

PARTIES: George Panagis Kosmatos and
Northern Territory of Australia
and Anor

TITLE OF COURT: In the Supreme Court of the
Northern Territory of Australia

JURISDICTION: Interlocutory Application

FILE NO.: 236 of 1993

DELIVERED: 19 September 1995

REASONS OF: Master Coulehan

CATCHWORDS:

PRACTICE - Northern Territory - Order 30.05
Supreme Court Rules - answers from knowledge or
belief - enquiries of servants or agents only

Cases followed:

Adams v Dickeson (1974) VR 77
McMeckan v Aitken (1891) 17 VLR 301

Representation:

Counsel:

Plaintiff Mr Tippett
Defendant Ms Gillman

Solicitors:

Plaintiff Messrs Ward Keller
Defendant Solicitor for the N.T.

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT DARWIN

236 of 1993

BETWEEN:

GEORGE PANAGIS KOSMATOS

Plaintiff

and

NORTHERN TERRITORY OF AUSTRALIA

First Defendant

and

DR JOHN HARGRAVE

Second Defendant

MASTER COULEHAN: REASONS FOR DECISION

(Delivered 19 September 1995)

The plaintiff claims damages for injuries arising out of medical treatment by the defendants. He alleges that while attending Royal Darwin Hospital for treatment of another injury he was referred to the second defendant for treatment to his right hand. He underwent such treatment which resulted in injury.

The plaintiff has interrogated the defendants. The interrogatories are contained in a document consisting of 79 interrogatories. The plaintiff has requested each defendant to answer all of these interrogatories (see O.30.03 Supreme Court Rules).

The plaintiff seeks further and better answers by the second defendant to interrogatories 19, 20, 21 and 22. Interrogatories 19 and 20 relate to the history, if any, taken from the plaintiff by servants or agents of the first defendant. Interrogatory 21 relates to advice given by servants and agents of the first defendant to the plaintiff and interrogatory 22 relates

to the referral of the plaintiff to the second defendant by servants or agents of the first defendant.

To each of these interrogatories the second defendant has answered "I am unable to answer this interrogatory."

This is not a proper answer. The rules require that a party answer each interrogatory, insofar as it is not objectionable, from his own knowledge or belief based on information (see O.30.05(1) and Adams v Dickeson (1974) VR 77). No objection has been taken.

It was argued on behalf of the second defendant that he should not be required to answer these interrogatories further because they relate to information known only to the first defendant.

While this may be the case, it is not necessarily so. The second defendant may not have knowledge but may have a belief as to matters the subject of the interrogatories.

It was also argued that it would be unreasonable and oppressive to require the second defendant to further answer the interrogatories as it requires him to furnish the same information provided by the first defendant.

It is not necessary for him to do so. He need only answer as to his knowledge or belief. He is not required to make enquiries of persons who are not his servants or agents (see O.30.05 (1)(e) and McMeckan v Aitken (1891) 17 VLR 301).

The second defendant is ordered to file and serve further answers to interrogatories 19, 20, 21 and 22. I will hear the parties as to the time to be allowed.