

# SUPREME COURT OF QUEENSLAND

CITATION: *Stubberfield v Lippiatt & Co* [2002] QCA 541

PARTIES: **JOHN RICHARD STUBBERFIELD**  
(defendant/applicant)  
v  
**LIPPIATT & CO (A FIRM)**  
(plaintiff/respondent)

FILE NO/S: Appeal No 6653 of 2002  
DC No 2263 of 2002

DIVISION: Court of Appeal

PROCEEDING: Application for Leave s118 DCA (Civil) - Further Order

ORIGINATING COURT: District Court at Brisbane

DELIVERED ON: Judgment delivered on 25 October 2002  
Further order delivered on 13 December 2002

DELIVERED AT: Brisbane

HEARING DATE: 14 October 2002  
Application for costs heard on the papers

JUDGES: McMurdo P, McPherson JA and Cullinane J  
Judgment of the Court

FURTHER ORDER: **Application for indemnity costs refused.**

CATCHWORDS: COSTS

COUNSEL: The applicant appeared on his own behalf  
A H Musgrave for the respondent

SOLICITORS: The applicant appeared on his own behalf  
Lippiatt & Co for the respondent

- [1] **THE COURT:** The Respondent who succeeded on the application seeks an order that costs be awarded on an indemnity basis.
- [2] The application was dismissed “with costs”. The effect of Rules 702 and 703 would seem to be that such an order is an order for costs on a standard basis.
- [3] It is necessary then for the Respondent to have that order set aside and in order to do so must bring itself within Rule 667 of the Uniform Civil Procedure Rules.

- [4] The Respondent did not seek such an order on the hearing of the application and was not represented at the time judgment was delivered.
- [5] The Respondent then must be taken as seeking an order setting aside the order for costs on a standard basis and must bring itself within Rule 667. No grounds have been advanced for setting aside the order under Rule 667. The only rule which might have any possible application is Rule 667 (2)(a).
- [6] It is, we think, at least extremely doubtful whether any reliance can be placed upon this rule in the light of cases such as *Sproule v Long* (2000) QSC at 276 and *Wilkinson v Wilkinson* (1963) 1P1.
- [7] In any case, as we have said, no grounds have been advanced for the setting aside of the order.
- [8] For these reasons the application ought to be refused. We should add that even if the Respondent could rely upon Rule 667 we are of the view that it has not been demonstrated that the circumstances of the case are sufficiently special or unusual to justify a departure from the normal order.
- [9] The application for indemnity costs should be refused.