



1. The Liquidators do not maintain, and have not maintained, that they owe no duties to Growers.
2. The Liquidators position is, and has always been, that the Liquidators have not breached any duty they may owe to any Grower by (i) their conduct leading up to the application for directions, (ii) making application for orders under s.511, or (iii) terminating the Head Leases, were the orders sought granted.
3. If the Growers' allegation is that the Liquidators simply may not terminate the Head Leases whilst they were the liquidator of the tenant, GSMAL, that legal issue can be (and could have been) determined summarily on admitted facts.<sup>1</sup>
4. Such an argument does not require the cross-examination so keenly anticipated, as to which no bones were so arduously made.<sup>2</sup>
5. If the Growers' allegation is that the Liquidators miscarried themselves in improperly contriving to manufacture a meritless opportunity to deprive the truly entitled Growers in favour of various (still) unspecified banks, the need for a "serious trial" is obvious.
6. For which of those 2 the Growers now contend is, in the wake the plaintiffs' 8 September submissions and defence, entirely opaque.
7. That opacity, and conduct of the 12 May hearing, afford no reason to make any costs order, and in particular not a special costs order, against the plaintiffs (i) before the determination of ultimate merits, or (ii) at all.

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<sup>1</sup> The facts that the Liquidators (i) sought to terminate the Head Leases, (ii) whilst making no expenditure on behalf of GSMAL to cure the pleaded breaches of the Head Leases, (iii) whilst liquidators of both the landlord and the tenant, are admitted by the Liquidators.

<sup>2</sup> Tr. 100.