

**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

CIV-2009-485-592

UNDER	Part 19 of the High Court Rules
IN THE MATTER OF	sections 12 and 34 of the Receiverships Act 1993
BETWEEN	DAVID IAN RUSCOE AND RICHARD GRANT SIMPSON Applicants
AND	DAVID RAYMOND HITCHINS First Respondent
AND	PETER JOHN KENNEDY Second Respondent

On papers

Judgment: 27 March 2009

JUDGMENT OF DOBSON J

[1] I have this afternoon considered the Originating Application Without Notice dated 27 March 2009, the Memorandum of Counsel in support of that, and affidavits of Messrs Bitchener and Ruscoe filed in support of the application.

[2] The papers make out a sufficient need for urgency to justify consideration of the papers without awaiting any response on behalf of the respondents. The Memorandum of Counsel advises that the proceeding is on a without notice basis subject to *Pickwick*-type arrangements for copies of the papers to be delivered to solicitors acting for the respondents, Peterson Law Limited.

[3] The application is brought by Messrs Ruscoe and Simpson in their capacity as receivers of the company that is the present owner of the Maritime Towers

property at 10 Customhouse Quay, Wellington. The mortgagee of that property has exercised powers under the mortgage to arrange a sale of the building, and a contract for its sale is due to be settled on Tuesday, 31 March 2009.

[4] The terms of that sale will oblige the agents of the mortgagee to produce a range of documents on settlement. Attempts thus far to obtain those documents, which the applicants reasonably apprehend to be under the power or control of the respondents, have been unsuccessful.

[5] A case is made for orders in terms of paragraph (a) of the Originating Application, and I so order.

[6] Order (b) as sought is also warranted, given the urgency and the measure of uncertainty as to the full extent of documents that will be required by the mortgagee's agent on settlement. Accordingly, leave is reserved to the applicants.

[7] Similarly, leave is reserved more generally to the respondents to move for amendment to these orders, or for other orders as may become necessary.

[8] The applicants' costs on this application are reserved.

Dobson J

Solicitors:
Bell Gully, Wellington for applicants
Peterson Law Limited, Wellington for respondents