

COURT OF APPEAL

McMURDO P

Appeal No 9053 of 2006

RINKER AUSTRALIA PTY LTD
(ACN 099 732 297)

Appellant/Plaintiff

and

LEIGH PARKER ERNEST WHITING

First Respondent/Defendant

and

ADAM GRAHAME WHITING

Second Respondent/Defendant

BRISBANE

..DATE 01/12/2006

ORDER

MR N J MORGAN (of Forbes Dowling Lawyers) for the appellant

THE PRESIDENT: In respect of the appeal, the order is this appeal is dismissed with no order as to costs.

...

THE PRESIDENT: The reason for this appearance was entirely the fault of the first respondent although it seems as though he perhaps ought not to have been joined in the appeal in the first place. Nevertheless, the necessity for today's mention could have easily been avoided by him if he had simply contacted the Registry and signed a Form 68. He was given ample warning that if he did not do so without good reason, he could have a costs order made against him. In those circumstances, that seems to me to be the appropriate order.

I order that the first respondent, Leigh Parker Ernest Whiting, pay the appellant's costs of and incidental to today's mention to be assessed.
