



Transcript of Proceedings

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State Reporting Bureau
Date: 17 September, 2004

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

WHITE J

No S21 of 2004

LEANNE THERESA LAWRENCE BY HER
LITIGATION GUARDIAN RONALD NEIL WILSON

Plaintiff

and

RONALD BARRY HEIT

First Defendant

and

SUNCORP METWAY INSURANCE LTD

Second Defendant

BRISBANE

..DATE 09/09/2004

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.

HER HONOUR: This is an application to sanction a settlement reached between the plaintiff through her litigation guardian who is her stepfather and the insurer Suncorp Metway Insurance Limited.

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A great deal of material has been filed in this matter relating to the disabilities that were sustained by the plaintiff who was injured in a motor vehicle accident on the 6th of July 2001. She is the mother of three young children. She was married, but that relationship has not survived the accident and I understand from reading the material that it was probably not going well before that.

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The plaintiff was injured on a pedestrian crossing in Maryborough when she was struck by a motor vehicle. Her principal injuries are serious head injuries, but she also has some lower limb disabilities as well which restrict her quite considerably.

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The view that was taken by Suncorp Metway was that this was a matter which ought to have the sanction of the Court. It is certainly accepted on behalf of the plaintiff that her fund needs to be managed and that the Public Trustee is the appropriate entity to do so.

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Having looked at the material I am persuaded that although the plaintiff may be able to express views about the various figures that have been proposed by way of settlement she has deficits, probably pre-existing the accident, but compounded

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by it which would make her full understanding and
comprehension of the proposed settlement somewhat doubtful and
therefore I am of the view that it is appropriate that the
Court should sanction the settlement and I agree that the
amount which is proposed by way of settlement, namely \$1.25
million, is appropriate in all the circumstances.

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I have had the benefit of counsel's opinion which deals with
the various matters which make up that sum. By far the
greatest is the amount of something over \$700,000 for future
care. This plaintiff, although she had worked in a checkout
capacity mostly in the past, seems to me unlikely to have been
able to maintain anything more than the odd job from time to
time into the future, if that, and an amount of \$77,000, which
has been allowed for loss of future income, seems to me to be
more than adequate.

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The issue that has exercised my mind this afternoon has been
the amount that is proposed to be paid to the litigation
guardian and stepfather Ronald Neil Wilson in the amount of
\$174,896.57.

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There is no affidavit from Mr Wilson deposing to the course of
care that he has undertaken on behalf of his stepdaughter and
generally speaking that is a desirable course. However, the
amount has been calculated by reference to the very extensive
and detailed reports which have been prepared in relation to
the plaintiff by Ms Alana Paxton, an occupational therapist,
and also having regard to the report of Therapy Solutions

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under the hand of Cameron Fraser, also an occupational therapist.

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The plaintiff has undergone an enormous amount of parenting type assessment about the way in which she manages her life. Through 24 hours she has been observed interacting with her mother and stepfather and it is quite clear that needs as great as 12 hours a day have been noted by the occupational therapists.

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In view of that large body of material which certainly substantiates a claim of the order made by Mr Wilson I will not further defer sanctioning the settlement and requiring further material, but I would simply observe that for the future it is appropriate that such material be before the Court.

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I have had regard to the decision of Justice Byrne in Grevett v. McIntyre and Suncorp Metway Insurance and a decision of my own in Heidenreich v. Cam and FAI, one of which - that is Justice Byrne's decision - the Griffiths and Kerkemeyer claim was not sanctioned for want of acceptable material to prove the claim and in my own where I was satisfied that the body of material supported the claim which was made by the litigation guardian, who was the provider of the services.

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I further make reference to schedule 1 of the Guardianship and Administration Act 2000, which deals with the principles to be applied when considering a person in the position of the

plaintiff in this case. And it is quite clear that for the future she will be best served by maintaining those close relationships, particularly with her stepfather, which will flow out to her children being part of that supportive family unit.

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Accordingly, I sanction the settlement and the order will be as per draft.

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