

# SUPREME COURT OF QUEENSLAND

CITATION: *MSL Linen Rental Pty Ltd & ors v Suncorp Metway Ltd & ors*  
[2011] QSC 371

PARTIES: **MSL LINEN RENTAL PTY LTD**  
(first plaintiff)  
**LONROA PTY LTD**  
(second plaintiff)  
**RONALD JAMES COOMER**  
(third plaintiff)  
**PETRINA MARIA COOMER**  
(fourth plaintiff)  
v  
**SUNCORP METWAY LTD**  
(first defendant)  
**JOHN PATRICK CRONIN**  
(second defendant)  
**WILLIAM JAMES HARRIS**  
(third defendant)

FILE NO/S: SC No 93 of 2007

DIVISION: Trial

PROCEEDING: Application

ORIGINATING  
COURT: Supreme Court at Mackay

DELIVERED ON: Delivered ex tempore 8 November 2011

DELIVERED AT: Brisbane

HEARING DATE: 8 November 2011

JUDGE: Atkinson J

ORDERS: (1) **The plaintiffs' application is dismissed.**  
(2) **Ronald James Coomer pay the defendants' costs of and incidental to this application, fixed in the sum of \$2500, within thirty days of the date of this order.**  
(3) **No further application be filed by any of the plaintiffs in these proceedings until after payment of the costs referred to in paragraph [2] of this order.**

CATCHWORDS: PROCEDURE – SUPREME COURT PROCEDURE – QUEENSLAND – PROCEDURE UNDER UNIFORM CIVIL PROCEDURE RULES AND PREDECESSORS – TIME – DELAY SINCE LAST PROCEEDING – where the plaintiffs made an application for orders that the parties meet for mediation – where the third plaintiff purported to appear

on behalf of the other plaintiffs – where a step in the proceedings has not been taken for a period longer than two years – what orders should be made

*Uniform Civil Procedure Rules 1999 (Qld), s 389(2)*

COUNSEL: The third plaintiff appeared on his own behalf  
G D Sheahan for the first and second defendants

SOLICITORS: The third plaintiff appeared on his own behalf  
Allens Arthur Robinson for the first and second defendants

HER HONOUR: The plaintiffs in this matter are MSL Linen Rental Pty Ltd, Lonroa Pty Ltd, Ronald James Coomer and Petrina Maria Coomer. Two of those plaintiffs, MSL Linen Rental Pty Ltd and Lonroa Pty Ltd, have filed an application saying that Lonroa Pty Ltd is applying to the Court for orders that the parties meet to mediate a resolution to this case.

Ronald Coomer appeared in person in the application and sought to appear for the two companies referred to and Petrina Coomer, who he says is his wife. No material in an admissible form was put before me by Mr Coomer, and accordingly, I cannot give him the leave required to appear for those parties.

There are some additional problems. No step has been taken in these proceedings for two years from the time the last step was taken.

The plaintiffs filed an amended statement of claim on 28 September 2009, and a notice of intention to defend was filed on 2 October 2009. The present application was filed on 25 October 2011. No application for leave pursuant to rule 389(2) of the *Uniform Civil Procedure Rules 1999* (Qld) ("UCPR") has been made and accordingly, an order of the Court was required in order to bring that application. No such order was sought in the application nor has been made.

There are arguments made by the defendants on the merits, but the occasion for considering them has not arisen. There is no admissible material before me by the plaintiffs. Only

Mr Coomer appears and is unable to satisfy any provision for him to appear on behalf of the other plaintiffs and, as I have said, the application was filed in breach of the rules of the Court.

Those rules are not a purely technical matter. Rule 5 requires of parties that they comply with their implied undertaking to proceed with actions expeditiously, and that matters be litigated without undue delay.

Accordingly, the only order I can make is that the application filed 25 October 2011 be dismissed.

...

The orders will be:

- (4) the plaintiffs' application is dismissed.
- (5) Ronald James Coomer pay the defendants' costs of and incidental to this application, fixed in the sum of \$2500, within thirty days of the date of this order.
- (6) No further application be filed by any of the plaintiffs in these proceedings until after payment of the costs referred to in paragraph [2] of this order.

I make the order as per draft as amended which I will initial and place with the file.

-----