



## Transcript of Proceedings

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State Reporting Bureau  
Date: 13 September, 2004

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

JONES J

Application No 314 of 2004

MARIO GIOVANNI BERNARDI

First Applicant

and

MILYANA CATHERINE BERNARDI

Second Applicant

and

JACK ANTHONY BERNARDI

Third Applicant

and

LONDON PARTNERS AUSTRALIA PTY LTD  
(ACN 057 549 925)

Respondent

CAIRNS

..DATE 08/09/2004

JUDGMENT

**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: This is an application for leave to proceed against the respondent company which, as revealed to the Court, is subject to a deed of administration. As a consequence leave is required pursuant to the provisions of section 444E of the Corporations Act 2001.

The nature of the proceedings are damages for breach of duty of care, and breach of statutory duty by the corporate respondent who is a financial adviser and accountants to the applicants. This application has been brought to the attention of the solicitors of the creditors who have sought the administration of the company, and it has been brought to the attention as well of the solicitors who act for the respondent company in respect of these proceedings.

On the material before me I am satisfied that the insurer of the respondent for claims of this kind has agreed to indemnify the company and in those circumstances there is no reason why leave should not be granted.

Accordingly, I grant leave to the plaintiffs to proceed with the action, being Cairns District Court action number 368 of 2002, against the respondent company which is subject to the deed of company arrangement.

The costs of and incidental to the application will be costs in the cause.

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