the FW Act;
- (b) was approved by the FWC on 31 July 2018;
- (c) commenced operation on and from 7 August 2018 and continues to operate; and
- (d) pursuant to cl 4.1, covered:
 - (i) Northern Health;
 - (ii) ASMOF;
 - (iii) employees of Northern Health who were employed in, *inter alia*, the classifications set out in paragraph 1(f) above.

Doctor Responsibilities

12. Clause 23 of the 2018 Agreement provides, relevantly, that a Doctor covered by that Agreement:
 - (a) provides medical services, including the keeping and maintaining of adequate medical records for health service patients (cl 23.1); and
 - (b) is required to devote their duty hours to the duties of their appointment (cl 23.2).

Hours of Work, Rostering, and Overtime

13. Clause 33.1(a) of the 2018 Agreement provides that, for Doctors other than Registrars, the ordinary hours of full-time work are 38 hours per week or an average of 38 hours per week over a period of up to 4 weeks.
14. Clause 35.1(b) of the 2018 Agreement provides that rosters must include all working hours including theatre preparation, ward rounds, completing discharge summaries and (for Registrars only) Training Time in accordance with subclause 34.5.
15. Clauses 36.1 and 36.2 of the 2018 Agreement provide, relevantly:

36 Overtime

36.1 The provisions of this clause 36 are to be read in conjunction with clause 33 (Hours of Work).

36.2 Entitlement

- (a) Overtime is payable for working:
 - (i) rostered hours in excess of ordinary hours, pursuant to subclause 33.1; or
 - (ii) authorised hours in excess of rostered hours.
- (b) Notwithstanding the provisions of subclause 36.2(a) above, where a part-time Doctor is directed by the Health Service to work rostered hours in excess of their contract hours, overtime will be paid pursuant to this clause for all hours worked in excess of their contract hours. A Doctor who offers to work additional hours will be paid their ordinary rate of pay until their total weekly hours of work exceed the full time ordinary hours for their classification, as prescribed in clause 33 (Hours of Work).
- (c) The payment of overtime is one and one half (1½) times the Doctor's ordinary hourly rate of pay for the first two hours overtime in a week and then double the Doctor's ordinary hourly rate of pay for all additional overtime hours in that week.

C DUTIES AND RESPONSIBILITIES OF DR HAND AND GROUP MEMBERS

16. During the Relevant Period, the duties and responsibilities of Dr Hand and Group Members when providing medical services included, from time to time:

- (a) preparation for ward rounds (**ward round preparation**);
- (b) undertaking ward rounds (**ward rounds**);
- (c) receiving or handing over information about patients between medical staff at the start or end of a shift (**handover**);
- (d) preparation for medical procedures (**medical procedures preparation**);
- (e) attending to medical emergencies or critical patient care (**medical emergency**);
- (f) completion of patient medical records, including discharge summaries, in a timely manner (**medical records**);
- (g) speaking with patients and patients' families and visitors about patients' treatment (**medical communication**);
- (h) admitting patients into a particular ward or department (**patient admissions**);
- (i) providing medical care to patients in a clinic (**outpatient care**); and
- (j) carrying out such other duties necessary for the provision of medical services by the Doctor (**other medical services**).

Particulars

The duties and responsibilities in subparagraphs (a), (b) and (d) are referred to in clause 26.1.2 of the 2013 Agreement and clause 35.1(b) of the 2018 Agreement.

The duties and responsibilities in subparagraph (f) are referred to in clauses 14.1 and 26.1.2 of the 2013 Agreement and clause 23.1 and 35.1(b) of the 2018 Agreement.

The duties and responsibilities in subparagraphs (c), (e), and (g)–(j) are “medical services” within the meaning of clause 14.1 of the 2013 Agreement and clause 23.1 of the 2018 Agreement.

D THE SECOND APPLICANT'S CLAIM

17. During the course of his employment by Northern Health, Dr Hand was directed by Northern Health to work at, relevantly, the following locations on the following dates:
- (a) between 15 January 2018 and 25 March 2018 in the General Medicine department at Northern Hospital;
 - (b) between 4 June 2018 and 12 August 2018 in the Psychiatric unit at Northern Hospital;
 - (c) between 22 October 2018 and 3 February 2019 in the General Medicine department at Northern Hospital; and
 - (d) between 4 February 2019 and 5 May 2019 in the Geriatrics department at the Bundoora Subacute Care Centre.

D1 First General Medicine Rotation – 15 January 2018 to 25 March 2018

18. Between 15 January 2018 and 25 March 2019, pursuant to the direction of Northern Health set out in paragraph 17(a) above, Dr Hand worked in the General Medicine department at Northern Hospital (**First General Medicine rotation**).

Rosters

19. During the First General Medicine rotation, Dr Hand was rostered to work 45 hours a week over the following shifts:
- (a) Monday and Friday, from 8.00am to 5.00pm;
 - (b) Tuesday from 7.30am to 12.30pm;
 - (c) Wednesday from 8.00am to 8.30pm; and
 - (d) Thursday from 7.30am to 5.00pm.

Particulars

The hours worked by Dr Hand in the First General Medicine rotation included rostered overtime, for which Dr Hand was paid. No claim is made in respect of rostered overtime.

During the First General Medicine rotation, the medical staff were organised into two teams. Dr Hand was part of Team 1B. Team 1B consisted of Dr Hand as Intern, two Registrars (Dr Garry Hamilton and Dr Asbah Kazi) and a Consultant (the Consultants included Dr Saliya Hewagama and Dr Sheng Ling Low). Team 1A consisted of two Interns, a Registrar and a Consultant.

Copies of Dr Hand's rosters for the First General Medicine rotation are in the possession of the solicitors for the Applicants and available for inspection on request.

Ward round preparation

20. During the First General Medicine rotation, Northern Health directed Dr Hand to undertake ward round preparation before the commencement of ward rounds (**ward round preparation direction**).

Particulars

The ward round preparation direction was partly written and is partly to be inferred.

Insofar as it was in writing, it was contained in clause 14.1 of the 2013 Agreement, which provides that a Doctor's duties include the keeping and maintaining of adequate medical records for patients. Ward round preparation involved the creation of medical records for patients.

Insofar as it is to be inferred, it is inferred from the matters in paragraph 16(a) above, and from the fact that the tasks necessary to complete ward round preparation in the General Medicine department included the following:

1. identifying and reviewing information regarding new patients who had been admitted overnight (including as advised by the Registrars in the circumstances set out in the particulars to paragraph 21 below);
2. identifying and reviewing patient information to understand any medical issues that may have arisen overnight;
3. reviewing new pathology test results and adding those results to the patient list;
4. ensuring that all patients on the ward were under the correct team bed card;
5. ensuring that the list accurately reflected patient transfers or expected transfers;
6. preparing ward round notes; and
7. printing the patient list.

21. During the First General Medicine rotation, in order to undertake ward round preparation in accordance with the ward round preparation direction, Dr Hand worked hours in excess of rostered hours (**ward round preparation overtime**).

Particulars

During the First General Medicine rotation, ward rounds commenced at 8.30am, except on Thursdays. On Thursdays, there was a presentation at 8.00am which ran for between 40 and 60 minutes, and which was attended by all medical staff in the General Medicine department. Thursday ward rounds commenced after the presentation.

Dr Hand was the sole Intern in Team 1B, and was responsible for preparing for ward rounds for between 12 and 16 patients on a typical day.

Further, at approximately 8.00am each morning, the Registrars attended a department-wide meeting with the Consultants, in which patients who had been admitted overnight to the General Medicine department from the Emergency department were allocated between the Registrars. Following that meeting, at approximately 8.20am, Dr Hand was asked by the Registrars in Team 1B to add those patients to the patient list and as much information as possible, so that the patients could be included on the ward round.

Dr Hand performed ward round preparation overtime before the start of each rostered shift on Mondays, Wednesdays, Thursdays and Fridays, for about 30 minutes on each occasion.

Further particulars will be provided after discovery and before trial.

22. Northern Health:

- (a) knew that there was insufficient time during rostered hours to undertake ward round preparation in accordance with the ward round preparation direction; and
- (b) knew that Dr Hand performed ward round preparation overtime; and
- (c) did not direct Dr Hand not to perform ward round preparation overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from:

1. the ward round preparation direction; and

2. the tasks necessary to complete ward round preparation, including those matters in the particulars to paragraphs 20 and 21 above; and
 3. Dr Hand's rostered start time of 8.00am on Monday, Wednesday and Friday, and 7.30am on Thursday; and
 4. the commencement of ward rounds in the General Medicine department at 8.30am on Monday, Tuesday, Wednesday and Friday, and after the presentation on Thursday, in the circumstances set out in the particulars to paragraph 21 above; and
 5. the fact that Dr Hand was prepared at the start of ward rounds conducted by the Consultants and Registrars on duty.
23. By reason of the matters alleged in paragraphs 16(a), 18, 20 and 22 above, the ward round preparation overtime worked by Dr Hand in the First General Medicine rotation constituted "authorised hours" within the meaning of clause 32.2.1(b) of the 2013 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the medical services provided by Dr Hand included ward round preparation before the commencement of ward rounds;
 2. Dr Hand's rostered start time on Monday, Wednesday, Thursday and Friday in the First General Medicine rotation;
 3. the commencement of ward rounds in the General Medicine department at 8.30am on Monday, Tuesday, Wednesday and Friday, and on Thursday after the 8.00am presentation, in the circumstances set out in the particulars to paragraph 21 above;
 4. the conduct of Northern Health in giving the ward round preparation direction, as set out in paragraph 20 above;
 5. the knowledge of Northern Health, as set out in paragraphs 22(a) and (b); and
 6. the failure by Northern Health to direct Dr Hand not to perform the ward round preparation overtime, as set out in paragraph 22(c) above.
24. In the premises, Dr Hand was entitled to be paid overtime for the ward round preparation overtime that he worked as set out in paragraph 21 above, at the rates set out in clause 32.2.2 of the 2013 Agreement.

25. Northern Health did not pay Dr Hand overtime, in accordance with clause 32.2 of the 2013 Agreement, for the ward round preparation overtime worked by him during the First General Medicine rotation.
26. By reason of the matters alleged above, Northern Health has contravened clause 32.2 of the 2013 Agreement.
27. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

Medical records

28. During the First General Medicine rotation, Northern Health directed Dr Hand:
 - (a) to complete medical records for all patients in the General Medicine department; and
 - (b) to complete medical records in a timely manner; and
 - (c) that the timely completion of medical records was necessary to ensure patient safety,

(the **medical records direction**).

Particulars

The medical records direction was partly written, partly oral, and is partly to be inferred:

Insofar as it was in writing, it was contained in:

1. clause 14.1 of the 2013 Agreement, which provides that a Doctor's duties include the keeping and maintaining of adequate medical records for patients. Medical records include discharge summaries, outpatient referrals, prescriptions, requests for external hospital medical records, clinical notes, and investigation requests;

Insofar as it was oral, it was conveyed by:

2. the discharge planning coordinator, at an allied health meeting held at 3.00pm every day. The allied health meeting was attended by the ward pharmacist, discharge planning coordinator, the nurse unit manager or assistant nurse unit manager, occupational therapist, physiotherapist, social worker, speech pathologist, all Interns from Team 1A and

Team 1B, and as on some occasions, dietician, students working with allied health practitioners, and Team 1A and Team 1B Registrars. At the meeting, patients who were ready to be discharged were identified by the discharge planning coordinator, who directed Dr Hand to prepare discharge paperwork for those patients so that they could be discharged as soon as possible;

Insofar as it is to be inferred, it is inferred from:

3. a direction provided by the Consultant (including Dr Saliya Hewagama or Dr Sheng Ling Low) conducting the ward round each morning that a particular patient or patients could be discharged early the following day. It was necessary for patient's discharge paperwork to be completed before they could be discharged; and
 4. the matters in subparagraphs (1) and (2) above; and
 5. the matters in paragraph 16(f) above.
29. During the First General Medicine rotation, in order to complete medical records in accordance with the medical records direction, Dr Hand worked hours in excess of rostered hours (**medical records overtime**).

Particulars

The medical records overtime was worked by Dr Hand after the conclusion of his rostered shifts, approximately four days per week, for approximately 30 to 60 minutes on each occasion.

Further particulars will be provided after discovery and before trial.

30. Northern Health:
- (a) knew that there was insufficient time during rostered hours to complete medical records in accordance with the medical records direction; and
 - (b) knew that Dr Hand performed medical records overtime; and
 - (c) did not direct Dr Hand not to perform medical records overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from the following matters:

1. text messages sent to and from Dr Hand, including to Registrars Dr Garry Hamilton and Dr Asbah Kazi, which referred to work

- done by Dr Hand outside of rostered hours involving the completion of medical records;
 2. the medical records direction;
 3. that patients who the Consultant and the discharge planning coordinator had identified were ready to be discharged, were able to be discharged shortly after the direction was given because their discharge paperwork had been completed; and
 4. Dr Hand's rostered hours.
31. By reason of the matters alleged in paragraphs 16(f), 18, 28 and 30 above, the medical records overtime worked by Dr Hand constituted "authorised hours" within the meaning of clause 32.2.1(b) of the 2013 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the medical services provided by Dr Hand included the timely completion of medical records;
 2. Dr Hand's rostered hours in the First General Medicine rotation as set out in paragraph 19 above;
 3. the conduct of Northern Health in giving the medical records direction, as set out in paragraph 28 above;
 4. the knowledge of Northern Health, as set out in paragraphs 30(a) and (b) above; and
 5. the failure by Northern Health to direct Dr Hand not to perform medical records overtime as set out in paragraph 30(c) above.
32. In the premises, Dr Hand was entitled to be paid overtime for the medical records overtime that he worked, as set out in paragraph 29 above, at the rates set out in clause 32.2.2 of the 2013 Agreement.
33. Northern Health did not pay Dr Hand overtime, in accordance with clause 32.2 of the 2013 Agreement, for the medical records overtime worked by him during the First General Medicine rotation.
34. By reason of the matters alleged above, Northern Health has contravened clause 32.2 of the 2013 Agreement.
35. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

Medical communication overtime

36. During the First General Medicine rotation, Northern Health directed Dr Hand to speak with patients and their families and visitors about a patient's condition or treatment (**medical communication direction**).

Particulars

The medical communication direction is to be inferred from:

1. the matters in paragraph 16(g) above;
2. the requirement for Dr Hand to communicate with patients and their families and visitors in order to keep them informed about the patient's treatment and care plans or to obtain information from them relevant to the patient's care.

37. During the First General Medicine rotation, in order to perform medical communication, Dr Hand worked hours in excess of rostered hours (**medical communication overtime**).

Particulars

From time to time the families or visitors of Dr Hand's patients would attend Northern Hospital at, close to, or after the rostered finishing time of Dr Hand's shifts which ended at 5.00pm (Mondays, Thursdays and Fridays), and ask to speak to the treating doctor of the patient they were visiting. Dr Hand would speak to family members and visitors in these circumstances. Many of the patients admitted to the General Medicine ward of the Northern Hospital were elderly, and dependent on their adult children for their care. As the doctor involved in the patient's care, it was necessary for Dr Hand to have these communications.

Dr Hand's conversations with family members and visitors involved discussing results and treatment plans, which Dr Hand would then document.

In circumstances where these conversations took place close to or at the end of Dr Hand's rostered shifts which ended at 5.00pm, he was required to work beyond the rostered finishing time of his shift.

Dr Hand performed medical communication overtime after the end of his rostered shifts on Mondays, Thursdays and Fridays, about once or twice per week, for between 15 and 30 on each occasion.

38. Northern Health:

- (a) knew that the medical communication direction could not be performed during rostered hours;
- (b) knew that Dr Hand performed medical communication overtime;
- (c) did not direct Dr Hand not to perform medical communication overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from the following matters:

- 1. the medical communication direction; and
- 2. the circumstances set out in the particulars to paragraph 37 above;
- 3. Dr Hand informed his supervisors, including Dr Garry Hamilton, Dr Asbah Kazi, Dr Saliya Hewagama and on some occasions Dr Sheng Ling Low, the following day that he had performed medical communication overtime;
- 4. the fact that Dr Hand's rostered hours on Mondays, Thursdays and Fridays ended at 5.00pm, which was a common time for visitors to arrive;
- 5. the fact that Dr Hand did not leave work until he had finished the relevant medical communication.

39. By reason of the matters alleged in 16(g), 18, 36 and 38 above, the medical communication overtime worked by Dr Hand constituted "authorised hours" within the meaning of clause 32.2.1(b) of the 2013 Agreement.

Particulars

Authorisation is implied from the following matters:

- 1. part of the medical services provided by Dr Hand included attending to medical communication;
- 2. the conduct of Northern Health in giving the medical communication direction, as set out at paragraph 36 above;
- 3. the knowledge of Northern Health, as set out in paragraphs 38(a) and (b) above; and
- 4. the failure by Northern Health to direct Dr Hand not to perform medical communication overtime as set out in paragraph 38(c) above.

40. In the premises, Dr Hand was entitled to be paid overtime for the medical communication overtime that he worked, as set out in paragraph 37 above, at the rates set out in clause 32.2.2 of the 2013 Agreement.
41. Northern Health did not pay Dr Hand overtime, in accordance with clause 32.2 of the 2013 Agreement, for the medical communication overtime worked by him during the First General Medicine rotation.
42. By reason of the matters alleged above, Northern Health has contravened clause 32.2 of the 2013 Agreement.
43. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

Other medical services overtime

44. During the First General Medicine rotation, Northern Health directed Dr Hand to undertake specific tasks relating to patient care before he finished work on that day (**patient care direction**).

Particulars

The patient care direction is to be inferred from:

1. the matters in paragraph 16(j) above;
 2. from time to time during the First General Medicine Rotation, Dr Hand was alerted at or near the end of his shift, to the need to provide immediate medical attention to a patient, such as responding to a Medical Emergency Team call (**MET call**) or pre-MET call, either by himself or with a Registrar, reinserting a cannula, reviewing a test result which required urgent review, or changing a drug chart;
 3. the clinical requirement that Dr Hand provide immediate medical attention to a patient to ensure proper patient care and safety; and
 4. the inefficiency of Dr Hand handing over such tasks to another doctor given Dr Hand's knowledge of the patient and because these tasks formed part of Dr Hand's standard daily workload.
45. During the Second General Medicine rotation, in order to complete the patient care direction, Dr Hand worked hours in excess of rostered hours (**patient care overtime**).

Particulars

Dr Hand performed patient care overtime after the end of his rostered shifts about three times per week, for approximately 30 to 45 minutes on each occasion.

Further particulars will be provided after discovery and before trial.

46. Northern Health:

- (a) knew that there was insufficient time during rostered hours to attend to the patient care direction;
- (b) knew that Dr Hand performed patient care overtime; and
- (c) did not direct Dr Hand not to perform patient care overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from the following matters:

- 1. the patient care direction;
- 2. the presence of the Registrars with Dr Hand when he was attending to a pre-MET call or MET call with a Registrar;
- 3. text messages sent after rostered hours to and from Dr Hand via Whatsapp, including to Registrars Dr Garry Hamilton and Dr Asbah Kazi; and
- 4. the fact that Dr Hand attended to the patient care direction before he finished work on that day.

47. By reasons of the matters alleged in paragraphs 16(j), 18, 44, and 46 above, the patient care overtime worked by Dr Hand constituted "authorised hours" within the meaning of clause 32.2.1(b) of the 2013 Agreement.

Particulars

Authorisation is implied from the following matters:

- 1. part of the medical services provided by Dr Hand included attending to patient care;
- 2. the conduct of Northern Health in giving the patient care direction, as set out in paragraph 44 above;

3. the knowledge of Northern Health, as set out in paragraphs 46(a) and (b) above;
 4. the failure by Northern Health to direct Dr Hand not to perform patient care overtime as set out in paragraph 46(c) above.
48. In the premises, Dr Hand was entitled to be paid overtime for the patient care overtime that he worked, as set out in paragraph 45 above, at the rates set out in clause 32.2.2 of the 2013 Agreement.
49. Northern Health did not pay Dr Hand overtime, in accordance with clause 32.2 of the 2013 Agreement, for the patient care overtime worked by him during the First General Medicine rotation.
50. By reason of the matters alleged above, Northern Health has contravened clause 32.2 of the 2013 Agreement.
51. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

D2 Psychiatric Rotation – 4 June 2018 to 12 August 2018

52. Between 4 June 2018 and 12 August 2018, pursuant to the direction of Northern Health set out in paragraph 17(b) above, Dr Hand worked in the Psychiatric unit at Northern Hospital (**Psychiatric rotation**).

Rosters

53. During the Psychiatric rotation, Dr Hand was rostered to work:
- (a) four days per week (Monday, Tuesday, either Wednesday or Thursday, and Friday), between 8.00am and 5.00pm; and
 - (b) one day per week (either Wednesday or Thursday), between 8.00am and 12.00pm.

Particulars

During the Psychiatric rotation, Dr Hand worked in a team comprised of himself, one Registrar (Dr Abhinav Nahar) and one Consultant (Dr Debra Chong).

Copies of Dr Hand's rosters for the Psychiatric rotation are in the possession of the solicitors for the Applicants and available for inspection on request.

Medical records

54. During the Psychiatric rotation, Northern Health directed Dr Hand:
- (a) to complete medical records for all patients in the Psychiatric unit; and
 - (b) to complete medical records in a timely manner; and
 - (c) that the timely completion of medical records was necessary to ensure patient safety,
- (the **medical records direction**).

Particulars

The medical records direction was partly written, and is partly to be inferred:

Insofar as it was in writing, it was contained in:

1. clause 14.1 of the 2013 Agreement and clause 23.1 of the 2018 Agreement, which provides that a Doctor's duties include the keeping and maintaining of adequate medical records for patients. Medical records include discharge summaries, outpatient referrals, prescriptions, requests for external hospital medical records, clinical notes, and investigation requests.

Insofar as it is to be inferred, it is inferred from:

2. a direction provided by the Consultant (Dr Debra Chong) conducting the ward round each morning that a particular patient or patients could be discharged early the following day. It was necessary for patient's discharge paperwork to be completed before they could be discharged; and
3. the matters in subparagraph (1) above; and
4. the matters in paragraph 16(f) above.

55. During the Psychiatric rotation, in order to complete medical records in accordance with the medical records direction, Dr Hand worked hours in excess of rostered hours (**medical records overtime**).

Particulars

The discharge paperwork for patients in the Psychiatric unit involved the provision of lengthy and comprehensive medical records. The discharge summaries were required to contain the patient's full biopsychosocial history, and provide ongoing treatment advice. This involved reviewing past medical records including previous admissions and previous notes from a community mental health team, and comparing progress over the inpatient stay with the assessment order pursuant to the *Mental Health Act 2014* (Vic) under which the patient had been admitted, and providing treatment recommendations for the coming weeks.

The medical records overtime was worked by Dr Hand after the conclusion of his rostered shifts, approximately two or three days per week, for approximately 30 to 60 minutes on each occasion.

Further particulars will be provided after discovery and before trial.

56. Northern Health:

- (a) knew that there was insufficient time during rostered hours to complete medical records in accordance with the medical records direction; and
- (b) knew that Dr Hand performed medical records overtime; and
- (c) did not direct Dr Hand not to perform medical records overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from the following matters:

1. the medical records direction;
2. that patients who the Consultant identified were ready to be discharged, were able to be discharged shortly after the direction was given because their discharge paperwork had been completed; and
3. Dr Hand's rostered hours.

57. By reason of the matters alleged in paragraphs 16(f), 52, 54 and 56 above, the medical records overtime worked by Dr Hand:

- (a) between 4 June 2018 and 6 August 2018, constituted "authorised hours" within the meaning of clause 32.2.1(b) of the 2013 Agreement; and

- (b) between 7 August 2018 and 12 August 2018, constituted constituted “authorised hours” within the meaning of clause 36.2.(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the medical services provided by Dr Hand included the timely completion of medical records;
2. Dr Hand’s rostered hours in the Psychiatric rotation as set out in paragraph 53 above;
3. the conduct of Northern Health in giving the medical records direction, as set out in paragraph 54 above;
4. the knowledge of Northern Health, as set out in paragraphs 56(a) and 56(b) above; and
5. the failure by Northern Health to direct Dr Hand not to perform medical records overtime as set out in paragraph 56(c) above.

58. In the premises, Dr Hand was entitled to be paid overtime for the medical records overtime that he worked, as set out in paragraph 55 above:

- (a) between 4 June 2018 and 6 August 2018, at the rates set out in clause 32.2.2 of the 2013 Agreement; and
- (b) between 7 August 2018 and 12 August 2018, at the rates set out in clause 36.2(c) of the 2018 Agreement.

59. Northern Health did not pay Dr Hand overtime, in accordance with clause 32.2 of the 2013 Agreement, and clause 36.2(c) of the 2018 Agreement, for the medical records overtime worked by him during the Psychiatric rotation.

60. By reason of the matters alleged above, Northern Health has contravened clause 32.2 of the 2013 Agreement and clause 36.2(c) of the 2018 Agreement.

61. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

Other medical services overtime

62. During the Psychiatric rotation, Northern Health directed Dr Hand to undertake specific tasks relating to patient care before he finished work on that day (**patient care direction**).

Particulars

The patient care direction is to be inferred from:

1. the matters in paragraph 16(j) above;
 2. from time to time during the Psychiatric rotation, Dr Hand was alerted at or near the end of his shift, to the need to provide immediate medical attention to a patient, such as responding to a Medical Emergency Team call (**MET call**) or pre-MET call, either by himself or with a Registrar, reviewing a test result which required urgent review, or changing a drug chart;
 3. the clinical requirement that Dr Hand provide immediate medical attention to a patient to ensure proper patient care and safety; and
 4. the inefficiency of Dr Hand handing over such tasks to another doctor given Dr Hand's knowledge of the patient.
63. During the Psychiatric rotation, in order to complete the patient care direction, Dr Hand worked hours in excess of rostered hours (**patient care overtime**).

Particulars

Dr Hand performed patient care overtime after the end of his rostered shifts on two or three times per week, for approximately 10 and 20 minutes on each occasion.

Further particulars will be provided after discovery and before trial.

64. Northern Health:
- (a) knew that there was insufficient time during rostered hours to attend to the patient care direction;
 - (b) knew that Dr Hand performed patient care overtime; and
 - (c) did not direct Dr Hand not to perform patient care overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from the following matters:

1. the patient care direction;

2. the presence of the Registrars with Dr Hand when he was attending to a pre-MET call or MET call with a Registrar; and
 3. the fact that Dr Hand attended to the patient care direction before he finished work on that day.
65. By reasons of the matters alleged in paragraphs 16(j), 52, 62, and 64 above, the patient care overtime worked by Dr Hand:
- (a) between 4 June 2018 and 6 August 2018, constituted “authorised hours” within the meaning of clause 32.2.1(b) of the 2013 Agreement; and
 - (b) between 7 August 2018 and 12 August 2018, constituted constituted “authorised hours” within the meaning of clause 36.2.(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. part of the medical services provided by Dr Hand included attending to patient care;
 2. the conduct of Northern Health in giving the patient care direction, as set out in paragraph 62 above;
 3. the knowledge of Northern Health, as set out in paragraphs 64(a) and 64(b) above;
 4. the failure by Northern Health to direct Dr Hand not to perform patient care overtime as set out in paragraph 64(c) above.
66. In the premises, Dr Hand was entitled to be paid overtime for the patient care overtime that he worked, as set out in paragraph 63 above:
- (a) between 4 June 2018 and 6 August 2018, at the rates set out in clause 32.2.2 of the 2013 Agreement; and
 - (b) between 7 August 2018 and 12 August 2018, at the rates set out in clause 36.2(c) of the 2018 Agreement.
67. Northern Health did not pay Dr Hand overtime, in accordance with clause 32.2 of the 2013 Agreement, and clause 36.2(c) of the 2018 Agreement, for the patient care overtime worked by him during the Psychiatric rotation.

68. By reason of the matters alleged above, Northern Health has contravened clause 32.2 of the 2013 Agreement and clause 36.2(c) of the 2018 Agreement.
69. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

D3 Second General Medicine Rotation – 22 October 2018 to 3 February 2019

70. Between 22 October 2018 and 3 February 2019, pursuant to the direction of Northern Health set out in paragraph 17(c) above, Dr Hand worked in the General Medicine department at Northern Hospital (**Second General Medicine rotation**).

Rosters

71. During the Second General Medicine rotation, Dr Hand was rostered to work 45 hours a week over the following shifts:
 - (a) Monday and Friday, from 8.00am to 5.00pm;
 - (b) Tuesday from 8.00am to 1.00pm;
 - (c) Wednesday from 8.00am to 8.30pm; and
 - (d) Thursday from 7.30am to 5.00pm.

Particulars

The hours worked by Dr Hand in the Second General Medicine rotation included rostered overtime, for which Dr Hand was paid. No claim is made in respect of rostered overtime.

During the Second General Medicine rotation, the medical staff were organised into two teams. Dr Hand was part of Team 1B. Team 1B consisted of Dr Hand as Intern, two Registrars (Dr Nicholas Radcliff and Dr Amelia Harrison) and a Consultant (including Dr Saliya Hewagama or Dr Sheng Ling Low). Team 1A consisted of two Interns, a Registrar and a Consultant.

Copies of Dr Hand's rosters for the Second General Medicine rotation are in the possession of the solicitors for the Applicants and available for inspection on request.

Ward round preparation

72. During the Second General Medicine rotation, Northern Health directed Dr Hand to undertake ward round preparation before the commencement of ward rounds (**ward round preparation direction**).

Particulars

The ward round preparation direction was partly written and is partly to be inferred. The Second Applicant refers to and repeats the particulars to paragraph 20 above.

73. During the Second General Medicine rotation, in order to undertake ward round preparation in accordance with the ward round preparation direction, Dr Hand worked hours in excess of rostered hours (**ward round preparation overtime**).

Particulars

As to the timing of ward rounds in the General Medicine department, the Second Applicant refers to and repeats the particulars to paragraph 21 above.

The ward round preparation overtime was worked by Dr Hand before the start of his rostered shifts on Monday, Wednesday, Thursday and Friday, for 30 minutes on each occasion.

Further particulars will be provided after discovery and before trial.

74. Northern Health:
- (a) knew that there was insufficient time during rostered hours to undertake ward round preparation in accordance with the ward round preparation direction; and
 - (b) knew that Dr Hand performed ward round preparation overtime; and
 - (c) did not direct Dr Hand not to perform ward round preparation overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from:

1. the ward round preparation direction; and
2. the tasks necessary to complete ward round preparation, including those matters in the particulars to paragraphs 20 and 21 above; and

3. Dr Hand's rostered start time of 8.00am on Monday, Wednesday, and Friday, and 7.30am on Thursday; and
 4. the commencement of ward rounds in the General Medicine department at 8.30am on Monday, Tuesday, Wednesday and Friday, and after the presentation on Thursday, in the circumstances set out in the particulars to paragraph 21 above; and
 5. the fact that Dr Hand was prepared at the start of ward rounds conducted by the Consultants and Registrars on duty.
75. By reason of the matters alleged in paragraphs 16(a), 70, 72 and 74 above, the ward round preparation overtime worked by Dr Hand constituted "authorised hours" within the meaning of clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the medical services provided by Dr Hand included ward round preparation before the commencement of ward rounds;
 2. Dr Hand's rostered start time on Monday, Wednesday, Thursday and Friday in the Second General Medicine rotation;
 3. the commencement of ward rounds in the General Medicine department at 8.30am on Monday, Tuesday, Wednesday and Friday, and on Thursday after the 8.00am presentation, in the circumstances set out in the particulars to paragraph 21 above;
 4. the conduct of Northern Health in giving the ward round preparation direction, as set out in paragraph 72 above;
 5. the knowledge of Northern Health, as set out in paragraphs 74(a) and 74(b) above; and
 6. the failure by Northern Health to direct Dr Hand not to perform the ward round preparation overtime as set out in paragraph 74(c) above.
76. In the premises, Dr Hand was entitled to be paid overtime for the ward round preparation overtime that he worked, as set out in paragraph 73 above, at the rates set out in clause 36.2(c) of the 2018 Agreement.
77. Northern Health did not pay Dr Hand overtime, in accordance with clause 36.2 of the 2018 Agreement, for the ward round preparation overtime worked by him during the Second General Medicine rotation.

78. By reason of the matters alleged above, Northern Health has contravened clause 36.2 of the 2018 Agreement.
79. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

Medical records

80. During the Second General Medicine rotation, Northern Health directed Dr Hand:
- (a) to complete medical records for all patients in the General Medicine department; and
 - (b) to complete medical records in a timely manner; and
 - (c) that the timely completion of medical records was necessary to ensure patient safety,
- (the **medical records direction**).

Particulars

The Second Applicant refers to and repeat the particulars to paragraph 28 above.

81. During the Second General Medicine rotation, in order to complete medical records in accordance with the medical records direction, Dr Hand worked hours in excess of rostered hours (**medical records overtime**).

Particulars

The medical records overtime was worked by Dr Hand after the conclusion of his rostered shifts, approximately two days per week.

Further particulars will be provided after discovery and before trial.

82. Northern Health:
- (a) knew that there was insufficient time during rostered hours to complete medical records in accordance with the medical records direction; and
 - (b) knew that Dr Hand performed medical records overtime; and

- (c) did not direct Dr Hand not to perform medical records overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from the following matters:

1. text messages sent after rostered hours to and from Dr Hand via Whatsapp, including to Registrars Dr Nicholas Radcliff and Dr Amelia Harrison, which referred to Dr Hand completing medical records; and
2. the medical records direction;
3. that patients who the Consultant and the discharge planning coordinator identified were ready to be discharged, were able to be discharged shortly after the direction was given because their discharge paperwork had been completed; and
4. Dr Hand's rostered hours.

83. By reason of the matters alleged in paragraphs 16(f), 70, 80 and 82 above, the medical records overtime worked by Dr Hand constituted "authorised hours" within the meaning of clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the medical services provided by Dr Hand included the timely completion of medical records;
2. Dr Hand's rostered hours in the Second General Medicine rotation as set out in paragraph 71 above;
3. the conduct of Northern Health in giving the medical records direction, as set out in paragraph 80 above;
4. the knowledge of Northern Health, as set out in paragraphs 82(a) and 82(b) above; and
5. the failure by Northern Health to direct Dr Hand not to perform medical records overtime as set out in paragraph 82(c) above.

84. In the premises, Dr Hand was entitled to be paid overtime for the medical records overtime that he worked, as set out in paragraph 81 above, at the rates set out in clause 36.2(c) of the 2018 Agreement.

85. Northern Health did not pay Dr Hand overtime, in accordance with clause 36.2 of the 2018 Agreement, for the medical records overtime worked by him during the Second General Medicine rotation.

86. By reason of the matters alleged above, Northern Health has contravened clause 36.2 of the 2018 Agreement.
87. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

Medical communication overtime

88. During the Second General Medicine rotation, Northern Health directed Dr Hand to speak with patients and their families and visitors about a patient's condition or treatment (**medical communication direction**).

Particulars

The Second Applicant refers to and repeat the particulars to paragraph 36 above.

89. During the Second General Medicine rotation, in order to perform medical communication, Dr Hand worked hours in excess of rostered hours (**medical communication overtime**).

Particulars

The Second Applicant refers to and repeats the first three paragraphs of the particulars to paragraph 37 above.

Dr Hand performed medical communication overtime after the end of his rostered shifts on Mondays, Thursdays and Fridays, about once or twice per week, for between 15 and 30 on each occasion.

90. Northern Health:
- (a) knew that the medical communication direction could not be performed during rostered hours;
 - (b) knew that Dr Hand performed medical communication overtime;
 - (c) did not direct Dr Hand not to perform medical communication overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from the following matters:

1. the medical communication direction; and
2. the circumstances set out in the particulars to paragraph 37 above;
3. Dr Hand informed his supervisors, including Registrars Dr Nicholas Radcliff and Dr Amelia Harrison, and Consultants Dr Saliya Hewagama and Dr Sheng Ling Low, the following day that he had performed medical communication overtime;
4. the fact that Dr Hand's rostered hours on Mondays, Thursdays and Fridays ended at 5.00pm, which was a common time for visitors to arrive;
5. the fact that Dr Hand did not leave work until he had finished the relevant medical communication.

91. By reason of the matters alleged in 16(g), 70, 88 and 90 above, the medical communication overtime worked by Dr Hand constituted "authorised hours" within the meaning of clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. part of the medical services provided by Dr Hand included attending to medical communication;
2. the conduct of Northern Health in giving the medical communication direction, as set out at paragraph 88 above;
3. the knowledge of Northern Health, as set out in paragraphs 90(a) and 90(b) above; and
4. the failure by Northern Health to direct Dr Hand not to perform medical communication overtime as set out in paragraph 90(c) above.

92. In the premises, Dr Hand was entitled to be paid overtime for the medical communication overtime that he worked, as set out in paragraph 89 above, at the rates set out in clause 36.2(c) of the 2018 Agreement.
93. Northern Health did not pay Dr Hand overtime, in accordance with clause 36.2 of the 2018 Agreement, for the medical communication overtime worked by him during the Second General Medicine rotation.

94. By reason of the matters alleged above, Northern Health has contravened clause 36.2 of the 2018 Agreement.
95. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

Other medical services overtime

96. During the Second General Medicine rotation, Northern Health directed Dr Hand to undertake specific tasks relating to patient care before he finished work on that day (**patient care direction**).

Particulars

The patient care direction is to be inferred from:

1. the matters in paragraph 16(j) above;
 2. from time to time during the Second General Medicine Rotation, Dr Hand was alerted at or near the end of his shift, to the need to provide immediate medical attention to a patient, such as responding to a Medical Emergency Team call (**MET call**) or pre-MET call, either by himself or with a Registrar, reinserting a cannula, reviewing a test result which required urgent review, or changing a drug chart;
 3. the clinical requirement that Dr Hand provide immediate medical attention to a patient to ensure proper patient care and safety; and
 4. the inefficiency of Dr Hand handing over such tasks to another doctor given Dr Hand's knowledge of the patient and because these tasks formed part of Dr Hand's standard daily workload.
97. During the Second General Medicine rotation, in order to complete the patient care direction, Dr Hand worked hours in excess of rostered hours (**patient care overtime**).

Particulars

Dr Hand performed patient care overtime after the end of his rostered shifts about three times per week, for approximately 30 to 45 minutes on each occasion.

Further particulars will be provided after discovery and before trial.

98. Northern Health:

- (a) knew that there was insufficient time during rostered hours to attend to the patient care direction;
- (b) knew that Dr Hand performed patient care overtime; and
- (c) did not direct Dr Hand not to perform patient care overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from the following matters:

- 1. the patient care direction;
- 2. the presence of the Registrars with Dr Hand when he was attending to a pre-MET call or MET call with a Registrar;
- 3. text messages sent after rostered hours to and from Dr Hand via Whatsapp, including to Registrars Dr Nicholas Radcliff and Dr Amelia Harrison; and
- 4. the fact that Dr Hand attended to the patient care direction before he finished work on that day.

99. By reasons of the matters alleged in paragraphs 16(j), 70, 96, and 98 above, the patient care overtime worked by Dr Hand constituted "authorised hours" within the meaning of clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

- 1. part of the medical services provided by Dr Hand included attending to patient care;
- 2. the conduct of Northern Health in giving the patient care direction, as set out in paragraph 96 above;
- 3. the knowledge of Northern Health, as set out in paragraphs 98(a) and 98(b) above;
- 4. the failure by Northern Health to direct Dr Hand not to perform patient care overtime as set out in paragraph 98(c) above.

100. In the premises, Dr Hand was entitled to be paid overtime for the patient care overtime that he worked, as set out in paragraph 97 above, at the rates set out in clause 36.2(c) of the 2018 Agreement.
101. Northern Health did not pay Dr Hand overtime, in accordance with clause 36.2 of the 2018 Agreement, for the patient care overtime worked by him during the Second General Medicine rotation.
102. By reason of the matters alleged above, Northern Health has contravened clause 36.2 of the 2018 Agreement.
103. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

D4 Geriatrics Rotation – 4 February 2019 to 5 May 2019

104. Between 4 February 2019 and 5 May 2019, pursuant to the direction of Northern Health set out in paragraph 17(d) above, Dr Hand worked in the Geriatrics department of the Bundoora Subacute Care Centre (**Geriatrics rotation**).

Rosters

105. During the Geriatrics rotation, Dr Hand was rostered to work the following shifts:
 - (a) Monday, Tuesday, Thursday and Friday, from 8.30am to 5.00pm;
 - (b) Wednesday from 8.30am to 12.30pm; and
 - (c) one day per week, from the end of his shift at 5.00pm until 8.00pm (**on-call evening shift**).

Particulars

During the Geriatrics rotation, Dr Hand was part of a team comprised of himself and one Registrar (Dr Katrina Sands); and one Consultant (including Dr Louise Monk and Dr Edwina Holbeach) who attended the ward about three times per week.

Copies of Dr Hand's rosters for the Geriatrics rotation are in the possession of the solicitors for the Applicants and available for inspection on request.

Ward round preparation

106. During the Geriatrics rotation, Northern Health directed Dr Hand to undertake ward round preparation before the commencement of ward rounds (**ward round preparation direction**).

Particulars

The ward round preparation direction was partly written and is partly to be inferred.

Insofar as it was in writing, it was contained in clause 23.1 of the 2018 Agreement, which provides that a Doctor's duties include the keeping and maintaining of adequate medical records for patients. Ward round preparation involved the creation of medical records for patients.

Insofar as it is to be inferred, it is inferred from the matters in paragraph 16(a) above, and from the fact that the tasks necessary to complete ward round preparation in the Geriatrics department included the following:

1. identifying and reviewing information regarding new patients who had been admitted overnight;
2. identifying and reviewing patient information to understand any medical issues that may have arisen overnight;
3. reviewing new pathology test results and adding those results to the patient list;
4. ensuring that all patients on the ward were under the correct team bed card;
5. ensuring that the list accurately reflected patient transfers or expected transfers;
6. preparing ward round notes; and
7. printing the patient list.

107. During the Geriatrics rotation, in order to undertake ward round preparation in accordance with the ward round preparation direction, Dr Hand worked hours in excess of rostered hours (**ward round preparation overtime**).

Particulars

During the Geriatrics rotation, all clinicians whose rostered shift commenced at 8.30am were required to attend a handover meeting at 9.00am. Ward rounds commenced immediately after the conclusion of the handover meeting.

Dr Hand was responsible for preparing for ward rounds for approximately 20 patients. In order to ensure he was prepared for ward rounds, Dr Hand arrived at between 8.00am and 8.15am each morning, before his rostered start time of 8.30am.

Further particulars will be provided after discovery and before trial.

108. Northern Health:

- (a) knew that there was insufficient time during rostered hours to undertake ward round preparation in accordance with the ward round preparation direction; and
- (b) knew that Dr Hand performed ward round preparation overtime; and
- (c) did not direct Dr Hand not to perform ward round preparation overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from:

1. the ward round preparation direction; and
2. the tasks necessary to complete ward round preparation, including those matters in the particulars to paragraph 106 above; and
3. Dr Hand's rostered start time of 8.30am;
4. from time to time, Dr Hand's supervisor, Registrar Dr Katrina Sands, attended work prior to 8.30am and saw Dr Hand preparing for ward rounds;
5. the commencement of ward rounds in the Geriatrics department in the circumstances set out in the particulars to paragraph 107 above; and
6. the fact that Dr Hand was prepared at the start of ward rounds conducted by the Consultants and Registrars on duty.

109. By reason of the matters alleged in paragraphs 16(a), 104, 106, and 108 above, the ward round preparation overtime worked by Dr Hand constituted "authorised hours" within the meaning of clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the medical services provided by Dr Hand included ward round preparation before the commencement of ward rounds;

2. Dr Hand's rostered start time of 8.30am;
3. the commencement of ward rounds in the Geriatrics department in the circumstances set out in the particulars to paragraph 107 above;
4. the conduct of Northern Health in giving the ward round preparation direction, as set out in paragraph 106 above;
5. the knowledge of Northern Health, as set out in paragraphs 108(a) and 108(b) above; and
6. the failure by Northern Health to direct Dr Hand not to perform the ward round preparation overtime as set out in paragraph 108(c) above.

110. In the premises, Dr Hand was entitled to be paid overtime for the ward round preparation overtime that he worked, as set out in paragraph 107 above, at the rates set out in clause 36.2(c) of the 2018 Agreement.

111. Northern Health did not pay Dr Hand overtime, in accordance with clause 36.2 of the 2018 Agreement, for the ward round preparation overtime worked by him during the Geriatrics rotation.

112. By reason of the matters alleged above, Northern Health has contravened clause 36.2 of the 2018 Agreement.

113. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

Medical records

114. During the Geriatrics rotation, Northern Health directed Dr Hand:

- (a) to complete medical records for all patients in the Geriatrics department; and
- (b) to complete medical records in a timely manner; and
- (c) that the timely completion of medical records was necessary to ensure patient safety,

(the **medical records direction**).

Particulars

The medical records direction was partly written, partly oral, and is partly to be inferred:

Insofar as it was in writing, it was contained in:

1. clause 23.1 of the 2018 Agreement, which provides that a Doctor's duties include the keeping and maintaining of adequate medical records for patients. Medical records include discharge summaries, outpatient referrals, prescriptions, requests for external hospital medical records, clinical notes, and investigation requests;

Insofar as it is to be inferred, it is inferred from:

2. during the handover meeting at 8.45am each morning, patients who were ready to be discharged were identified by the nurse unit manager. It was necessary for patient's discharge paperwork to be completed before they could be discharged; and
3. a direction provided by the Consultant, Dr Louise Monk or Dr Edwina Holbeach, conducting the ward round each morning, that a particular patient or patients could be discharged early the following day. It was necessary for patient's discharge paperwork to be completed before they could be discharged; and
4. the matters in subparagraph (1) above; and
5. the matters in paragraph 16(f) above.

115. During the Geriatrics rotation, in order to complete medical records in accordance with the medical records direction, Dr Hand worked hours in excess of rostered hours (**medical records overtime**).

Particulars

Dr Hand performed overtime completing medical records including discharge summaries, discharge scripts, requests for pathology or other tests, completing nursing home medication charts, and documenting discussions with family members and allied health.

The medical records overtime was worked by Dr Hand after the conclusion of his rostered shifts, approximately two to three days per week, for about 30 minutes on each occasion.

Further particulars will be provided after discovery and before trial.

116. Northern Health:

- (a) knew that there was insufficient time during rostered hours to complete medical records in accordance with the medical records direction; and
- (b) knew that Dr Hand performed medical records overtime; and
- (c) did not direct Dr Hand not to perform medical records overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from the following matters:

1. the medical records direction;
2. that patients who were identified during the handover meeting and during ward rounds as ready to be discharged, were able to be discharged shortly after the direction was given because their discharge paperwork had been completed; and
3. Dr Hand's rostered hours.

117. By reason of the matters alleged in paragraphs 16(f), 104, 114 and 116 above, the medical records overtime worked by Dr Hand constituted "authorised hours" within the meaning of clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the medical services provided by Dr Hand included the timely completion of medical records;
2. Dr Hand's rostered hours in the Geriatrics rotation as set out in paragraph 105 above;
3. the conduct of Northern Health in giving the medical records direction, as set out in paragraph 114 above;
4. the knowledge of Northern Health, as set out in paragraphs 116(a) and 116(b) above; and
5. the failure by Northern Health to direct Dr Hand not to perform medical records overtime as set out in paragraph 116(c) above.

118. In the premises, Dr Hand was entitled to be paid overtime for the medical records overtime that he worked, as set out in paragraph 115 above, at the rates set out in clause 36.2(c) of the 2018 Agreement.

119. Northern Health did not pay Dr Hand overtime, in accordance with clause 36.2 of the 2018 Agreement, for the medical records overtime worked by him during the Geriatrics rotation.
120. By reason of the matters alleged above, Northern Health has contravened clause 36.2 of the 2018 Agreement.
121. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

Medical communication overtime

122. During the Geriatrics rotation, Northern Health directed Dr Hand to speak with patients and their families and visitors about a patient's condition or treatment (**medical communication direction**).

Particulars

The medical communication direction is to be inferred from:

1. the matters in paragraph 16(g) above;
2. the requirement for Dr Hand to communicate with patients and their families and visitors in order to keep them informed about the patient's treatment and care plans or to obtain information from them relevant to the patient's care.

123. During the Geriatrics rotation, in order to perform medical communication, Dr Hand worked hours in excess of rostered hours (**medical communication overtime**).

Particulars

It was common for the families or visitors of Dr Hand's patients to attend the Bundoora Subacute Care Centre at, close to, or after the rostered finishing time of Dr Hand's shifts which ended at 5.00pm (Mondays, Tuesdays, Thursdays and Fridays, unless he was working an on-call evening shift), and ask to speak to the treating doctor of the patient they were visiting. Dr Hand would speak to family members and visitors in these circumstances, either in person or by telephone. All of the patients admitted to the Bundoora Subacute Care Centre were frail, elderly, and with multiple issues requiring care, and whose adult children and grandchildren were responsible for their care. As the doctor involved in the patient's care, it was necessary for Dr Hand to have these communications.

Dr Hand's conversations with family members and visitors involved discussing test results, treatment plans, and plans for admission to nursing home placement or for in-home care packages to be established, which Dr Hand would then document.

In circumstances where these conversations took place close to or at the end of Dr Hand's rostered shifts which ended at 5.00pm, he was required to work beyond the rostered finishing time of his shift.

Dr Hand performed medical communication overtime after the end of his rostered shifts on Mondays, Tuesdays, Thursdays and Fridays when those shifts finished at 5.00pm, about two or three times per week, for between 15 and 60 minutes on each occasion.

124. Northern Health:

- (a) knew that the medical communication direction could not be performed during rostered hours;
- (b) knew that Dr Hand performed medical communication overtime;
- (c) did not direct Dr Hand not to perform medical communication overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from the following matters:

1. the medical communication direction; and
2. the circumstances set out in the particulars to paragraph 123 above;
3. Dr Hand informed his supervisors, including Dr Katrina Sands, Dr Louise Monk and Dr Edwina Holbeach, the following day that he had performed medical communication overtime;
4. the fact that Dr Hand's rostered hours on Mondays, Tuesdays, Thursdays and Fridays, unless he was working an on-call evening shift, ended at 5.00pm, which was a common time for visitors to arrive;
5. the fact that Dr Hand did not leave work until he had finished the relevant medical communication.

125. By reason of the matters alleged in 16(g), 104, 122 and 124 above, the medical communication overtime worked by Dr Hand constituted “authorised hours” within the meaning of clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. part of the medical services provided by Dr Hand included attending to medical communication;
2. the conduct of Northern Health in giving the medical communication direction, as set out at paragraph 122 above;
3. the knowledge of Northern Health, as set out in paragraphs 124(a) and 124(b) above; and
4. the failure by Northern Health to direct Dr Hand not to perform medical communication overtime as set out in paragraph 124(c) above.

126. In the premises, Dr Hand was entitled to be paid overtime for the medical communications overtime that he worked, as set out in paragraph 123 above, at the rates set out in clause 36.2(c) of the 2018 Agreement.

127. Northern Health did not pay Dr Hand overtime, in accordance with clause 36.2 of the 2018 Agreement, for the medical communications overtime worked by him during the Geriatrics rotation.

128. By reason of the matters alleged above, Northern Health has contravened clause 36.2 of the 2018 Agreement.

129. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

Admissions overtime

130. During the Geriatrics rotation, and when working an on-call evening shift, Northern Health directed Dr Hand to perform patient admissions into the Geriatrics ward of the Bundoora Subacute Care Centre (**admissions direction**).

Particulars

The admissions direction is to be inferred from:

1. the matters in paragraph 16(h) above;
2. the fact that when working the on-call evening shift, Dr Hand was the only doctor on duty in the Geriatrics ward after 5.00pm, and only doctors could admit patients;
3. the tasks necessary to admit a patient, which included:
 - (a) reviewing the paperwork from the admitting hospital, or the Emergency Department, and speaking with the patient's previous doctors, nurses and pharmacist as needed;
 - (b) preparing admission notes, a new medication chart, and the patient's goals of care for their resuscitation status;
 - (c) seeking and/or collating information from the patient's general practitioner or other health services;
 - (d) receiving handover from the patient transfer or paramedic team;
 - (e) examining and assessing the patient, and documenting the examination and assessment; and
 - (f) speaking with nursing staff about the patient's immediate needs.

131. During the Geriatrics rotation, when working an on-call evening shift, in order to perform patient admissions in accordance with the admissions direction, Dr Hand worked hours in excess of rostered hours (**admissions overtime**).

Particulars

From time to time when working an on-call evening shift, Dr Hand was notified that a patient was to be admitted to the Geriatrics ward. When this occurred close to or at the end of a rostered shift, it was necessary for Dr Hand to admit the patient.

Each admission took an average of two hours.

Dr Hand performed admissions overtime when working an on-call evening shift, about once per fortnight, for between one to two hours on each occasion.

Further particulars will be provided after discovery and before trial.

132. Northern Health:

- (a) knew that there was insufficient time during rostered hours to complete patient admissions in accordance with the admissions direction; and

- (b) knew that Dr Hand performed admissions overtime; and
- (c) did not direct Dr Hand not to perform admissions overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from:

1. the admissions direction, including the tasks necessary to complete patient admissions;
2. the fact that when he was working an on-call evening shift, Dr Hand was the sole doctor on duty who could admit patients;
3. from time to time, Dr Hand informed his supervisors, including Dr Katrina Sands, Dr Louise Monk or Dr Edwina Holbeach, that he had admitted a patient at a time after his rostered finish time of 8.00pm.

133. By reason of the matters alleged in paragraphs 16(h), 104, 130, and 132 above, the admissions overtime worked by Dr Hand constituted "authorised hours" within the meaning of clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the medical services provided by Dr Hand included patient admissions;
2. the conduct of Northern Health in giving the admissions direction, as set out in paragraph 130 above;
3. the knowledge of Northern Health, as set out in paragraphs 132(a) and 132(b) above;
4. the failure by Northern Health to direct Dr Hand not to perform the admissions overtime, as set out in paragraph 132(c) above.

134. In the premises, Dr Hand was entitled to be paid overtime for the admissions overtime that he worked, as set out in paragraph 131 above, at the rates set out in clause 36.2(c) of the 2018 Agreement.

135. Northern Health did not pay Dr Hand overtime, in accordance with clause 36.2 of the 2018 Agreement, for the admissions overtime worked by him during the Geriatrics rotation.

136. By reason of the matters alleged above, Northern Health has contravened clause 36.2 of the 2018 Agreement.

137. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

Medical emergencies overtime

138. During the Geriatrics rotation, and when working an on-call evening shift, Northern Health directed Dr Hand to attend to medical emergencies (**medical emergency direction**).

Particulars

The medical emergency direction is to be inferred from:

1. the matters in paragraph 16(e) above;
2. from time to time during the Geriatrics rotation, Dr Hand was alerted to a medical emergency by a message from nursing staff. Dr Hand would attend to the call and assess and examine the patient, and on occasion, determine that the patient needed to be transferred to the Northern Hospital emergency department (**emergency transfer**);
3. the nature of work in the Geriatrics ward, being that patients occasionally suffered a clinical deterioration requiring emergency transfer;
4. the clinical requirement for Dr Hand to attend to medical emergencies in order to ensure proper patient care and safety;
4. the fact that when working the on-call evening shift, Dr Hand was the only doctor on duty in the Geriatrics ward after 5.00pm, and only doctors could transfer patients to the Emergency Department;
5. the tasks necessary to conduct an emergency transfer, which included:
 - (a) assessing and examining the patient;
 - (b) reviewing the patient's notes, medical record, medications and care;
 - (c) conferring with nursing staff and the patient's family;
 - (d) liaising with the Emergency Department at Northern Hospital;
 - (e) documenting the transfer;

- (f) remaining present until the patient transfer vehicle or ambulance arrived; and
- (g) providing handover to the transfer medical staff.

139. During the Geriatrics rotation, when working an on-call evening shift, in order to attend to medical emergencies, Dr Hand worked hours in excess of rostered hours (**medical emergency overtime**).

Particulars

From time to time when working an on-call evening shift, Dr Hand was notified that a patient was to be admitted to the Geriatrics ward. When this occurred close to or at the end of a rostered shift, it was necessary for Dr Hand to admit the patient.

An emergency transfer could take anywhere between one to three hours, depending on the length of time it took for the patient to be transferred. It was necessary for Dr Hand to remain on duty until the patient was transferred into the care of the Emergency Department.

Dr Hand performed medical emergency overtime when working an on-call evening shift, about once per fortnight, for between 30 to 90 minutes.

Further particulars will be provided after discovery and before trial.

140. Northern Health:

- (a) knew that there was insufficient time during rostered hours to attend to medical emergencies in accordance with the medical emergency direction;
- (b) knew that Dr Hand performed medical emergency overtime;
- (c) did not direct Dr Hand not to perform medical emergency overtime.

Particulars

The knowledge of Northern Health was held by at least Dr Hand's supervisors, and is to be inferred from:

1. the medical emergency direction, including the tasks necessary to complete an emergency transfer;
2. the fact that when he was working an on-call evening shift, Dr Hand was the sole doctor on duty who could transfer patients;

3. from time to time, Dr Hand informed his supervisors, including Dr Katrina Sands, Dr Louise Monk or Dr Edwina Holbeach that he had transferred a patient at a time after his rostered finish time of 8.00pm.

141. By reason of the matters alleged in paragraphs 16(e), 104, 138 and 140 above, the medical emergency overtime worked by Dr Hand constituted “authorised hours” within the meaning of clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. part of the medical services provided by Dr Hand included attending to medical emergencies;
2. the medical emergency direction;
3. the circumstances in which medical emergencies occurred from time to time, in the circumstances described in the particulars to paragraph 139 above;
4. the knowledge of Northern Health, as set out in paragraphs 140(a) and 140(b) above; and
5. the failure by Northern Health to direct Dr Hand not to perform medical emergency overtime as set out in paragraph 140(c) above.

142. In the premises, Dr Hand was entitled to be paid overtime for the medical emergency overtime that he worked, as set out in paragraph 139 above, at the rates set out in clause 36.2(c) of the 2018 Agreement.

143. Northern Health did not pay Dr Hand overtime, in accordance with clause 36.2 of the 2018 Agreement, for the medical emergency overtime worked by him during the Geriatrics rotation.

144. By reason of the matters alleged above, Northern Health has contravened clause 36.2 of the 2018 Agreement.

145. By reason of the matters alleged in the above paragraph, Northern Health has contravened s 50 of the FW Act.

D5 Loss

146. Dr Hand has suffered loss by reason of Northern Health's contraventions of s 50 of the FW Act.

Particulars

Particulars will be provided after discovery and before trial.

E GROUP MEMBERS' CLAIMS

147. Each Group Member, in the course of their employment by Northern Health during the Relevant Period:

- (a) worked in one or more of the services operated by Northern Health as set out in paragraph 1(d) above; and
- (b) was rostered to work 38 ordinary hours per week, or an average of 38 hours per week for up to 4 weeks.

E1 Ward round preparation overtime

148. Some or all Group Members, in the course of their employment by Northern Health during the Relevant Period, were subject to a direction to prepare for ward rounds before the commencement of ward rounds.

Particulars

The direction was partly written and partly implied.

Insofar as it was in writing, it was contained in clause 14.1 of the 2013 Agreement and clause 23.1 of the 2018 Agreement, which provided that a Doctor's duties included the keeping and maintaining of adequate medical records for patients. Ward round preparation involved the creation of medical records for patients.

Insofar as it was implied, it was implied by the matters in paragraph 16(a) above, where ward rounds were conducted in a particular ward or department of a service operated by Northern Health as set out in paragraph 1(d) above.

Further, preparation for ward rounds was a duty and responsibility of all Group Members who provided medical services, and who worked in a ward or department where ward rounds were conducted. The direction to prepare for ward rounds is a necessary implication from the fact of the duty and responsibility.

149. Each Group Member subject to the direction in paragraph 148 above worked overtime in excess of rostered hours to prepare for ward rounds, in accordance with that direction.

150. In respect of each Group Member in paragraph 149 above, Northern Health:

- (a) knew that there was insufficient time during rostered hours to prepare for ward rounds, in accordance with the direction in paragraph 148 above;
- (b) knew that Group Members worked overtime to prepare for ward rounds;
- (c) did not direct Group Members not to perform ward round preparation overtime.

Particulars

The knowledge of Northern Health is to be inferred from at least the following matters:

1. the direction pleaded in paragraph 148 above;
2. the tasks necessary to complete ward round preparation including, but not limited to, the need to review patient records prepared by overnight staff including admissions, pathology test results, and notes prepared by clinicians;
3. the rostered hours for each ward where ward rounds were conducted;
4. the time for the commencement of ward rounds in each ward;
and
5. that Group Members had completed ward round preparation when ward rounds commenced each morning.

151. Northern Health did not pay Group Members overtime:

- (a) from the start of the Relevant Period until 6 August 2018, in accordance with clause 32.2 of the 2013 Agreement; and
 - (b) from 7 August 2018, in accordance with clause 36.2 of the 2018 Agreement,
- for the ward round preparation overtime in paragraph 149 above worked by them.

152. The ward round preparation overtime worked by Group Members constituted “authorised hours” within the meaning of:

- (a) clause 32.2.1(b) of the 2013 Agreement; and

- (b) clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the work performed by the Group Member was the provision of medical services which included preparation for ward rounds before the commencement of ward rounds;
2. the conduct of Northern Health in giving the direction set out in paragraph 148 above;
3. the knowledge of Northern Health, as set out in paragraphs 150(a) and 150(b) above; and
4. the failure by Northern Health to direct Group Members not to perform the overtime set out in paragraph 149 above, as set out in paragraph 150(c) above.

153. In the premises, Group Members were entitled to be paid overtime for the ward round preparation overtime they worked as set out in paragraph 149 above, at the rates set out in clause 32.2.2 of the 2013 Agreement and clause 36.2(c) of the 2018 Agreement.

154. By reason of the matters alleged in paragraphs 151 and 153 above, Northern Health has contravened:

(a) clause 32.2 of the 2013 Agreement; and

(b) clause 36.2 of the 2018 Agreement.

155. By reason of the matters in the paragraph above, Northern Health has contravened s 50 of the FW Act.

E2 Ward round overtime

156. Some or all Group Members, in the course of their employment by Northern Health during the Relevant Period, were subject to a direction to undertake ward rounds outside of rostered hours.

Particulars

The direction was partly oral and partly implied.

Insofar as it was oral, it was given by a Group Member's supervisor directing the Doctor to undertake a ward round commencing at or

immediately before or after a Doctor's rostered start or finish time, which necessitated working outside rostered hours.

Insofar as it was implied, it was implied by the matters in paragraph 16(b) above, where ward rounds were undertaken in a particular ward or department of a service operated by Northern Health as set out in paragraph 1(d) above.

Further, conducting ward rounds was a duty and responsibility of all Group Members who provided medical services, and who worked in a ward or department where ward rounds were conducted. The direction to undertake for ward rounds is a necessary implication from the fact of the duty and responsibility.

157. Each Group Member subject to the direction in paragraph 156 above worked overtime in excess of rostered hours to undertake ward rounds, in accordance with that direction.

158. In respect of each Group Member in paragraph 157 above, Northern Health:

- (a) knew that there was insufficient time during rostered hours to undertake ward rounds, in accordance with the direction in paragraph 156 above;
- (b) knew that Group Members worked overtime to undertake ward rounds;
- (c) did not direct Group Members not to undertake ward round overtime.

Particulars

The knowledge of Northern Health is to be inferred from at least the following matters:

- 1. the direction pleaded in paragraph 156 above;
- 2. the tasks necessary to undertake ward rounds; and
- 3. the rostered hours for each ward where ward rounds were undertaken.

159. Northern Health did not pay Group Members overtime:

- (a) from the start of the Relevant Period until 6 August 2018, in accordance with clause 32.2 of the 2013 Agreement; and
 - (b) from 7 August 2018, in accordance with clause 36.2 of the 2018 Agreement,
- for the ward round overtime in paragraph 157 above worked by them.

160. The ward round overtime worked by Group Members constituted “authorised hours” within the meaning of:

- (a) clause 32.2.1(b) of the 2013 Agreement; and
- (b) clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the work performed by the Group Member was the provision of medical services which included undertaking ward rounds;
2. the conduct of Northern Health in giving the direction set out in paragraph 156 above;
3. the knowledge of Northern Health, as set out in paragraphs 158(a) and 158(b) above; and
4. the failure by Northern Health to direct Group Members not to perform the overtime set out in paragraph 157 above, as set out in paragraph 158(c) above.

161. In the premises, Group Members were entitled to be paid overtime for the ward round overtime they worked as set out in paragraph 157 above, at the rates set out in clause 32.2.2 of the 2013 Agreement and clause 36.2(c) of the 2018 Agreement.

162. By reason of the matters alleged in paragraphs 159 and 161 above, Northern Health has contravened:

- (a) clause 32.2 of the 2013 Agreement; and
- (b) clause 36.2 of the 2018 Agreement.

163. By reason of the matters in the paragraph above, Northern Health has contravened s 50 of the FW Act.

E3 Handover overtime

164. Some or all Group Members, in the course of their employment by Northern Health during the Relevant Period, were subject to a direction to conduct handover outside of rostered hours.

Particulars

The direction was partly oral and partly implied.

Insofar as it was oral, it was given by a Group Member's supervisor directing the Doctor to conduct a handover commencing at or immediately before or after a Doctor's rostered start or finish time, which necessitated working outside rostered hours.

Insofar as it was implied, it was implied by the matters in paragraph 16(c) above, where handover was conducted in a particular ward or department of a service operated by Northern Health as set out in paragraph 1(d) above.

Further, handover was a duty and responsibility of all Group Members who provided medical services, and who worked in a ward or department where handovers were conducted. The direction to undertake handover is a necessary implication from the fact of the duty and responsibility.

165. Each Group Member subject to the direction in paragraph 164 above worked overtime in excess of rostered hours to conduct handover, in accordance with that direction.

166. In respect of each Group Member in paragraph 165 above, Northern Health:

- (a) knew that there was insufficient time during rostered hours to conduct handover, in accordance with the direction in paragraph 164 above;
- (b) knew that Group Members worked overtime to conduct handover;
- (c) did not direct Group Members not to conduct handover overtime.

Particulars

The knowledge of Northern Health is to be inferred from at least the following matters:

1. the direction pleaded in paragraph 164 above;
2. the rostered hours for each ward or department where handover was conducted;
3. the time for the commencement of handover in each ward or department; and
4. the tasks necessary to conduct handover.

167. Northern Health did not pay Group Members overtime:
- (a) from the start of the Relevant Period until 6 August 2018, in accordance with clause 32.2 of the 2013 Agreement; and
 - (b) from 7 August 2018, in accordance with clause 36.2 of the 2018 Agreement,
- for the handover overtime in paragraph 165 above worked by them.
168. The handover overtime worked by Group Members constituted “authorised hours” within the meaning of:
- (a) clause 32.2.1(b) of the 2013 Agreement; and
 - (b) clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the work performed by the Group Member was the provision of medical services which included conducting handover;
2. the conduct of Northern Health in giving the direction set out in paragraph 164 above;
3. the knowledge of Northern Health, as set out in paragraphs 166(a) and 166(b) above; and
4. the failure by Northern Health to direct Group Members not to perform the overtime set out in paragraph 165 above, as set out in paragraph 166(c) above.

169. In the premises, Group Members were entitled to be paid overtime for the handover overtime they worked as set out in paragraph 165 above, at the rates set out in clause 32.2.2 of the 2013 Agreement and clause 36.2(c) of the 2018 Agreement.
170. By reason of the matters alleged in paragraphs 167 and 169 above, Northern Health has contravened:
- (a) clause 32.2 of the 2013 Agreement; and
 - (b) clause 36.2 of the 2018 Agreement.

171. By reason of the matters in the paragraph above, Northern Health has contravened s 50 of the FW Act.

E4 Medical procedures preparation overtime

172. Some or all Group Members, in the course of their employment by Northern Health during the Relevant Period, were subject to a direction to prepare for medical procedures outside of rostered hours.

Particulars

The direction was partly oral and partly implied.

Insofar as it was oral, it was given by a Group Member's supervisor directing the Doctor to prepare for medical procedures which commenced at or immediately before or after a Doctor's rostered start or finish time, which necessitated working outside rostered hours.

Insofar as it was implied, it was implied by the matters in paragraph 16(d) above, where medical procedures were performed in a particular ward or department of a service operated by Northern Health as set out in paragraph 1(d) above.

Further, preparation for medical procedures was a duty and responsibility of all Group Members who provided medical services, and who worked in a ward or department where medical procedures were conducted. The direction to prepare for medical procedures is a necessary implication from the fact of the duty and responsibility.

173. Each Group Member subject to the direction in paragraph 172 above worked overtime in excess of rostered hours to prepare for medical procedures, in accordance with that direction.

174. In respect of each Group Member in paragraph 173 above, Northern Health:

- (a) knew that there was insufficient time during rostered hours to prepare for medical procedures in accordance with the direction in paragraph 172 above;
- (b) knew that Group Members worked overtime to prepare for medical procedures;
- (c) did not direct Group Members not to conduct medical procedures preparation overtime.

Particulars

The knowledge of Northern Health is to be inferred from at least the following matters:

1. the direction pleaded in paragraph 172 above;
2. the tasks necessary to prepare for medical procedures; and
3. the rostered hours for each ward or department where medical procedures were performed.

175. Northern Health did not pay Group Members overtime:

(a) from the start of the Relevant Period until 6 August 2018, in accordance with clause 32.2 of the 2013 Agreement; and

(b) from 7 August 2018, in accordance with clause 36.2 of the 2018 Agreement,

for the medical procedures preparation overtime in paragraph 173 above worked by them.

176. The medical procedures preparation overtime worked by Group Members constituted “authorised hours” within the meaning of:

(a) clause 32.2.1(b) of the 2013 Agreement; and

(b) clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the work performed by the Group Member was the provision of medical services which included preparing for medical procedures;
2. the conduct of Northern Health in giving the direction set out in paragraph 172 above;
3. the knowledge of Northern Health, as set out in paragraphs 174(a) and 174(b) above; and
4. the failure by Northern Health to direct Group Members not to perform the overtime set out in paragraph 173 above, as set out in paragraph 174(c) above.

177. In the premises, Group Members were entitled to be paid overtime for the medical procedures preparation overtime they worked as set out in paragraph 173 above, at the

rates set out in clause 32.2.2 of the 2013 Agreement and clause 36.2(c) of the 2018 Agreement.

178. By reason of the matters alleged in paragraphs 175 and 177 above, Northern Health has contravened:

- (a) clause 32.2 of the 2013 Agreement; and
- (b) clause 36.2 of the 2018 Agreement.

179. By reason of the matters in the paragraph above, Northern Health has contravened s 50 of the FW Act.

E5 Medical emergency overtime

180. Some or all Group Members, in the course of their employment by Northern Health during the Relevant Period, were subject to a direction to attend to medical emergencies outside of rostered hours.

Particulars

The direction was partly oral and partly implied.

Insofar as it was oral, it was given by a Group Member's supervisor directing the Doctor to attend to medical emergencies commencing at or immediately before or after a Doctor's rostered start or finish time, which necessitated working outside rostered hours.

Insofar as it was implied, it was implied by the matters in paragraph 16(e) above, where patients were treated in a particular ward or department of a service operated by Northern Health as set out in paragraph 1(d) above.

Further, attending to medical emergencies was a duty and responsibility of all Group Members who provided medical services, and who worked in a ward or department where medical emergencies occurred. The direction to attend medical emergencies is a necessary implication from the fact of the duty and responsibility.

181. Each Group Member subject to the direction in paragraph 180 above worked overtime in excess of rostered hours to attend to medical emergencies, in accordance with that direction.

182. In respect of each Group Member in paragraph 181 above, Northern Health:

- (a) knew that there was insufficient time during rostered hours to attend to medical emergencies, in accordance with the direction in paragraph 180 above;
- (b) knew that Group Members worked overtime to attend to medical emergencies;
- (c) did not direct Group Members not to conduct medical emergency overtime.

Particulars

The knowledge of Northern Health is to be inferred from at least the following matters:

- 1. the direction pleaded in paragraph 180 above;
- 2. the tasks necessary to attend to medical emergencies;
- 3. the rostered hours for each ward or department where medical emergencies occurred.

183. Northern Health did not pay Group Members overtime:

- (a) from the start of the Relevant Period until 6 August 2018, in accordance with clause 32.2 of the 2013 Agreement; and
 - (b) from 7 August 2018, in accordance with clause 36.2 of the 2018 Agreement,
- for the medical emergency overtime in paragraph 181 above worked by them.

184. The medical emergency overtime worked by Group Members constituted “authorised hours” within the meaning of:

- (a) clause 32.2.1(b) of the 2013 Agreement; and
- (b) clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

- 1. the work performed by the Group Member was the provision of medical services which included attending to medical emergencies;
- 2. the conduct of Northern Health in giving the direction set out in paragraph 180 above;

3. the knowledge of Northern Health, as set out in paragraphs 182(a) and 182(b) above; and
4. the failure by Northern Health to direct Group Members not to perform the overtime set out in paragraph 181 above, as set out in paragraph 182(c) above.

185. In the premises, Group Members were entitled to be paid overtime for the medical emergency overtime they worked as set out in paragraph 181 above, at the rates set out in clause 32.2.2 of the 2013 Agreement and clause 36.2(c) of the 2018 Agreement.

186. By reason of the matters alleged in paragraphs 183 and 185 above, Northern Health has contravened:

- (a) clause 32.2 of the 2013 Agreement; and
- (b) clause 36.2 of the 2018 Agreement.

187. By reason of the matters in the paragraph above, Northern Health has contravened s 50 of the FW Act.

E6 Medical records overtime

188. Further, some or all Group Members, in the course of their employment by Northern Health during the Relevant Period, were subject to a direction to complete medical records in a timely manner.

Particulars

The direction was partly written and partly implied.

Insofar as it was in writing, it was contained in clause 14.1 of the 2013 Agreement and clause 23.1 of the 2018 Agreement, which provided that a Doctor's duties included the keeping and maintaining of adequate medical records for patients.

Insofar as it was implied, it was implied by the matters in paragraph 16(f) above, where medical records were completed in a particular ward or department of a service operated by Northern Health as set out in paragraph 1(d) above.

Further, completing medical records was a duty and responsibility of all Group Members who provided medical services, and who worked in a ward or department where medical records were completed. The direction to complete medical records is a necessary implication from the fact of the duty and responsibility.

189. Each Group Member subject to the direction in paragraph 188 above worked overtime in excess of rostered hours to complete medical records, in accordance with that direction.

190. In respect of each Group Member in paragraph 189 above, Northern Health:

- (a) knew that there was insufficient time during rostered hours to complete medical records in accordance with the direction in paragraph 188 above; and
- (b) knew that Group Members worked overtime to complete medical records; and
- (c) did not direct Group Members not to perform medical records overtime.

Particulars

The knowledge of Northern Health is to be inferred from at least the following matters:

1. the direction pleaded in paragraph 188 above;
2. the volume of patient medical records required to be completed in a timely manner, which included discharge summaries, outpatient referrals, prescriptions, requests for external hospital medical records, clinical notes and investigation requests; and
3. the rostered hours for each ward or department where medical records were required to be completed.

191. Northern Health did not pay Group Members overtime:

- (a) from the start of the Relevant Period until 6 August 2018, in accordance with clause 32.2 of the 2013 Agreement; and
 - (b) from 7 August 2018, in accordance with clause 36.2 of the 2018 Agreement,
- for the medical records overtime in paragraph 189 worked by them.

192. The medical records overtime worked by Group Members constituted “authorised hours” within the meaning of:

- (a) clause 32.2.1(b) of the 2013 Agreement; and
- (b) clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. that the work performed by Group Members was the provision of medical services which included the completion of medical records in a timely manner;
2. the conduct of Northern Health in giving the direction in paragraph 188 above;
3. the knowledge of Northern Health, as set out in paragraphs 190(a) and 190(b) above; and
4. the failure by Northern Health to direct Group Members not to perform the overtime set out in paragraph 189 above, as set out in paragraph 190(c) above.

193. In the premises, Group Members were entitled to be paid overtime for the medical records overtime they worked, as set out in paragraph 189 above, at the rates set out in clause 32.2.2 of the 2013 Agreement and clause 36.2(c) of the 2018 Agreement.

194. By reason of the matters alleged in paragraphs 191 and 193 above, Northern Health has contravened:

- (a) clause 32.2 of the 2013 Agreement; and
- (b) clause 36.2 of the 2018 Agreement.

195. By reason of the matters in the paragraph above, Northern Health has contravened s 50 of the FW Act.

E7 Medical communication overtime

196. Some or all Group Members, in the course of their employment by Northern Health during the Relevant Period, were subject to a direction to speak with patients and their families and visitors about patient treatment, outside of rostered hours.

Particulars

The direction was partly oral and partly implied.

Insofar as it was oral, it was conveyed to Group Members by their supervisors from time to time.

Insofar as it was implied, it was implied by the matters in paragraph 16(g) above, where Group Members were required to communicate with patients and their families and visitors in

order to keep them informed about the patient's treatment and care plans or to obtain information from them relevant to the patient's care.

Further, conducting medical communications was a duty and responsibility of all Group Members who provided medical services, and who worked in a ward or department where communicating with the patients, patients' families and visitors was required. The direction to conduct medical communications is a necessary implication from the fact of the duty and responsibility.

197. Each Group Member subject to the direction in paragraph 196 above worked overtime in excess of rostered hours to communicate with patients and their families and visitors, in accordance with that direction.

198. In respect of each Group Member in paragraph 197 above, Northern Health:

- (a) knew that there was insufficient time during rostered hours for Group Members to communicate with patients and their families and visitors in accordance with the direction in paragraph 196 above; and
- (b) knew that Group Members worked overtime to communicate with patients and their families and visitors; and
- (c) did not direct Group Members not to work overtime communicating with patients and their families and visitors.

Particulars

The knowledge of Northern Health is to be inferred from at least the following matters:

1. the direction pleaded in paragraph 196 above;
2. the rostered hours for each ward or department in which Group Members were required to be communicate with patients, their families and visitors; and
3. the rostered hours for each ward or department where medical communication with patients and their families and visitors was required.

199. Northern Health did not pay Group Members overtime:
- (a) from the start of the Relevant Period until 6 August 2018, in accordance with clause 32.2 of the 2013 Agreement; and
 - (b) from 7 August 2018, in accordance with clause 36.2 of the 2018 Agreement,
- for the medical communication overtime in paragraph 197 above worked by them.
200. The medical communication overtime worked by Group Members constituted “authorised hours” within the meaning of:
- (a) clause 32.2.1(b) of the 2013 Agreement; and
 - (b) clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. that the work performed by Group Members was the provision of medical services which included communication with patients, their families and visitors;
2. the conduct of Northern Health in giving the direction in paragraph 196 above;
3. the knowledge of Northern Health, as set out in paragraphs 198(a) and 198(b) above; and
4. the failure by Northern Health to direct Group Members not to perform medical communication overtime, as set out in paragraph 198(c) above.

201. In the premises, Group Members were entitled to be paid overtime for the medical communication overtime they worked, as set out in paragraph 197 above, at the rates set out in clause 32.2.2 of the 2013 Agreement and clause 36.2(c) of the 2018 Agreement.
202. By reason of the matters alleged in paragraphs 199 and 201 above, Northern Health has contravened:
- (a) clause 32.2 of the 2013 Agreement; and
 - (b) clause 36.2 of the 2018 Agreement.

203. By reason of the matters in the paragraph above, Northern Health has contravened s 50 of the FW Act.

E8 Admissions overtime

204. Further, some or all Group Members, in the course of their employment by Northern Health during the Relevant Period, were subject to a direction to perform patient admissions into the ward or department where the Group Member was working, outside of rostered hours.

Particulars

The direction was partly oral, and is partly to be inferred.

Insofar as it was oral, it was in the form of a senior medical practitioner directing a Group Member to admit a patient to the ward or department where the Group Member was working.

Insofar as it is to be inferred, it is inferred from the matters in paragraph 16(h) above, and as a result of the expectation that Group Members would do the work that was required in order to admit patients, as part of the medical services performed by those Group Members in that ward or department.

The tasks performed by Group Members in admitting a patient included:

1. taking a thorough history from the patient;
2. documenting any patient medication, and charting any medication required by the patient;
3. examining the patient; and
4. writing a care plan for the patient.

Further, admitting patients onto a ward or department was a duty and responsibility of all Group Members who provided medical services, and who worked in a ward or department that patients were admitted into. The direction to admit a patient to the ward or department is a necessary implication from the fact of the duty and responsibility.

205. Each Group Member subject to the direction in paragraph 204 above worked overtime in excess of rostered hours to admit patients, in accordance with that direction.

206. In respect of each Group Member in paragraph 205 above, Northern Health:

- (a) knew that there was insufficient time during rostered hours to admit patients in accordance with the direction in paragraph 204 above; and

- (b) knew that Group Members worked overtime to admit patients; and
- (c) did not direct Group Members not to work overtime admitting patients.

Particulars

The knowledge of Northern Health is to be inferred from at least the following matters:

1. the direction pleaded in paragraph 204 above;
2. the tasks necessary to complete patient admissions, including those matters in the particulars to paragraph 204 above; and
3. the rostered hours for each ward or department where patients were admitted.

207. Northern Health did not pay Group Members overtime:

- (a) from the start of the Relevant Period until 6 August 2018, in accordance with clause 32.2 of the 2013 Agreement; and
- (b) from 7 August 2018, in accordance with clause 36.2 of the 2018 Agreement, for the admissions overtime in paragraph 205 above worked by them.

208. The admissions overtime worked by Group Members constituted “authorised hours” within the meaning of:

- (a) clause 32.2.1(b) of the 2013 Agreement; and
- (b) clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. that the work performed by Group Members was the provision of medical services which included patient admissions;
2. the conduct of Northern Health in giving the direction in paragraph 204 above;
3. the knowledge of Northern Health, as set out in paragraphs 206(a) and 206(b) above; and
4. the failure by Northern Health to direct Group Members not to perform admissions overtime, as set out in paragraph 206(c) above.

209. In the premises, Group Members were entitled to be paid overtime for the admissions overtime they worked, as set out in paragraph 205 above, at the rates set out in clause 32.2.2 of the 2013 Agreement and clause 36.2(c) of the 2018 Agreement.

210. By reason of the matters alleged in paragraphs 207 and 209 above, Northern Health has contravened:

(a) clause 32.2 of the 2013 Agreement; and

(b) clause 36.2 of the 2018 Agreement.

211. By reason of the matters in the paragraph above, Northern Health has contravened s 50 of the FW Act.

E9 Outpatient care overtime

212. Some or all Group Members, in the course of their employment by Northern Health during the Relevant Period, were subject to a direction to provide medical services outside of rostered hours to outpatients who had appointments or were referred to a clinic.

Particulars

The outpatient care direction was partly oral and is partly to be inferred.

Insofar as it was oral, the direction was given from time to time by a Group Member's supervisor requesting that they attend to an outpatient in a clinic.

Insofar as it is to be inferred, it is to be inferred from the matters in paragraph 16(i) above, and as a result of the expectation that Group Members would provide medical services to outpatients in a clinic, where that service was provided by Northern Health at one of the locations set out in paragraph 1(d) above.

Further, providing medical services in a clinic was a duty and responsibility of all Group Members who provided medical services, and who worked at one of the services operated by Northern Health, where outpatient care was provided in a clinic. The direction to provide medical services to outpatients in a clinic is a necessary implication from the fact of the duty and responsibility.

213. Each Group Member subject to the direction in paragraph 212 above worked overtime in excess of rostered hours to provide medical services to outpatients, in accordance with that direction.

214. In respect of each Group Member in paragraph 213 above, Northern Health:

- (a) knew that there was insufficient time during rostered hours to provide medical care to outpatients in clinics in accordance with the direction in paragraph 213 above; and
- (b) knew that Group Members worked overtime to provide medical care to outpatients in clinics; and
- (c) did not direct Group Members not to work overtime providing medical care to outpatients in clinics.

Particulars

The knowledge of Northern Health is to be inferred from at least the following matters:

1. the direction pleaded in paragraph 212 above;
2. the tasks necessary for the provision of care to outpatients in clinics; and
3. The rostered hours for each ward or department where outpatient services were provided.

215. Northern Health did not pay Group Members overtime:

- (a) from the start of the Relevant Period until 6 August 2018, in accordance with clause 32.2 of the 2013 Agreement; and
 - (b) from 7 August 2018, in accordance with clause 36.2 of the 2018 Agreement,
- for the outpatient care overtime in paragraph 213 above worked by them.

216. The outpatient care overtime worked by Group Members constituted “authorised hours” within the meaning of:

- (a) clause 32.2.1(b) of the 2013 Agreement; and

- (b) clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the work performed by Group Members was the provision of medical services which included providing care to outpatients in clinics;
2. The conduct of Northern Health in giving the direction in paragraph 212 above;
3. The knowledge of Northern Health, as set out in paragraphs 214(a) and 214(b) above; and
4. The failure by Northern Health to direct Group Members not to perform outpatient care overtime, as set out in paragraph 214(c) above.

217. In the premises, Group Members were entitled to be paid overtime for the outpatient care overtime they worked, as set out in paragraph 213 above, at the rates set out in clause 32.2.2 of the 2013 Agreement and clause 36.2(c) of the 2018 Agreement.

218. By reason of the matters alleged in paragraphs 215 and 217 above, Northern Health has contravened:

- (a) clause 32.2 of the 2013 Agreement; and
- (b) clause 36.2 of the 2018 Agreement.

219. By reason of the matters in the paragraph above, Northern Health has contravened s 50 of the FW Act.

E10 Other medical services overtime

220. Some or all Group Members, in the course of their employment by Northern Health during the Relevant Period, were subject to a direction to provide medical services (other than the medical services set out in paragraph 16(a) to (i) above) (**other medical services**) outside of rostered hours.

Particulars

The direction was partly oral and partly implied.

Insofar as it was oral, it was given by a Group Member's supervisor directing the Doctor to provide other medical services commencing at or immediately before or after a Doctor's rostered start or finish time, which necessitated working outside rostered hours.

Insofar as it was implied, it was implied by the matters in paragraph 16(j) above, at a particular ward or department of a service operated by Northern Health as set out in paragraph 1(d) above.

Further, providing medical services was a duty and responsibility of all Group Members who provided medical services, and who worked in a ward or department where medical services were provided. The direction to undertake medical services is a necessary implication from the fact of the duty and responsibility.

221. Each Group Member subject to the direction in paragraph 220 above worked overtime in excess of rostered hours to provide other medical services, in accordance with that direction.

222. In respect of each Group Member in paragraph 221 above, Northern Health:

- (a) knew that there was insufficient time during rostered hours to provide other medical services in accordance with the direction in paragraph 220 above;
- (b) knew that Group Members worked overtime to provide other medical services;
- (c) did not direct Group Members not to provide other medical services overtime.

Particulars

The knowledge of Northern Health is to be inferred from at least the following matters:

1. the direction pleaded in paragraph 220 above; and
2. the rostered hours for each ward or department where medical services were provided.

223. Northern Health did not pay Group Members overtime:

- (a) from the start of the Relevant Period until 6 August 2018, in accordance with clause 32.2 of the 2013 Agreement; and
 - (b) from 7 August 2018, in accordance with clause 36.2 of the 2018 Agreement,
- for the other medical services overtime in paragraph 221 above worked by them.

224. The other medical services overtime worked by Group Members constituted “authorised hours” within the meaning of:

- (a) clause 32.2.1(b) of the 2013 Agreement; and
- (b) clause 36.2(a)(ii) of the 2018 Agreement.

Particulars

Authorisation is implied from the following matters:

1. the work performed by the Group Member was the provision of medical services;
2. the conduct of Northern Health in giving the direction set out in paragraph 220 above;
3. the knowledge of Northern Health, as set out in paragraphs 222(a) and 222(b) above; and
4. the failure by Northern Health to direct Group Members not to perform the overtime set out in paragraph 221 above, as set out in paragraph 222(c) above.

225. In the premises, Group Members were entitled to be paid overtime for providing other medical services as set out in paragraph 221 above, at the rates set out in clause 32.2.2 of the 2013 Agreement and clause 36.2(c) of the 2018 Agreement.

226. By reason of the matters alleged in paragraphs 223 and 225 above, Northern Health has contravened:

- (a) clause 32.2 of the 2013 Agreement; and
- (b) clause 36.2 of the 2018 Agreement.

227. By reason of the matters in the paragraph above, Northern Health has contravened s 50 of the FW Act.

E8 Loss and damage

228. Some or all Group Members suffered loss by reason of Northern Health’s contraventions of s 50 of the FW Act.

AND THE APPLICANTS CLAIM

The Applicants claim on their own behalf and on behalf of the Group Members the relief set out in the Originating Application.

Date: 20 December 2021



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Signed by Andrew Grech
Lawyer for the Applicants

This pleading was prepared by K Burke of counsel

Certificate of lawyer

I, Andrew Grech, 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: 20 December 2021



Signed by Andrew Grech
Lawyer for the Applicants