

Form 2  
(rule 2.2)

75844

IN THE SUPREME COURT OF NEW SOUTH WALES  
DIVISION: EQUITY,  
LIST: CORPORATIONS  
REGISTRY: NEW SOUTH WALES

No. of 2014

IN THE MATTER OF IN THE MATTER OF RENOVATION BOYS PTY LTD  
(ADMINISTRATORS APPOINTED) ACN 137 669 099

FILED

14 MAR 2014

(TL)



JASON MARK TRACY AND VAUGHAN NEIL  
STRAWBRIDGE IN THEIR CAPACITY AS  
JOINT AND SEVERAL ADMINISTRATORS OF  
RENOVATION BOYS PTY LTD  
(ADMINISTRATORS APPOINTED)  
ACN 137 669 099

Plaintiffs

### ORIGINATING PROCESS

#### A. DETAILS OF APPLICATION

This application is made under sections 439A, 442C(2)(c), 447A and 447D of the *Corporations Act 2001* (Cth) (Act).

#### *Plaintiffs' Interlocutory Relief*

On the facts stated in the supporting affidavit, the Plaintiffs' claim the following interlocutory relief:

1. On the undertaking of the Plaintiffs' solicitor to pay the appropriate filing fee, that the Plaintiffs be granted leave to file in Court this Originating Process dated 14 March 2014, returnable at 10am Thursday 20 March 2014, with the relief sought in prayers 2 to 7 (inclusive) be returnable instanter.

Filed on behalf of: Plaintiffs  
GADENS LAWYERS  
Level 12  
77 Castlereagh Street  
SYDNEY 2000  
13296165.1 KKB KKB

Solicitor's Code:  
DX 364 SYDNEY  
Tel 9931 4999  
Fax 9931 4888  
Ref JGB:KKB:34603054

2. An order pursuant to s 439A(6) of the Act that the period within which the Plaintiffs must convene a meeting of creditors of Renovation Boys Pty Limited (Administrator Appointed) (Company) under s 439A of the Act be extended up to and including 24 April 2014.
3. An order pursuant to section 447A of the Act, that Part 5.3A of the Act is to have effect in relation to the Company as if it provided that the meeting of creditors required by section 439A may be held at any time during or within 5 business days after the period referred to in order 2
4. That the Plaintiffs be granted leave to apply for any further extension of the convening period referred to in prayer 2 at any time before 24 April 2014.
5. That liberty to apply be granted to any person who can demonstrate sufficient interest to modify or discharge orders sought in prayers 2 to 4, on not less than 48 hours' notice to the Plaintiffs.
6. A direction that service of this originating process, affidavit in support and notice of any orders made be abridged to 6pm 14 March 2014 such service to be effected by uploading a copy of this originating process, affidavit in support and any orders made to [www.deloitte.com/au/renovation-boys](http://www.deloitte.com/au/renovation-boys), and:
  - (a) with respect to customers for whom the Plaintiffs have mobile numbers, by sending a text message (sms) as set out below:

*“The Administrators of Renovation Boys P/L (Admin’rs App’d) have filed an urgent application with the Supreme Court which concerns title to goods you may have ordered. Customers are directed to the following website [www.deloitte.com/au/renovation-boys](http://www.deloitte.com/au/renovation-boys) to obtain details of the application and interlocutory orders”*
  - (b) with respect to customers for whom the Plaintiffs have landline numbers, by sending a computer generated message (text to voice message) to the landline telephone number, in the same terms as the message set out in sub-paragraph 6(a) above;
  - (c) with respect to suppliers with retention of title claims that are registered on the personal property securities register, by sending a letter, by email, attaching the originating process, affidavit in support and any orders made, to those suppliers;

- (d) with respect to lessors of the properties occupied by the Company, by sending a letter, by email, attaching the originating process, affidavit in support and any orders made to those lessors;
- (e) with respect to the five largest trade creditors, by sending a letter, by email, attaching the originating process, affidavit in support and any orders made to those lessors;
- (f) with respect to the remaining trade creditors, for whom the Plaintiffs have mobile numbers, by sending a text message (sms) as set out at 6(a) above; and
- (g) with respect to employees, by sending a letter, by email, attaching the originating process, affidavit in support and any orders made to those employees.

7. A direction that the following notice be published in the Sydney Morning Herald newspaper on Monday 17 March 2014:

*“Renovation Boys Pty Ltd- Notice to customers and creditors  
The Administrators of Renovation Boys Pty Ltd (Administrators Appointed) have filed an urgent application with the Supreme Court of NSW which concerns title to goods customers may have ordered. The Application is returnable on [time and date to be inserted]. Customers are directed to the following website [www.deloitte.com/au/renovation-boys](http://www.deloitte.com/au/renovation-boys) to obtain details of the application and interlocutory orders. Inquiries may be directed to [name and number to be inserted] of Deloitte.”*

### ***Plaintiffs' Final Relief***

On the facts stated in the supporting affidavit, the Plaintiffs claim the following final relief:

8. Directions pursuant to section 447D of the Act that:
- (a) the Plaintiffs are justified in acting on the basis that title in certain stock items has passed to a customer who has paid for a stock order in full and to whom items within that stock line have been allocated to the customer in the Company's inventory management system;
  - (b) the Plaintiffs are justified in acting on the basis that title in certain stock items has not passed to a customer who has paid for a stock order in full, to whom items within that stock line have been allocated to the customer but in respect of which there are insufficient items in stock to satisfy the stock allocations and to treat the competing claimants as unsecured creditors;

- (c) in the alternative to 8(b), that the Plaintiffs are justified in acting on the basis that title in the stock items has not passed to the competing claimants and that those claimants are entitled to share in the proceeds of sale *pari passu*;
- (d) the Plaintiffs are justified in acting on the basis that title in certain stock items has passed to a customer who has paid for a stock order in full and to whom items within that stock line have been allocated to the customer in the Company's inventory management system and notwithstanding that security interests over those stock items have been registered under the *Personal Property Securities Act, 2009 (Cth) (PPSA)*;
- (e) the Plaintiffs are justified in acting on the basis that they are entitled to a lien for trading expenses incurred in the identification, preservation and distribution of stock items;
- (f) the Plaintiffs have an entitlement to an indemnity in equity out of stock items for trading expenses incurred in the identification, preservation and distribution of stock items;
- (g) the Plaintiffs are entitled to raise a levy payable by customers to whom title in stock items has passed and valid retention of title holders, representing the expenses incurred in the identification, preservation and distribution of those stock items;
- (h) the Plaintiffs are justified in distributing stock items to a customer where:
  - (i) title has passed to that customer;
  - (ii) there are sufficient stock items on hand in that stock line to satisfy all title claims by customers;
  - (iii) the stock items within that stock line have been allocated to a customer in the Company's inventory management system;
  - (iv) the stock items are collected within 14 days from the date of these directions;  
and
  - (v) the customer has paid to the plaintiffs a sum of money or levy representing the trading expenses incurred by them in the identification, preservation and distribution of the stock items; and
- (i) the Plaintiffs are justified in disposing of any stock not collected in accordance with direction 8(h) within 14 days of the Plaintiffs providing written notice to the customer

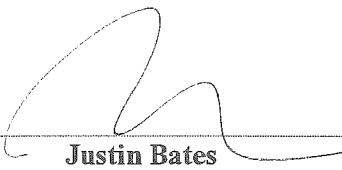
of their intention to do so, such notice to be given by text message to mobile phone or landline or by email, and to recover the expense incurred by them in the identification, preservation, distribution and disposal of that stock from the proceeds of sale.

9. Further to directions 8(d) and 8(g), leave pursuant to s 442C(2)(c) of the Act to dispose of such property of the Company that is subject to a security interest under the PPSA after 14 days of the date of these directions on condition that the proceeds of sale are subject to the provisions of Division 8 of Part 5.3A of the Act.
10. In the alternative to direction 8(e), (f) & (g) an order pursuant to section 447A of the Act, that Part 5.3A of the Act is to have effect in relation to the Company as if it provided that an Administrator's right of indemnity in s 443D extends to debts incurred or reasonably to be incurred in the performance or exercise, or purported performance or exercise, of any of his or her functions as administrator including in relation to the identification, preservation and distribution of property in the possession of the Company.
11. A direction that the Plaintiffs notify affected parties of the final orders, by:
  - (a) uploading a copy of the final orders to [www.deloitte.com/au/renovation-boys](http://www.deloitte.com/au/renovation-boys): and
  - (b) with respect to customers for whom the Plaintiffs have mobile numbers, by sending a text message (sms) as set out below:

*“Renovation Boys P/L (Admin’rs App’d): The Supreme Court has made final orders in relation to the Administrators’ application. Customers are directed to the following website [www.deloitte.com/au/renovation-boys](http://www.deloitte.com/au/renovation-boys) to obtain a copy of the orders”*
  - (c) with respect to customers for whom the Plaintiffs have landline numbers, by a computer generated message (text to voice message) to the landline telephone number, in the same terms as the message set out in sub-paragraph 11(b) above.
  - (d) with respect to suppliers with retention of title claims that are registered on the personal property securities register, by sending a letter attaching the orders, by email, to those suppliers.
  - (e) with respect to lessors of the properties occupied by the Company, by sending a letter attaching the orders, by email, to those lessors.

- (f) with respect to the five largest general trade creditors, by sending a letter attaching the orders, by email, to the five largest creditors of the Company;
  - (g) with respect to the remaining trade creditors, for whom the Plaintiffs have mobile numbers, by sending a text message (sms) as set out at 11(b) above.
  - (h) with respect to employees, by sending a letter attaching the orders, by email, to those lessors.
12. A direction that, within 3 business days of the final orders being made, a notice be published in the Sydney morning Herald newspaper to that effect.
13. Liberty to any interested person including those claiming an interest in a stock item to apply on no less than 48 hours' notice to the Plaintiffs.
14. An order that pursuant to section 447A of the *Corporations Act*, that Part 5.3A of the Act operate in relation to the Company and only with respect to the customers and general trade creditors (other than the 5 largest trade creditors) as if:
- (a) each of the customers and general trade creditors for whom the Company has an email address had nominated that email address under section 600G of the *Corporations Act* as the address by which they may be notified of all notices and documents relating to the Company; and
  - (b) each of the customers and general trade creditors for whom the Company has no email address, Regulation 5.6.12(2) of the *Corporations Act* permitted notices of meetings to be given by publishing:
    - (i) an advertisement in the Sydney Morning Herald newspaper; and
    - (ii) a copy of the notice of meeting and any other accompanying documents on the web site [www.deloitte.com/au/renovation-boys](http://www.deloitte.com/au/renovation-boys)
15. An order that the Plaintiffs be indemnified from the Company's assets for the costs of these proceedings.
16. Such further or other direction or order as to the Court deems fit.

Date: 14 March 2014

  
Justin Bates  
Solicitor for the Plaintiffs

This application will be heard by the Supreme Court of New South Wales, Law Courts Building, Queens Square, Sydney at

10 am 21/3/14

**B. NOTICE TO DEFENDANT(S) (IF ANY)**

Not Applicable

**C. APPLICATION FOR WINDING UP ON GROUND OF INSOLVENCY**

Not Applicable

**D. FILING**

Date of filing:

This originating process is filed by Justin Bates c/- Gadens Lawyers for the Plaintiffs.

**E. SERVICE**

The address for service for the Plaintiffs is:

c/- Gadens Lawyers  
77 Castlereagh Street SYDNEY NSW 2000  
DX 364 SYDNEY  
Fax 9931-4888