



Issued: 8 August 2017 1:07 PM

JUDGMENT/ORDER

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Commercial
Registry	Supreme Court Sydney
Case number	2017/00193375

TITLE OF PROCEEDINGS

First Plaintiff	TW McConnell Pty Ltd ACN 000 217 890 as trustee for the McConnell Superannuation Fund
First Defendant	SURFSTITCH GROUP LIMITED ACN 602288004
Second Defendant	Justin Peter Cameron

DATE OF JUDGMENT/ORDER

Date made or given	4 August 2017
Date entered	8 August 2017

TERMS OF JUDGMENT/ORDER

This matter is listed for Directions (Commercial) on 1 September 2017 9:45 AM before the Supreme Court - Civil at Supreme Court Sydney.

The proceedings are stood over to the directions list on 1st September 2017.

The costs of the plaintiff's Disclosure Motion against the first defendant will be those parties' costs in the cause.

I make the orders in the document entitled Short Minutes of Order which I have initialled, dated today's date and placed with the papers.

Liberty to apply on three days' notice.

Short Minutes of Order

First defendant's motion for security for costs

1. Pursuant to r.42.21(1)(d) of the Uniform Civil Procedure Rules (UCPR) the plaintiff provide security for the first defendant's (SurfStitch's) costs of preparing its Commercial List Response and of making discovery in accordance with Order 9 hereof, in the amount of \$50,000.00.

2. The security required by Order 1 be provided by way of bank guarantee by 1 September 2017.

3. If the security required under Order 1 is not provided in accordance with Order 2, the proceeding be stayed as against SurfStitch until further order of the Court.

4. The plaintiff and SurfStitch bear their own costs of and incidental to SurfStitch's motion for security for costs.

Second defendant's motion for security for costs

5. Pursuant to r.42.21(1)(d) of the UCPR the plaintiff provide security for the second defendant's (Cameron's) costs of preparing its Commercial List Response in the amount of \$60,000.

6. The security required by Order 1 be provided by way of bank guarantee by 1 September 2017.

7. If the security required under Order 1 is not provided in accordance with Order 2, the proceeding be stayed as against Cameron until further order of the Court.

8. The plaintiff and Cameron bear their own costs of the motion.

Plaintiff's motion – initial discovery

9. Pursuant to Rules 2.1, 21.2 and 21.5(2) of the UCPR, alternatively s 183 of the Civil Procedure Act 2010 (NSW) (CPA), by 18 August 2017 SurfStitch give discovery of and make available to the plaintiff copies of the following classes of documents:

(a) any policy or policies of insurance held by SurfStitch, for its own benefit or for the benefit of any of its directors or officers, that:

(i) was current during all or any part of the period from 14 December 2014 to 9 June 2016; and

(ii) is or was responsive to the contraventions alleged in the plaintiff's commercial list statement filed on 28 June 2017;

(b) the monthly and quarterly management accounts of SurfStitch for the period 30 January 2015 to 30 June 2016.

(c) the documents identified in SurfStitch's amended counterclaim filed in Supreme Court of Queensland Proceeding No. 8056 of 2016, appearing at pages 156-195 of the Exhibit to the affidavit of Glenn Charles McGowan dated 25 July 2017.

10. Not made.

11. The plaintiff pay the second defendant's costs of the motion for disclosure.

12. The costs of the plaintiff's disclosure motion against the first defendant will be those parties costs in the cause.

SEAL AND SIGNATURE



Signature D Eden (LS)
Capacity Chief Clerk
Date 8 August 2017

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document is taken to have been signed if the person's name is printed where his or her signature would otherwise appear.

