

# SUPREME COURT OF QUEENSLAND

CITATION: *ASIC v Jorgensen & Ors* [2009] QCA 55

PARTIES: **AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION**  
(applicant)  
**v**  
**ALAN BRADLEY JORGENSEN**  
(first respondent/respondent)  
**ZHI LI also known as LYNA JORGENSEN**  
(second respondent/not a party to the application)  
**JIM'S WATER TANKS PTY LTD**  
ACN 123 918 721  
(third respondent/not a party to the application)  
**ROBERT WILLIAM MORTON**  
(fourth respondent/not a party to the application)  
**THE BANKRUPT ESTATE OF ALAN BRADLEY JORGENSEN**  
(fifth respondent/not a party to the application)

FILE NO/S: Appeal No 12536 of 2008  
SC No 7032 of 2007

DIVISION: Court of Appeal

PROCEEDING: Miscellaneous Application – Civil

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 13 March 2009

DELIVERED AT: Brisbane

HEARING DATE: 9 February 2009

JUDGES: Keane, Holmes and Fraser JJA  
Judgment of the Court

ORDER: **Respondent pay the applicant's costs of and incidental to the appeal and the application to strike out**

CATCHWORDS: PROCEDURE – COSTS – GENERAL RULE - COSTS FOLLOW THE EVENT – COSTS OF WHOLE ACTION – GENERALLY – where applicant succeeded in its application to strike out respondent's appeal – where applicant sought order that respondent pay costs of and incidental to appeal and strike out application – where general rule that costs follow the event – whether grounds to depart from general rule exist

*Uniform Civil Procedure Rules 1999 (Qld), r 681(1)*

COUNSEL: P J Davis SC and J W Peden for the respondent/applicant  
The appellant/respondent appeared on his own behalf

SOLICITORS: Australian Securities & Investment Commission for the  
respondent/applicant  
The appellant/respondent appeared on his own behalf

- [1] **THE COURT:** On 17 February 2009 this Court struck out Mr Jorgensen's notice of appeal on the basis that his appeal was incompetent.
- [2] ASIC now seeks an order that Mr Jorgensen pay its costs of the appeal and of the application to strike it out.
- [3] The usual rule as to the disposition of costs of a proceeding is that the costs follow the event.<sup>1</sup>
- [4] There is no reason apparent to the Court why the usual rule should not be applied in this case. The only submission made by Mr Jorgensen on the issue as to the costs of proceedings in this Court was to inform this Court that he proposes to seek special leave to appeal to the High Court of Australia from this Court's decision of 17 February 2009. That is no reason not to apply the usual rule in relation to the disposition of costs.
- [5] Accordingly, it is ordered that Mr Jorgensen pay ASIC's costs of and incidental to the appeal and the application to strike it out.

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<sup>1</sup> See r 681(1) of the *Uniform Civil Procedure Rules 1999* (Qld).