

EDITORIAL NOTE: CHANGES MADE TO THIS JUDGMENT APPEAR IN  
[SQUARE BRACKETS]

**NOTE: PURSUANT TO S 35A OF THE PROPERTY (RELATIONSHIPS) ACT  
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**IN THE FAMILY COURT  
AT HAMILTON**

**I TE KŌTI WHĀNAU  
KI KIRIKIROA**

**FAM-2020-019-000862  
[2021] NZFC 4070**

IN THE MATTER OF	THE PROPERTY (RELATIONSHIPS) ACT 1976
BETWEEN	BEVERLY PETERSEN Applicant
AND	LANCE STEPHEN CLARK First Respondent
AND	LANCE STEPHEN CLARK, BEVERLY PETERSEN AND COONEY TRUSTEES 2017 LIMITED as Trustees of the TERRA FIRMA TRUST (in dispute as a named respondent) Second Respondent

Hearing: 28 April 2021

Appearances: Mr M Phillipps for the Applicant  
Ms H MacColl for the First Respondent  
No appearance by or for the Second Respondent

Judgment: 6 May 2021 at 4.00 pm

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**RESERVED JUDGMENT OF JUDGE D A BLAIR  
[Interlocutory Decision re Parties and Discovery Issues]**

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[1] These relationship property proceedings were set down for a half day submissions only hearing which took place on 28 April 2021. The issues for hearing were set out in the minute of His Honour Judge Twaddle dated 9 December 2020, being:

- (a) Discovery, including third party discovery;
- (b) Whether the trustees of the Trust should be removed from the proceedings;
- (c) Whether a direction is required from the Court in respect of Ms Petersen suing herself as a trustee.

## **Background**

[2] The parties agree they commenced living together as a couple in 2012. The actual month is under dispute. The parties separated in or about November 2018.

[3] Ms Petersen filed her application for orders pursuant to the Property (Relationships) Act 1976 (“PRA”) dated 5 October 2020.

[4] The trustees of the Terra Firma Trust (“TFT”) being Lance Clark, Beverly Petersen and Cooney Trustees 2017 Ltd were named as the second respondents in the proceedings issued by Ms Petersen. The trustees (in that role) have not filed documentation to formally engage, nor to contest jurisdiction to having been named as a party. This is other than the position taken by Ms Cooney who is a director of Cooney Trustees 2017 Ltd, being the independent trustee. Memoranda filed by Ms Cooney dated 19 February 2021 with respect to this pending interlocutory hearing advised that Cooney Trustees 2017 Ltd will abide by the decision of the Court in this matter and does not require to be heard. Somewhat predictably, the memorandum advises that the other trustees are unable to provide instructions. Ms Cooney sought that her appearance at the interlocutory hearing be excused and this was granted prior to the hearing.

[5] In her substantive proceedings, Ms Petersen seeks orders as detailed in her application, determining:

- (a) Relationship property and separate property of the relationship between the parties;
- (b) The respective shares of the parties in relationship property;
- (c) Dispositions to the trustees of the TFT that have had the effect of defeating the applicant's interests;
- (d) The extent to which the applicant is entitled to compensation for the disposition of relationship property;
- (e) Such other orders as are just and appropriate.

[6] On 5 October 2020 Ms Petersen made application for discovery orders against Mr Clark as first respondent and the trustees of the TFT as second respondents. Ms Petersen's application for discovery seeks various documents or classes of documents with respect to Clark and Son Ltd ("CSL"), Waikato Shelter Belt Trimmers Ltd, TFT, Mr Clark and Ms Petersen (as pertaining to particulars of all trusts in which Ms Petersen has either a vested or discretionary beneficial interest in).

[7] Mr Clark in his personal capacity filed a notice of defence dated 30 November 2020. He said the proceedings have wrongly joined the trustees of the TFT as a party when there is no jurisdiction to do so; that the TFT was established some years prior to the parties meeting each other; that the applicant is not and has never been a beneficiary of the trust and the assets of the trust are not and have never been relationship property. He seeks that the trustees of the TFT be removed as second respondents.

[8] Mr Clark filed his affidavit of assets and liabilities and narrative affidavit, both sworn 8 December 2020. The narrative affidavit contained a bundle of attachments spanning 182 pages.

[9] In counsel for the applicant's submissions at the interlocutory hearing, there was some refinement of what is sought by way of discovery, namely a lessening of the period for which financial statements for Clark and Son Ltd were sought, now for the period 2012 to 2020, as opposed to dating back to incorporation in 1999.

[10] The revised discovery request is:

a. **The Group (in general)**

- a.1. Any business plan documents
- a.2. All documents setting out the financial arrangements between entities (including trusts).
- a.3. Any reports produced by an accountant lawyer, financial or business advisor or other consultant pertaining to the group or any entity, the businesses or any development thereof, the group structure and any past or proposed acquisitions or divestments including reports to bankers or financiers.

(b) **Clark & Son Ltd**

- b.1. Financial statements for 2012 to 2020
- b.2. Financial forecasts (budgets) for 2021 and future years
- b.3. Particulars of any joint ventures or business arrangements within the Group or with third parties
- b.4. Particulars of any customer contracts representing more than 10% of turnover and the total annual value of each for the years 2014 to 2019 inclusive
- b.5. Particulars of all remuneration and all benefits received by or credited to any shareholder or director or associated person
- b.6. An organisation chart or schedule showing key employee positions and their current remuneration and benefits
- b.7. Particulars of any "*material transactions*" (as defined above)
- b.8. Schedule of Insurances
- b.9. Particulars of all capital commitments (including leases)
- b.10. All director and shareholder minutes and certificates
- b.11. Particulars of any "*distributions*" (as defined above) and/or dividends and all minutes pertaining thereto

(c) **Waikato Shelter Belt Trimmers Ltd**

- c.1 Financial statement from incorporation
- c.2 Any remuneration received by Lance Stephen Clark
- c.3 Any distribution (as defined) received by Lance Stephen Clark
- (d) Terra Firma Trust**
  - d.1. Financial statements from date of establishment of trust to present
  - d.2. Financial forecast (budgets) for 2019 and future years
  - d.3. Details of properties owned by the trust, including titles, securities and any valuations obtained with respect to trust assets
  - d.4. Lease agreements with any third parties
  - d.5. Particulars of any liabilities of the trust or secured against trust assets
  - d.6. Particulars of any joint ventures or business arrangements within the Group or with third parties
  - d.7. Particulars of all capital commitments (including leases)
  - d.8. All trustee minutes and resolutions from date of establishment of trust
  - d.9. Cooney Law file from the time of Ms Petersen's appointment as trustee until the present
- (e) Lance Stephen Clark**
  - e.1. Particulars in the same terms as above for all trusts in which Lance Stephen Clark has either a vested or discretionary beneficial interest, including Trust Deed, financial statements and all trustee resolution (if not otherwise provided above).
- (f) Beverly Petersen**
  - f.1. Particulars of all trust sin which Beverly Petersen has either a vested or discretionary beneficial interest, including Trust Deed, financial statements and all trustee resolutions (if not otherwise provided above).

**Further information made available at interlocutory hearing**

[11] At the interlocutory hearing, documents obtained by counsel for the respondent from Companies Office records for CSL and Waikato Shelter Belt Trimmers Ltd were placed into evidence by consent pursuant to s 9 of the Evidence Act 2006. Those documents show that CSL was incorporated on 18 November 1999, detail Companies Office activity for CSL from 13 November 2003 to 27 November 2020 and show that

as at 13 November 2003 Lance Clark had only one share in the company, the balance of the 1000 shares being owned as between his parents.

[12] Further, within this set of admitted documents is a trust resolution by Acacia Grove Properties Trust dated 8 February 2017 detailing the distribution of 499 shares to the TFT and a Companies Office form detailing this change in share ownership to the trustees at the time of the TFT, being Lance Clark, his mother Gillian Clark and accountant David Waine. The ownership status and background to those shares being acquired is at issue in these proceedings.

[13] The Companies Office documents admitted into evidence at the hearing show that Waikato Shelter Belt Trimmers Ltd was incorporated on 23 July 2008 with shareholding held exclusively by Mr Clark's parents Gillian and Malcolm Clark and those same individuals being directors. No changes in that status are recorded within the subsequent documents lodged.

[14] A point made by Ms MacColl at hearing was that the further information provided was equally available to the applicant from her own search of Companies Office documents should she have wished to do so.

## **Issues**

[15] I address the issues for determination in this sequence:

- (a) Whether the trustees of the trust should be removed from the proceedings;
- (b) Subject to (a) above, whether a direction is required from the Court in respect of Ms Petersen suing herself as trustee (with reference to s 33A Trustee Act 1956);
- (c) Discovery. There is not a third party discovery issue, as previously summarized in the issues by the earlier judge. If the trustees remain as named parties they are not third parties. If they are removed as parties,

there is no formal application for third party discovery in reference to them.

**Whether the trustees of the TFT should be removed as parties from the proceedings**

[16] Ms Petersen submits:

- (a) No protest to jurisdiction has been filed by the trustees;
- (b) That the Family Court has jurisdiction under various sections of the PRA to make orders against a trust, with reference to sections 33(3)(m), 44, 44B and 44C;
- (c) Section 141 of the Trusts Act 2019 provides jurisdiction to the Family Court to make an order or direction where necessary to protect or preserve any property or interest until the proceeding before the Family Court can be properly resolved;
- (d) The thrust of Ms Petersen's argument is that if the various remedies set out in those sections of the PRA exist, then the trustees can be joined as actual parties.
- (e) Section 4(1)(b) PRA provides the Act is a code, including, in cases for which the Act provides, to transactions between both spouses or either spouse and third persons;
- (f) That s 37 provides a method by which trustees become parties. It provides:

**37 Persons entitled to be heard**

- (1) Before any order is made under this Act, such notice as the court directs shall be given to any person having an interest in the property which would be affected by the order, and any such person shall be entitled to appear and to be heard in the matter as a party to the application.

- (2) In proceedings commenced after the death of one of the spouses or partners, this section is modified by section 92.

[17] Mr Clark's position with respect to this issue is:

- (a) There was no right for Ms Petersen to have named the trustees as parties to these proceedings;
- (b) Rule 133 Family Court Rules 2002 (FCR) provides that the Court can strike out a party improperly joined;
- (c) That *Martin v Martin (No 1)*<sup>1</sup> confirms at page 89, that:

Essentially it is a question of election by the third party whether he appears and is heard. Once he makes the election then so long as he has an interest in the property which would be affected by the Order, he becomes a party by virtue of his appearing and being heard.

- (d) That the Court of Appeal in *Johansen v Johansen*<sup>2</sup> confirms that s 37 PRA provides for notice to be given and entitles persons qualified under the provision to be heard, if they so wish. At page 580 of that decision it is noted:

Notice under the section is a procedural step to allow third persons with interests in the property before the Court and the matrimonial property proceedings the opportunity to come into the proceedings so that their views may be heard when the Court is resolving the matrimonial property issues and making the necessary ancillary orders. But the section does not allow the introduction of third parties whenever one or both of the spouses have an unresolved claim against third persons. If a notice is issued the third person is entitled to appear which indicates that it is an election; that the third party can take advantage of the opportunity and not that his or her basic interests in the property are at stake. It is a precondition to the exercise of the jurisdiction under s 37 that the third person has an interest in the property which would be affected by an order if made at that time under the Matrimonial Property Act.

- (e) That in the Family Court in *Staheli v Staheli*,<sup>3</sup> His Honour Judge Brown refused to join trustees as a party to the substantive PRA proceedings

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<sup>1</sup> *Martin v Martin (No 1)* (1982) 4 MPC 87.

<sup>2</sup> *Johansen v Johansen* (1993) 10 FRNZ 578.

<sup>3</sup> *Staheli v Staheli* [2017] NZFC 5287.



on the basis that the joining of trustees as third parties to such proceedings under the provisions of the FCR does not apply;

- (f) That s 37 gives the option to the trustees of the TFT to appear as parties and in this case there is a significant impracticality around this given the polar positions taken between Ms Petersen and Mr Clark and the independent trustee being “caught between a rock and a hard place”.

## **Decision**

[18] It is common ground that the PRA provides opportunity for remedy against a trust if certain grounds are made out. Section 33(3)(m) provides that the Court may make an order varying the terms of any trust or settlement, other than a trust under a will or other testamentary disposition.

[19] However, it is the s 37 process which can bring in the trustees as parties.

[20] In my assessment, the s 37 opportunity does not translate to the applicant being able to insist upon the trustees being named as parties. This is compatible with the decision of His Honour Judge Brown in *Staheli* and the focus of the Higher Courts in decisions such as *Martin and Johansen* on the s 37 opportunity of a third party to be heard.

[21] As per Chilwell J in *Martin*, s 37 (then of the Matrimonial Property Act) provides the code for parties. The relevant Family Court rules at the time could have no operation in the sense of determining who may be parties:

Essentially it is a question of election by the third party whether he appears and is heard. Once he makes the election then so long as he has an interest in the property which would be affected by the order, he becomes a party by virtue of his appearing and being heard, *Thomas v Brougham*<sup>4</sup>. If he is given notice by the Court and elects not to appear and be heard, it is my judgment that he is not a party.<sup>5</sup>

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<sup>4</sup> *Thomas v Brougham* (1981) 4 MPC 200.

<sup>5</sup> Page 312.

[22] The trustees have not elected to be parties. One of them, Mr Clark, actively opposes it (at least by way of his personal response filed to these proceedings). Whether non-engagement would or could eventually lead to a result which is detrimental to the interests of the trust is a different issue.

[23] I order that Lance Stephen Clark, Beverly Petersen and Cooney Trustees 2007 Ltd as trustees of the Terra Firma Trust are struck out as second respondents accordingly.

[24] This having occurred, for the avoidance of any doubt procedurally, the applicant Beverly Petersen should give notice (if she wishes) to those trustees pursuant to s 37 PRA meaning they have a formal opportunity to appear and be heard. That does not resolve the likely dysfunction between the current trustees of the trust and what may be different perspectives as to whether the trust should engage with these proceedings.

**Whether a direction is required from the Court in relation to Ms Petersen suing herself as trustee (with reference to s 33A Trustee Act 1956)**

[25] The trustees have been removed as parties to these proceedings.

[26] No s 33A direction is needed or relevant.

**Discovery**

[27] Rules 141 and 142 FCR address discovery after proceedings have commenced. Rule 142(b) gives the requirement to list all documents *relating to the proceedings* that are, or have been in the possession, custody or power of the party or person making the affidavit.

[28] Counsel for the applicant refers to *Clayton v Clayton*,<sup>6</sup> in which the Court of Appeal recognised that full and frank disclosure of all relevant information by the parties was necessary for the Court to determine relationship property disputes.

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<sup>6</sup> *Clayton v Clayton* [2015] NZCA 30.

[29] Counsel for the applicant refers to *Dixon v Kingsley*,<sup>7</sup> where Kos J noted:

That a robust approach consistent with the purposes of the Act should be taken in respect of discovery and it should be inexpensive and provide access to justice. The Court notes discovery should not be onerous and should be reasonably necessary at the time it is sought and tailored to enable the Court to deal with the relationship property matter efficiently and justly.<sup>8</sup>

[30] Centrally to the applicant's submission is the statement in *Biggs*:<sup>9</sup>

Relationship property litigation may exhibit characteristics that bear on discovery and may call for judicial management. This is always a question of fact. For example, one party, usually the wife may have a valuable interest in property the details and value of which she knows little about. Sometimes antipathy may lead the parties to destroy value through litigation rather than share it through compromise.

[31] At paragraph [30] of *Biggs*, the Court noted:

Discovery should be proportionate to the subject-matter, and the parties must cooperate to facilitate discovery and manage its scope and burden (High Court Rules 2016, Rule 8.2). There is no need to gloss the rules by emphasising a need for cooperation and economy in relationship property litigation, since the rules are now well aligned with the objectives of the Act. It envisages that the parties will disclose relevant property and cooperate in ascertaining and dividing relationship property as inexpensively, simply and speedily as possible.<sup>10</sup> That principle does not preclude tailored discovery of extensive scope,<sup>11</sup> where it is proportionate to what is at stake and reasonably necessary to ascertain and divide relationship property.<sup>12</sup>

[32] Counsel for the respondent in effect submits that the discovery requests made across the various entities or individuals are overly onerous, disproportionate and that Mr Clark has already gone to significant effort to put the presently available information set out in, or attached to, his narrative affidavit sworn 8 December 2020. The attachments to the affidavit are set out in chronological order as those relate to different items of real estate under consideration, the TFT, CSL (as then supplemented by the further information provided at the interlocutory hearing) and other information.

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<sup>7</sup> *Dixon v Kingsley* [2015] NZHC 2044.

<sup>8</sup> Page 20.

<sup>9</sup> *Biggs v Biggs (and others)* [2018] NZCA 546 at para [31].

<sup>10</sup> Property (Relationships) Act Section 1N(d).

<sup>11</sup> High Court Rules, R 8.8.

<sup>12</sup> *Blackley v Blackley* [2018] NZHC 2011 at [20].

[33] The respondent opposes discovery attempts with respect to documentation from the early stages of CSL, given the long-standing ownership of it primarily by Mr Clark's parents since incorporation in 1999 and thus the irrelevance of all of the company information sought to be disclosed by the applicant. That said, the applicant has amended her request for discovery of financial statements for CSL to commence in the year 2012 through to current.

[34] The respondent rejects requests for discovery around the other company owned by his parents, Waikato Shelter Belt Trimmers Ltd. This has not been a business Lance Clark has had any ownership of or involvement with (it was set up by his parents) and additionally, it is advised that the company has not traded.

[35] With reference to TFT, counsel for the respondent submits that a request has been made of Cooney Law for that firm's 2017 file pertaining to TFT and once the file is received, it will be disclosed in full to Ms Petersen. It is expected this file will potentially provide clarification around:

- (a) June 2017 borrowing and refinancing activity. It is Ms Petersen's position that she and Mr Clark undertook a full refinancing with ANZ which repaid previous debt attributable to Mr Clark and the property at [address deleted] Hamilton and leaving approximately \$300,000 available for renovation of the property. As I interpret Mr Clark's position, the refinancing with ANZ was by the trustees of the TFT, of whom one became Beverly Petersen that month.
- (b) A record of any discussions or advice around the role Ms Petersen took on with respect to the TFT in June 2017. The parties agree Ms Petersen was at that time added as a trustee. It was Ms Petersen's understanding she took on a broader role and importance within the trust such as assuming a status as beneficiary also.

[36] The point Ms MacColl makes for the respondent is that as trustee of the TFT, Ms Petersen could request the same information from Cooney Law, but that in practical terms Mr Clark is now attending to it. Another issue emphasised by counsel

for the respondent is the potential for Mr Jones to be summonsed as a witness for any eventual substantive hearing. He was the solicitor handling the trust matter for Cooney Law in 2017 and could be called upon to give his advice in evidence as to discussions and intentions.

[37] I make no directions around the provision about the 2017 Cooney Law file for the TFT, and nor can I, given TFT is not a party to the proceedings and there has not been any application for third party discovery. However, in practical terms, I accept Ms MacColl's submission that the file has been requested and will be made available and in any event, Ms Petersen as co-trustee could have requested the same information.

[38] I also record the acceptance given by Ms MacColl that any minutes for the TFT from December 2012 to 2017 will be obtained and disclosed.

[39] In relation to CSL, I accept Ms MacColl's submission that the broad ranging information requested by way of discovery is onerous and it is out of proportion to what is involved in these proceedings. CSL is a small family company in which Mr Lance Clark initially held one share until on 8 February 2017, 499 shares were (it is said) transferred to the TFT. In the event the share value of the company should be valued for current purposes so as to leave options open for the Court on the basis of whatever orders are arrived at a substantive hearing, Ms Petersen would need access to financial statements in the event she wishes to instruct a valuer. The respondent's submission is that if financial statements are to be disclosed, those should be for a limited period for the financial years 2017 to 2019 and that the current operation of the company has nothing to do with Ms Petersen.

[40] Mr Clark will have access to the company financial statements and I direct that he disclose those for the financial years ending 31 March 2013 to 31 March 2020. When the financial statements are available for the financial year ending 31 March 2021, those should also be disclosed.

[41] The request for the balance of the company information as set out in the application for discovery (as then amended) is dismissed. It is out of proportion to the nature of the company asset under consideration and overly onerous. In the event

there is to be a company share valuation obtained for current purposes, one would expect the accountant performing the valuation to be able to request of the directors of the company any further information considered relevant by the valuer and for cooperation to be given.

[42] I accept the submissions of counsel for the respondent that significant effort has been given to marshalling and providing available information with respect to the TFT. Mr Clark's narrative affidavit annexes TFT financial returns for the years ended 31 March 2017 to 31 March 2020. Within those accounts Ms Petersen is listed as a liability (creditor) to the trust. Mr Clark's advice is this is how the accountant Mr Waine saw it as appropriate (in accounting terms) to deal with the fact Ms Petersen had been advancing funds for trust purposes.

[43] There needs to be some reality around the information from the TFT. Firstly, the trustees are not parties and there is not currently any formal application for third party discovery. Secondly, whilst a cooperative position should be expected of Mr Clark (as he says he is currently demonstrating with the provision of further information) the TFT was settled in 2008 at a time when Mr Clark's wife Michelle Clark was co-trustee, the TFT owning [address deleted] Hamilton. It was in 2012 that the trust was re-documented for the purposes of implementing arrangements for the separation between Mr and Mrs Clark and thus removal of Michelle Clark as trustee and beneficiary and the appointment of new trustees. The package of resolutions from 17 December 2012 are already in the evidence.

[44] There would be an artificiality around expecting of the trustees' information pre-2012. The TFT was a family trust which had nothing to do with the applicant and owned a house property occupied by Mr and Mrs Clark. Ms MacColl's acknowledgement that any trustee documentation from December 2012 to July 2017 will be provided is acknowledged, however I do not intend to make any orders or recommendations around documentation pre-dating 2012 for the reasons given.

[45] At a pragmatic level, the respondent is encouraged to obtain and provide financial statements for the trust from 31 March 2013 to 2017 to fill that information

gap. Whether that would then require an application for third party discovery of the trustees should hopefully be avoided.

[46] With respect to the financial returns for the TFT spanning the period 2017 to 2020, the applicant is suspicious of the processes by which her financial contributions towards the trust have been deemed as debt owing back to her. Mr Clark would say it is the only option, given Ms Petersen is not a beneficiary. I direct discovery by Mr Clark of any and all correspondence between he and the accounting firm of Matley Accountants spanning the period 2017 to 2020 which will pertain to the preparation of those financial statements and the approach taken to how it is Ms Petersen is dealt with within those statements.

[47] It is possible the accountant Mr Waine could be summonsed to give his own evidence at hearing.

[48] In relation to Waikato Shelter Belt Trimmers Ltd, the request for discovery for financial statements for this company from the date of incorporation and remuneration to or distributions received by Lance Clark is dismissed. There is no basis upon which Mr Clark could be said to be entitled to the financial statements for the company. He has not been a director or shareholder. Mr Clark's parents have sworn an affidavit in which they advise their son Lance is not and has never been employed by that company and that it has nothing to do with Lance (or Beverly).

[49] The applicant seeks discovery for particulars for all trusts in which Mr Clark has a beneficial interest and all documentation around any such trust. The proposition appears to be that if Mr Clark has a beneficial interest in the trust operated by his parents, named the Acacia Grove Properties Trust, then this opens the way for the applicant to be disclosed information pertaining to the trust. Mr and Mrs Clark senior have made it clear in their affidavit they have no intention of disclosing their assets which have nothing to do with the parties to these proceedings. What is known is that the TFT as a discretionary beneficiary of the Acacia Grove Properties Trust as per the trustee resolution dated 4 February 2017 now in evidence. It is unknown if Lance Clark in his personal capacity is a beneficiary of that trust or whether, potentially, the

trust deed refers to both Lance Clark and his wife or partner as discretionary beneficiaries. This is one eventuality Ms Petersen is conscious of.

[50] Mr Clark is asked to write to the trustees of the Acacia Grove Properties Trust putting to them the question whether he and/or his wife or partner is a beneficiary of the trust and provide a copy of that written request and the written response by way of discovery to the applicant. It is established trust law that a person can write to trustees seeking advice whether they are a beneficiary.

[51] Ms Petersen's request for discovery by Mr Clark of particulars of all trusts in which she has a beneficial interest is intended to reveal as I interpret her position, whether she has beneficial status with respect to any trust vehicle within Mr Clark's family circle. I make no order for discovery against Mr Clark with respect to this request. The reality is Ms Petersen can write directly to the trustees of the Acacia Grove Properties Trust putting that specific question to those trustees.

[52] Counsel for the applicant put to the Court an oral application for third party discovery against TFT (if it were necessary) at the close of the interlocutory hearing. I am not prepared to action that oral application. If and when any third-party discovery were to be sought, a written application would be necessary.

[53] The directions set out in this decision as to discovery are intended to result in a balanced and proportionate response to what is at stake and reasonably necessary to ascertain and divide property.

[54] Costs are reserved with respect to this interlocutory hearing, to be resolved when substantive issues are concluded.

D A Blair  
Family Court Judge