



## Transcript of Proceedings

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State Reporting Bureau

Date: 15 November, 2005

SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

JONES J

Claim No 137 of 2005

BELINDA DONNA JOHANSSON (TAYLOR) Respondent (Plaintiff)

and

WAYNE MILTON HARE Applicant (First Defendant)

and

SUNCORP METWAY INSURANCE LIMITED Applicant (Second Defendant)  
(ACN 075 695 966)

CAIRNS

..DATE 08/11/2005

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: The defendants apply to have the hearing of this matter de-listed from the allocated de-hearing dates on the 24th and 25th of November 2005. They do so because there is an argument as to whether the action comes within the scope of the Civil Liability Act which materially alters the approach to the assessment of the quantum of damages.

There are presently two matters before the Court of Appeal in which different Judges of the Supreme Court have made conflicting decisions. Those decisions were by Justice Dutney in the matter of Newberry v Suncorp Metway Insurance Limited and Justice McMurdo in the matter of King v Parsons and Suncorp Metway Insurance.

In each of those matters an appeal has been lodged, and it is likely that the appeals will be heard together in late January or early February 2006. The determination of those appeal will authoritatively determine the approach which the Court must take in the trial of this action.

Understandably the plaintiff is desirous of having a speedy determination of her claim. Liability for the claim has been admitted, and so the question of assessment is something that can be undertaken quickly once the method of determination has been decided upon.

I propose, in those circumstances, to de-list the case, but  
will mark it as a case on the callover to be heard with  
priority after the Court of Appeal has handed down its  
decision in those two matters mentioned above.

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The defendant agrees that the costs of and incidental to this  
adjournment, including costs thrown away by the adjournment,  
should be the plaintiff's costs in the cause.

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