

BUSINESS COMPANIES RETAIL

Solomon Lew's Just Group loses case against former chief financial officer Nicole Peck

By [Sarah Danckert](#)

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Billionaire rag trader Solomon Lew's Just Group has lost its bid to stop its recently departed chief financial officer taking up a new job at rival Cotton On.

The Supreme Court of Victoria threw out Just Group's request for orders restraining Nicole Peck working for its competitor.

Premier Investments' CEO Mark McInnes (left) and chairman Solomon Lew.

Photo: Pat Scala

Just Group, which owns Just Jeans, Portmans and beloved schoolkids stationery supplier Smiggle, took legal action against Ms Peck after she resigned to take up the role of chief financial officer at Cotton On five months after joining Just Group.

Ms Peck told the court she had left Just Group in part because Cotton On, which owns several brands including its eponymous value fashion chain, stationery supplier Typo and young women's fashion outlet Supre, was based in Geelong which was where she and her family live.

As a result of the ruling, Ms Peck will be able to commence her employment at Cotton On on Monday next week after Justice Michael McDonald's decision to dismiss Just Group's case.

It is unknown at this point whether Just Group will appeal the decision, a move which could result in Ms Peck being stopped from taking up her new role next week.

A spokeswoman for Just Group said the case was between the company and Cotton On.

"We respect Justice McDonald's decision, but obviously we are considering all of our legal options including an appeal and a stay," the spokeswoman said.

Ahead of joining Just Group, Ms Peck had been the chief financial officer of Barwon Health, Nufarm and retail chain Target.

Just Group had alleged Ms Peck's contract restrained her from working for a list of 50 other retailers for up to 24 months.

It had also alleged Ms Peck was in effect second in charge and had been privy to confidential information about Just Group's business plans and there was a risk Cotton On could benefit from that information.

In dismissing Just Group's case, Justice Michael McDonald found the restraint clause was unreasonable because it related to too many companies and because it would limit her from working for a company in a position even when the information she acquired during her employment with Just Group would be irrelevant.

"It goes beyond that which is reasonable to protect Just Group's legitimate interests," Justice McDonald said.

Justice McDonald said the restraint clause in Ms Peck's contract was so broad she was restrained from from companies that don't compete with Just Group.

"Woolworths Ltd does have businesses which do not compete with Just Group, yet Ms Peck would be precluded from working in any of those businesses," Justice McDonald said.

Justice McDonald also found it was unfair that Just Group only had to give Ms Peck one month notice if they wished to terminate her contract but she would be restrained for a minimum of 12 months if she chose to leave.

"On the one hand, Just Group reserved to itself the right to terminate Ms Peck's employment on one month's notice within a short period of her commencing employment. On the other hand, it reserved to itself the right to impose wide ranging restrictions upon her capacity to earn a livelihood for a period of 12 months," Justice McDonald said.

Here's the list of brands Just Group believed Ms Peck was not allowed to work with:

1. Sussan Group

2. General Pants
3. Jeans West
4. Target
5. Kmart
6. Big W
7. Myer
8. David Jones
- 9. Cotton On Group**
10. Forever New
11. Warehouse
12. Farmers
13. EziBuy
14. Max
15. Hallensteins Glassons
16. Country Road Group
17. Roger David
18. Giordano
19. PAS Group
20. Pretty Girl Group
21. Specialty Fashion Group
22. Cue/Veronica Maine
23. Retail Apparel Group
24. M Webster Holdings
25. The Apparel Group
26. BusBrands
27. Zara
28. H & M

29. Topshop (and Topman)
30. Abercrombie & Fitch
31. Decjuba
32. Edge Clothing
33. Elwood
34. Esprit
35. Lolitta
36. Ojay
37. Review
38. Seduce
39. Sass & Bide
40. Woolworths (South Africa) Group
41. Bardot and Bardot Junior
42. Blue Illusion
43. French Connection
44. Kookai
45. Bras N Things
46. Sportscraft
47. Forever 21
48. Pepkor Group of Companies
49. Uniqlo
50. T2

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