



## Transcript of Proceedings

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Date: 28 June, 2004

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

JONES J

Application No 163 of 2004

NORTHERN STAR SEAFOODS PTY LTD

Applicant

and

RUSSELL WOODROW

Respondent

CAIRNS

..DATE 21/06/2004

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.

HIS HONOUR: When this matter came on before me this morning Mr Miller, solicitor representing the applicant, sought an adjournment of the application. The basis upon which he did so was the fact that the affidavit materials upon which the respondent sought to rely to oppose the application were made available to him only last Friday afternoon. That is within one working day of the application. That body of affidavit material was filed by leave before me. The filing was not opposed but on the basis that the foreshadowed application for an adjournment would be maintained.

The principal affidavit is that of Mr Russell Woodrow who is not available for cross-examination today even if the matter were to proceed and Mr Miller on behalf of the applicant has indicated that he would require the applicant for cross-examination. Beyond that there does seem to me to be a number of issues arising from the material so far before me.

With respect to the statutory demand, the description of the debt is shown as "the amount due and owing by the company to the creditor in respect of a crayfish joint venture enterprise conducted by the company and the creditor in the Torres Strait." The "creditor", according to the affidavit accompanying the statutory demand, is Mr Woodrow. In that affidavit accompanying statutory demand there is no reference to the joint venture. It is simply, one infers, that there was an advance of moneys directly from Mr Woodrow to the company which has not been repaid.

In Mr Woodrow's affidavit filed by leave today that appears not to be the case. The money was advanced by a company, Hinatorie Pty Ltd, which on the face of it would appear to be the other part of the joint venture agreement although I can not conclude that on the material before me. But it is clear that the monetary advances, two in number, \$45,000 preliminary initial advance and a \$4,440.10 advance to the Queensland Fish Management Authority came from Hinatorie Pty Ltd.

It is not clear then whether the demand by Mr Woodrow is in some way linked to the entitlement to Hinatorie to demand of the joint venture partner in which case it ought, perhaps, to have been preceded by the taking of accounts. One can not say that, whether that is so, on the material before me.

Nonetheless, the only material to which Mr Ambrose of counsel appearing on behalf of the respondent can point to is in paragraph 11 of the affidavit of Mr Woodrow filed by leave by which Mr Woodrow asserts an acknowledgment of debt directly to him by Mr Bowie on behalf of the applicant company. That is a matter upon which Mr Miller, on behalf of the applicant, clearly needs to take instructions.

It seems quite a significant shift from the description of the debt as it appears in the statutory demand to what is now sought to be maintained by the recently filed affidavit. In all the circumstances it is appropriate to grant the adjournment to allow Mr Miller to obtain instructions from his clients about what is the issue between the applicant and the respondent. The applicant has simply, in its affidavit in

support of the application, said that there were no dealings  
between it and Mr Woodrow personally.

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I grant the adjournment. I will reserve the question of  
costs.

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HIS HONOUR: I will adjourn the matter to the 30th of July  
2004. Costs reserved.

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