

AUSTRALIA / JUDGMENT

Lee v Commissioner for Fair Trading

[2026] NSWSC 1175**COURT**

Supreme Court

DECIDED

28 September 2026

BEFORE

Elkaim AJ

CASE / FILE NUMBER

2025/133719

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Supreme Court

New South Wales

Medium Neutral Citation: Lee v Commissioner for Fair Trading [2026] NSWSC 1175**Hearing dates:** 22 September 2026**Date of orders:** 28 September 2026**Decision date:** 28 September 2026**Jurisdiction:** Common Law**Before:** Elkaim AJ

Decision:

1. The proceedings between the second plaintiff and the defendants are dismissed.
2. No order is made as to costs between the second plaintiff and the first and second defendants.
3. The proceedings between the first plaintiff and the first and second defendants are dismissed.
4. Subject to Order (2) above, the first plaintiff is to pay the first defendant's costs of the proceedings.
5. No order is made as to costs between the first plaintiff and the second defendant.
6. The parties have leave to request any different costs orders by way of written submissions filed within 7 days of these orders.

Catchwords: ADMINISTRATIVE LAW — application to review the legality of various decisions relating to the plaintiffs' strata management licences and business — second plaintiff in liquidation — proceedings brought by second plaintiff dismissed — where the determinative issue in the plaintiff's case is the legality of a search warrant — application out of time — no application made for extension of time — no basis for extension of time established — plaintiff's case would have anyway failed as the invalidity of the original suspensions had no bearing on the subsequent issuing of the search warrant — proceedings in any event would have been dismissed for failure to take available administrative action — proceedings also futile

Legislation Cited:	Administrative Decisions Review Act 1997 (NSW), ss 7, 55, 63 Civil and Administrative Tribunal Act 2013 (NSW), s 34(1) Fair Trading Act 1987 (NSW), s 79A Property and Stock Agents Act 2002 (NSW), ss 8, 9, 14, 118, 126, 127, 195, 196, 198 Uniform Civil Procedure Rules 2005 (NSW), rr 7.1, 59.10
Cases Cited:	CXXXVIII v Justice White (2020) 274 FCR 170 Makowska v St George Community Housing Ltd [2021] NSWSC 287 Price v Elder (2000) 97 FCR 218
Category:	Principal judgment
Parties:	Michael Lee (First Plaintiff) Result Strata Management Pty Ltd t/as Result Strata Management Pty Ltd (in liquidation) (Second Plaintiff) Commissioner for Fair Trading (First Defendant) Carly Murtha (Second Defendant)
Representation:	
Counsel:	M Lee (First Plaintiff) (self-represented) D Forrester; A O'Beid (First & Second Defendants)
Solicitors:	The NSW Crown Solicitor (First & Second Defendants)
File Number(s):	2025/133719
Publication restriction:	No

JUDGMENT

The proceedings commenced with the filing of a summons on 8 April 2025. The plaintiffs were then legally represented. An amended summons was filed on 22 May 2025. By the time the further amended summons was filed on 4 September 2025, the first plaintiff was self-represented and also represented the second plaintiff.

A response to the further amended summons was filed by the first defendant on 19 September 2025.

The plaintiff is the sole director and shareholder of the second plaintiff. He is ostensibly able to represent the company by virtue of r 7.1(2) and (3) of the Uniform Civil Procedure Rules 2005 (NSW) (UCPR). I say ostensibly, because on 24 September 2025 the second plaintiff was placed into liquidation. Consequently, the first plaintiff cannot continue the proceedings on behalf of the second plaintiff, at least not without the consent of the liquidator. On 16 September 2026 the liquidator, Mr Danny Vrkic, wrote to the first defendant, by email, stating:

"I confirm that Mr Lee, the former Director of the Company did not advise me in relation to the Supreme Court proceedings, nor has he subsequently requested that I consent to the Company being a party to the proceedings."

As the Liquidator of the Company, I advise that I do not wish to be a party to the proceedings and as there are insufficient funds to engage a solicitor to act on my behalf TO SEEK THE Company's discontinuance."

The liquidator was called outside the court but did not appear. The first plaintiff, when confronted with the above email, conceded that he could not progress the claim on behalf of the second plaintiff, but he did wish to continue with his personal claim.

It follows that the claim against the defendants brought by the second plaintiff must be dismissed.

The first defendant is the Commissioner of Fair Trading (the Commissioner), relevantly here the decision-maker pursuant to the Property and Stock Agents Act 2002 (NSW) (the PSA). The PSA's long title indicates that its purpose is to "provide for the regulation of property and stock agents; to repeal the Property, Stock and Business Agents Act 1941; and for other purposes."

The second defendant is an Acting Registrar in the Local Court who issued a search warrant in respect of the plaintiffs' business premises on 14 January 2025. The second defendant has filed a submitting appearance.

The PSA, *inter alia*, regulates strata management agents and includes a system of licensing such agents. An individual must be a "fit and proper person" to hold a licence: s 14(1)(b) PSA. A corporation may hold a licence only if it is a fit and proper person, each of its directors is a fit and proper person, and "at least one of the directors of the corporation holds a licence that a natural person is required to hold to carry on the business that the corporation carries on or proposes to carry on...": s 14(2) PSA.

The relevant licences are a strata managing agent's licence under s 8(1) and a corporation licence under s 9. A "Class 1 Agent – Strata Management Licence" was issued to the first plaintiff on 23 March 2020, and was valid, subject to suspension, to 12 March 2027. A "Strata Management Corporation Licence" was issued to the second plaintiff on 22 May 2020, and was due to expire, again subject to suspension, on 21 May 2027.

For convenience, I will hereafter refer to the first plaintiff as the plaintiff and the second plaintiff as the company.

Decisions under review

Although not obviously discernible from the latest pleading, it seems from the plaintiff's written submissions that he is seeking judicial review of several decisions made by the defendants. The first was made by the second defendant and concerns the application for a search warrant on 13 January 2025. The search warrant was issued on 14 January 2025, and then executed, on 15 January 2025. The further amended summons seeks a declaration that the issuing of the warrant "was an unlawful and invalid exercise of statutory power, and constituted an abuse of power by the [second] defendant".

The remaining decisions apparently under attack were made by the first defendant and concern decisions made on 15 January 2025, 13 March 2025, and 9 May 2025.

Four decisions were made on 15 January 2025:

Show cause notices were issued by a delegate of the first defendant to both the plaintiff and the company, pursuant to s 195 of the PSA.

Both the plaintiff's and company's licences were suspended by a delegate of the first defendant for 60 days pursuant to s 196 of the PSA. Notably, under s 196, a suspension order may be made at the same time as a show cause notice is issued.

A delegate of the first defendant appointed a manager, Grant Thornton Australia Pty Ltd, over the business of the company, pursuant to ss 126(1)(b) and 127 of the PSA.

Directions were issued to Macquarie Bank to permit the manager to operate the company's bank accounts, and to freeze the company's business and trust accounts for 48 hours. The directions were issued by a delegate of the first defendant pursuant to s 118 of the PSA.

On 13 March 2025, further show cause notices were issued, and also further suspensions were imposed.

On 9 May 2025, the first defendant took disciplinary action against the plaintiff pursuant to s 198 of the PSA. The disciplinary action involved the cancellation of both the plaintiff's and the company's licences and a direction that both the plaintiff and the company are permanently disqualified from holding licences under the PSA. I note that the further amended summons indicates that the plaintiff only challenges the cancellation of the licence, not the permanent disqualification.

On 11 August 2025, the appointment of the manager was terminated. On 15 August 2025, the freezing of the company's accounts was lifted.

Notwithstanding the impression, as expressed above, I had of the decisions to be reviewed, it became obvious that the plaintiff was actually only concerned with one decision. This was the issuing of the search warrant on 14 January 2025. Connected to this issue, at least in the plaintiff's mind, was a 31 October 2024 suspension of the plaintiff's licence for 60 days under s 79A of the Fair Trading Act 1987 (NSW) and then the subsequent withdrawal of the suspension 6 days later.

Extension of time

There is a preliminary limitation issue that must be dealt with before proceeding any further.

An application for judicial review of a decision must be commenced within 3 months of the decision (UCPR r 59.10). The search warrant decision was made on 14 January 2025. The proceedings were commenced on 8 April 2025, which is within three months of the decision. However, the original summons did not mention the search warrant. It was only by a notice of motion filed on 14 August 2025 that the plaintiff first challenged the search warrant.

The motion came before Wright J, as Duty Judge, on 18 August 2025. His Honour ordered the plaintiff to “provide a copy of any proposed further amended summons to the defendant at or before 22 August 2025.” The motion does not mention any extension of time.

The further amended summons filed on 4 September 2025, and presumably in response to Wright J’s orders, also does not seek an extension of time. The response to the further amended summons, filed on 19 September 2025, raises the limitation issue.

The limitation issue is also specifically raised by the first defendant in its written submissions dated 26 August 2026. There is no response to the issue in the plaintiff’s written submissions in reply, dated 7 September 2026.

I raised the matter with the plaintiff in the hearing, in the expectation that he might request an extension of time, but he did not. Bearing in mind that he was self-represented I considered the possibility of dealing with an application for an extension on the court’s own motion.

I decided that it would not be appropriate to do so because:

The plaintiff was represented by solicitors when the summons was filed, and up to August 2025. The solicitors, presumably familiar with the matter as it then stood, did not see the search warrant, or need for an extension of time, as relevant.

The first defendant squarely raised the issue in its response to the further amended summons on 19 September 2025.

The issue was again raised, in terms, in the first defendant’s written submissions dated 26 August 2026.

No explanation for not seeking an extension was put forward.

Although the plaintiff was self-represented, and English is evidently his second language, he obviously had assistance in his consideration of the issues as is very apparent from the contents of his written submissions, both initially and in reply. These submissions are distinguished by their clarity of language and absence of grammatical deficiencies. The plaintiff said he had had the assistance of a translator and of his daughter.

It is also to be remembered that the plaintiff was running a strata management company, no doubt dealing with residents of assorted backgrounds and needing to examine and understand documents and records.

The result is that the judicial review of the search warrant decision is not available to the plaintiff.

The limitation issue is enough to defeat the plaintiff’s proceedings, but there are other reasons as well.

The plaintiff's case

Ignoring the limitation point, I said above that notwithstanding the reference to a number of decisions made on 15 January 2025, 13 March 2025, and 9 May 2025, the plaintiff's real complaints were with the October 2024 suspension and the issuing of the search warrant. In his written submissions the plaintiff gave this "Overview" of the proceedings:

"1. These proceedings do not concern whether the First Defendant was entitled to regulate the strata management industry, nor whether strong statutory powers may, in an appropriate case, be exercised in the public interest.

2. Rather, these proceedings concern whether those powers were exercised according to law. The Plaintiffs respectfully submit that the central issue before the Court is whether a sequence of increasingly coercive statutory powers was exercised upon a lawful factual and legal foundation, consistently with the requirements of procedural fairness, candour, and the rule of law.
3. The Plaintiffs do not invite the Court to substitute its own opinion for that of the regulator. The Court is instead asked to perform its orthodox supervisory function by determining whether the impugned exercises of statutory power were authorised by law and exercised in accordance with established principles of public law."

A little later, under the heading "The Central Proposition" the plaintiff submitted:

"7. The [Plaintiff] respectfully submit[s] that one proposition lies at the centre of every issue raised in these proceedings.

8. The legal legitimacy of every subsequent exercise of statutory power depends upon the legality of the first coercive exercise of statutory power.
9. That proposition is neither rhetorical nor abstract. It reflects the manner in which public power was exercised in this case. Each subsequent regulatory step was built upon the factual assumptions, conclusions and consequences arising from the step that preceded it.
10. Accordingly, the legality of the later suspension decisions, the appointment of the statutory manager, the freezing of trust accounts, and ultimately the cancellation decisions cannot properly be examined in isolation from the legality of the process by which the first coercive statutory power was exercised."

As I understand the plaintiff, the first coercive use of statutory power was the application for, and issuing of, the search warrant which was executed on 15 January 2025. The plaintiff's written submissions, confirmed in oral submissions, suggest that if the issuing of the search warrant was somehow invalid, then a domino effect would ensue, leaving all subsequent decisions equally invalid.

In addition to the statement that “The Search Warrant Was the First Coercive Step”, the plaintiff also submitted that “the proper juridical starting point” is “the process by which the Search Warrant was obtained on 15 January 2025.”

The centrality of the issuing of the search warrant was made very clear by the plaintiff in his oral opening and then in his submissions in response to those of the first defendant. In this exchange with me, he said:

“FIRST PLAINTIFF: ... So, so my pleading of the case is about abuse of power, misuse of the public power. So my pleading actually narrows two very, two simple point. One is the 31 October 2024, the first suspension, and then later, being challenged, detail by detail, scheme by scheme, the defendant declared as invalid. That's my first. But it didn't stop there. So my second is--

HIS HONOUR: Sorry, just repeat your first, please?

FIRST PLAINTIFF: The, the first point--

HIS HONOUR: Yes.

FIRST PLAINTIFF: Yeah, point on the chain is the 31 October.

HIS HONOUR: Yes.

FIRST PLAINTIFF: 2024.

HIS HONOUR: Yes, what about it?

FIRST PLAINTIFF: The first suspension of my licence, or as defendant call it, the interim. But I disagree with interim, because interim is, is something, we never been, I had never been advised there's something else going to happen. So this, and, and, for my point of view, this had never happened, so I carry on my business.

HIS HONOUR: Yes

FIRST PLAINTIFF: Until the general, at the general 2025, the second key point, key event of my pleading case is the search warrant. So I, I accept possibly the extension is more than three months, those, but, but I, I, I actually rely on the search warrant as the direct interest brought into the, the abuse of power, the case, the pleading. Because there is direct interest coming from this search warrant, and so that's, you know, complete my pleading case, is abuse of power, misuse of the power. And then, so, my, my final amended summons, so I'm, there's a, seven prayers plus the intellectual relief prayer. So I, if you, if your Honour read, there's the first, one, two, three, it's more like a declaration.”

The plaintiff's challenge to the search warrant can be summarised in this way: That in applying for the search warrant, the officer of the first defendant failed to disclose relevant information to the second defendant, primarily being the concession as to the invalidity of the original suspension decisions, and therefore the second defendant issued the search warrant on the basis of incomplete information.

This is consistent with the following paragraph in the plaintiff's written submissions:

"78. Was the issuing officer given the information needed to make an informed decision?"

The warrant was issued by Acting Registrar Murtha on 14 January 2025. The Acting Registrar gave the following reasons for issuing the warrant:

"Based on the investigation to date, including witness statements, there are reasonable grounds to believe that evidence of contraventions is located on the premises of RSM. These contraventions are detailed in Attachment 1 to this application and include failures to maintain proper records, breaches of fiduciary duty, and non-compliance with statutory requirements under Section 110 of the Property and Stock Agents Act 2002.

In accordance with Section 19A(2)(a) of the Fair Trading Act 1987, I believe on reasonable grounds that there is evidence of contraventions of the Act on the premises of RSM. A search warrant is necessary to secure and examine such evidence, including electronic and physical records, communications, and financial documentation.

1. Within the next 72 hours there will be located on premises items and or material in connection with an investigation conducted or being conducted by NSW Fair Trading.
2. Reasonable grounds to believe that items sought will provide probative value to or corroborate findings by NSW Fair Trading.
3. Reasonable grounds to believe that items sought will establish a breach or contravention of the provisions within the Act."

The plaintiff relied heavily on the fact that on 4 November 2024, the first plaintiff sought a stay of the 31 October 2024 suspension in the NSW Civil and Administrative Tribunal (NCAT) and then on 5 November 2024, the Commissioner conceded that the suspension was invalid and that the licences remained valid. The NCAT proceedings were dismissed by consent, the following day.

The plaintiff's argument is that, because the application for a search warrant was made ex parte, it was fundamentally important that the issuing officer was given a complete history. The history that was not included was the previous suspension that had had been made by the Commissioner on 31 October 2024, and then subsequently conceded to be invalid. This information went "directly to the reliability of the factual foundation upon which further coercive powers [were] sought." The plaintiff submitted:

"21. Accordingly, by 5 November 2024, Fair Trading had accepted that the factual foundation upon which the first suspension decision had been made no longer existed.

22. That acknowledgement is legally significant. It demonstrates that, at a relatively early stage of the regulatory process, the First Defendant was aware that the principal complaints originally relied upon had either ceased to exist or could no longer lawfully support coercive regulatory action.

...

125. The Court should ask whether the issuing officer was given the regulatory history that Fair Trading itself already knew.
126. If the regulator possessed information that materially affected the reliability of the factual basis for the application, that information formed part of the context in which the issuing officer was required to exercise judicial power”.

The plaintiff emphasised that the issuing officer “was not given the complete regulatory history”:

“(a) on 31 October 2024, the first suspension had relied upon complaints which Fair Trading later accepted should not have been relied upon;

- (b) on 5 November 2024, Fair Trading accepted that those complaints had been withdrawn, admitted to be invalid, or otherwise could not support the earlier suspension
- (c) that earlier regulatory history formed an essential part of the factual background leading to the Search Warrant application;
- (d) without that history, the issuing officer was presented with an incomplete picture of the regulatory circumstances.”

In addition, the plaintiff said that the failure of the first defendant to inform the second defendant of the history about the October suspension and November concession so tainted the application for a search warrant that it resulted in an abuse of process.

This is because as the search warrant was made without the presence of the ‘targeted’ person (the plaintiff) “the issuing officer depends entirely upon the accuracy and completeness of the information provided by the applicant”. It follows that “what was placed before the issuing officer becomes critically important”.

The difficulty with this approach is that it assumes the concession had been made because of defects in the material behind the suspension, namely the complaints that had led to a suspension being considered.

In fact, the concession was made for a totally different reason as set out in the affidavit of Mr Aiman El-Roubaei dated 3 September 2026. The affidavit states, at [10]:

“The notice of the 2024 suspension decision indicates it was made by an Acting Executive Director at NSW Fair Trading, purportedly acting as a delegate of the Commissioner. However, s 8(3) of the FT Act expressly states that the powers of delegation under s 8(1) do not apply to the functions under s 79A of the FT Act.”

It follows that there was no reason why the complaints which led to the October 2024 suspension could not be the basis for the January search warrant.

I should add that the plaintiff objected to the above affidavit of Mr El-Roubaei because he had received it on 3 September 2026, only 18 days before the hearing. He pointed out that he was self-represented, that English was not his first language and that he had not had time to even read the affidavit. While I think 18 days is more than enough time to digest the affidavit, I did take into account the plaintiff's concerns and did not allow the contents of the affidavit beyond paragraph 13 to be read.

In addition, I asked the plaintiff to carefully read paragraphs 8 to 13 of the affidavit and gave him time to do so. After a short adjournment, the plaintiff reiterated his submissions about the background to the search warrant but did not raise any evidence or reason to challenge the assertion that the concession arose from a misapprehension of the delegation powers of the Commissioner.

Besides the concession of invalidity described above, the plaintiff also emphasised the need for the search warrant application to have disclosed the history relevant to one of the complainants, a Mr Gregory Mendelevitz. By the time the search warrant was sought, relations between the first defendant and Mr Mendelevitz had so deteriorated that disclosure of the relationship should have been included in the search warrant application. In addition, the first defendant should have sought statements from other members of the strata corporation which might have supported the plaintiff.

The plaintiff's premise that the complaints behind the suspension had been negated is misconceived. The concession was not made because of any revelation about the complaints. Rather, it was made because of the delegation issue described above.

In addition, as was said by the Full Court of the Federal Court of Australia in *Price v Elder* (2000) 97 FCR 218 at [8]:

"An applicant for a search warrant who discloses material in the information giving reasonable grounds for suspecting the presence of evidential material on the subject premises is not obliged to traverse those facts by reference to exculpatory explanations raised by the object of the suspicion. An exculpatory explanation does not necessarily dispel the grounds for suspicion that justify the issue of a warrant. The issuing officer is not required to conduct an enquiry to determine where the truth may lie. It is the object of the search warrant to assist law enforcement authorities to that outcome: Saunders v Commissioner, Australian Federal Police (1998) 86 FCR 51 at 64; 52 ALD 484 at 496."

The plaintiff further contended that he was "not given a proper opportunity to respond before the Search Warrant was sought." This point can be dealt with briefly. There was no requirement to afford the plaintiff a hearing before issuing the warrant as search warrant applications are invariably made ex parte: *CXXXVIII v Justice White* (2020) 274 FCR 170 at [111].

Other reasons for dismissal

The next reason the summons should be dismissed arises from s 34(1) of the Civil and Administrative Tribunal Act 2013 (NSW) (NCAT Act). Section 34 states:

(1) The Supreme Court may—

- (a) refuse to conduct a judicial review of an administratively reviewable decision if it is satisfied that, in all the circumstances, adequate provision is made for an internal review of the decision or an administrative review of the decision by the Tribunal under the Administrative Decisions Review Act 1997, or
- (b) refuse to conduct a judicial review of a decision of an external decision-maker if it is satisfied that, in all the circumstances, adequate provision is made for the review of the decision by the Tribunal by way of an external appeal, or
- (c) refuse to conduct a judicial review of a decision of the Tribunal if an internal appeal or an appeal to a court could be, or has been, lodged against the decision.

(2) This section—

- (a) permits, but does not require, the Supreme Court to refuse to conduct a judicial review of a decision on a ground referred to in subsection (1), and
- (b) does not limit any power that the Supreme Court has, apart from this section, to refuse to conduct a judicial review of a decision.

(3) In this section—

internal review of an administratively reviewable decision means an internal review of the decision conducted by or on behalf of an administrator under—

- (a) the Administrative Decisions Review Act 1997, or
- (b) any other Act instead of the Administrative Decisions Review Act 1997.

judicial review does not include an appeal to the Supreme Court under this or any other Act.

Section 200 of the PSA, taken together with ss 7, 55 and 63 of the Administrative Decisions Review Act 1997 (NSW), allows for a merits review of disciplinary proceedings. On 19 May 2025, the plaintiff applied for such a review in NCAT, and then on 22 May 2025, the plaintiff filed an amended summons in the NSW Supreme Court challenging the cancellation decisions. On 25 June 2025, the plaintiffs withdrew the applications in the Tribunal seeking the merits review of the disciplinary action that had been taken against them.

When one considers the scope of susceptibility to judicial review, in particular compared to arguments and challenges that might be put forward in a complete merits review, it is apparent that the plaintiffs' complaints would have been better pursued through the Tribunal. The plaintiff made the deliberate decision to withdraw from the Tribunal proceedings when he could have aired the whole of his concerns before the Tribunal.

The plaintiff may well have considered that he could obtain a better outcome in this court, but in doing so he specifically abandoned the administrative procedures available to him. In my view this is a case where this court should "refuse to conduct a judicial review of an administratively reviewable decision...."

In *Makowska v St George Community Housing Ltd* [2021] NSWSC 287, Basten J said, in respect of s 34 of the NCAT Act, at [8] and [9]:

"Before the plaintiff would be able to appeal, she would need to obtain an extension of time within which to file an application for leave to appeal, and would need to obtain leave. Unless there is a full explanation of why the path provided by the statutory appeal was not followed, and a clear indication that a substantial miscarriage of justice would occur if relief were not available in the supervisory jurisdiction, the proper course is to refuse any potentially available relief on discretionary grounds. The importance of the leave requirement is accentuated when an attempt is made to challenge a decision where no issue of legal principle is engaged and where the amount in dispute is insufficient to justify the costs involved."

In resisting that conclusion, the plaintiff submitted that the defendant should not be allowed to rely on the statutory power to "refuse to conduct a judicial review of a decision of the Tribunal if ...an appeal to a court could be ... lodged against the decision." In fact, the statutory power reflects a general law principle of long-standing, which it neither expands nor constrains ..." (footnotes omitted)

What I take from Basten J's comments is that where an administrative procedure is available, it is necessary for there to be "a full explanation" of why that course was not taken, an explanation which is not present here.

Yet another reason for dismissing the summons, assuming that the limitation and s 34 points were overcome, arises from the futility of the proceedings. As seen above, on 9 May 2025, in addition to the cancellation of their licences, the plaintiff and the company were permanently disqualified from holding licences. However, as also noted above, the disqualifications are not the subject of any challenge in the current proceedings. That being so, any success in respect of the search warrant, or even the cancellation and suspension decisions, would be rendered futile if the disqualifications remained in place.

The plaintiff said he did not wish to have his licence returned or reinstated because he frankly did not believe that after all he has been through, that he could successfully resume business. This again means that reversing the cancellations or suspensions would be of no effect if the disqualifications stayed in place.

Finally, I would add that the s 34 point and the futility point would have been equally applicable if the plaintiff's attack had not been only on the search warrant but also on the decisions that I set out in paras 13-15, above.

Conclusion

The action by the second plaintiff will be dismissed because of the incapacity of the second plaintiff to pursue the proceedings. The action brought by the first plaintiff will be dismissed for the reasons given above.

Orders

I make the following orders:

The proceedings between the second plaintiff and the defendants are dismissed.

No order is made as to costs between the second plaintiff and the first and second defendants.

The proceedings between the first plaintiff and the first and second defendants are dismissed.

Subject to Order (2) above, the first plaintiff is to pay the first defendant's costs of the proceedings.

No order is made as to costs between the first plaintiff and the second defendant.

The parties have leave to request any different costs orders by way of written submissions filed within 7 days of these orders.

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Decision last updated:

28 September 2026

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Prepared on 26 October 2026 · Esheria