



[2003] OSC LIB
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Transcript of Proceedings

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State Reporting Bureau
Date: 15 July, 2003

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

JONES J

No 294 of 2003

JOHN O'DONOGHUE

Applicant

and

DERMOT O'DONOGHUE

First Respondent

and

BRUCE ENGINEERING PURCHASING
SERVICES PTY LTD
ACN 008 052 220

Second Respondent

CAIRNS

..DATE 14/07/2003

JUDGMENT AND ORDER

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

HIS HONOUR: With no objection being raised by legal representatives on behalf of WorkCover Queensland, I order that the title of the originating application be amended to show as a third respondent, WorkCover Queensland.

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MR GLEN: Your Honour, my learned friend Mr Keft has prepared some draft orders which we've signed by consent, subject to your Honour's sanctioning same.

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HIS HONOUR: Orders by consent in terms of the draft initialled by me and placed with the papers.

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MR GLEN: Additionally, we seek leave from your Honour under section 43 of the Personal Injuries Proceedings Act to commence proceedings against Bruce Engineering Purchasing Services Proprietary Limited.

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HIS HONOUR: I grant you leave.

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...

HIS HONOUR: The applicant in this action has commenced proceedings against two defendants in respect of a work related injury which is alleged to have occurred on the 15th of July 2002. The incident concerns the injuries sustained in his work place involving the unloading of various items from a truck.

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The date of the injury means that the normal limitation of actions period expires tomorrow and, thus, there is an urgency in the plaintiff obtaining an order for leave to proceed under the Personal Injuries Proceedings Act 2002 because he has not yet given notice of his claim to the insurer of the vehicle.

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JUDGMENT AND ORDER

Section 43 of the said Act empowers the Court to give leave to
a claimant to start proceedings based on liability for
personal injury, despite non-compliance with the other
requirements of the Act. The urgency of the plaintiff's
situation is explained by the expiry of the limitation
tomorrow and, in all the circumstances, it seems to me that
leave should be given.

The second defendant, Bruce Engineering Purchasing Services
Pty Ltd, has been served with the application, but does not
appear to raise any objection to it. In those circumstances,
I will make the following order:

- (1) That the applicant be granted leave to commence
proceedings against the second respondent pursuant to
section 43 of the Personal Injuries Proceedings Act 2002
for personal injury sustained on the 15th of July 2000,
despite non-compliance with the requirements of chapter 2
of the said Act.

I further order:

- (2) That proceedings commenced by the second respondent be
stayed until the applicant complies with the requirements
of chapter 2 of the said Act; and
- (3) That costs of and incidental to this application be
reserved.
