

24/05/2004 Reminder Notice

24/05/2004 Reminder Notice

24/05/2004 Reminder Notice

24/05/2004 Reminder Notice

25/05/2004 Outcome: Listing Conference (Civil)

Hearing Cancelled

Presiding Officer Judge Burley

25/05/2004 Chamber List Hearing
* Hearing has been cancelled before Judge Kelly
Scheduled Hearing Date: 09/06/2004 AT 10:30am

04/06/2004 Outcome: For Mention Only

Order - Unclassified

1 I extend the time within which the pltf shall file and serve a list of documents to 5 pm on 8 June 2004.

2 The pltf to pay the deft's costs of today's attendance.

That this matter be adjourned to For Mention Only on 16.06.2004 at 9:45am.

For Plaintiff 1, 2 : Mr Rochow with Mr Beissel

For Defendant 1 : Mr M Livesey with Mr Evans

For Defendant by Counter Claim 1 : Mr Rochow with Mr Beissel

04/06/2004 For Mention Only
Before Judge Bowen Pain
Scheduled Hearing Date: 16/06/2004 AT 9:45am

07/06/2004 26 Notice for Specific Directions BY: D 1
give up possession

07/06/2004 27 Affidavit Of Facts BY: D 1
s a evans ex.27a

08/06/2004 28 List Of Documents Filed BY: PL 1,2

09/06/2004 Outcome: Chamber List Hearing

Hearing Cancelled

1 Following receipt of e-mail from Johnson Winter & Slattery, this matter has been adjourned.

That this matter be adjourned to For Mention Only on 4.06.2004 at 9:00am.

For Plaintiff 1, 2 : No Appearance Plaintiff

For Defendant 1 : No Appearance Defendant

09/06/2004 For Mention Only
Before Judge Bowen Pain
Scheduled Hearing Date: 04/06/2004 AT 9:00am

16/06/2004 Outcome: For Mention Only

Order - Unclassified

1 I adjourn the deft's application (doc 26) to a date to be fixed before Besanko J.

2 Costs in the cause.

That this matter be adjourned to For Mention Only on 22.06.2004 at 9:15am.

Presiding Officer Judge Bowen Pain

For Plaintiff 1, 2 : Mr Beissel

For Defendant 1 : Mr M Livesey with Mr S Evans

For Defendant by Counter Claim 1 : Mr Beissel

16/06/2004 For Mention Only
Before Judge Bowen Pain
Scheduled Hearing Date: 22/06/2004 AT 9:15am

18/06/2004 Paid Into Court
\$30,216.69 AM & AG Garrett R/N 7112 A/N A140(3)

22/06/2004 Outcome: For Mention Only

Order - Unclassified

1 I dismiss the deft's application (doc 26).

2 The pltf's to pay the deft's costs of and incidental to that application and this order.

That this matter be adjourned to Final Directions Hearing on 15.07.2004 at 12:15pm.

Presiding Officer Judge Bowen Pain

For Plaintiff 1, 2 : Mr Beissel

For Defendant 1 : Mr Evans

For Defendant by Counter Claim 1 : Mr Beissel

22/06/2004 Final Directions Hearing
Scheduled Hearing Date: 15/07/2004 AT 12:15pm

08/07/2004 29 Notice for Specific Directions
give up possession of land BY: D 1

08/07/2004 30 Affidavit Of Facts
s a evans ex.30a BY: D 1

15/07/2004 Outcome: Final Directions Hearing

Order Final Directions Hearing

1 I am assured by the counsel for the parties that the pleadings are complete and that there are no outstanding issues. I am advised that there will be no experts' reports.

2 I direct that this matter proceed to trial (7 days).

3 The trial of the action to commence on 8 November 2004.

4 I direct that the pltf file copy documents within 7 days.

5 Costs in the cause.

6 I refer the application (doc 29) for consideration on a date to be fixed by Justice Besanko.

That this action be adjourned to Trial on 8.11.2004 at 10:15am

For Plaintiff 1, 2 : Mr Beissel

For Defendant 1 : Mr Livesey

For Defendant by Counter Claim 1 : Mr Beissel

15/07/2004 Trial
Scheduled Hearing Date: 08/11/2004 AT 10:15am

21/07/2004 Hearing
before Justice Besanko
Scheduled Hearing Date: 22/07/2004 AT 3:00pm

21/07/2004 31 Affidavit Of Facts
A M GARRETT BY: PL 1,2

21/07/2004 32 Affidavit Of Facts
A G GARRETT BY: PL 1,2

21/07/2004 33 Affidavit Of Facts
BEISSEL R K BY: PL 1,2

22/07/2004 Outcome: Hearing

Order - Unclassified

His Honour did order:

1. I adjourn the application to Monday 26 July 2004 at 12:00PM.

2. I direct that the plaintiffs are to serve any further material on the defendant by 9:30AM on Monday 26 July 2004.

Presiding Officer The Honourable Justice Besanko
For Plaintiff 1, 2 : Mr N Rochow
For Defendant 1 : Mr M Livesey
For Defendant by Counter Claim 1 : Mr N Rochow

22/07/2004 34 Affidavit Of Facts BY: PL 1,2
A M GARRET EX 34A-B

23/07/2004 Hearing
before Justice Besanko
Scheduled Hearing Date: 26/07/2004 AT 12:00pm

23/07/2004 Hearing
Before Besanko J - for hearing
Scheduled Hearing Date: 26/07/2004 AT 12:00pm

26/07/2004 Outcome: Hearing

Order - Unclassified

1. I make orders in terms of the minutes of order for possession dated 22 July 2004 and signed by me today.
 1. The Order with Injunction made in the within action dated 5 March 2004 is discharged.
 2. The plaintiffs, Averil Gay Garrett and Andrew Garrett Wine Resorts Pty Ltd, give up possession to the defendant within 14 days of the service of a copy of this order upon them of the land comprised and described in Certificates of Title Register Book Volume 5324 Folio 475, Volume 5344 Folio 326 and Volume 5348 Folio 15 situated at Springwood Park, Mt Barker Road, Leawood Gardens, South Australia.
 3. Upon the plaintiffs paying to the defendant the moneys remaining due the defendant upon the security of Memoranda of Mortgage Registered Numbers 9374752 and 9617285, the defendant will (subject and without prejudice to the due exercise of any power of sale for the time being vested in the defendant) re-deliver to the plaintiffs possession of the property and release to the plaintiffs the security constituted by the mortgages.
 4. The plaintiffs pay to the defendant its costs of action.
 5. The parties may apply for further order and directions.
2. Upon the undertaking of the defendant, National Australia Bank Ltd, by counsel to abide by any order a court or a judge may make as to damages, in case the court or a judge shall hereafter be of the opinion that any person shall have sustained any loss or damage by reason of this order, I order that until further order Evajade Pty Ltd be restrained, whether by itself, its officers, servants or agents from removing from the jurisdiction, disposing of, mortgaging, assigning, charging or otherwise dealing with the right to receive moneys from Mildara Blass Ltd or Berringer Blass Estate Wines Ltd pursuant to a deed dated 26 July 2000 between inter alia Mildara Blass Ltd and the Andrew Garrett Family Trust.
3. I adjourn further consideration of the defendant's application dated 26 July 2004 until Wednesday 28 July 2004 at 10:15AM.

Settled on 27.07.2004 by : KCSGOS

Presiding Officer The Honourable Justice Besanko
For Plaintiff 1, 2 : Mr N Rochow with Mr R Beissel
For Defendant 1 : Mr M Livesey with Mr S Evans
For Defendant by Counter Claim 1 : Mr N Rockow with Mr R Beissel

26/07/2004	35	Affidavit Of Facts A M GARRETT EXH 35A-I	BY: PL 1,2
26/07/2004	36	Affidavit Of Facts j jackson	BY: PL 1,2
26/07/2004	37	Affidavit Of Facts r m agnew ex.37a	BY: PL 1,2
26/07/2004		Hearing Before Besanko J - for hearing Scheduled Hearing Date: 28/07/2004 AT 10:15am	
27/07/2004	38	Affidavit Of Facts s a evans ex.38a-j	BY: D 1
27/07/2004	39	Affidavit Of Facts s a evans ex.39a-x	BY: D 1
27/07/2004	40	Order For Possession	BY: D 1
27/07/2004	41	Notice for Specific Directions Cease to Act	BY: PL 1,2
28/07/2004		Outcome: Hearing	

Order - Unclassified

1. I note the undertaking of Mr John Jackson, on behalf of Evajade Pty Ltd, as the trustee of the Andrew Garrett Family Trust and the Andrew Garrett Family Trust No 2, not to remove from the jurisdiction, dispose, mortgage, assign, charge or otherwise deal with any of the assets of the Andrew Garrett Family Trust and the Andrew Garrett Family Trust No 2 or with the right to receive moneys from Mildara Blass Ltd or Beringer Blass Estate Wines Ltd until further order.
2. I note the undertaking of Mr Andrew Garrett, both in his personal capacity and as a trustee of the Andrew Garrett Family Trust, not to remove from the jurisdiction, dispose, mortgage, assign, charge or otherwise deal with any of the assets of the Andrew Garrett Family Trust and the Andrew Garrett Family Trust No 2 or with the right to receive moneys from Mildara Blass Ltd or Beringer Blass Estate Wines Ltd until further order.
3. I note the undertaking of Mr Andrew Garrett, both in his personal capacity and as a trustee of the Andrew Garrett Family Trust, not to deal with the assets of the Furniture

Sale Agreement dated 19 February 2004 and the Registered Livestock Mortgage dated 29 April 2004 until further order.

- 4. I note the undertaking given by Mr Shu Mu Tseng, by counsel, to undertake not to deal with the right to receive moneys from Mildara Blass Ltd or Beringer Blass Estate Wines Ltd and the bill of sale dated 29 April 2004 until further order.
- 5. I order Mrs Averil Garrett, both in her personal capacity and as a trustee of the Andrew Garrett Family Trust, not to remove from the jurisdiction, dispose, mortgage, assign, charge or otherwise deal with any of the assets of the Andrew Garrett Family Trust and the Andrew Garrett Family Trust No 2 or with the right to receive moneys from Mildara Blass Ltd or Beringer Blass Estate Wines Ltd until further order.
- 6. I order Mrs Averil Garrett, both in her personal capacity and as a trustee of the Andrew Garrett Family Trust, not to deal with the assets of the Furniture Sale Agreement dated 19 February 2004 and the Registered Livestock Mortgage dated 29 April 2004 until further order.
- 7. I note the undertaking given by the National Australia Bank Ltd, by counsel, to abide by any order a court or a judge may make as to damages in case the court or a judge shall hereafter be of the opinion that any person shall have sustained any loss or damage by reason of these orders and undertakings.
- 8. I note the undertaking given by Mr Shu Mu Tseng, by counsel, to abide by any order a court or a judge may make as to damages in case the court or a judge shall hereafter be of the opinion that any person shall have sustained any loss or damage by reason of the undertaking given by Mr Andrew Garrett in relation to the Furniture Sale Agreement dated 19 February 2004 and the Registered Livestock Mortgage dated 29 April 2004 and the order made against Mrs Averil Garrett in relation to the Furniture Sale Agreement dated 19 February 2004 and the Registered Livestock Mortgage dated 29 April 2004.
- 9. I refer the plaintiffs' notice for specific directions (FDN 41) dated 27 July 2004 to Master Bowen Pain.
- 10. I adjourn the defendant's notice for specific directions dated 26 July 2004 to Wednesday 4 August 2004 at 11:00AM.

Settled on 18.08.2004 by : KCSGOS

Presiding Officer The Honourable Justice Besanko

For Plaintiff 1, 2 : Mr R Beissel

For Defendant 1 : Mr M Livesey with Mr S Evans

For Defendant by Counter Claim 1 : Mr A Garrett in person

28/07/2004 42 Address for Service/and of Solicitor BY: PL 1, DCC 1

28/07/2004 For Mention Only
Before Judge Bowen Pain
Scheduled Hearing Date: 02/08/2004 AT 11:30am

28/07/2004 43 Address for Service/and of Solicitor BY: PL 2

28/07/2004 45 Affidavit Of Facts BY: DCC 1
a m garrett ex.45a-i

29/07/2004 44 Notice for Specific Directions BY: D 1
order to join evajade P/L. 4th def by cc 26.7.04

30/07/2004 46 Change Of Address BY: PL 1,2, DCC 1

30/07/2004 47 Notice for Specific Directions BY: PL 1,2

30/07/2004 48 Affidavit Of Facts
A M GARRETT EXH 48A-C BY: D 1

02/08/2004 Outcome: For Mention Only

Order - Unclassified

- 1 I dismiss the application by Lancione & Partners (doc 41).
- 2 I excuse Lancione & Partners from further attendance.

Presiding Officer Judge Bowen Pain

For Plaintiff 1 : Mr Beissel

For Plaintiff 2 : No Appearance Defendant

For Defendant 1 : Mr Livesey with Mr Evans

For Defendant by Counter Claim 1 : Mr Garrett in person

03/08/2004 Hearing
Before Besanko J - for hearing
Scheduled Hearing Date: 04/08/2004 AT 11:00am

03/08/2004 49 Notice for Specific Directions BY: PL 1,2
VARIOUS ORDERS

03/08/2004 50 Affidavit Of Facts BY: PL 1,2
A M GARRETT EX 50A-C

04/08/2004 Outcome: Hearing

Order - Unclassified

1. I note the undertakings and make the orders referred to in the document "order with injunction" dated 4 August 2004 and signed and dated by me today. (As set out below.)
2. The application by Mr Garrett that Action No 127 of 2004 and Action No 1767 of 2003 be heard together is adjourned to a date to be fixed.
3. I order that the defendant file an affidavit establishing that correspondence with respect to today's hearing and the undertakings and orders sought was sent to and received from Mrs Averil Garrett.
4. I adjourn all applications by the plaintiffs in Action No 127 of 2004 in relation to the orders for possession which I made on 26 July 2004 to Thursday 5 August 2004 at 2:15PM.

ORDER WITH INJUNCTION

UNDERTAKING

1. The defendant, National Australia Bank Ltd, by counsel, undertakes to abide by any order the Court or a Judge may make as to damages in case the Court or a Judge shall hereafter be of the opinion that any person shall have sustained any loss or damage by reason of these orders and undertakings which the defendant ought to pay.
2. Shu Mu Tseng by counsel, undertakes to abide by any order the Court or a Judge may make as to damages in case the Court or a Judge shall hereafter be of the opinion that any person shall have sustained any loss or damage by reason of the undertaking given by Mr Andrew Garrett and Mrs Andrew Garrett in relation to the Furniture Sale Agreement dated 19 February 2004 and the Registered Livestock Mortgage dated 29 April 2004.

CROSS UNDERTAKINGS

1. John Jackson, on behalf of Evajade Pty Ltd, as the trustee of the Andrew Garrett Family Trust and the Andrew Garrett Family Trust No 2, undertakes not to remove from the jurisdiction, dispose of, mortgage, assign, charge, or otherwise deal with any of the assets of those two trusts, or with the right to receive moneys from Mildara Blass Ltd or Beringer Blass Estate Wines Ltd until further order.
2. Andrew Morton Garrett, both in his personal capacity and as trustee of the Andrew Garrett Family Trust, undertakes not to remove from the jurisdiction, dispose of, mortgage, assign, charge, or otherwise deal with any of the assets of the Andrew Garrett Family Trust and the Andrew Garrett Family Trust No 2, or with the right to receive moneys from Mildara Blass Ltd or Beringer Blass Estate Wines Ltd until further order.
3. Andrew Morton Garrett, both in his personal capacity and as trustee of the Andrew Garrett Family Trust, undertakes not to deal with the assets the subject of the Furniture Sale Agreement dated 19 February 2004 and the Registered Livestock Mortgage dated 29 April 2004 until further order.
4. Each of Andrew Morton Garrett and John Jackson undertake to swear, serve on the solicitors for the defendant and file with the Court by no later than Friday, 13 August 2004 an affidavit:
 - 4.1 disclosing the full value of the assets of the Andrew Garrett Family Trusts No 1 and No 2, held by Evajade Pty Ltd or any other person, both held jointly with another or solely, identifying with full particularity the nature of all such assets and their whereabouts, in the affidavit;
 - 4.2 disclosing the full value of any and all assets of the Andrew Garrett Family Trust No 1 or No 2 which since 1 January 2002 have been disposed of, mortgaged, charged, or otherwise dealt with, identifying with full particularity the nature of all such assets and their whereabouts, if known, in the affidavit;
 - 4.3 disclosing the full value of any and all assets acquired by the Andrew Garrett Family Trust No 1 or No 2 since 1 January 2002 in the affidavit;
 - 4.4 disclosing any charge granted over any of the assets of the Andrew Garrett Family Trust No 1 or No 2, including over any assets which were previously but no longer owned by either of those trusts in the affidavit;
 - 4.5 disclosing any variation in the terms of the trust deeds for either the Andrew Garrett Family Trust No 1 or No 2, including a change in trustee thereof;
 - 4.6 disclosing any borrowings of either the Andrew Garrett Family Trusts No 1 or No 2;
 - 4.7 exhibiting any and all documents relating to any transactions of either of the Andrew Garrett Family Trusts No 1 or No 2, including but not limited to:
 - (a) copies of all and any documents of variation of trust or of replacement of trustees;
 - (b) copies of all and any documents of transfer of assets;
 - (c) copies of all and any loan documents or contracts;
 - (d) copies of all and any charges granted over their assets;
 - (e) copies of all and any receipt or payment of moneys by either trust.

- 5. Shu Mu Tseng, by counsel, undertakes not to deal with or enforce the right to receive moneys from Mildara Blass Ltd or Beringer Blass Estate Wines Ltd, the Bill of Sale dated 29 April 2004, the Furniture Sale Agreement dated 19 February 2004 and the Registered Livestock Mortgage dated 29 April 2004 until 27 August 2004 or until the bank takes possession of the property the subject of the possession order dated 26 July 2004, whichever is the earlier.
- 6. Michael Garrett undertakes that he will not exercise any of his powers under either of the deeds of trust of the Andrew Garrett Family Trust No 1 and the Andrew Garrett Family Trust No 2, including but not limited to appointing a new trustee to either trust or replacing the existing trustee, Evajade Pty Ltd until further order.

THE COURT ORDERS that:

- 1. Evajade Pty Ltd is joined as the fourth defendant by counterclaim herein.
- 2. Michael Garrett is joined as the fifth defendant by counterclaim herein.
- 3. The orders made against Mrs Averil Gay Garrett on 28th July 2004 be continued until further order.
- 4. Mrs Averil Gay Garrett is to swear, serve on the solicitors for the defendant and file with the Court by no later than Friday, 13 August 2004 an affidavit:
 - 4.1 disclosing the full value of the assets of the Andrew Garrett Family Trusts No 1 and No 2, held by Evajade Pty Ltd or any other person, both held jointly with another or solely, identifying with full particularity the nature of all such assets and their whereabouts, in the affidavit;
 - 4.2 disclosing the full value of any and all assets of the Andrew Garrett Family Trust No 1 or No 2 which since 1 January 2002 have been disposed of, mortgaged, charged, or otherwise dealt with, identifying with full particularity the nature of all such assets and their whereabouts, if known, in the affidavit;
 - 4.3 disclosing the full value of any and all assets acquired by the Andrew Garrett Family Trust No 1 or No 2 since 1 January 2002 in the affidavit;
 - 4.4 disclosing any charge granted over any of the assets of the Andrew Garrett Family Trust No 1 or No 2, including over any assets which were previously but no longer owned by either of those trusts in the affidavit;
 - 4.5 disclosing any variation in the terms of the trust deeds for either the Andrew Garrett Family Trust No 1 or No 2, including a change in trustee thereof;
 - 4.6 disclosing any borrowings of either the Andrew Garrett Family Trusts No 1 or No 2;
 - 4.7 exhibiting any and all documents relating to any transactions of either of the Andrew Garrett Family Trusts No 1 or No 2, including but not limited to:
 - (a) copies of all and any documents of variation of trust or of replacement of trustees;
 - (b) copies of all and any documents of transfer of assets;
 - (c) copies of all and any loan documents or contracts;
 - (d) copies of all and any charges granted over their assets;
 - (e) copies of all and any receipt or payment of moneys by either trust.
- 5. This defendant's notice for specific directions dated 26 July 2004 is adjourned to a date to be fixed.
- 6. Liberty to apply by any party.

Settled on 18.08.2004 by : KCSGOS

For Mr Shu Mu Tseng: Dr C Bleby

For Evajade Pty Ltd: Mr J Jackson (director)

For Mr J Crosby and Mr P Marshall: Mr N Baldock

Presiding Officer The Honourable Justice Besanko
For Plaintiff 1, 2 : No appearance
For Defendant 1 : Mr M Livesey with Mr S Evans
For Defendant by Counter Claim 1 : Mr Garrett in person

04/08/2004 Hearing
before Justice Besanko
Scheduled Hearing Date: 05/08/2004 AT 2:15pm

04/08/2004 51 Affidavit Of Facts BY: PL 1,2
A M GARRETT EXH

04/08/2004 Hearing
Before Besanko J - for hearing
Scheduled Hearing Date: 05/08/2004 AT 2:15pm

04/08/2004 52 Notice for Specific Directions BY: PL 1,2
JOIN 5TH DEF BY CC

04/08/2004 53 Affidavit Of Facts BY: PL 1,2
S A EVANS EXH 53A-B

05/08/2004 Outcome: Hearing

Order - Unclassified

1. On the application for a stay heard by me today, I grant leave for Andrew Garrett Wine Resorts Pty Ltd to act in person and to appear by Mr Andrew Garrett. I note the undertaking given by Mr Garrett to file and serve the articles of association of the company.
2. I refuse the application for a stay of the orders I made on 26 July 2004 (see notice for specific directions FDN 49, paragraph 3).
3. I adjourn all other applications to a date to be fixed, with the parties to contact the registry or Master's clerk in relation to future hearing dates.
4. I order that Andrew Garrett Wine Resorts Pty Ltd pay the costs of and incidental to the applications heard this afternoon and I certify fit for counsel.

Presiding Officer The Honourable Justice Besanko
For Plaintiff 1 : Mr Garrett (director)
For Plaintiff 2 : No appearance
For Defendant 1 : Mr M Livesey with Mr S Evans
For Defendant by Counter Claim 1 : Mr A Garrett in person

05/08/2004 54 Affidavit Of Facts BY: D 1
s a evans ex.54a-p

09/08/2004 55 Affidavit Of Facts BY: PL 1, DCC 1
a m garrett ex.55a-d

09/08/2004 56 Notice Of Appeal To Full Court Lodgement Fee BY: PL 1,2
\$1007.00 Receipt no.: 2756044

\$1007.00

12/08/2004 57 Request To Issue Summons/Warrant/Garnishee Order BY: D 1

12/08/2004 58 Affidavit Of Service w p eglinton BY: D 1

12/08/2004 59 Warrant Of Possession BY: D 1

12/08/2004 60 Notice for Specific Directions BY: PL 1,2

12/08/2004 61 Affidavit Of Facts A M GARRETT EXH61A-T BY: PL 1,2

13/08/2004 62 Reasons For Judgment (non-finalising) Besanko J 28.7.04 sasc 229

16/08/2004 Hearing
Before Besanko J - for hearing
Scheduled Hearing Date: 17/08/2004 AT 9:00am

16/08/2004 63 Affidavit Of Facts a m garrett ex.63a-1 BY: DCC 1

17/08/2004 Outcome: Hearing

Order - Unclassified

1. On the application for a stay heard by me this morning, I grant leave for Andrew Garrett Wine Resorts Pty Ltd to act in person and to appear by Mr Andrew Garrett.
2. I refuse the application for a stay of the orders I made on 26 July 2004 (See notice for specific directions FDN 60).
3. I order that Andrew Garrett Wine Resorts Pty Ltd pay the costs of and incidental to the applications heard this morning and I certify fit for counsel.

Presiding Officer The Honourable Justice Besanko
For Plaintiff 1 : Mr A Garrett (Director)
For Plaintiff 2 : No appearance
For Defendant 1 : Mr M Livesey with Mr S Evans
For Defendant by Counter Claim 1 : Mr A Garrett in person

18/08/2004 64 Order - Unclassified order with injunction BY: D 1

18/08/2004	65	Order - Unclassified order extending injunction	BY: D 1
18/08/2004	66	Notice for Specific Directions warrant be stayed	BY: PL 1,2, DCC 1
18/08/2004	67	Affidavit Of Facts a m garrett ex.67a-e	BY: DCC 1
18/08/2004	68	Affidavit Of Facts a m garrett ex.68a-i	BY: DCC 1
18/08/2004	69	Affidavit Of Facts a g garrett	BY: DCC 1
18/08/2004	70	Affidavit Of Facts a m garrett	BY: DCC 1
18/08/2004	71	Notice for Specific Directions order for possession made in favour of pltf	BY: PL 1,2, DCC 1
18/08/2004	72	Affidavit Of Facts a m garrett	BY: DCC 1
18/08/2004	73	Notice for Specific Directions injunction interfering with sale of Royalty stream	BY: PL 1,2, DCC 1
18/08/2004	74	Affidavit Of Facts a g garrett ex.74a	BY: DCC 1
18/08/2004	75	Affidavit Of Facts a m garrett ex.75a-r	BY: DCC 1
20/08/2004	76	Notice for Specific Directions VARIOUS ORDERS	BY: PL 1,2
20/08/2004	77	Affidavit Of Facts A M GARRETT	BY: PL 1,2
20/08/2004		Hearing Before Besanko J - for hearing Scheduled Hearing Date: 23/08/2004 AT 9:30am	

20/08/2004 78 Notice for Specific Directions
Contempt of Court BY: PL 1,2

20/08/2004 79 Affidavit Of Facts
A M Garrett Ex79a-79c BY: PL 1,2

20/08/2004 80 Notice for Specific Directions
Directions to Sheriff Re: Warrant

20/08/2004 81 Affidavit Of Facts
Aff C A Di Cesare Ex81a-81b

23/08/2004 Outcome: Hearing

Order - Unclassified

1. I order that all applications in Action No 127 of 2004 be referred to Gray J for consideration at 4:30PM today.

For Sheriff of South Australia: Mr D MacKintosh
Presiding Officer The Honourable Justice Besanko
For Plaintiff 1 : Mr A Garrett (Director)
For Plaintiff 2 : No appearance
For Defendant 1 : Mr M Livesey
For Defendant by Counter Claim 1 : Mr A Garrett in person

23/08/2004 82 Notice for Specific Directions
VARIOUS ORDERS BY: PL 1,2

23/08/2004 83 Affidavit Of Facts
A M GARRETT BY: PL 2

23/08/2004 Outcome: Hearing

Order - Unclassified

- 1 Adjourned to 3pm on Tuesday, 24 August 2004 for hearing
For Sheriff of South Australia - Mr D MacKintosh
Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Mr Andrew Garrett (Director)
For Plaintiff 2 : no appearance
For Defendant 1 : Mr Livesey with Mr S Evans

24/08/2004 Hearing
Before Justice Gray
Scheduled Hearing Date: 23/08/2004 AT 4:30pm

24/08/2004 Hearing

Before Justice Gray
Scheduled Hearing Date: 24/08/2004 AT 3:00pm

24/08/2004 Outcome: Hearing

Order - Unclassified

- 1 Decision reserved re application for judicial review.
- 2 Application for leave to appeal proceedings adjourned for further directions to 4.30pm on Thursday, 2 September 2004.
- 3 Application for stay of proceedings adjourned to not before 11am on Wednesday, 25 August 2004 for further hearing.

For Sheriff of South Australia - Mr D. McKintosh
Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Mr Garrett (Director)
For Plaintiff 2 : no appearance
For Defendant 1 : Mr M Livesey with Mr S Evans

24/08/2004 84 Affidavit Of Facts BY: PL 1, DCC 1
a m garrett ex.84a-c

24/08/2004 85 Amended Notice Of Appeal BY: PL 1, DCC 1

25/08/2004 Outcome: Hearing

Order - Unclassified

- 1 Adjourned to 2.15pm on Tuesday, 31 September 2004.

Ms A. Garrett in attendance at the Bar table.
Mr McKintosh for the Sheriff of South Australia
Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Mr A Garrett (Director)
For Plaintiff 2 : no appearance
For Defendant 1 : Mr M Livesey with Mr S Evans

26/08/2004 Hearing
Before Justice Gray
Scheduled Hearing Date: 25/08/2004 AT 11:00am

27/08/2004 Hearing
Before Justice Gray
Scheduled Hearing Date: 27/08/2004 AT 10:30am

27/08/2004 Outcome: Hearing

Order - Unclassified

- 1 Adjourned to 11am on Monday, 30 August 2004 for mention.

Mr J H Jackson appearing with Mr Garrett
Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : Mr A Garrett in person
For Defendant 1 : Mr M Livesey with Mr S Evans

27/08/2004 Hearing
before Justice Gray
Scheduled Hearing Date: 30/08/2004 AT 11:00am

30/08/2004 Outcome: Hearing

Order - Unclassified

- 1 That the affidavit of Andrew Morton Garrett filed on 30 August 2004 and 5 exhibits be sealed and only opened by an order of the Court.
- 2 Adjourned to 2.15pm on Tuesday, 31 August 2004 for mention.
- 3 Adjourned to 2.30pm on Wednesday, 1 September 2004 for hearing.

Mr J H Jackson appearing with Mr Garrett.
Mr D McKintosh for the Sheriff of South Australia
Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Mr A Garrett in person
For Plaintiff 2 : no appearance
For Defendant 1 : Mr M Livesey with Mr S Evans

30/08/2004 Hearing
before Justice Gray
Scheduled Hearing Date: 31/08/2004 AT 2:15pm

30/08/2004 86 Notice for Specific Directions BY: PL 1,2
VARIOUS ORDERS

30/08/2004 87 Affidavit Of Facts BY: PL 1,2
A M GARRETT EX 87A-E

31/08/2004 Outcome: Hearing

Order - Unclassified

- 1 That the affidavit of Andrew Morton Garrett and 4 exhibits filed on 31/8/04 be sealed and only opened by an order of this Court.
- 2 Adjourned to 2.30pm on Wednesday, 1 September 2004 for further hearing.

Mr D McKintosh for the Sheriff of South Australia
Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Mr A Garrett
For Plaintiff 2 : no appearance
For Defendant 1 : NAB Pty Ltd: Mr M Livesey with Mr S Evans

31/08/2004 88 Affidavit Of Facts BY: PL 1,2
A M GARRETT EX 88A-E

31/08/2004 89 Affidavit Of Service
C A Di Cesare ex 89a-c

01/09/2004 Hearing
Before Justice Gray
Scheduled Hearing Date: 01/09/2004 AT 12:30pm

01/09/2004 Outcome: Hearing

Order - Unclassified

1 Adjourned to 2.30pm today and on Wednesday 9 September 2004 for further hearing.

Mr Jackson for Mr Garrett
Mr Rochow for the intervener (Credinet)
Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : no appearance
For Defendant 1 : Mr M Livesey with Mr S Evans

01/09/2004 Hearing
Before Justice Gray
Scheduled Hearing Date: 31/08/2004 AT 2:30pm

01/09/2004 Hearing
before Justice Gray
Scheduled Hearing Date: 02/09/2004 AT 4:30pm

01/09/2004 90 Affidavit Of Service
C S Thompson

01/09/2004 91 Affidavit Of Service
S C Ferguson

01/09/2004 Hearing
before Justice Gray
Scheduled Hearing Date: 02/09/2004 AT 9:00am

01/09/2004 Hearing
Before Justice Gray
Scheduled Hearing Date: 01/09/2004 AT 2:30pm

01/09/2004 Outcome: Hearing

Order - Unclassified

1 Adjourned to 9am on Thursday 2 September 2004 for further hearing of sheriff's application.

Ms R Willoughby appearing in person as a tenant.

Mr N Garrett appearing in person as a tenant.
Mr D McIntosh for the Sheriff of SA
Ms I Leecke appearing in person as a tenant.
Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : Mr A. Garrett (Director) in person
For Defendant 1 : Mr M Livesey with Mr S Evans

02/09/2004 Outcome: Hearing
Presiding Officer The Honourable Justice Gray

Order - Unclassified

- 1 Adjourned to 2pm on Friday 3 September 2004 for mention.
- 2 Order in terms of minutes dated 2 September 2004 as amended and initialled.
- 3 In so far as it may be necessary for the plaintiffs to seek leave to appeal, I direct that the second amended notice of appeal stand as an application for leave.
- 4 In so far as it may be necessary the document headed "Submissions of the first plaintiff and Garrett International Investments Pty Ltd on the third application for stay" dated 2 September 2004 is to be considered as the written document in support of the application for leave.
- 5 National Australia Bank Ltd is to file an outline by no later than 4.30pm on Monday, 6 September 2004.
- 6 If the plaintiffs wish to file any reply document that is to be filed no later than 10am on Wednesday, 8 September 2004.

Mr Rochow for the intervener (Credinet)
Mr D MacKintosh for the Sheriff of South Australia
Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Mr A Garrett
For Plaintiff 2 : no appearance
For Defendant 1 : Mr M Livesey with Mr S Evans

02/09/2004 Outcome: Hearing
Presiding Officer The Honourable Justice Gray

Order - Unclassified

- 1 Adjourned to 4.30pm on Thursday, 2nd September 2004 for mention.

Mr W Retailic for Ms Leckie (tenant)
Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Mr A Garrett (Director)
For Plaintiff 2 : in person
For Defendant 1 : Mr M Livesey with Mr S Evans

02/09/2004 92 Address for Service/and of Solicitor BY: INT 1

02/09/2004 93 Affidavit Of Facts BY: INT 1
B J Grant ex 93a

02/09/2004 94 Affidavit Of Facts BY: PL 1,2
a m garrett exh 94a-b

02/09/2004 95 Outline Of Submissions BY: D 1

03/09/2004 Hearing
Before Justice Gray
Scheduled Hearing Date: 03/09/2004 AT 2:00pm

03/09/2004 Outcome: Hearing

Order - Unclassified

1 Order in terms of minutes dated 3 September 2004 and intialled.

Settled on 07.09.2004 by : KCSEGS

Mr Rochow appearing (for Creditnet).

Mr F Brohier with Mr A Tisato (for the Registrar, Supreme Court of SA)

Presiding Officer The Honourable Justice Gray

For Plaintiff 1 : Mr A Garrett (in person)

For Plaintiff 2 : no appearance

For Defendant 1 : Mr M Livesey with Mr S Evans

07/09/2004 96 Order - Unclassified BY: D 1
Terms of possession

07/09/2004 97 Affidavit Of Facts BY: PL 1,2
J KOUTSOUKOS EX 97A-D

07/09/2004 Outcome: Hearing

Order - Unclassified

1 Adjourned to a date to be fixed.

2 Liberty to apply at short notice.

Mr B Grant for Creditnet

Presiding Officer The Honourable Justice Gray

For Plaintiff 1, 2 : Mr A Garrett (in person)

For Defendant 1 : Mr M Livesey with Mr S Evans

08/09/2004 Hearing
Before Justice Gray
Scheduled Hearing Date: 07/09/2004 AT 4:30pm

08/09/2004 98 Affidavit Of Facts BY: PL 1,2
J H Jackson

08/09/2004 99 Affidavit Of Facts BY: PL 1,2
A M Garrett ex 99a

13/09/2004 Full Bench Hearing
before Chief Justice, Gray & Anderson JJ
Scheduled Hearing Date: 14/09/2004 AT 2:15pm

13/09/2004 100 Affidavit Of Facts BY: PL 1,2
A M Garrett ex 100a-j

13/09/2004 101 Outline Of Submissions BY: PL 1

14/09/2004 Outcome: Full Bench Hearing

Order - Unclassified

1. That leave to appeal be granted.
2. That to the extent that the appeal required an extension of time, that that extension of time be granted.
3. That the appeal against the order for possession made by Justice Besanko be dismissed.
4. That the appeal against the decision of Justice Besanko refusing a stay of his order be dismissed.
5. That the appeal against the order made by Justice Besanko dissolving the injunction be dismissed.
6. That the costs of the appeal be the respondent's costs in the cause.

Settled on 15.03.2007 by : KCSCZB

Their Honours to provide their reasons for the decision at a later date.

Presiding Officer Full Court:

For Plaintiff 1, 2 : For Appellant 1 and 2: Mr A Garrett with Ms A Garrett

For Defendant 1 : For Respondent: Mr M Livesey with Mr S Evans

Judgment Reserved (Non Finalising)

14/09/2004 102 Authority To Act
Actually Authority to take certificate

14/09/2004 Outcome: Hearing

Order - Unclassified

1. Order in terms of minutes.

Presiding Officer The Honourable Justice Gray

For Plaintiff 1, 2 : Plaintiff in Person

For Defendant 1 : Mr M Livesey with Mr S Evans

For Intervener 1 : Mr B Grant (Credinet)

15/09/2004 103 Special Acts - Other Order BY: INT 1

15/09/2004 Hearing
before Justice Gray
Scheduled Hearing Date: 16/09/2004 AT 10:15am

15/09/2004 Hearing
B4 Gray J
Scheduled Hearing Date: 14/09/2004 AT 2:00pm

15/09/2004 104 Affidavit Of Facts BY: INT 1
B J Grant ex 104a

15/09/2004 105 Notice for Specific Directions BY: PL 1,2
Stay orders (16/9/04 @ 10:15)

15/09/2004 106 Outline Of Submissions BY: PL 1

15/09/2004 107 Affidavit Of Facts BY: PL 1,2
A M Garrett ex 107a-g

16/09/2004 Outcome: Hearing

Order - Unclassified

1. Application for extension of time re application for stay of warrant of possession refused.
2. Adjourned to not before 3.30pm Friday 24 September 2004.

Mr D Mackintosh for Sheriff of South Australia
Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Mr A Garrett with Mr J Jackson
For Plaintiff 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey with Mr S Evans

16/09/2004 108 Affidavit Of Facts
S C FERGUSON

16/09/2004 109 Affidavit Of Facts
C A D CESARE EX109A-B

16/09/2004 Hearing
nb 3.30pm B4 Gray J
Scheduled Hearing Date: 24/09/2004 AT 3:30pm

24/09/2004 Outcome: Hearing

Order - Unclassified

1. Adjourned to 9.00am, Tuesday 5 October 2004.

Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : Mr A Garrett
For Defendant 1 : Mr S Evans
For Defendant by Counter Claim 1 : NA
For Intervener 1 : NA

24/09/2004 110 Affidavit Of Facts BY: D 1
S A EVANS EX 110A-G

28/09/2004 Hearing
B4 Gray J
Scheduled Hearing Date: 05/10/2004 AT 9:00am

05/10/2004 Outcome: Hearing

Order - Unclassified

1. Adjourned to 9.00am, Friday 8 October 2004.

Mr D Colovic (for liquidator); Mr J Jackson (for Evajade); Mr J Karas (f
or trustee)
Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : Mr A Garrett
For Defendant 1 : Mr M Livesey with Mr S Evans

06/10/2004 Hearing
B4 Gray J
Scheduled Hearing Date: 08/10/2004 AT 9:00am

08/10/2004 Outcome: Hearing

Order - Unclassified

1. Adjourned to 9.00am Thursday 14 October 2004 for mention.

Mr J Karas for trustee, Mr J Jackson (Director of trustee company)
Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey with Mr S Evans

10/10/2004 Hearing
before Justice Gray - for mention
Scheduled Hearing Date: 14/10/2004 AT 9:00am

14/10/2004 Outcome: Hearing

Order - Unclassified

1. Adjourned to 2.00pm Friday 15 October 2004 for mention.

Mr J Karas for the Trustee
Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : Mr J Jackson
For Defendant 1 : Mr M Livesey

14/10/2004 111 Amended Statement Of Claim BY: DCC 1

14/10/2004 Hearing
before Justice Gray (for mention only)
Scheduled Hearing Date: 15/10/2004 AT 2:00pm

15/10/2004 Outcome: Hearing

Order - Unclassified

1. Vacate the setting down for trial and vacate the date for trial.
2. Listed for directions at 4.00pm Wednesday 3 November 2004.

Mr J Karas for Trustee
Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : Mr A Garrett with Mr J Jackson
For Defendant 1 : Mr M Livesey with Mr S Evans

16/10/2004 Hearing
B4 Gray J - for directions
Scheduled Hearing Date: 03/11/2004 AT 4:00pm

19/10/2004 112 Amended Statement Of Claim BY: PL 1

26/10/2004 113 Notice Of Change Of Solicitors BY: PL 2

03/11/2004 Outcome: Hearing

Order - Unclassified

1. Adjourned for directions at 9.00am on Thursday 25 November 2004.

Ms L Gamble for trustee in bankruptcy.
Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Mr J Jackson
For Plaintiff 2 : Mr N Rochow
For Defendant 1 : Mr M Livesey with Mr S Evans

03/11/2004 Full Bench Hearing
before Chief Justice (in absentia), Gray and Anderson JJ
Scheduled Hearing Date: 04/11/2004 AT 9:00am

04/11/2004 Outcome: Full Bench Hearing

Reserved Judgment Delivered (Non Finalising)

Presiding Officer Full Court:
For Plaintiff 1, 2 : For Appellants:No appearance Appellants
For Defendant 1 : For Respondent: Mr S Evans

04/11/2004 Hearing
B4 Gray J for directions
Scheduled Hearing Date: 25/11/2004 AT 9:00am

08/11/2004 114 Reasons For Judgment (non-finalising)
CJ DOYLE, GRAY J & ANDERSON J, 4.11.2004, SASC 348

08/11/2004 115 Notice for Specific Directions BY: PL 2
RESTRAIN FROM POWER OF SALE

08/11/2004 116 Affidavit Of Facts BY: PL 1,2
a g garrett ex.116a-v

09/11/2004 117 Affidavit Of Facts BY: PL 1,2
A M GARRETT

09/11/2004 118 Affidavit Of Facts BY: PL 1,2
R K BEISSEL EX.118A-J

24/11/2004 119 Affidavit Of Facts BY: PL 2
R K Beissel ex 119a-i

25/11/2004 Outcome: Hearing

Order - Unclassified

1. Adjourned to 9.15am, Wednesday 15 December 2004 for hearing.
2. Adjourned to 9.15am, Wednesday 8 December 2004 for mention.

Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : No Appearance Plaintiff
For Plaintiff 2 : Mr N Rochow
For Defendant 1 : No Appearance Defendant

25/11/2004 Hearing
B4 Gray for mention
Scheduled Hearing Date: 08/12/2004 AT 9:15am

25/11/2004 Hearing
B4 Gray J for hearing

Scheduled Hearing Date: 15/12/2004 AT 9:15am

08/12/2004

Outcome: Hearing

Order - Unclassified

1. Adjourned to 9.15am Wednesday 15 December 2004.

Presiding Officer The Honourable Justice Gray

For Plaintiff 1 : No Appearance Plaintiff

For Plaintiff 2 : Mr N Rochow

For Defendant 1 : Mr P McNamara QC with Mr M Livesey

15/12/2004

Outcome: Hearing

Presiding Officer The Honourable Justice Gray

Order - Unclassified

1. Adjourned for further hearing to not before 11.00am Friday 17 December 2004 subject to Mr Rochow's availability.

Presiding Officer The Honourable Justice Gray

For Plaintiff 1 : No Appearance Plaintiff

For Plaintiff 2 : Mr N Rochow with Mr K Beisel

For Defendant 1 : Mr P McNamara QC with Mr M Livesey

16/12/2004

Hearing

before Justice gray

Scheduled Hearing Date: 17/12/2004 AT 11:00am

17/12/2004

Outcome: Hearing

Order - Unclassified

1. Adjourned to a date to be fixed.

Presiding Officer The Honourable Justice Gray

For Plaintiff 1 : No Appearance Plaintiff

For Plaintiff 2 : Mr N Rochow with Mr R Beissel

For Defendant 1 : Mr P McNamara QC with Mr M Livesey

20/12/2004

Hearing

B4 Gray J

Scheduled Hearing Date: 20/12/2004 AT 4:00pm

20/12/2004

Outcome: Hearing

Order - Unclassified

1. That the defendant by counterclaim deliver up to the Court by no later than 31 January 2005 the duplicate Memorandum of Mortgage No 8909699 provided by the plaintiffs to NM Rothschild & Sons (Australia) Ltd.

2. That the respondents to the defendant's amended notice for specific directions filed 20 December 2004, file and serve any affidavits relied upon in response, on or before 31 January 2005.

3. That the application be adjourned for further mention at 9.15am on 1 February 2005.

Settled on 21.12.2004 by : KCSECS

Mr D McIntosh for Registrar General

Presiding Officer The Honourable Justice Gray

For Plaintiff 1 : Plaintiff in Person

For Plaintiff 2 : No Appearance Plaintiff

For Defendant 1 : Mr P McNamara QC with Mr M Livesey

20/12/2004 Hearing
B4 Gray J
Scheduled Hearing Date: 20/12/2004 AT 10:00am

20/12/2004 Outcome: Hearing

Order - Unclassified

1 Adjourned to 4.00 pm Monday 20 December 2004 for mention.

Presiding Officer The Honourable Justice Gray

For Plaintiff 1 : Plaintiff in Person

For Plaintiff 2 : No Appearance Plaintiff

For Defendant 1 : Mr P McNamara QC with Mr M Livesey

20/12/2004 120 Notice for Specific Directions BY: D 1

20/12/2004 121 Affidavit Of Facts BY: D 1
s a evans ex 121a-c

21/12/2004 Hearing
B4 Gray J for further mention
Scheduled Hearing Date: 01/02/2005 AT 9:00am

21/12/2004 122 Order - Unclassified BY: D 1
deliver duplicate memorandum

22/12/2004 123 Notice for Specific Directions BY: D 1
amended notice 20.12.04 @ 11.00am

22/12/2004 124 Affidavit Of Facts BY: D 1
s a evans ex.124a-c

11/01/2005 125 Notice for Specific Directions BY: PL 1,2

11/01/2005 126 Affidavit Of Facts BY: DCC 1

A M GARRETT EX 126A-S

14/01/2005	127	Notice for Specific Directions be held in contempt of court	BY: PL 1,2, DCC 1
14/01/2005	128	Affidavit Of Facts a m garrett ex.128a-k	BY: PL 1,2, DCC 1
31/01/2005	129	Affidavit Of Facts S A EVANS EX129A-129I	BY: D 1
31/01/2005	130	Affidavit Of Facts A M GARRETT	BY: PL 1,2, DCC 1
09/02/2005	131	Notice for Specific Directions **Now on file 9127/04**	BY: D 1
09/02/2005	132	Affidavit Of Facts **Now on file 9127/04**	BY: D 1
10/02/2005		For Hearing: Not in Cause List Before Judge Lunn Scheduled Hearing Date: 23/02/2005 AT 10:30am	
23/02/2005		Outcome: For Hearing: Not in Cause List	

Order - Unclassified

- 1 That the notice for directions (doc 131) and all subsequent documents relating to the interpleader proceedings be filed in a sub-action 9127/04.
- 2 That any party claiming any of the chattels referred to in the affidavit of Nicholas Cooper sworn on 8 February 2005 file points of claim pleading their title to such assets by 4 March 2005.
- 3 National Bank give notice of this order to Anscape by it's solicitors.
- 4 That the dispute as to who has title to the chattels be determined as an interpleader proceeding under r 42.
- 5 Further consideration adjourned to 11 March 2005 at 2.15 pm.
- 6 Costs reserved.

That this matter be adjourned to For Hearing: Not in Cause List on 11.03.2005 at 2:15pm.

Mr S Doyle appeared on behalf of Mr Tseng.
Ms Gamble appeared on behalf of the Official Trustee in
Bankruptcy of Mr Garrett.
Presiding Officer Judge Lunn
For Plaintiff 1 : No Appearance Plaintiff
For Plaintiff 2 : Mr Cudmore for Official Trustee in Bankruptcy
For Defendant 1 : Mr M Livesey with Mr Evans

23/02/2005 133 Affidavit Of Facts
Now on file 9127/04

23/02/2005 For Hearing: Not in Cause List
Before Judge Lunn
Scheduled Hearing Date: 11/03/2005 AT 2:15pm

23/02/2005 134 Affidavit Of Facts BY: D 1
Now on file 9127/04

23/02/2005 135 Affidavit Of Facts BY: PL 1, D 1
A M GARRETT EX135A-135O

23/02/2005 136 Affidavit Of Facts BY: PL 1, D 1
Now on file 9127/04

24/02/2005 Hearing
before Justice Gray
Scheduled Hearing Date: 25/02/2005 AT 3:30pm

25/02/2005 Outcome: Hearing

Order - Unclassified

1. Adjourned to 9.15am Friday 4 March 2005.

Mr J Wells QC for Creditnet. Mr J Cudmore for trustee in bankruptcy for
Mrs Garrett

Presiding Officer The Honourable Justice Gray

For Plaintiff 1 : No Appearance Plaintiff

For Plaintiff 2 : Plaintiff in Person

For Defendant 1 : Mr P McNamara QC with Mr M Livesey

25/02/2005 137 Affidavit Of Facts BY: D 1
S A Evans Ex137a-137d

25/02/2005 138 Affidavit Of Facts
D M ELIX EX 138A-E

25/02/2005 Hearing
B4 Gray J
Scheduled Hearing Date: 04/03/2005 AT 9:15am

04/03/2005 Outcome: Hearing

Order - Unclassified

1. Adjourned to 4.15pm Tuesday 29 March 2005 for mention.

Mr J Wells QC for Credinet
Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Plaintiff in Person
For Plaintiff 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey with Mr S Evans

04/03/2005 139 Notice for Specific Directions BY: PL 1,2
DEED OF DISCHARGE LODGED BE DECLARED VOID

04/03/2005 Hearing
B4 Gray J for mention
Scheduled Hearing Date: 29/03/2005 AT 4:15pm

11/03/2005 Outcome: For Hearing: Not in Cause List

Order - Unclassified

- 1 Mr Cudmore for Mr Duncan for the trustee of Mrs Garrett indicating his client does not intend to take any further part in this interpleader proceedings and seeks to receive his right.2 No attendance of Mr Garrett and plaintiff's sols. to advise him in writing within 5 days that if he or his associated companies wish to file a points claim they must be filed by no later than 24/3/05.
- 3 Points of defence to be filed by 29/3/05 and any points of reply within 7 days of service of points of defence.
- 4 Interpleader issues to be determined on affidavit evidence.
- 5 Parties to file affidavits which to include discovery of documents within 14 days of the close of points of pleading.
- 6 Parties to give notice within 7 days of service of affidavits if defts. for cross-examination.
- 7 Adjourn for further directions to 4/5/05 9.15am.

Mr J Cudmore for SJ Duncan as trustee of bankrupt estate of A G Garrett.
Mr S Doyle for Tseng. Ms L Gamble for P Macks as trustee of bankrupt estate of A M Garrett
(DOCUMENTS TO BE FILED BEARING ACTION NO. 9127/04)
Presiding Officer Judge Lunn
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey

22/03/2005 Hearing
before Justice Gray
Scheduled Hearing Date: 23/03/2005 AT 2:00pm

23/03/2005 Outcome: Hearing

Reserved Judgment Delivered (Non Finalising)

Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : No Appearance Plaintiff

For Plaintiff 2 : Mr N Rochow
For Defendant 1 : Mr M Livesey
For Defendant by Counter Claim 1 : No Appearance Other Party
For Intervener 1 : No Appearance Other Party

Order - Unclassified

- 1 Application dismissed.
- 2 Question of costs reserved.

24/03/2005 142 Notice for Specific Directions BY: PL 1
Interest natural justice (29/3/05 @ 4:15)

29/03/2005 Outcome: Hearing

Order - Unclassified

1. Notice of specific directions dated 24 March 2005 FDN 142 referred to Judge Lunn.
2. Notice of specific directions dated 21 December 2004 FDN 123 adjourned to Thursday 7 April 2005 at 9.30am.
3. Adjourned to 9.30am Wednesday 30 March 2005 for mention.

Mr J Wells QC for Creditnet.

Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : No Appearance Plaintiff
For Plaintiff 2 : Plaintiff in Person
For Defendant 1 : Mr M Livesey with Mr S Evans

29/03/2005 143 Reasons For Judgment (non-finalising)
Gray J JNo 105

29/03/2005 144 Notice To Produce BY: PL 1,2

30/03/2005 Hearing
B4 Gray J
Scheduled Hearing Date: 30/03/2005 AT 9:15am

30/03/2005 Outcome: Hearing

Order - Unclassified

1. Notice for specific directions dated 4 March 1005 FDN 139 adjourned to 9.30am Thursday 7 April 2005.

Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : No Appearance Plaintiff
For Plaintiff 2 : Plaintiff in Person
For Defendant 1 : No Appearance Defendant

30/03/2005 Hearing

B4 Gray J
Scheduled Hearing Date: 07/04/2005 AT 9:30am

04/04/2005 145 Notice for Specific Directions BY: PL 1,2
evidence in 57/05 & 247/04 be used in other matter

04/04/2005 146 Notice for Specific Directions BY: PL 1,2
pay proceeds into supreme court 7.4.05 @ 9.30

04/04/2005 147 Notice To Produce BY: PL 1,2

06/04/2005 148 Notice To Admit BY: PL 1,2

06/04/2005 149 Outline Of Submissions BY: PL 1,2, DCC 1

07/04/2005 Outcome: Hearing

Order - Unclassified

1. Adjourned to 2.15pm Wednesday 13 April 2005 for hearing.
2. Refer Application FDN 139 to Master Lunn.

Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Plaintiff in Person
For Plaintiff 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey

07/04/2005 150 Notice for Specific Directions BY: PL 1,2
leave to appeal

07/04/2005 Hearing
B4 Gray J
Scheduled Hearing Date: 13/04/2005 AT 2:15pm

11/04/2005 151 Address for Service/and of Solicitor BY: PL 1,2

11/04/2005 152 Notice for Specific Directions BY: PL 1,2
leave to add applicants

11/04/2005 153 Notice for Specific Directions BY: PL 1,2
leave to re-open full court appeal

11/04/2005 154 Request To Issue Subpoena BY: PL 1,2, DCC 1
m livesey

11/04/2005	156	Request To Issue Subpoena p mcnamara	BY: PL 1,2, DCC 1
11/04/2005	157	Request To Issue Subpoena a scott	BY: PL 1,2, DCC 1
11/04/2005	158	Request To Issue Subpoena d proudman	BY: PL 1,2, DCC 1
11/04/2005	159	Request To Issue Subpoena s evans	BY: PL 1,2, DCC 1
11/04/2005	160	Request To Issue Subpoena johnson winter & slattery	BY: PL 1,2, DCC 1
11/04/2005	161	Request To Issue Subpoena national australia bank	BY: PL 1,2, DCC 1
11/04/2005	162	Request To Issue Subpoena sims partners	BY: PL 1,2, DCC 1
11/04/2005	163	Request To Issue Subpoena b atkinson	BY: PL 1,2, DCC 1
11/04/2005	164	Request To Issue Subpoena r oliver	BY: PL 1,2, DCC 1
11/04/2005	165	Request To Issue Subpoena e shipley	BY: PL 1,2, DCC 1
11/04/2005	166	Request To Issue Subpoena n lattimore	BY: PL 1,2, DCC 1
11/04/2005	167	Request To Issue Subpoena n cooper	BY: PL 1,2, DCC 1
11/04/2005	168	Request To Issue Subpoena p macks	BY: PL 1,2, DCC 1
11/04/2005	169	Request To Issue Subpoena s duncan	BY: PL 1,2, DCC 1

11/04/2005 170 Notice for Specific Directions
Contempt BY: PL 1,2

11/04/2005 171 Notice To Produce BY: PL 1,2

12/04/2005 Hearing
before Justice Gray
Scheduled Hearing Date: 13/04/2005 AT 4:30pm

12/04/2005 172 Affidavit Of Facts
s a evans ex.172a-h BY: D 1

13/04/2005 Outcome: Hearing

Order - Unclassified

1. Judgment reserved re: Notice of Specific Directions FDN: 150.
2. Judgment reserved re: Notice of Specific Directions FDN: 153.
3. Adjourned.

Mr Cudmore for the trustee in bankruptcy for Mrs Garrett. Ms L Gamble for the trustee in bankruptcy for Mr Garrett.
Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : Plaintiff in Person
For Defendant 1 : Mr M Livesey with Mr S Evans

15/04/2005 Application
Before Judge Lunn
Scheduled Hearing Date: 21/04/2005 AT 9:40am

21/04/2005 Outcome: Application

Order - Unclassified

- 1 Application of 4 March 2005 (doc 139) is adjourned.

That this matter be adjourned to For Hearing: Not in Cause List on 17.05.2005 at 3:00pm.

Presiding Officer Judge Lunn
For Plaintiff 1 : Mr Garrett in person
For Plaintiff 2 : No Appearance Plaintiff
For Defendant 1 : Mr T Grace

21/04/2005 For Hearing: Not in Cause List
Before Judge Lunn
Scheduled Hearing Date: 17/05/2005 AT 3:00pm

26/04/2005 173 Notice for Specific Directions
leave to Serve BY: PL 1,2

11/05/2005 Hearing
Before Justice Gray: Judgment
Scheduled Hearing Date: 12/05/2005 AT 2:00pm

12/05/2005 Outcome: Hearing

Order - Unclassified

1. Application for leave to appeal decision of this Court in Andrew Garrett Wine Resorts & Anor v National Australia Bank (No 2) 2005 SASC 105 is dismissed.
2. Application to re-open decision of the Full Court in Andrew Garrett Wine Resorts & Anor v National Australia Bank 2004 SASC 348 is dismissed.
3. Reserve question of costs.

Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : No Appearance Applicant
For Defendant 1 : Mr M Livesey

Judgment Reserved (Non Finalising)

17/05/2005 Outcome: For Hearing: Not in Cause List

Order - Unclassified

- 1 I make an order that the application of Mr & Mrs Garrett and Andrew Garrett Wines Resorts Pty Ltd (in liquidation) (doc 139) dismissed.
- 2 Costs of application be paid by applicants to National Australia Bank as taxed or agreed.
- 3 Fit for counsel.

Presiding Officer Judge Lunn
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey

18/05/2005 Hearing
Before Justice Gray: For Hearing
Scheduled Hearing Date: 19/05/2005 AT 10:15am

19/05/2005 Outcome: Hearing

Order - Unclassified

1. Adjourned to 2.15pm Monday 30 May 2005 for hearing.

Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : No Appearance Plaintiff
For Plaintiff 2 : Plaintiff in Person
For Defendant 1 : Mr M Livesey with Mr S Evans

Reserved Judgment Delivered (Non Finalising)

19/05/2005 174 Reasons For Judgment (non-finalising)
Gray J JNO 172

19/05/2005 175 Reasons For Judgment (non-finalising)
Gray J J.No 171 (No 3)

19/05/2005 176 Reasons For Judgment (non-finalising)
Gray J JNo 170 (No 4)

27/05/2005 Hearing
Before Justice Gray: Cost Argument
Scheduled Hearing Date: 30/05/2005 AT 2:15pm

30/05/2005 Outcome: Hearing

Judgment Reserved (Non Finalising)

Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Plaintiff in Person
For Plaintiff 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey

14/06/2005 For Mention Only
Before Judge Bowen Pain
Scheduled Hearing Date: 14/06/2005 AT 9:30am

14/06/2005 Outcome: For Mention Only

Order - Unclassified

- 1 I list the 1st pltf's application (doc 142) for hearing on the adjourned date.
- 2 I direct that the solicitors for NAB advise the Andrew Morton Garrett of these orders by facsimile transmission today.
- 3 Andrew Morton Garrett to pay the costs of NAB of today's attendance.

Presiding Officer Judge Bowen Pain
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : Mr S Evans

14/06/2005 For Mention Only
Before Judge Bowen Pain
Scheduled Hearing Date: 17/06/2005 AT 9:15am

17/06/2005 Outcome: For Mention Only

Order - Unclassified

- 1 The applic. doc. 142 is not in an acceptable form and fails to indicate that it is brought by Mr Garrett in the capacity for which he contends it is possible to clarify this matter. I therefore dismiss the application.
- 2 Mr Garrett to pay the costs of NAB in relation to the application.

Presiding Officer Judge Bowen Pain
For Plaintiff 1, 2 : Mr Garrett in person
For Defendant 1 : Mr Evans

23/06/2005 177 Notice for Specific Directions BY: DCC 1
LEAVE FOR A GARRETT TO MANAGE CORPORATION

23/06/2005 178 Affidavit Of Facts BY: DCC 1
A M GARRETT EX 178A-AJ

28/06/2005 Chamber List Hearing
before Judge Bowen Pain
Scheduled Hearing Date: 08/07/2005 AT 11:50am

08/07/2005 Outcome: Chamber List Hearing

Order - Unclassified

- 1 I dismiss the notice for specific directions of Andrew Morton Garrett document 177.
- 2 Andrew Morton Garrett to pay the costs of ASIC and the National Aust. Bank in respect of that application to be agreed or taxed.
- 3 I adjourn this matter for further consideration after the handing down of the outstanding judgments of Justice Gray.

Presiding Officer Judge Bowen Pain
For Plaintiff 1, 2 : Mr A Garrett in person
For Defendant 1 : Ms Francas for ASIC
For Defendant by Counter Claim 1 : Mr S Evans for NAB

21/07/2005 179 Notice for Specific Directions BY: DCC 1
leave to appeal

27/07/2005 Hearing
before Justice Gray
Scheduled Hearing Date: 28/07/2005 AT 9:00am

27/07/2005 180 Outline Of Submissions BY: D 1

27/07/2005 181 Affidavit Of Facts BY: D 1
s a evans ex.181a-m

28/07/2005 Outcome: Hearing

Order - Unclassified

- 1 Application for leave to appeal withdrawn.
- 2 Cost of application to be paid by Mr Garrett to be taxed.

Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey with Mr S Evans
For Defendant by Counter Claim 1 : Mr A Garrett in person

28/07/2005 182 Notice for Specific Directions BY: DCC 1
ORDER BE MADE GRANTING LEAVE TO APPEAL THE
JUDGMENT OF GRAY J DATED 23.3.2005 & 12.5.2005 TO THE
FULL COURT,
PURSUANT TO RULE 95.02(b).

29/07/2005 183 Notice for Specific Directions BY: PL 1
ACTUALLY REQUEST FOR 'WAIVER OF FEES'

02/08/2005 Hearing
before Justice Gray
Scheduled Hearing Date: 03/08/2005 AT 9:15am

03/08/2005 Outcome: Hearing

Order - Unclassified

1. Order in terms of minutes of order as initialled and dated.

Presiding Officer The Honourable Justice Gray
For Plaintiff 1 : Plaintiff in Person
For Plaintiff 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey
For Defendant by Counter Claim 1 : Mr A Garrett in person

Reserved Judgment Delivered (Non Finalising)

03/08/2005 Hearing
B4 Gray J
Scheduled Hearing Date: 03/08/2005 AT 4:30pm

03/08/2005 Outcome: Hearing

Order - Unclassified

1. Pursuant to subsection 30(1) of the Service and Execution of Process Act 1992, the time between service and compliance with the following subpoenae be abridged to six (6) clear days (including days falling on a weekend):

- 1.1 the subpoena in this action addressed to Wineshare Resorts Pty Ltd dated or about the day of this Order; and
- 1.2 the subpoena in this action addressed to Creditnet Bank Internationale dated or about the day of this Order.

2. Pursuant to subsection 30(3) of the Service and Execution of Process Act 1992, the subpoenae referred to in paragraph 1 above shall not be served after Friday, 5 August 2005.

Presiding Officer The Honourable Justice Gray
 For Plaintiff 1, 2 : No Appearance Plaintiff
 For Defendant 1 : No Appearance Plaintiff
 For Defendant by Counter Claim 1 : No Appearance Plaintiff

04/08/2005 184 Order - Unclassified BY: D 1
 MEMORANDUM OF MORTGAGE NO 8909699 BE GRANTED TO PLAINTIFFS

04/08/2005 185 Order - Unclassified BY: D 1
 PURSUANT TO SUBSECTION 30(1) OF THE SERVICE &
 EXECUTION OF PROCESS ACT 1992, THE TIME BETWEEN
 SERVICE & COMPLIANCE
 WITH THE FOLLOWING SUBPOENAE BE ABRIDGED TO
 6 DAYS CLEAR (INCLUDING DAYS
 FALLING ON A WEEKEND).

04/08/2005 186 Request To Issue Subpoena BY: D 1
 SUBPOENA ISSUED TO WINESHARE RESORTS PTY LTD, J & W HOLDINGS
 PTY LTD, CREDITNET
 BANK INTERNATIONALE, EVAJADE PTY LTD (BDO(SA)
 PTY LTD

11/08/2005 Hearing
 before Justice Gray
 Scheduled Hearing Date: 12/08/2005 AT 9:30am

11/08/2005 187 Affidavit Of Facts BY: D 1
 S A EVANS EX187A

11/08/2005 188 Affidavit Of Facts BY: D 1
 S A EVANS EX188A-188W

12/08/2005 Outcome: Hearing

Order - Unclassified

1 Order that Andrew Morton Garrett pay the costs of and incidental to the issuing of subpoenas and provision of public notices in accordance with reasons for judgment published on 3 August 2005.

Presiding Officer The Honourable Justice Gray
 For Plaintiff 1, 2 : No Appearance Plaintiff

For Defendant 1 : Mr M Livesey

17/08/2005 189 Notice for Specific Directions BY: PL 1,2
EXTEND TIME TO COMPLY W/SUBPOENA

19/08/2005 **Hearing**
before Justice Gray
Scheduled Hearing Date: 22/08/2005 AT 9:15am

22/08/2005 Outcome: Hearing

Order - Unclassified

- 1 Application seeking extension of time and leave to appeal my decision of 23 April 2005 (FDN 182) is adjourned to 4.00pm Monday 29 August 2005.**
- 2 Application for Evajade to extend time to comply with subpoena is adjourned to 4.00pm Monday 29 August (FDN 189).**
- 3 Application for injunction made by notice of 15 August 2005 seeking to restrain NAB from discharging its mortgage over Springwood Park is dismissed (FDN 189).**

4 Reserves question of costs.

1 Notice for specific directions FDN 183 addressed by the Registry.
2 Letter to Mr D Hickey, CEO of Line Advantage Victoria dated 19/8/05 is to be sealed and placed on file 127 of 2004.
Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey
For Defendant by Counter Claim 1 : Mr A Garrett in person

22/08/2005 Hearing
B4 Gray J
Scheduled Hearing Date: 29/08/2005 AT 4:00pm

22/08/2005 190 Affidavit Of Facts BY: D 1
S A Evans ex 190a

29/08/2005 Outcome: Hearing

Order - Unclassified

- 1 Notice for specific directions dated 15 August 2005 (application for extension of time to comply with subpoena and injunction, FDN 189) is abandoned.**
- 2 That Andrew Garrett pay the costs of the application datedf 29 July 2005 (FDN 182) heard on 22 August 2005 and 29 August 2005 to National Australia Bank. Certified fit for counsel.**

- 3 That Andrew Garrett pay the costs on the hearing of the application dated 15 August 2005 (FDN 189) on 22 August 2005 and 29 August 2005 to National Australia Bank. Certified fit for counsel.
- 4 That judgment be reserved on the application dated 29 July 2005 (Application for leave to appeal against the decision of Gray J dated 23 March 2005 and 12 May 2005, FDN 182). Question of costs reserved.
- 5 That the application that Evajade and Lion Advantage be joined as parties be adjourned for hearing at 10.15am on Friday 2 September 2005.
- 6 That the notice for specific directions dated 29 August 2005 be adjourned for hearing to 10.15am Friday 2 September 2005.

Presiding Officer The Honourable Justice Gray
 For Plaintiff 1, 2 : No Appearance Plaintiff
 For Defendant 1 : Mr M Livesey with Mr S Evans
 For Defendant by Counter Claim 1 : Mr A Garrett

29/08/2005 191 Notice for Specific Directions BY: PL 1,2
 Restraining order (29/8/05 @ 4:00)

29/08/2005 192 Affidavit Of Facts BY: PL 1,2
 A M Garrett ex 192a-i

30/08/2005 Hearing
 B4 Gray J
 Scheduled Hearing Date: 02/09/2005 AT 10:15am

02/09/2005 Outcome: Hearing

Order - Unclassified

- 1 Application dated 29 August 2004 (FDN 191). Adjourned to 9.30am Monday 12 September 2005.

Presiding Officer The Honourable Justice Gray
 For Plaintiff 1, 2 : No Appearance Plaintiff
 For Defendant 1 : Mr M Livesey with Mr S Evans
 For Defendant by Counter Claim 1 : No Appearance Claimant

02/09/2005 193 Affidavit Of Facts BY: D 1
 S A EVANS EX 193A-E

02/09/2005 Hearing
 B4 Gray J
 Scheduled Hearing Date: 12/09/2005 AT 9:30am

12/09/2005 Outcome: Hearing

Order - Unclassified

- 1 Mr Garrett's application to reinstate the Rothschild mortgage (Notice for Specific Directions dated 28 August 2005 FDN 191) is abandoned and is dismissed. Mr Garrett is to pay National Australia Bank's costs of the application to be taxed.
- 2 Mr Garrett's application for leave to appeal the decision delivered 23 March 2005 (Notice for Specific Directions dated 28 July 2005 FDN 182) is abandoned and is dismissed. Mr Garrett is to pay National Australia Bank's costs of the application to be taxed.
- 3 Mr Garrett's application for intervention by Lion Advantage and Evajade (Notice for Specific Directions dated 28 August 2005 FDN 191) is abandoned and is dismissed. Mr Garrett is to pay National Australia Bank's costs of the application to be taxed.
- 4 Mr Garrett's oral application to reopen Mrs Garrett's application resulting in the decision of 23 March 2003 (made 29 August 2005) is abandoned and is dismissed. Mr Garrett is to pay National Australia Bank's costs of the application to be taxed.

Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey
For Defendant by Counter Claim 1 : No Appearance Claimant
For Intervener 1 : No Appearance Other Party

20/09/2005	194	Discontinuance Of Originating Claim	BY: PL 1
20/09/2005	195	Notice for Specific Directions ORDER FOR PAYMENT OUT	BY: D 1
20/09/2005	196	Affidavit Of Facts S A EVANS EX 196A-G	BY: PL 1
23/09/2005	197	Reasons For Judgment (non-finalising) Gray J J No 292	
29/09/2005		Hearing before Justice Gray Scheduled Hearing Date: 30/09/2005 AT 2:00pm	
30/09/2005		Outcome: Hearing	

Order - Unclassified

- 1 Application by National Australia Bank dated 20 September 2005 (FDN 195) is adjourned to 9.00am Tuesday 11 October 2005 for hearing.
- 2 Application by Mr Garrett dated 30 September 2005 paragraphs (1), (2), (3) adjourned to a date to be fixed.

3 Application by Mr Garrett dated 30 September 2005 paragraphs (4) and (5) adjourned to 9.00am Tuesday 11 October for hearing.

Mr Cudmore appears for Mr Duncan, Trustee in Bankruptcy for Averil Gay G arrett.

Presiding Officer The Honourable Justice Gray

For Plaintiff 1 : No Appearance Plaintiff

For Plaintiff 2 : Mr J Cudmore

For Defendant 1 : Mr M Livesey with Mr S Evans

For Defendant by Counter Claim 1 : Mr A Garret in person

30/09/2005 198 Affidavit Of Facts BY: D 1
S A EVANS EX A-I

30/09/2005 199 Notice for Specific Directions BY: DCC 1
Produce Cert Title (30/9/05)

05/10/2005 Hearing
before Justice Gray
Scheduled Hearing Date: 11/10/2005 AT 9:00am

10/10/2005 200 Affidavit Of Facts BY: D 1
S A Evans ex 200a-j

10/10/2005 201 Notice To Admit BY: D 1

11/10/2005 Outcome: Hearing

Order - Unclassified

1 Refer Notice for Specific Directions dated 10/10/05 to Master Lunn.

2 Adjourned to nb 9.15am Tuesday 1 November 2005 for hearing of contempt applications (FDN 125, 10 January 2005 and FDN 127, 14 January 2005).

3 Adjourned to 9.15am Tuesday 1 November 2005 for directions (NAB application, FDN 195).

4 Refer Notice for Specific Directions (FDN 199, 30 Sept 05) to Master Lunn.

5 Refer Notice to Admit (FDN 201, 10 Oct 2005) to Master Lunn.

1 Mr K Sandow sought to appear for Evajade Pty Ltd to make an application for intervention.

2 Mr J Cudmore appears for Mr Duncan, Trustee in Bankruptcy for Averil Gay Garrett.

Presiding Officer The Honourable Justice Gray

For Plaintiff 1, 2 : No Appearance Plaintiff

For Defendant 1 : Mr M Livesey with Mr S Evans

For Defendant by Counter Claim 1 : Mr Garrett in person

13/10/2005 Hearing
B4 Gray J not before 9.15am
Scheduled Hearing Date: 01/11/2005 AT 9:15am

17/10/2005 For Argument
Before Judge Lunn
Scheduled Hearing Date: 28/10/2005 AT 2:15pm

17/10/2005 202 Notice for Specific Directions BY: DCC 1
order for possession of land in favour of evajade

28/10/2005 Outcome: For Argument

Order - Unclassified

- 1 Applications docs 199 and 202 dismissed.
- 2 Costs of applications 202 to be paid by Andrew Garrett and Andrew Sandow.
- 3 Hearing today certified for counsel.
- 4 Applications to strike notices to admit set for argument on 7 November 2005 at 11.30 am.

That this matter be adjourned to For Argument on 7.11.2005 at 11:30am.

Mr Sandow seeking to appear on behalf of Evajade Pty Ltd.

For the purposes of this application only I give leave to Mr Sandow under R 36.11 to appear for Evajade. Para 3 of the application of 17 October (doc 202) seeks that Evajade be allowed to intervene in this action. I consider that this application is misconceived as it does not recognise the proper status of a person who becomes an intervener. The other documents filed show that Evajade as the new trustee of the Springwood Park Unit Trust in place of the original pltf, Andrew Garrett Wine Resorts Pty Ltd, seeks to pursue relief as if it was a pltf in the action. That is not open to an intervener under R 33.1. On the present pleadings there are no issues left for determination other than the payment out of the moneys in Court and possibly questions of costs and Evajade has not shown a proper basis to intervene on those issues.

The same application also seeks that Andrew Garrett be named as a substitute pltf and be given leave to file a statement of claim which would considerably widen the issues in the action. The mere fact that Mr Garrett is the trustee of the Andrew Garrett Superannuation Fund which claims a beneficial interest in the assets of Andrew Garrett Wine Resorts Pty Ltd does not give him proper grounds to be joined as pltf or to intervene in this action. Accordingly there is no basis for the other orders sought in either application 202 or in Mr Garrett's application of 30 September (doc 199) and both applications are to be dismissed.

Presiding Officer Judge Lunn

For Plaintiff 1, 2 : No Appearance Plaintiff

For Defendant 1 : Mr M Livesey with Mr S Evans

For Defendant by Counter Claim 1 : Mr Garrett in person

28/10/2005 203 Notice for Specific Directions BY: D 1

def respond to notice to admit

28/10/2005 204 Affidavit Of Facts BY: D 1
s a evans ex a-n

28/10/2005 For Argument
Before Judge Lunn
Scheduled Hearing Date: 07/11/2005 AT 11:30am

01/11/2005 Outcome: Hearing

Judgment Reserved (Non Finalising)

Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey with Mr S Evans
For Defendant by Counter Claim 1 : Mr Garrett in person

Order - Unclassified

- 1 Notice for Specific Directions dated 10 January 2005 (FDN 125) and filed by Mr Garrett seeking orders for contempt of court is dismissed.
- 2 Notice for Specific Directions dated 14 January 2005 (FDN 127) and filed by Mr Garrett seeking orders for contempt of court is dismissed.
- 3 Judgment reserved on National Australia Bank's application for payment of monies out of Court (FDN 195, 20 September 2005).

Mr J Cudmore appears for Mr Duncan, Trustee in Bankruptcy for Averil Gay Garrett.

01/11/2005 205 Affidavit Of Facts BY: DCC 1
A K SANDOW EX 2A-E

01/11/2005 206 Affidavit Of Facts BY: DCC 1
A K SANDOW EX 206A-K

07/11/2005 Outcome: For Argument

Order - Unclassified

- 1 Notices to admit filed on 6 April and 10 October 2005 are struck out.
- 2 Fit for counsel.
- 3 Costs of application to be paid by Andrew Garrett to National Bank but to be one set of costs for today with the corresponding order in 1767/03.

4 Application of bank to injunct Mr Garrett from filing further documents adjourned for directions by Justice Gray.

On the application of the deft National Bank (doc 203) to strike out notices to admit filed by Andrew Garrett I am satisfied that Mr Garrett has no standing in this action other than as a deft to a stayed counterclaim and there is no issue between him and the bank to which the notices to admit could be relevant.

Presiding Officer Judge Lunn

For Defendant 1 : Mr M Livesey with Mr S Evans

For Defendant by Counter Claim 1 : Mr Garrett in person

07/11/2005 207 Notice To Admit BY: DCC 1

07/11/2005 208 Notice for Specific Directions BY: DCC 1
ORDER TO PRODUCE CERTIFICATE OF TITLE

11/11/2005 209 Notice for Specific Directions BY: DCC 1
Join Party

11/11/2005 210 Notice for Specific Directions BY: DCC 1
WAIVER OF FEES - A GARRETT

11/11/2005 211 Notice for Specific Directions BY: DCC 1
WAIVER OF FEES - A GARRETT

14/11/2005 Hearing
before Justice Gray
Scheduled Hearing Date: 15/11/2005 AT 9:00am

14/11/2005 212 Affidavit Of Facts BY: DCC 1
A M GARRETT EX212A-212C

15/11/2005 Outcome: Hearing

Order - Unclassified

1 Paragraphs (1)-(2), (4)-(5) of FDN 208 dated 7 November 2005 and FDN 209 dated 11 November 2005 are referred to Master Lunn for hearing.

2 FDN 207 dated 7 November 2005 is referred to Master Lunn.

3 Paragraph (3) of FDN 208 dated 7 November 2005, Mr Garrett's application for an injunction, is adjourned to a date to be fixed.

4 Reserve question of costs.

Mr Garrett sought leave to appear as applicant for joinder.

Presiding Officer The Honourable Justice Gray
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey with Mr S Evans
For Defendant by Counter Claim 1 : Defendant in Person
For Intervener 1 : No Appearance Other Party

15/11/2005 213 Affidavit Of Facts BY: DCC 1
A M GARRETT EX213A-213B

16/11/2005 Hearing
Before Judge Lunn - various applications
Scheduled Hearing Date: 30/11/2005 AT 2:15pm

21/11/2005 214 Notice for Specific Directions BY: DCC 1
order reinstating mortgage

21/11/2005 215 Notice for Specific Directions BY: DCC 1
join parties as defendants

21/11/2005 216 Notice for Specific Directions BY: DCC 1
SEEKING WAIVER OF FEES

21/11/2005 217 Notice To Produce BY: DCC 1

21/11/2005 218 Notice To Produce BY: DCC 1

23/11/2005 221 Notice for Specific Directions BY: DCC 1
A Garrett be joined as party

24/11/2005 222 Notice Of Appeal To Full Court BY: DCC 1
23.03.05 & 12.05.05

24/11/2005 223 Notice Of Appeal - From Supreme Court Master BY: DCC 1
04.11.05

24/11/2005 224 Notice Of Appeal - From Supreme Court Master BY: DCC 1
28.10.05

25/11/2005 Appeal Against a Master's Decision
Scheduled Hearing Date: 09/01/2006 AT 10:00am

25/11/2005 Appeal Against a Master's Decision
Scheduled Hearing Date: 09/01/2006 AT 10:00am

30/11/2005

Outcome: Hearing

Order - Unclassified

- 1 Mr Garrett needings to comply with s 22 of the Stamp Duties Act for the assignment of causes of action to the new trust and he needs to institute separate proceedings under Corp Rules to seek leave under s 206G of the Corporations Act.
- 2 Leave to Mr Garrett to make any new proceeding under the Corp. Rules returnable for the adjourned date.
- 3 Costs of today to be payable by Mr Garrett to the National Bank and fit for counsel today.
- 4 All applications before me adjourned to 14/12/05 at 10am.

That this matter be adjourned to Hearing on 14.12.2005 at 10:00am.

Presiding Officer Judge Lunn

For Plaintiff 1, 2 : Mr Garrett

For Defendant 1 : Mr M Livesey with Mr S Evans

For Defendant by Counter Claim 1 : Mr Garrett

30/11/2005

Hearing

Scheduled Hearing Date: 14/12/2005 AT 10:00am

05/12/2005

Hearing

before Justice Gray

Scheduled Hearing Date: 06/12/2005 AT 2:00pm

06/12/2005

Outcome: Hearing

Reserved Judgment Delivered (Non Finalising)

Presiding Officer The Honourable Justice Gray

For Plaintiff 1, 2 : No Appearance Plaintiff

For Defendant 1 : Mr M Livesey

For Defendant by Counter Claim 1 : No Appearance Defendant

For Intervener 1 : No Appearance Other Party

Order - Unclassified

1. Order in terms of minutes of order initialled and dated by me today.

Settled on 12.12.2005 by : KCSGOS

Mr C Rogers appeared for Mr S Duncan, Trustee in Bankruptcy for Averil G
ay Garrett.

12/12/2005 225

Order - Unclassified
MONEY BE PAID OUT TO JWS

BY: D 1

13/12/2005 226

Notice for Specific Directions
EXTENSION OF TIME

BY: DCC 1

13/12/2005 227 Affidavit Of Facts
A M GARRETT EX 227A-N

BY: DCC 1

14/12/2005 Outcome: Hearing

Decision Reserved

Presiding Officer Judge Lunn
For Defendant 1 : Mr M Livesey with Mr Evans
For Defendant by Counter Claim 1 : Mr Garrett in person

14/12/2005 228 Reasons For Judgment (non-finalising)
GRAY J, 6.12.2005, SASC 455

15/12/2005 229 Notice for Specific Directions
Injunction

BY: DCC 1

15/12/2005 230 Notice for Specific Directions
Void Securities

BY: DCC 1

15/12/2005 231 Affidavit Of Facts
A M Garrett ex 231a-h

BY: DCC 1

16/12/2005 Paid Out Of Court
\$311,935.59 Jn Winter & Slattery T/Acc C/N 300174

20/12/2005 232 Notice Of Appeal To Full Court
Lodgement Fee

BY: PL 1,2
\$1036.00 Receipt no.: 2880195

\$1036.00

20/12/2005 Hearing
before Judge Lunn
Scheduled Hearing Date: 22/12/2005 AT 3:00pm

22/12/2005 Outcome: Hearing

Decision Reserved

Presiding Officer Judge Lunn
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : Mr M Livesey
For Defendant by Counter Claim 1 : Mr Garrett in person

22/12/2005 For Mention Only
Before Judge Lunn
Scheduled Hearing Date: 13/01/2006 AT 2:15pm

09/01/2006 233 Notice for Specific Directions BY: DCC 1
JOINDER OF A PARTY-WOULD LIKE TO BE HEARD 13.1.06
AT 2.15PM BEFORE JUDGE LUNN.

09/01/2006 234 Affidavit Of Facts BY: DCC 1
A M GARRETT EX234A-234G

11/01/2006 235 Notice for Specific Directions BY: DCC 1
Contract to Stand

12/01/2006 236 Notice for Specific Directions BY: DCC 1
SET ASIDE POWER OF SALE

13/01/2006 Outcome: For Mention Only

Reserved Decision Delivered

- 1 I deliver my Reasons and make the following orders:
- 2 The applications by Andrew Garrett (FDNs 208, 212, 221, 215 and 229 (para 2 only) are each dismissed.
- 3 The notice to admit and notices to produce filed by Andrew Garrett, FDN 209, 217 and 218, are each struck out.
- 4 The costs of each of the above applications are to be paid by Andrew Garrett to the deft.
- 5 Under R 101.01(7) those costs are to be taxed and payable immediately.
- 6 Other than in respect of any appeals against these orders no other application by Andrew Garrett in this action is to be filed or listed for hearing unless he first pays into Court \$5,000 cash on account of the taxed costs pursuant to the order in para 5 above.
- 7 All applications dealt with by this order are certified fit for counsel.
- 8 Under R 3.04(g) I direct that unless and until the stay on the counterclaim is lifted Andrew Garrett is not to be given any status in this action as a deft to counterclaim and is not to be permitted to file documents or appear in that capacity other than on appeal against these orders or previous orders.
- 9 The fee for filing any appeal against these orders by Andrew Garrett is remitted.
- 10 Provided any such notice of appeal is filed by 20 January 2006 it is to be called on before Vanstone J on 24 January 2006 in conjunction with other appeals in this action but its disposition will be subject to directions given by Her Honour.

Presiding Officer Judge Lunn
For Defendant 1 : Mr S Evans
For Defendant by Counter Claim 1 : Mr Garrett in person

13/01/2006 237 Notice for Specific Directions BY: DCC 1
Surrender files

13/01/2006 238 Report Of Master
REASONS OF JUDGE LUNN, 14.12.2005 AND 22.12.2005

20/01/2006 239 Affidavit Of Facts BY: D 1
S A Evans

23/01/2006 240 Appeal Against a Master's Decision BY: DCC 1

23/01/2006 241 Outline Of Submissions BY: D 1
SUBMISSIONS OF NATIONAL AUSTRALIA BANK LTD

23/01/2006 Hearing
before Justice Vanstone
Scheduled Hearing Date: 24/01/2006 AT 10:00am

24/01/2006 Outcome: Hearing

Judgment Reserved (Non Finalising)

Presiding Officer The Honourable Justice Vanstone
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : Mr M C Livesey with Ms E D Thomson
For Defendant by Counter Claim 1 : Mr A M Garrett in person
For Intervener 1 : No appearance Intervener

24/01/2006 Hearing
Before Vanstone J
Scheduled Hearing Date: 08/02/2006 AT 9:15am

06/02/2006 242 Affidavit Of Facts BY: DCC 1
A M GARRETT EX242A-242AC

07/02/2006 243 Affidavit Of Facts BY: PL 1
A M Garrett ex 243a-f

08/02/2006 Outcome: Hearing

Reserved Judgment Delivered (Non Finalising)

Presiding Officer The Honourable Justice Vanstone
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : Mr M C Livesey QC with Mr S A Evans
For Defendant by Counter Claim 1 : Mr A M Garrett in person
For Intervener 1 : No appearance

Order - Unclassified

Her Honour did this day order that:

1. the appeal in action no. 127 of 2004 (FDN 223) is dismissed;
2. the appeal in action no. 127 of 2004 (FDN 224) is dismissed;
3. the application for an extension of time in which to lodge appeals in action no. 127 of 2004 against decisions of Gray J (FDN 226) is dismissed;
4. the appeal in action no. 127 of 2004 (FDN 240) is dismissed;
5. the Bank have its costs of the appeals and the application dismissed this day;
6. certified fit for counsel.

09/02/2006 244 Reasons For Judgment (non-finalising)
VANSTONE J, 8.2.2006. SASC 38

13/02/2006 245 Certificate For Remission Of Fees BY: DCC 1
Application for Remission of fees

13/02/2006 246 Notice Of Appeal BY: DCC 1
To the Full Court

13/02/2006 247 Address for Service/and of Solicitor BY: DCC 1

24/02/2006 Hearing
Before Vanstone J
Scheduled Hearing Date: 02/03/2006 AT 10:00am

02/03/2006 Outcome: Hearing

Judgment Reserved (Non Finalising)

Presiding Officer The Honourable Justice Vanstone
For Plaintiff 1, 2 : No Appearance Plaintiff
For Defendant 1 : No Appearance Defendant
For Defendant by Counter Claim 1 : Mr A M Garrett in person (applicant)
For Intervener 1 : No appearance

02/03/2006 Hearing
Before Vanstone J
Scheduled Hearing Date: 15/03/2006 AT 9:30am

03/03/2006 248 Notice for Specific Directions BY: DCC 1
bill of exchange