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THE SUPREME COURT
OF NEW SOUTH WALES
COMMON LAW DIVISION

ASSISTANT REGISTRAR HOWE

TUESDAY 8 MARCH 2005

020395/04 - JOHN WILSON v DENTAL BOARD OF NEW SOUTH WALES & 1 ORS

Plaintiff appeared unrepresented
Ms A Lye for the Defendant

LYE: Ms Lye for the defendants, applicants for the motion.

REGISTRAR: You want the statement of claim dismissed?

LYE: That's correct, Registrar.

REGISTRAR: You are relying on your affidavit of 5 January, are you?

PLAINTIFF: That has to be determined by a jury.

REGISTRAR: I understand that. Do you want to put any evidence on or not, Mr Wilson?

PLAINTIFF: I'll put the evidence before a jury. If you select a date for jury selection, I'll be content with that.

REGISTRAR: Thank you. So you are declining to put any evidence on?

PLAINTIFF: Not until a jury trial, not until a legitimate common law trial.

REGISTRAR: How soon do you want to list the matter, Ms Lye?

LYE: We would be available as soon as the Court has available time to hear the matter, perhaps towards the end of March, Registrar.

REGISTRAR: Do you want a, master or a judge?

PLAINTIFF: You can't have, either. You must have a jury.

REGISTRAR: Mr Wilson, I'm talking to this young lady.

PLAINTIFF: Yeah but you've got to get it straight.

REGISTRAR: Mr Wilson –

PLAINTIFF: -- the law demands that there's trial by jury.

REGISTRAR: Good, thank you. How long will this matter take?

LYE: The defendant's submissions would take no longer than a hour.

PLAINTIFF: My submission, my case will take at least a week. It must be before a jury. Are you denying me trial by jury?

REGISTRAR: What I am going to do Mr Wilson is send you off to see the duty judge and you can ask the duty judge for a trial by jury otherwise Ms Lye will be proceeding with her dismissal motion.

PLAINTIFF: I don't have to ask for a trial by jury at all, it's my right.

REGISTRAR: Good. Ms Lye, if you are ready to go what I am going to do is send you downstairs with the court officer to see the common law list clerk who will ring –

LYE: I might just make a call to have our counsel come over if that's possible. So if the matter could stand in the list for ten minutes - we are ready.

REGISTRAR: I'll get you to go downstairs with the court officer who will ring the associate to Simpson J who is the duty judge, she is sitting in court 9A and the common law list clerk will arrange with the judge's associate what time this matter will be heard. If you want to you can go with the court officer as well and see the common law list clerk and find out when the duty judge is going to deal with the matter.

PLAINTIFF: So we go to courtroom 9A –

REGISTRAR: No, if you go with this court officer down to see the common law list clerk to find out when it will be listed—

PLAINTIFF: Is that in a courtroom?

REGISTRAR: It's a courtroom upstairs but go with the court officer to see the common law list clerk, who is going to ring the judge's associate to find out what time today in 9A the matter will be heard.

PLAINTIFF: And when it's set down for trial by jury.

REGISTRAR: You can ask Justice Simpson any question you want.

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THE SUPREME COURT
OF NEW SOUTH WALES
COMMON LAW DIVISION

SIMPSON J

TUESDAY 8 MARCH 2005

20395/04 - JOHN WILSON v DENTAL BOARD OF NEW SOUTH WALES & ANOR

The Plaintiff/Respondent appeared in person
Mr D Burwood for the Defendant/Applicant

BURWOOD: If it please the Court, Burwood. I appear for the defendant/applicants in the motion.

HER HONOUR: Mr Wilson, you appear for yourself?

PLAINTIFF: I am myself.

HER HONOUR: Mr Burwood, what is the application?

PLAINTIFF: You will have to speak louder, I am sorry. There are a lot of people in the back who want to hear what's going on.

HER HONOUR: What is the application, Mr Burwood?

BURWOOD: It is an application to strike out a statement of claim.

HER HONOUR: How long will it take?

BURWOOD: From my point of view, we have short written submissions for your Honour, may be half an hour, 45 minutes.

HER HONOUR: Alright. I will –

PLAINTIFF: Mrs Simpson, this can only be heard by a jury, so therefore what has to be done now is make a date for jury selection.

HER HONOUR: Mr Wilson, we have been through this before. An application to strike out a statement of claim is not dealt with by a jury.

PLAINTIFF: It must be heard by a -jury, the law says so. The law says it must be heard by a jury.. You have already denied me trial by jury in a previous case when you took my house away from me. You denied trial by jury then too.

HER HONOUR: I will stand this matter down in the list. I will come back to this matter when I have

dealt with the other matters in the list.

PLAINTIFF: When will that be? Today?

HER HONOUR: I will leave it in the list.

PLAINTIFF: But you can't determine - Mrs Simpson, you can't determine anything. I challenge the jurisdiction of this court. You have no jurisdiction to deal with anything. I don't give my consent to be without a jury.

HER HONOUR: Officer, will you get the sheriff's officers? I will have Mr Wilson removed.

MATTER STOOD IN LIST

(The Plaintiff/Respondent remained standing at the Bar table.)

PLAINTIFF: Mrs Simpson, you have no jurisdiction to hear my matter.

HER HONOUR: Mr Wilson, you're marked not before 11.30.

PLAINTIFF: You have no jurisdiction to hear this matter. I don't give my consent to be without a jury.

HER HONOUR: It is not going to be heard by a jury.

PLAINTIFF: You deny trial by jury. Denying trial by jury, this is our common law constitutional, inalienable, inherited right and you are denying that.

HER HONOUR: I am coming back to your matter not before 11.30.

PLAINTIFF: You won't come back to the matter at all because you have no jurisdiction. That is a five year imprisonment for you, denying trial by jury. Do you think you're immune from the law?

HER HONOUR: Mr Wilson, you can come back at 11.30 if you want to, to have this argument. I am going now to deal with other matters.

PLAINTIFF: Will there be a jury here? We have not had a jury summonsed yet.

HER HONOUR: I am going to deal with other matters at the moment.

PLAINTIFF: I don't know what their argument is but my argument is you have no jurisdiction.

HER HONOUR: Yes, I know.

PLAINTIFF: You know and you are still denying trial by jury. Trial by jury is democracy.

HER HONOUR: Are the parties in Berry ready?

PLAINTIFF: Is this being recorded, Mrs Simpson?

HER HONOUR: Mr Wilson, I am not dealing with your matter at the moment. I am dealing with the, first matter, Berry v The Law Society. I have stood this matter down to not before 11.30. It may be necessary to come back then.

MATTER STOOD IN LIST

HER HONOUR: Mr Burwood and Mr Wilson, I think what I am going to do with this matter is stand it over. I will deal with it either tomorrow or Thursday.

PLAINTIFF: You can't deal with anything, Mrs Simpson.

HER HONOUR: I understand that. Mr Burwood, does that suit you?

.BURWOOD: Tomorrow would be suitable.

HER HONOUR: Mr Wilson, I am going to stand this matter over until 10 o'clock tomorrow.

PLAINTIFF: What for? Are you going to appoint a date for jury selection?

HER HONOUR: I will stand the matter over until 10 o'clock tomorrow.

PLAINTIFF: I have asked you a question.

HER HONOUR: I will go back to the matter of the Prothonotary v Smiley. Leave the court.

PLAINTIFF: You can't determine anything.

HER HONOUR: Please. (To court officer) Will you get the sheriff's officers please?

PLAINTIFF: I am not leaving the court unless a date is set for jury selection. This must be trial by jury. You

HER HONOUR: Would you remove Mr Wilson please, officer.

PLAINTIFF: So what are you saying?

HER HONOUR: Please remove Mr Wilson.

PLAINTIFF: What is the date you remitted? Tell me a date. Tell me a date.

HER HONOUR: Your matter is stood over until tomorrow morning at 10 o'clock. Now, leave the court please.

PLAINTIFF: I hope there will be a lot more people here, a lot more people to remind you of my rights.

HEARING ADJOURNED TO WEDNESDAY 9 MARCH 2005.

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THE SUPREME COURT
OF NEW SOUTH WALES
COMMON LAW DIVISION

SIMPSON J

WEDNESDAY 9 MARCH 2005

20395/04 - JOHN WILSON v DENTAL BOARD OF NEW SOUTH WALES & ANOR

Plaintiff in person
Mr D Burwood for the Defendant

(Her Honour called through duty judge list. This matter was given a number 2 marking of not before 11 am. The plaintiff then approached the Bar Table)

PLAINTIFF: Excuse me, Mrs Simpson, this is simply an application for trial by jury. I would like to be sent to the list clerk to be scheduled for trial by jury.

HER HONOUR: I am going to deal with your matter at 11 am.

PLAINTIFF: You're not going to deal with it at all, you can't deal with this matter.

HER HONOUR: Will you please leave the Bar Table?

PLAINTIFF: You have no jurisdiction.

(Sheriff's officers called into court)

HER HONOUR: Thank you officers.

PLAINTIFF: You have no jurisdiction. This must be a trial by jury. I made that point yesterday. This must be done by trial by jury. You have no jurisdiction whatsoever.

HER HONOUR: Thank you officers. Would you please remove Mr Wilson.

PLAINTIFF: Are you ordering these people----

HER HONOUR:- I have directed the sheriff's officers to remove you.

PLAINTIFF: Forcibly?

PERSON IN BACK OF COURT: Moving or ordering?

HER HONOUR: Mr Wilson, please go with the officers.

PLAINTIFF: I will leave but I'll make a point this person has no jurisdiction whatsoever.

PERSON IN BACK OF COURT: Don't assault him.

(Sheriff's officers removed plaintiff from court at 10.05 AM)

AT 11.10 AM

NOTICE OF MOTION NOTED

PLAINTIFF: Excuse me, this Court has no jurisdiction.

HER HONOUR: Mr Wilson, I am going to proceed to hear the notice of motion.

PLAINTIFF: This Court has no jurisdiction. The jurisdiction of the Court must be proven.

HER HONOUR: I am going to deal with the notice of motion that has been filed.

PLAINTIFF: This Court has no jurisdiction. Once challenged, it must be proven.

HER HONOUR: If you do not cease to interrupt, I will have you removed and I will hear the matter in your absence.

PLAINTIFF: You can't hear the matter. Once jurisdiction is challenged, it must be proved – Haynes v Levine (Plaintiff read from document). I am challenging the jurisdiction of this Court. You have no jurisdiction to hear this matter. I haven't given my consent.

HER HONOUR: I am going to say this once more only---

PLAINTIFF: Mrs Simpson, you have no jurisdiction.

HER HONOUR: You will be quiet or you will be removed.

PLAINTIFF: You have no jurisdiction, you have no authority. I'm challenging the jurisdiction of this Court. You have no jurisdiction.

HER HONOUR: Mr Wilson, I ask you to leave with the Sheriff's officers.

PLAINTIFF: You have no jurisdiction. I am challenging the jurisdiction. Has it been recorded? I have witnesses here. I'm challenging the jurisdiction of this Court. You have no jurisdiction. You are headed to gaol, Mrs. Simpson. You have no jurisdiction. I'm challenging the jurisdiction.

HER HONOUR: Thank you officers.

(Plaintiff removed from court at 11.15 am.)

HER HONOUR: Mr Burwood, do you wish to proceed?

BURWOOD: Yes your Honour.

NOTICE OF MOTION FILED 5 JANUARY 2005.

AFFIDAVIT OF AMANDA JANE LYE FILED 5 JANUARY 2005 READ

(Mr Burwood said that the defendants were seeking an order to strike out or have the proceedings permanently stayed)

(Mr Burwood handed up an outline of the defendants' submissions)

BURWOOD: This outline was given to Mr Wilson yesterday morning, to give him an opportunity to read and absorb the defendants' submissions. I pointed out that on page 2 of the defendants' submissions under "Procedural background", the plaintiff had in fact filed five affidavits, one sworn on 13 February and filed 15 February, representing a fifth affidavit filed by the plaintiff, number 4 on our list and although it refers to 28 February, that should be 25 February.

(Mr Burwood referred her Honour to the statement of claim filed by the plaintiff and the plaintiff's affidavits.)

HER HONOUR: I only have four affidavits filed by the plaintiff on 4 November, 15 February, 23 February and 25 February.

BURWOOD: The fifth affidavit was sworn on 13 February and filed 15 February. (Copy handed to her Honour). I rely on my written submissions and the material before the Court.

FOR HER HONOUR'S JUDGMENT SEE SEPARATE TRANSCRIPT

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