

Form 20 - Notice of filing of application for recognition of foreign proceeding
(rule 15A.6)

Form 21 – Notice of making of order under the *Cross-Border Insolvency Act 2008*
(rule 15A.7)

IN THE FEDERAL COURT OF AUSTRALIA

No. NSD 1868 of 2016

PUMPKIN PATCH ORIGINALS LIMITED (ADMINISTRATORS APPOINTED) (IN RECEIVERSHIP)

ABN: 61 083 321 046

TO all the creditors of Pumpkin Patch Originals Limited (Administrators Appointed) (In Receivership) (**PPOL**)

TAKE NOTICE that:

Filing of application for recognition of foreign proceeding

1. An application under the *Cross-Border Insolvency Act 2008* for recognition of a foreign proceeding in relation to PPOL was commenced by the plaintiffs, Joseph David Hayes, Andrew John Grenfell and Conor John McElhinney, in their capacity as foreign representatives of PPOL, on 26 October 2016 and will be heard by the Federal Court of Australia (located at Law Courts Building, Queens Square, Sydney NSW 2000) at 9:15am on 10 November 2016. Copies of documents filed may be obtained from the plaintiffs' address for service.
2. The plaintiffs' address for service is: c/- Clayton Utz, 1 Bligh Street, Sydney NSW 2000 (Attention: Karen O'Flynn).
3. Any person intending to appear at the hearing must file a notice of appearance, in accordance with the prescribed form, together with any affidavit on which the person intends to rely, and serve a copy of the notice and any affidavit on the plaintiffs at the plaintiffs' address for service at least 3 days before the date fixed for the hearing.
4. If you are a foreign creditor you must file in the registry of the Court at the address mentioned in paragraph 1 an affidavit setting out the details of any claim, secured or unsecured, that you may have against the company above at least 3 days before the date fixed for the hearing.

Making of order under Article 19 of the *Cross-Border Insolvency Act 2008*

5. On 26 October 2016, the Federal Court of Australia in Proceeding No. NSD 1868 of 2016, commenced by the plaintiffs, Joseph David Hayes, Andrew John Grenfell and Conor John McElhinney in their capacity as foreign representatives of PPOL, relevantly made the following orders under the *Cross-Border Insolvency Act 2008* in relation to PPOL (being the defendant to the Proceeding):
 - (a) Until the date set out in order (b) below or until further order, pursuant to Article 19 of the Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law (**Model Law**), but subject to the rights of, or which would apply to, any secured party, receiver, receiver and manager or controller (each as defined in the *Corporations Act 2001 (Cth)* (**Corporations Act**)) under Part 5.3A in Chapter 5 of the *Corporations Act* if that Part applied to the defendant, including the

entitlements of any secured party, receiver, receiver and manager or controller to do any act or thing in relation to the defendant or its assets, which that secured party, receiver, receiver and manager or controller is permitted or authorised to do, or which it is not restricted from doing, under that Part:

- i. any enforcement process or execution against the defendant's assets be stayed;
 - ii. the administration or realisation of all the defendant's assets in Australia be entrusted to the plaintiffs;
 - iii. any person (other than the plaintiffs) within the jurisdiction of the Court be restrained from transferring, encumbering or otherwise disposing of any assets of the defendant;
 - iv. the restrictions set out in the table at the end of section 440B of the Corporations Act apply in relation to the exercise of the rights of any person in property of the defendant, or other property used or occupied by, or in the possession of, the defendant;
 - v. subject to the provisions of the Corporations Act, all powers normally available to administrators appointed under the provisions in Part 5.3A of the Corporations Act be made available to the plaintiffs in respect of the property of the defendant located in Australia, as if Part 5.3A applied to the defendant and the plaintiffs had been appointed as administrators of the defendant under that Part; and
 - vi. any court proceeding against the defendant, or in respect of the property of the defendant, in Australia be stayed.
- (b) The matter be listed for hearing before the Corporations Duty Judge on 10 November 2016 at 9.15am.
- (c) Each party and each creditor, or person claiming to be a creditor of the defendant, have liberty to apply on 3 days' notice.

(A sealed copy of the orders is available on the McGrathNicol website: <http://www.mcgrathnicol.com>).

6. The plaintiffs' address for service is: c/- Clayton Utz, 1 Bligh Street, Sydney NSW 2000 (Attention: Karen O'Flynn).
7. The names and address of the foreign representatives are Joseph Hayes, Andrew Grenfell and Conor McElhinney, c/- McGrathNicol, Level 12, 20 Martin Place, Sydney NSW 2000.

Date: 27 October 2016

Name of plaintiffs: Joseph David Hayes, Andrew John Grenfell and Conor John McElhinney in their capacity as foreign representatives of Pumpkin Patch Originals Limited (Administrators Appointed) (In Receivership)