

SUPREME COURT OF QUEENSLAND

REGISTRY Brisbane
NUMBER 12716/15

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. Directions pursuant to section 96 of the *Trusts Act* 1973 (Qld), as to whether the plaintiff would be justified in discontinuing this proceeding against the defendant.
2. The plaintiff's costs and expenses of and incidental to this proceeding be paid on the indemnity basis out of the LM Managed Performance Fund.
3. Such further and other orders or directions as this Honourable Court deems appropriate.

This application for directions will be heard by the Court at Brisbane
on: Thursday 9 August 2018 at 10.00am.



ORIGINATING APPLICATION

Filed on behalf of the Applicant

Form 5 Rules Rule 26

MINTER ELLISON

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Reference: NYB DOB 407747963

Filed on 5 July 2018



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 for directions the plaintiff intends to rely on the following material:

1. Affidavit of Jarrod Villani to be filed;
2. Affidavit of David Thomas O'Brien to be filed;
3. Statement of Facts pursuant to section 96(1) of the *Trusts Act* 1973 (Qld) to be filed.

THE PLAINTIFF ESTIMATES THE HEARING OF THE APPLICATION FOR DIRECTIONS SHOULD BE ALLOCATED 1.5 HOURS

Signed:

Description: MINTER ELLISON
Solicitors for the plaintiff

Dated: 5 July 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)

AND TO

Mr David Whyte in his capacity as court appointed receiver of the property of the LM First Mortgage Income Fund