

SUPREME COURT OF QUEENSLAND

CITATION: *The Corporation of the Synod of the Diocese of Brisbane v Greenway* [2017] QCA 138

PARTIES: **THE CORPORATION OF THE SYNOD OF THE DIOCESE OF BRISBANE**
ABN 39 906 010 979
(appellant)
v
RACHEL LOUISE GREENWAY
(respondent)

FILE NO/S: Appeal No 8913 of 2016
DC No 1047 of 2015

DIVISION: Court of Appeal

PROCEEDING: General Civil Appeal – Further Orders

ORIGINATING COURT: District Court at Brisbane – [2016] QDC 195

DELIVERED ON: 20 June 2017

DELIVERED AT: Brisbane

HEARING DATE: Heard on the papers

JUDGES: Morrison and McMurdo JJA and Bond J
Judgment of the Court

ORDERS: **It is further ordered that:**
1. The appellant pay the respondent’s costs on the standard basis of the proceeding in the District Court up to and including 17 February 2015.
2. The respondent pay the appellant’s costs on the standard basis of the proceeding in the District Court from 18 February 2015.

CATCHWORDS: PROCEDURE – CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS – COSTS – REGULATED COSTS: GROSS OR FIXED COSTS, LUMP SUM ORDERS OR CAPPING ORDERS AND LIKE MATTERS – PERSONAL INJURY DAMAGES – where the appellant was wholly successful on appeal and had judgment entered against the respondent – where the Court ordered the respondent to pay the appellant’s costs unless written submissions seeking a different order were filed within 14 days of the judgment – where the respondent filed written submissions seeking part of its costs at first instance on the basis of s 313 of the *Workers’ Compensation and Rehabilitation Act 2003* (Qld) – where the appellant did not file written submissions – whether the appellant should pay the respondent’s costs up

until the date when the appellant made a written final offer which was not accepted by the respondent

Workers' Compensation and Rehabilitation Act 2003 (Qld), s 313

COUNSEL: No appearance for the appellant
No appearance for the respondent, the respondent's submissions were heard on the papers

SOLICITORS: No appearance for the appellant
Slater and Gordon for the respondent

- [1] **THE COURT:** On 26 May 2017 the Court delivered its judgment in which the appeal was allowed and consequential orders were made. It was further ordered that the respondent pay the appellant's costs unless written submissions seeking a different order were filed within 14 days.
- [2] Within that period, the respondent filed a written submission which was to this effect:
- (1) Section 310 of the *Workers Compensation and Rehabilitation Act 2003 (Qld)* provides that, amongst other sections, s 312 of the Act applies to a claim by a worker where they have a DPI of 20% or more.
 - (2) The respondent was issued with a Notice of Assessment for a DPI of 20%.
 - (3) By s 313, if the insurer makes a written final offer which is not accepted, the claim is dismissed and the Court is satisfied that the insurer was at all material times willing and able to carry out what was proposed in the written final offer, the Court must:
 - (a) order the insurer to pay the claimant's costs, calculated on the standard basis, up to and including the day of service of the written final offer; and
 - (b) order the claimant to pay the insurer's costs, calculated on the standard basis, after the day of service of the written final offer.
 - (4) Written final offers were exchanged on 17 February 2015.
 - (5) Consequently, the appellant should pay the respondent's costs up to that date and the respondent should pay the appellant's costs from that date.
- [3] No submission on costs has been received from the appellant. Therefore the Court will act upon the factual premises of the respondent's submission and will make the orders which the respondent has sought.
- [4] The provisional order for costs made on 26 May was for the costs of the appeal. That order can and should stand, consistently with the respondent's written submission. It will be further ordered that the appellant pay the respondent's costs on the standard basis of the proceeding in the District Court up to and including 17

February 2015 and that the respondent pay the appellant's costs on the standard basis of the proceeding in the District Court from 18 February 2015.