

SUPREME COURT OF QUEENSLAND

CITATION: *Creamer v Green and Anor* [2015] QSC 301

PARTIES: **TUOI THI CREAMER**
(Applicant)
v
ADAM GREEN
(First Respondent)
ALLIANZ AUSTRALIA INSURANCE LTD
(Second Respondent)

FILE NO/S: Brisbane No 10178 of 2015

DIVISION: Trial Division

PROCEEDING: Application on the papers

ORIGINATING COURT: Supreme Court of Queensland at Brisbane

DELIVERED ON: 28 October 2015

DELIVERED AT: Brisbane

HEARING DATE: Heard on the papers

JUDGE: Boddice J

ORDER: **1. Pursuant to Section 57(2)(b) of the *Motor Accident Insurance Act 1994 (Qld)* as amended (“The Act”) the Applicant be given leave to commence proceedings for damages in relation to the injuries sustained by the Applicant in respect of a motor vehicle collision caused by the negligent driving of the First Respondent on or about 1st December 2012, and which the Second Respondent is the First Respondent’s insurer, within sixty (60) days of one of the following events occurring:**

- a. A conference being held pursuant to Section 51A and 51B of the Act and Mandatory Final Offers being exchanged in accordance with Section 51C of the Act;**
- b. In the event of the parties agreeing to dispense with (a) above, pursuant to Section 51A(4) of the Act, the date of said agreement;**
- c. In the event of the Court making an order to dispense with (a) above, pursuant to Section 51A(5)(b) of the Act, the date of such order.**

2. Each party is at liberty to apply by giving at least 3 business days' notice in writing to the other party or parties.

3. There be no order as to costs.

CATCHWORDS: LIMITATION OF ACTIONS – EXTENSION OR POSTPONEMENT OF LIMITATION PERIODS – EXTENSION OF TIME IN PERSONAL INJURIES MATTERS – GENERALLY – where the applicant had been a passenger in a motor vehicle, the first respondent was the driver of another motor vehicle, and the second respondent was the insurer of the first respondent – where the first respondent's motor vehicle collided with the applicant's motor vehicle – where the first respondent, through the second respondent, admitted liability – where the applicant was injured and the applicant's injuries had stabilised such that they were capable of being assessed – where there were delays in obtaining full medical records – where the applicant sought an extension of time – whether the extension of time sought should be granted

Motor Accident Insurance Act 1994 (Qld)

COUNSEL: No appearance by the applicant, the applicant's submissions were heard on the papers
No appearance by the respondent, the respondent's submissions were heard on the papers

SOLICITORS: No appearance by the applicant, the applicant's submissions were heard on the papers
No appearance by the respondent, the respondent's submissions were heard on the papers

- [1] By Originating Application, filed 9 October 2015, the applicant seeks orders that the applicant be given leave to commence proceedings for damages in relation to personal injuries sustained by the applicant following a motor vehicle collision allegedly caused by the negligent driving of the first respondent on or about 1 December 2012. The second respondent is the first respondent's insurer. The applicant seeks ancillary orders in relation to the holding of a compulsory conference.
- [2] Prior to the hearing, the respondents' solicitors indicated that the respondents consented to the proposed orders.
- [3] In the circumstances, I am satisfied there is no need for an oral hearing. I am also satisfied it is appropriate to make the proposed orders.
- [4] I make orders, by consent, in the terms of the draft, which I initial and place with the papers.