

SUPREME COURT OF QUEENSLAND

CITATION: *Peters v Pimm Pty Ltd* [2019] QCA 306

PARTIES: **NICHOLAS PETERS**
(applicant)
v
**PIMM PTY LTD ACN 130 591 909 AS TRUSTEE FOR
THE MOODIE FAMILY TRUST TRADING AS TOTAL
MICROSYSTEMS**
(respondent)

FILE NO/S: Appeal No 7912 of 2019
QCATA No 236 of 2018

DIVISION: Court of Appeal

PROCEEDING: Application for Extension of Time

ORIGINATING COURT: Queensland Civil and Administrative Tribunal at Brisbane –
Unreported, 3 May 2019 (Daubney J)

DELIVERED ON: 20 December 2019

DELIVERED AT: Brisbane

HEARING DATE: 28 October 2019

JUDGES: Sofronoff P and Philippides JA and North J

ORDER: **The application for an extension of time is refused.**

CATCHWORDS: APPEAL AND NEW TRIAL – PROCEDURE –
QUEENSLAND – TIME FOR APPEAL – EXTENSION OF
TIME – where the applicant was refused leave to appeal
a decision of the Queensland Civil and Administrative
Tribunal to the Appeal Tribunal on 3 May 2019 – where the
applicant filed an application in the Court of Appeal for leave
to appeal that refusal on 26 July 2019 – where an application
for leave to appeal has to be filed within 28 days of the
decision – whether there is valid reason for the delay –
whether the application for leave to appeal has merits –
whether an extension of time within which to appeal should
be granted

COUNSEL: The applicant appeared on his own behalf
The respondent appeared on her own behalf

SOLICITORS: The applicant appeared on his own behalf
The respondent appeared on her own behalf

[1] **SOFRONOFF P:** The applicant has applied under s 151 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) for leave to appeal against a decision of Daubney J, sitting as President of the Appeal Tribunal of the Queensland Civil and

Administrative Tribunal, refusing leave to appeal a decision of the Tribunal at first instance.

- [2] The proceeding arises from a computer that the applicant bought from the respondent. He complained that the computer was faulty in various ways. A magistrate dismissed the applicant's claim. His application for leave to appeal to the Appeal Tribunal of the Queensland Civil and Administrative Tribunal was dismissed.
- [3] Daubney J dismissed the application for leave on 3 May 2019. The proceedings in the Court of Appeal were commenced by an application filed on 26 July 2019. An application against a decision of the Appeal Tribunal has to be filed within 28 days of the date of the decision. Consequently, the applicant requires an extension of time within which to appeal.
- [4] The applicant's outline of argument in this Court demonstrates that his proceeding was dismissed at first instance because the learned magistrate found that the applicant had not proved the facts to support his claim. That much appears from paragraphs [21] to [29] of the applicant's outline of argument.
- [5] At the commencement of the oral hearing the applicant challenged the constitution of the Court of Appeal. He informed the Court that he had discovered that "judges of the Australian Courts are actually employees of a company known as the Attorney-General and Justice Department who runs under an ABN". The applicant said that "as employees of that company, the judges of the Court of Appeal cannot be judges".
- [6] The applicant wanted the proceeding to be adjourned "until some time as these questions are asked". He submitted that in his view there was "an actual constitutional crisis at the moment". For this reason he asked for the proceeding to be adjourned to a date to be fixed "after the crisis of the constitution is heard and sorted out because I understand that the constitution is being changed without a referendum of the Australian people".
- [7] The applicant submitted that he did not wish to appear before the Court as currently constituted. He wanted "a lawful court of authority under the Commonwealth constitution and under the common law". The composition of that court is something that was "yet to be decided by people smarter than me".
- [8] The power of the Court of Appeal to grant leave to appeal in a case like this one involves an exercise of discretion. That discretion arises for exercise only after the applicant for leave has established that there is a point of law in question. I am prepared to assume, without deciding, that there might be a question of law involved in this case. However, in the end this is a dispute between the applicant and the respondent that involves a sum of money under \$3,000. That is not the kind of case which should be subject of repeated agitation. The whole purpose of the legislation which permits a claim like the applicant's claim to be considered by a magistrate is to provide for a cost effective method to resolve a dispute. It would be an extremely rare case in which the Court of Appeal would grant leave to appeal in a case in which the amount in dispute is so small. Rather than serving the ends of justice, to grant leave to appeal would create an injustice by perpetuating a dispute that has been quelled.

- [9] Moreover, the applicant wants to agitate a bizarre legal argument about the status of judges. That would just be vexatious.
- [10] There is no merit in this application and leave to extend time to appeal should be refused. Neither of the parties was represented so there should be no order as to costs.
- [11] **PHILIPPIDES JA:** I agree with Sofronoff P.
- [12] **NORTH J:** I agree with Sofronoff P and with the order proposed.