

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE  
COMMERCIAL AND EQUITY DIVISION

S CI 2011 04691

IN THE MATTER of Section 84 of the *Property Law Act* 1958.

and

IN THE MATTER of an application by MARK WILLIAM SUHR and ELIZABETH ALEXANDRA SUHR for the discharge or modification of the restrictive covenant contained in Instrument of Transfer No. 1656917 registered in the Land Titles Office in the Registry Book and imposed upon the land more particularly described in Certificate of Title Volume 6132 Folio 361

**BETWEEN:**

MARK WILLIAM SUHR and  
ELIZABETH ALEXANDRA SUHR

Plaintiffs

- and -

ANDREW GORDON MICHELMORE and others (according to the  
schedule attached)

Defendants

**GENERAL FORM OF ORDER**

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ASSOCIATE JUDGE: The Honourable Associate Justice Daly

DATE MADE: 1 May 2012

ORIGINATING PROCESS: Originating Motion

HOW OBTAINED: On return of the order of the Honourable Associate Justice Daly made on 11 April 2012.

ATTENDANCE: Ms L. Harrison of Counsel for the Plaintiffs.  
Mr M. Townsend of Counsel for the First and Second Defendant.  
Mr J. McPherson, the Solicitor for the Third Defendant.

OTHER MATTERS: Not applicable.

**THE COURT ORDERS BY CONSENT THAT:**

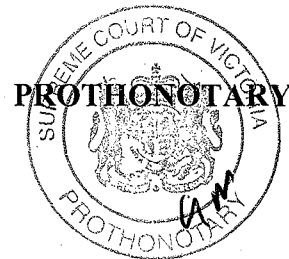
1. Paragraphs 6 to 9 of the order made by the Honourable Associate Justice Randall on 27 October 2011 are vacated.



2. Surmar Pty Ltd (ACN 100 678 831) be joined as a Plaintiff to the proceeding.
3. The Plaintiffs file and serve a further amended originating motion in the form proposed by 4.00 pm on 3 May 2012.
4. The Plaintiffs file and serve any further affidavits in which they intend to rely by 4.00 pm on 1 June 2012.
5. The Defendants file and serve any affidavits (including any expert reports) upon which the Defendants wish to rely by 4.00 pm on 27 July 2012.
6. The Plaintiffs file and serve any affidavits in reply by 4.00 pm on 31 August 2012.
7. By no later than 28 days before the date fixed for final hearing of the application, the Plaintiffs must file and serve an outline of submissions and an indexed folder containing the principal authorities and statutory material relied upon.
8. By no later than 14 days before the date fixed for final hearing of the application, the Defendants must file and serve an outline of submission in response to the Plaintiffs' outline of submissions, and an indexed folder containing the principal authorities and statutory materials relied upon, except those already included in the Plaintiffs' folder filed and served pursuant to order 7 herein.
9. Subject to the Plaintiff filing and serving a notice of trial by 24 September 2012, this proceeding is listed for trial on 24 October 2012, on an estimated duration of 2 - 3 days.
10. The parties have liberty to apply to vary this timetable upon 2 days written notice to the Court and the other parties.
11. The First and Second Plaintiffs pay the Defendants' costs (if any) thrown away by reason of the further amended originating motion and the vacation of the trial date.

DATE AUTHENTICATED: **23 May 2012**

LGC:21/5/12



**SCHEDULE OF PARTIES**

S CI 2011 04691

**BETWEEN:**

MARK WILLIAM SUHR

Firstnamed  
Plaintiff

ELIZABETH ALEXANDRA SUHR

Secondnamed  
Plaintiff

- and -

ANDREW GORDON MICHELMORE

Firstnamed  
Defendant

JANET HAILES MICHELMORE

Secondnamed  
Defendant

ANTRO NOMINEES PTY LTD (ACN 005 430 008)

Thirnamed  
Defendant

