

IN THE COURT OF APPEAL OF VICTORIA
AT MELBOURNE
IN THE COURT OF APPEAL

No. *S APCI 2013 0043*

BETWEEN

BRIAN WILLIAM SHAW

Plaintiff Applicant

- and -

THE ANZ EXECUTORS and TRUSTEE COMPANY
LIMITED (AS THE TRUSTEES OF THE ESTATE
OF JOHN WILLIAM SHAW, DECEASED

Defendant Respondent

10

SUMMONS NOTICE
FOR LEAVE TO APPEAL JUSTICE HABERSBERGER DECISION:
13 MARCH 2013

Date of document:

26 MARCH 2013

Filed on behalf of: The Plaintiff

Prepared by: Brian Shaw

Address: C/- P.O.Box 800 Werribee

Tel: 0487 195 522

Victoria, 3030

20 You are summoned to attend before the Court on the hearing of an application by the plaintiff for judgement or an order in respect of the relief or remedy sought in the summons as follows:-

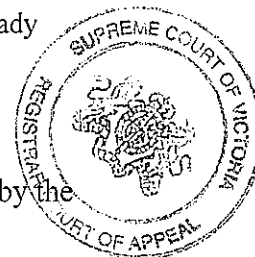
1. Leave to appeal from the decision of Justice Habersberger made on 13 March 2013.
File number: SCI 2009 07640.
2. ~~The matter be removed to the Exclusive Jurisdiction of the High Court in relation to the revealed Inter Se issues.~~
3. ~~The matter stayed pending the High Court decision relating to and involving the Inter Se issues.~~
4. ~~The matter be stayed pending the hearing of at least one Grand Jury application already lodged into the Criminal Jurisdiction of the Full Court.~~

30

The Court may as appropriate-

- a. Where he/she has authority to give the judgement or make the orders sought by the plaintiff, hear and determine the application;
- b. By consent of the defendant, give the judgement or make the order;
- c. Place the proceeding in the list of cases for trial and give directions for the filing and service of affidavits or otherwise.

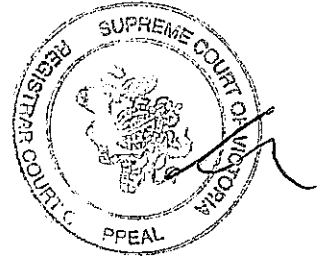
40



FILED the 26th day of may 2013

50

This application will be heard before the Court of Appeal,
459 Lonsdale Street, Melbourne ^{on 10 May 2013} at a date to be fixed at 9.30am



60

This summons was filed by *[Signature]*

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE IN THE COURT OF APPEAL

No. S APCI 2013 0043

BETWEEN:

Brian William Shaw

Applicant

and

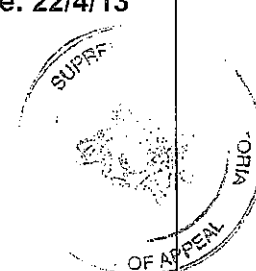
The ANZ Executors and Trustee Company Limited

Respondent

Summons return date: 10 May 2013 at 9.30am, 459 Lonsdale St Melbourne
(The date fixed for hearing cannot be changed and all dates for compliance must be strictly adhered to) (Please be aware that time limits will be imposed on oral submissions of all parties at the hearing of the application. The Judges hearing the application expect thorough but succinct written submissions.)

DIRECTIONS

No.	Directions	Compliance date
1	<p><u>Applicants affidavit in support</u> file (original affidavit and two copies of the affidavit and exhibits) and serve the affidavit in support (affidavit <u>must</u> exhibit a copy of the order you wish to appeal, reasons for judgment and the proposed Notice of appeal setting out the grounds of appeal.(see order 65.07))</p> <p>Additionally the affidavit and exhibits are to be filed electronically in word version to coaregistry@supremecourt.vic.gov.au</p>	Due: 12/4/13
2	<p><u>Applicants outline of submissions</u> File and serve outline of submissions (Legal argument as to why application should be granted)</p> <p>The submissions (not to exceed 6 pages in length) are to be filed electronically in word version to coaregistry@supremecourt.vic.gov.au if filed electronically hard copies are not required</p>	Due: 12/4/13
3	<p><u>Respondent any Affidavit and submissions</u> File (original and two copies) and serve any affidavit in response, and outline of submissions (two copies, not to exceed 6 pages in length)</p> <p>The submissions (not to exceed 6 pages in length) and affidavit are to be filed electronically in word version to coaregistry@supremecourt.vic.gov.au</p> <p>If the respondent consents to the application for Leave to appeal being granted or does not wish to contest the application written notification is required. If respondent is not contesting the application for Leave to appeal it does not prevent them from contesting the appeal if leave is granted</p>	Due: 22/4/13



Summons is to be served by 4/4/13.

For Mark Pedley Judicial Registrar, Court of Appeal

(Enquiries regarding these directions to Rob Schade, Registry Manager, ph 96039167)

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
IN THE COURT OF APPEAL
CIVIL DIVISION

S APCI 2013 0043

BETWEEN:

BRIAN WILLIAM SHAW

Applicant

- and -

THE ANZ EXECUTORS AND TRUSTEE COMPANY
LIMITED (AS TRUSTEES OF THE ESTATE OF JOHN
WILLIAM SHAW, DECEASED)

Respondent

ORDER OF THE COURT OF APPEAL

JUDGES: The Honourable Justice Nettle
The Honourable Justice Neave

DATE MADE: 17 May 2013.

ORIGINATING PROCESS: Application for leave to appeal.

HOW OBTAINED: Summons filed on 26 March 2013.

ATTENDANCE: The applicant in person.
Mr. R.C. Wells of Counsel for the respondent.

OTHER MATTERS: This matter coming on to be heard before the Court on
10 May 2013 and the Court having directed that this matter should
stand for judgment and this matter standing for judgment this day
accordingly.

THE COURT OF APPEAL ORDERS THAT:

1. The application for leave to appeal is dismissed.
2. It is ordered that notwithstanding Rule 63.20(c) of the Supreme Court (General Civil Procedure) Rules 2005, the applicant shall pay the respondent's costs of the application.
3. It is further ordered, pursuant to Rule 63.28(c) of the Rules, that those costs shall be taxed on an indemnity basis.

DATE AUTHENTICATED: **28 May 2013**

Rjs: 28/5/13

