

IN 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 & State of New South Wales

JUDGMENT

1 HER HONOUR: This is an application by the defendants relying upon Supreme Court Rule Part 13 Rule 5, or alternatively, Part 15 Rule 26, or Part 65 Rule 5. The substance of the application in each case is the same. It is for summary disposal in one form or another of the statement of claim, which is the originating process in these proceedings.

2 These proceedings first came before me at 10 am on Tuesday 8 March as Duty judge. The plaintiff attended and repeatedly from the Bar Table sought to argue that the issues which arise on the notice of motion must be determined by a jury. He repeatedly spoke over me and refused to listen to anything that I said, or attempted to say.

3 By reason of the arrangement of the duty list, the matter was stood down in the list from time to time. It eventually came on at about 2 pm, when the same behaviour was repeated. I eventually had Mr Wilson removed from the Court by the Sheriff's Officers and adjourned the matter until today.

4 The same behaviour was repeated today. I advised Mr Wilson that unless he refrained from the behaviour to which I have referred, he would be removed from the Court and the proceedings would proceed in his absence. He nevertheless continued in what he was doing, I had him removed from the Court, and I did proceed to hear the application in his absence.

5 The statement of claim was filed on 4 November 2004 and named the Dental Board of New South Wales and the State of New South Wales as defendants. It opens with a page headed "Particulars" and refers to a letter allegedly received by the plaintiff from the first defendant, dated 27 September 2001. It appears to concern some disciplinary proceedings.

6 That document is followed by a page headed "The plaintiff claims", which makes reference to the rule of law, an ordinary court, an order under the International Covenant of Political and Civil Rights, the Magna Carta, the New South Wales Constitution Act, the Dental Practice Act and it concludes with these paragraphs:

"The proclamation which appeared in the Government Gazette of the State of New South Wales Number 44 Thursday, 1 March 2001 saying 'Whereas Her Majesty has been graciously pleased, by Commission under Her Royal Sign Manual and the Public Seal of the State, bearing date at St James's the seventeenth of January two thousand and one, to appoint me Marie Roslyn Bashir, Officer of the Order of Australia, to be Governor in and over the State of New South Wales in the Commonwealth of Australia.' Is untrue in that Her Majesty Queen Elizabeth the Second of the United Kingdom has not appointed Professor Bashir to be the Governor of New South Wales."

7 That is followed by what appears to be a similar challenge to the appointment of the Governor General. Although they do not appear to be material to the issues raised by the defendants' present application, I note that the plaintiff has filed five affidavits, which contain argumentative material, presumably intended to be in support of the statement of claim.

8 The principles on which summary disposal of proceedings may be made are

well known. They are stated in *General Steel Industries Inc v Commissioner for Railways (NSW)* [1964] HCA 69; 112 CLR 125. I do not propose to restate those principles.

9. The short point made on behalf of the defendants is that the purported statement of claim is incomprehensible, discloses no reasonable cause of action and even on its most liberal reading contains no statement of any questions of law or fact for determination by the Court. The submissions by the defendants are plainly and unanswerably correct.

10. The statement of claim is not a document that discloses any cause of action. It is vexatious, frivolous and an abuse of the proceedings of the Court. The statement of claim is struck out.

11. I make an order that the plaintiff pay the defendants' costs of the proceedings.

I CERTIFY THAT THIS AND THE TWO PRECEDING PAGES ARE A TRUE COPY OF  
THE REASONS FOR JUDGMENT HEREIN OF THE HONOURABLE JUSTICE SIMPSON.  
Belinda Trebeck, Associate.      Date 23.03.2005