

SUPREME COURT OF QUEENSLAND

REGISTRY Brisbane
NUMBER 1076/17

Plaintiff: **KORDAMENTHA PTY LTD (ACN 100 169 391) IN ITS
CAPACITY AS TRUSTEE OF THE LM MANAGED
PERFORMANCE FUND**

AND

Defendant: **LM INVESTMENT MANAGEMENT LIMITED
(RECEIVERS AND MANAGERS APPOINTED) (IN
LIQUIDATION) (ACN 077 208 461)**

APPLICATION

TAKE NOTICE that KordaMentha Pty Ltd (ACN 100 169 391) as trustee of the LM Managed Performance Fund ("plaintiff") is applying to the Court for the following orders:

1. In respect of the application filed on 8 November 2018 for directions under section 96 of the *Trusts Act* 1973 (Qld), the plaintiff serve by email all unitholders of the Managed Performance Fund ("MPF") for whom the plaintiff has an email address.
2. By 4.00pm on 22 November 2018, the plaintiff is to email to the MPF unitholders a notice informing them that the plaintiff has applied ("**S 96 Application**") to this Honourable Court for directions under section 96 of the *Trusts Act* 1973 (Qld) to discontinue the proceeding, and that they may view all substantive Court documents upon which the plaintiff intends to rely in support of its S 96 Application on the web-site whose address is:
<http://www.kordamentha.com/creditor-information/australia/109> ("**Website**").

APPLICATION

Filed on behalf of the Applicant



Form 9 Rule 31

ME_154936448_1

MINTER ELLISON
Waterfront Place
1 Eagle Street
BRISBANE QLD 4000
DX 102 BRISBANE
Telephone (07) 3119 6000
Facsimile (07) 3119 1000
Email: david.o'brien@minterellison.com
Reference DOB 1109005

3. Where the plaintiff receives a response to an email that indicates the email was not received and the plaintiff has a postal address for that MPF unitholder, the plaintiff is to post the email to the postal address of the MPF unitholder.
4. Service in accordance with this order be deemed to be effective on each of the MPF unitholders as of 29 November 2018.
5. Before sending the emails referred to in paragraph 2 of this order, the plaintiff is to upload to the Website, copies of:
 - (a) the S 96 Application;
 - (b) this application for directions about service;
 - (c) the affidavit of Jarrod Villani to be filed in support of the application for directions about service;
 - (d) the affidavit of David Thomas O'Brien to be filed in support of the application for directions about service;
 - (e) the service order;
 - (f) the Statement of Facts drawn pursuant to section 96 (1) of the *Trusts Act* 1973 (Qld); and
 - (g) any substantive affidavits (including all the exhibits) that the plaintiff intends to reply upon in support of its S 96 Application.
6. Where the plaintiff proposes to rely on further material in support of its S 96 Application, it may serve that material by uploading the material to the Website, sending letters to a postal address to unitholders to whom order 3 applies, and otherwise by email to the unitholders.
7. The plaintiff is not required to take further steps to serve MPF unitholders whose email addresses return permanent undeliverable receipts and for which the Trustee does not have a postal address.
8. The plaintiff's costs and expenses of and incidental to its application for this order be paid on the indemnity basis out of the MPF.

9. The plaintiff is to serve a copy of this order on LM Investment Management Limited (Receivers and Managers Appointed) (In Liquidation) (ACN 077 208 461).

This application will be heard by the Court at Brisbane
on: Tuesday, 20 November 2018 at 10.00 am.

Filed on 8 November 2018

Registrar



If you wish to oppose this application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you.

On the hearing of the application the plaintiff intends to rely on the following affidavits and documents:

1. Affidavit of Jarrod Villani to be sworn and filed.
2. Affidavit of David Thomas O'Brien to be sworn and filed.

THE PLAINTIFF ESTIMATES THE HEARING SHOULD BE ALLOCATED 30
Minutes

Signed:

Minter Ellison

Description: MINTER ELLISON
Solicitors for the Plaintiff

Dated: 8 November 2018

This application is not intended to be served on any person.

Notice of this application will be given to:

The defendant, LM INVESTMENT MANAGEMENT LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) (ACN 077 208 461)