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# State Reporting Bureau



Queensland Government  
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## Transcript of Proceedings

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SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

HOLMES J

No 2633 of 2000

ANGELO DAVID GAROZZO

Plaintiff

and

D'AGUILAR HOTEL

Defendant

BRISBANE

..DATE 24/06/2002

JUDGMENT

*Holmes J  
25.6.02*

HER HONOUR: I accept Mr Kimmins' submissions that the matter is better advanced by the provision of some of the particulars. I will identify those particulars by reference to his schedule.

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At 5A(i) of the defence there is an allegation that the plaintiff purchased alcohol from different bars within the hotel and it appears that the different bars have been identified. The particular that is sought is as to the quantities of alcohol purchased by the plaintiff there.

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Now I do not propose to order particulars of that, because it seems to me that it is overtaken in any event by 5A(ii) which cuts to the heart of the allegation much more directly.

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The particulars sought of that paragraph are in two categories. One is to seek the name, description and so on of the employees from whom the plaintiff purchased alcohol and the other is to ask the type and quantities of alcohol purchased from each employee.

It seems to me that it is irrelevant who the employees were and that it would not be proper to order particulars of name, gender and job description.

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On the other hand, it is relevant to the professed belief of the defendant as to intoxication to know how many different employees were involved and what quantity was bought from

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each, so I will order that particulars be given in terms of the request in paragraph 2(b) with respect to each and every employee, the type and quantity of alcohol purchased.

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In relation to paragraph 5A(iii) again I do not see how it advances the plaintiff to know who the patrons were in respect of whom the defendant says it was not in a position to know that the plaintiff was grossly intoxicated because of their purchases of drinks, but again it does seem to me to have some bearing to establish the defendant's state of knowledge as to the number of patrons involved and the type and quantities of drinks purchased, so I will order particulars in terms of 5A(iii)(b). Obviously it is a question of degree as to how far the defendant can give those particulars but that is a different issue.

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In respect of the request for particulars at paragraph 5B of the defence in relation to the monitoring of consumption of alcohol, again it does not seem to me that it advances matters for the plaintiff to know by whom it is said that the monitoring took place. It is not as if it helps him to isolate an actual occurrence in a way which would better able him to prepare for trial in this case, so I do not propose to order that particulars in terms of paragraph 4B be given.

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In relation to paragraph 6B, it seems to me that the identity of the employee of the defendant who attempted to persuade the plaintiff not to ride his motor cycle does

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matter, because it enables the plaintiff to recognise immediately what incident, if there was such an incident, it was, whom it involved, who it is is said was the actor in terms of the Buckle decision to which I was referred. So I will order that particulars be given of paragraph 6B of the defence in terms of paragraph 5A of the request.

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For similar reasons, I will order that particulars be given in terms of paragraph 5F of the request which seeks the identity of the person who offered the plaintiff alternate transportation.

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In relation to paragraph 9A of the defence, the particulars sought in paragraph 7 is of the identity of the companions whom the defendant believed would arrange for him to travel home safely.

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I do not see that the identity of the companions is relevant to the belief professed by the defendant and I do not propose to order that particular but there is a subparagraph of the particulars sought, 7(b) which seeks the facts, matters and circumstances giving rise to the defendant's belief and it seems to me that that is properly sought, so I will order that particulars be given in terms of 7(b) of the request.

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In relation to paragraph 9C of the defence, the request for particulars is in relation to identification of the employee of the defendant who offered the service of the courtesy

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bus. Again, for reasons I have outlined earlier, in terms of the plaintiff's being able to isolate an incident and the person involved, it seems to me, that it is material that he knows who is said to have done that. So I will order particulars in terms of paragraph 9B as set out in Mr Kimmins' schedule.

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In relation to paragraph 14D, the allegation in the defence is that the plaintiff had refused offers from his companions and representatives of the defendant for transportation, and that is the subject of request in paragraphs 10A and 10B of the request for further and better particulars.

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Again, it seems there is a direct action - a direct actor who could be identified and assist to isolate the incident concerned and again I think it proper that particulars be given in terms of paragraph 10(a) and 10(b) to the best ability of the defendant.

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HER HONOUR: I will order that the applicant plaintiff have his costs of this application to be assessed on the standard basis.

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