

COURT OF APPEAL

MUIR JA

**Appeal No 5488 of 2012
DC No 3661 of 2008**

PHILLIP LENNARD

First Applicant

and

SUSAN MARGARET O'BRIEN

Second Applicant

v

JOHN MAXWELL COLVIN

Respondent

BRISBANE

DATE 01/08/2012

ORDER

MUIR JA: On this application, the application for security for costs and other orders by the respondent to the appeal, the applicants for leave to appeal/the respondents to this application, have not appeared. Their names were called at the commencement of the hearing.

I am satisfied for the reasons set out in the outline of submissions of Ms Ahearn who appears for the applicant, that an order for security for costs is appropriate. Apart from anything else, it appears that the respondents to this application may not be able to meet the costs on the proceeding. If they are unsuccessful they also seek to argue a number of matters, one or perhaps two of which may be arguable, but others which appear to have very faint prospects of success at best.

I order that on or before 4 pm on 8 August 2012, the applicants, Phillip Lennard and Susan Margaret O'Brien, provide security for the respondents costs of the application for leave to appeal and the appeal, in the sum of \$12,000 in a form acceptable to the Registrar.

I further order that failing the provision of such security in accordance with this order, the appeal stand dismissed with costs without any further order.

I order that the applicants pay the respondents costs of and incidental to this application.