

ROYAL COURT
(Samedi Division)

13th May, 1996. 90.

P.R. Le Cras, Esq., Lieutenant Bailiff,
Single Judge.

Between:	Pacific Investments Limited	Plaintiff
And:	Robert Christensen	First Defendant
And:	Alison Mary Holland	Second Defendant
And:	Michael Allardice	Third Defendant
And:	Graeme Elliott	Fourth Defendant
And:	Firmandale Investments Limited	Fifth Defendant
And:	James Hardie Industries Limited	Sixth Defendant
And:	James Hardie Finance Limited	Seventh Defendant
And:	Govett American Endeavour Fund Limited	Eighth Defendant

Advocate N.F. Journeaux for the Plaintiff.
Advocate M. St.J. O'Connell for the First, Second,
Third and Fourth Defendants.

Application by the First, Second, Third, and Fourth Defendants for an Order that a date be fixed (for the trial of their application to strike out or stay the Plaintiff's Order of Justice) for the purpose only of receiving documents in response to their *subpoena duces tecum* issued against Ian David Moore.

JUDGMENT

THE LIEUTENANT BAILIFF: This is a summons by the First to the Fourth Defendants that:

- 5 "1. That a date be fixed for the trial of the above named
 action or for the hearing of the Summons of the
 First, Second, Third and Fourth Defendants dated 21st
 July, 1995, for an order that the Order of Justice
10 herein be struck out and/or stayed, for the purpose
 only of receiving documents in response to the
 subpoena duces tecum to be issued against Ian David
 Moore in the form of that annexed hereto.
- 15 2. That the Court make such provision in respect of the
 costs of this application as may be just" .

20 This summons follows on an order made by consent for Mr. I.D.
 Moore to give evidence in the striking out application and a
 summons has been drafted to Mr. Moore to be served upon him in the
 following terms:

25 *"I hereby notify you to appear before the Royal Court at
 Royal Court House, Royal Square, St. Helier, Jersey JE1
 1DD on the day fixed for the hearing of the Summons of the
 First, Second, Third and Fourth Defendants dated 21st
 July, 1995, for an order that the Order of Justice herein
 be struck out and/or stayed, or on the return date hereof,
 notice of which will be given to you and from day to day
 thereafter until the end of the hearing, at the instance
 of the First, Second, Third, and Fourth Defendants to give
30 evidence in the above-named action and to bring with you
 and produce at the place aforesaid on the day notified to
 you the following documents whether held in your capacity
 as Director of the Plaintiff, officer of Centurion Trust
 Company Limited or in any other capacity.
35 "*

40 The procedure is a new one for this jurisdiction and is
 founded on Khanna -v- Lovell White Durrant [1994] 4 All ER 267.
 The reasoning in that case appears sound and no objection is
 raised to this application by counsel for the Plaintiff, who,
 nonetheless, quite properly reserves Mr. Moore's position with
 regard to his proper course of action.

45 The parties agree that the effect of an order is this, that
 either Mr. Moore agrees in full in which case the hearing of the
 strike out application will be adjourned, or he disagrees in which
 case he must issue a summons prior to the strike out date which

would then *ipso facto*, have to be adjourned, unless of course the First to Fourth Defendants accepted his views.

5 This, too, seems a sensible course to adopt, and as the hearing date to be fixed is to some extent fictitious, serving as it does another purpose, and will itself, in any event, be a formality, the Court orders that it be placed on the list for the Samedi Court on Friday, 7th June, 1996.

10 There will, of course, be liberty to apply.

Authorities.

Khanna -v- Lovell White Durrant [1994] 4 All ER 267.