

Case Numbers 2500799/18, 2500802/18 and 17 others shown on the attached Schedule



## THE EMPLOYMENT TRIBUNALS

**Claimants**  
**Mr D Downes**  
**Mr M Averre and 17 others**  
**shown on the attached Schedule**

**Respondent**  
**Calberto Ltd**  
**( in Creditors' Voluntary Liquidation)**

**EMPLOYMENT JUDGE GARNON**  
**MADE AT NORTH SHIELDS**

**ON 25<sup>th</sup> June 2018**

**JUDGMENT (Liability and Remedy )**  
**Employment Tribunals Rules of Procedure 2013 –Rule 21**

- 1. I make a protective award that the respondent pay to the claimants remuneration for the protected period form the date of dismissal , being 22<sup>nd</sup> January 2018 , for a period of 90 days to 22<sup>nd</sup> April 2018.**
- 2. I make no judgment on Mr Downes other claims**
- 3 The Preliminary Hearing listed for 28<sup>th</sup> June 2018 is vacated for all claimants other than Mr Downes who should attend to discuss his other claims**

### **REASONS**

1. Sections 188 (1) and (1A) of the Trade Union and Labour Relations ( Consolidation ) Act 1992 as amended(the Act ) provides that where an employer is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days or less, the employer shall consult about the dismissals all the persons who are appropriate representatives of any of the employees who may be affected by the proposed dismissals or by measures taken in connection with those dismissals.

2 Section 189 , so far as material ,says where an employer has failed to comply with a requirement of section 188 and there was no recognised union ,elected or other representatives a complaint may be presented to an employment tribunal by any of the affected employees or by any of the employees who have been dismissed as redundant. Such claimants cannot bring claims on behalf of others so dismissed

**Case Numbers 2500799/18, 2500802/18 and 17 others shown on the attached Schedule**

3. If the tribunal finds the complaint well-founded it shall make a declaration to that effect and may make a protective award. In the absence of reasons to make one for a shorter period , Susie Radin Ltd-v-GMB held the award should be for 90 days

4. The claim of Mr Averre and the 17 others shown on the Schedule , all of whom are represented by Griffin Legal LLP, and the claim of Mr Downes who is not represented, were served on 3<sup>rd</sup> May 2018 . A response was due by 31<sup>st</sup> May 2018 . One was received which indicated the claim was not contested . I am required by rule 21 of the Employment Tribunals Rules of Procedure 2013 to decide on the available material whether a determination can be made and , if so, obliged to issue a judgment which may determine liability only or liability and remedy. I have in the claim form sufficient information to enable me to find the claims proved on a balance of probability and to determine the sums to be awarded, other than Mr Downes claim of unfair dismissal.

5. I shall therefore issue a judgment in all claimants favour under rule 21 on all claims other than Mr Downes claim of unfair dismissal which may be discussed when he attends on 28<sup>th</sup> June 2018 .

-----  
**TM Garnon Employment Judge**

**Date signed 25<sup>th</sup> June 2018.**

**Case Numbers 2500799/18, 2500802/18 and 17 others shown on the attached Schedule**

**Multiple Schedule**

Case Number	Case Name
2500802/2018	Mr Michael Averre -v- Calberto Limited
2500803/2018	Mr Gary Buckley -v- Calberto Limited
2500804/2018	Mr Martin Buckley -v- Calberto Limited
2500805/2018	Mr Andrew Calvert -v- Calberto Limited
2500806/2018	Miss Doris Clark -v- Calberto Limited
2500807/2018	Mr Jack Cummings -v- Calberto Limited
2500808/2018	Mr Steven Diss -v- Calberto Limited
2500809/2018	Mr Rodney Dodd -v- Calberto Limited
2500810/2018	Mr Anthony Harding -v- Calberto Limited
2500811/2018	Miss Laura Grievson -v- Calberto Limited
2500812/2018	Mr Jonathan Ilderton -v- Calberto Limited
2500813/2018	Mr Mark Lyall -v- Calberto Limited
2500814/2018	Mr Gary Marshall -v- Calberto Limited
2500815/2018	Mrs Caroline McIntosh -v- Calberto Limited
2500816/2018	Mr John Mills -v- Calberto Limited
2500817/2018	Mr Simon O'Connor -v- Calberto Limited
2500818/2018	Mr Andrew Penny -v- Calberto Limited
2500819/2018	Mr Nicholas Thompson -v- Calberto Limited