



Transcript of Proceedings

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State Reporting Bureau

Date: 4 November, 2003

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

HOLMES J

No S4852 of 2003

KING'S COLLEGE

Applicant

and

ALLIANZ INSURANCE AUSTRALIA LIMITED
(ACN 000 122 850)

First Respondent

and

WORKCOVER QUEENSLAND

Second Respondent

BRISBANE

..DATE 24/10/2003

JUDGMENT

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

HER HONOUR: In the matter of King's College and Allianz Insurance, I declare that any liability for personal injury sustained by the complainant which may be imposed on the applicant by settlement in the Anti-Discrimination Commission or order of the Anti-Discrimination Tribunal is not covered and does not give rise to any entitlement to indemnity under any policy issued pursuant to the WorkCover Queensland Act 1996.

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I considered the submissions in relation to costs. I have concluded that Mr Holyoak is right in saying that the fact that there may be some public interest in the resolution of the question whether the WorkCover Queensland Act applies to complainants in the Anti-Discrimination Commission is not sufficient reason to deprive the successful second respondent of its costs in circumstances where the applicant had a clear and direct commercial interest in bringing its application rather than any larger interest in the application of the statute. The second respondent should have its costs.

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The position as between the first respondent and the applicant is this: the first respondent maintained its entitlement to rely on exclusion clauses; that is, a position that the WorkCover policy responded, but it was also the primary position, at least in the correspondence, of the applicant and it was certainly maintained by the applicant as one line of its argument.

I think that the proper outcome is that each of them should pay half of the second respondent's costs to be assessed.

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As between the applicant and the first respondent, the applicant's success is limited to what flowed from the non-success of its argument against the second respondent. The first respondent was otherwise successful in contending that the application was premature.

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Taking those factors into account, I think the proper course is no order for costs as between the applicant and the first respondent.

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Those are my orders.

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