

OUTCOME DETAILS

**Supreme Court - Civil
at Supreme Court Sydney
on 11 December 2017**

2017/00193375-001 / Summons: TW McConnell Pty Ltd ACN 000 217 890 as trustee for the McConnell Superannuation Fund v SURFSTITCH GROUP LIMITED

1. With the consent of the second defendant I make orders made in accordance with the Short Minutes of Order, initialled by Stevenson J, dated today and placed with the papers.

SHORT MINUTES ORDER:

1. Orders 3 and 5 of the orders made on 1 September 2017 be vacated.
2. The plaintiff file and serve any commercialist reply by 29 January 2018.
3. The proceedings be listed for further directions at 9.30am on 9 February 2018 before Stevenson J.
4. Costs be reserved.

2017/00193375-001 / Summons: TW McConnell Pty Ltd ACN 000 217 890 as trustee for the McConnell Superannuation Fund v SURFSTITCH GROUP LIMITED

This matter is listed for Directions on 9 February 2018 9:30 AM before the Supreme Court - Civil at Supreme Court Sydney.

2017/00193375-006 / Notice of Motion Civil - TW McConnell Pty Ltd ACN 000 217 890 as trustee for the McConnell Superannuation Fund v SURFSTITCH GROUP LIMITED

1. Grant leave to the plaintiff to file an Amended Notice of Motion in the Registry (in the form exhibited to the Affidavit of Glenn Charles McGowan of 24 October 2017 and marked MFI 1).

2. Pursuant to s 7 of the Court Suppression and Non-Publication Orders Act 2010, order that pars 13 to 38, 50 (last sentence only), 53, 71 to 84, 86 to 88, and 92 to 95 of the Confidential Affidavit of Glenn Charles McGowan of 17 October 2017 and pars 3 to 7 of the Confidential Affidavit of Glenn Charles McGowan of 24 October 2017, not be disclosed to any party without leave of the Court.

3. Make an order in accordance with par 2 of the plaintiff's notice of motion of 15 September 2017 substituting the words "any affidavit" with the words "the redacted portions of confidential affidavits of Glenn Charles McGowan made 17 and 24 October 2017".

4. To the extent that is necessary, grant the plaintiff leave pursuant to s 440D of the Corporations Act 2001 (Cth) to proceed with its proposed amended notice of motion to be filed in the Registry.

5. Judgment on the plaintiff's notice of motion of 15 September 2017 is reserved.

2017/00193375-007 / Notice of Motion Civil - Vannin Capital Operations Limited v TW McConnell Pty Ltd ACN 000 217 890 as trustee for the McConnell Superannuation Fund

Notice of Motion granted

1. Grant leave to Nakali Pty Limited to intervene in these proceedings and make submissions in relation to:

- (a) whether a common fund order be made now;
- (b) the form of any such order;
- (c) the form of the notice proposed to be sent to group members.

2. Order that the confidential material in Affidavits of Glenn Charles McGowan's made 17 and 24 October 2017 be made available to Mr Newlinds, Mr Foreman and Mr Scarcella on the basis of the undertaking given to the Court by those individuals to:

- (a) not disclose the contents of that confidential material to any other person;
- (b) not to make any copy of that material; and
- (c) return that material to the solicitors for the plaintiff upon resolution of the plaintiff's Amended Notice of Motion.

Justice J Stevenson

Signed

Date