

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

CIV 2009-485-587

BETWEEN CS DEVELOPMENT NO. 2 LIMITED
Plaintiff

AND AJ COCKBURN, JE COCKBURN AND
KI JEFFERIES
Defendants

Hearing: 23 June 2009

Appearances: H. Rennie QC - Counsel for Plaintiff
R. Harley - Counsel for Defendants

Decision: 23 June 2009

DECISION OF ASSOCIATE JUDGE D.I. GENDALL

Solicitors: Treadwells, Barristers & Solicitors, PO Box 859, Wellington 6140
Jeffries Raizis, Barristers & Solicitors, PO Box 10641, Wellington

[1] Before the Court is an interlocutory application by the plaintiff on notice for an order that John Maxwell Fairbairn appear and be examined on oath with regard to the plaintiff's present summary judgment application.

[2] After considering the application and supporting affidavits and the Notice of Opposition from the defendants and their supporting material and having heard submissions from counsel for the plaintiff and counsel for the defendants I am satisfied that the application should succeed.

[3] An order is now made that John Maxwell Fairbairn of Wellington, Sales Manager appear and be examined on oath before a Registrar or Deputy Registrar of this Court at the latest on Thursday, 25 June 2009 (or such other time as this Court may appoint) bringing with him all documents held by him relevant to the matters comprised in this proceeding CIV 2009-485-587 and the applications for summary judgment UNLESS he shall have prior to the date of such appearance sworn an affidavit setting out the information known to him and exhibiting the documents held by him and delivered such affidavit to this Court for filing.

[4] My detailed reasons for this decision shall follow.

[5] Costs are reserved.

'Associate Judge D.I. Gendall'