



Transcript of Proceedings

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State Reporting Bureau
Date: 26 October, 2004

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

HELMAN J

No S7766 of 1999

ZACHARY TAYLOR GRENNELL, AN INFANT
BY HIS NEXT FRIEND DIANNE GRENNELL

First Plaintiff/
First Applicant

and

DIANNE GRENNELL

Second Plaintiff/Second Applicant

and

KERRY GRENNELL

Third Plaintiff/Third Applicant

and

VACC INSURANCE

Defendant/Respondent

BRISBANE

..DATE 22/10/2004

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: This is an application for an order that the Court dispense with the signature of the defendant on the request for trial date. Since the application was filed and served, the defendant has signed the request for trial date so that the only remaining issue before the Court is that of costs. On behalf of the applicant plaintiffs, it is said that the defendant should pay them their costs of the application, and on behalf of the defendant, it is submitted that the applicants should pay it its costs of the application.

The plaintiff's solicitors tendered the request for trial date on 15 September 2004 and the time for signature expired pursuant to the rules on 6 October 2004. On 5 October 2004 the solicitors for the defendant requested an extension of time for the return of the signed request for trial date and on behalf of plaintiffs, an extension was granted until midday on 8 October 2004.

On 8 October 2004 the solicitors for the defendant advised the solicitors for the plaintiff that they had attempted to find a Dr Radjovic, psychiatrist, who had treated the first plaintiff and that they had been unable to do so and therefore they were unable to sign the request for trial date. It would appear to me that that response was a reasonable one in the circumstances, but the difficulty about it is that there appears to have been no indication from the solicitors for the defendant as to when it would be reasonable to reach a conclusion on the subject of the availability or otherwise of

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Dr Radjovic's documents, and it appears that the solicitors for the plaintiffs did not seek to set a time limit.

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Had that happened, then it would have been possible for the parties to order their affairs with more precision. The plaintiffs would have been unreasonable in proceeding with the filing of their application, which took place on 12 October 2004 had a reasonable time limit been set before that time limit had expired; and the solicitors for the defendant would have been in a position to identify a reasonable time limit for their endeavours. That did not happen, and in the result the plaintiffs, with some justification, filed their application, and the defendant, with some justification, had not till then signed the request for trial date.

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I think that the appropriate outcome on the question of costs is that there be no order as to costs since there is some fault on both sides, in my view.

So, the application is dismissed, and there will be no order for costs.

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