

Copyright in this document is reserved to the State of Western Australia. Reproduction of this document (or part thereof, in any format) except with the prior written consent of the Attorney General is prohibited. Please note that under section 43 of the Copyright Act 1968 copyright is not infringed by anything reproduced for the purposes of a judicial proceeding or of a report of a judicial proceeding.

THE SUPREME COURT OF
WESTERN AUSTRALIA

COR 166 of 2024

HAYDEN LEIGH WHITE

and

DANIEL HILLSTON WOODHOUSE

COBBY JA

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON TUESDAY, 3 DECEMBER 2024, AT 9.46 AM

MR S.P. TOMASICH appeared for the plaintiffs.

MR J. ABBERTON appeared for West Coast Gold.

THE ASSOCIATE: In the Supreme Court of Western Australia calling corporations matter 166 of 2024, White v Another.

TOMASICH, MR: May it please the Court, Tomasich for the plaintiffs.

COBBY J: Thanks, Mr Tomasich.

ABBERTON, MR: May it please the court, Mr Abberton for the West Coast Gold interested party, your Honour.

COBBY J: Mr Tomasich, yesterday the court received an email from a Mr Sheldon Coates who wanted to enter a memorandum of appearance in relation to the matter. He appears to be self-represented. My associates will give each of you a copy of that email now. The principal registrar has determined that Mr Coates will be excused from e-filing a notice of appearance, but, otherwise, his appearance will be accepted, and it seems he is unable to make it this morning, so when I make orders I will take his appearance into account. Now, where are we?

TOMASICH, MR: So, we were aware that Mr Coates had intended to file a notice of appearance, but we hadn't received - - -

COBBY J: Yes. I saw - - -

TOMASICH, MR: - - - it until now but - - -

COBBY J: - - - an email with my associates this morning.

TOMASICH, MR: Yes. So we proposed orders - we weren't sure if Mr Coates was going to appear this morning. We proposed orders thinking that he might be here and be able to flesh out some of the timetable, the benefit of him being here and we proposed that we would put on our materials on 11 December, then him on the 12th, effectively, but we're still not entirely sure what the scope of his position is and - - -

COBBY J: (indistinct)

TOMASICH, MR: And the concern would be, particularly without him being here, and the benefit of trying to understand that position sooner is that the court might get dumped or provided it's volume of material closer before the hearing and there's limited opportunity for the parties to respond, so a way of short-circuiting that might be,

your Honour, that the matter gets stood - adjourned until, say, Thursday, so there's an opportunity for the plaintiffs, those instructing me, to be able to speak with Mr Coates to understand his position and when he might put on detail about what his objection is and what his position is. We understand from the correspondence the broad nature which seems to relate to concerns regarding the conduct of the directors and the company not going into a trading halt.

COBBY J: Well, as far as I can understand it, there's a number of shareholders who have expressed concerns about the share purchase plan about a month before the trading halt - - -

TOMASICH, MR: Yes.

COBBY J: - - - of which Mr Coates seems to be one. What I propose, Mr Tomasich, is that I will order that you serve the papers on Mr Coates today - - -

TOMASICH, MR: Yes.

COBBY J: - - - depending on where he is - he's in the Vines - by 1 o'clock tomorrow. Is there any prospect of you filing your submissions by 9 December?

TOMASICH, MR: That would be Monday next week - - -

COBBY J: Next Monday. Yes.

TOMASICH, MR: That should be - that will be fine, your Honour. We can make it happen.

COBBY J: On that case, if the plaintiff files its submissions by 9 September I will make an order that Mr Tomasich - - -

TOMASICH, MR: December.

COBBY J: - - - Mr Coates will file his submissions and any affidavit of opposition by Thursday, I think that will be the 12th, and that will come on for hearing on the 16th. Mr Abberton, do you intend to file anything in relation to this?

ABBERTON, MR: If the matter was to proceed without any affidavit material from Mr Coates, no, your Honour, but I cannot foreshadow what Mr Coates may file.

COBBY J: Yes. I've seen the independent expert report. There's a deficiency in that assets in the liquidation scenario of about \$42 million and about \$14 million or thereabouts if the DOCA proceeds.

ABBERTON, MR: Yes.

COBBY J: I doubt that Mr Coates is going to be able to present anything that suggests that the company has - as the shares have a net residual value - - -

ABBERTON, MR: Perhaps I can refine my proposition to - if Mr Coates was to file some evidence that said he wanted to brief an expert and wanted more time, then I suspect that we would be putting on evidence as to the urgency of the situation.

COBBY J: Yes. Well, I understand that.

ABBERTON, MR: Yes.

COBBY J: So, Mr Tomasich, what I propose to do then is make an order that you file your submissions by Monday 9 December 2024, that the plaintiffs serve Mr Coates with - and I'm sorry to do this to you given the length of paper - but hard copies of materials filed in support of the application by 1 pm on Wednesday 4 December 2024. Mr Coates is to file and serve any affidavit and any submissions in opposition to the application by 4 pm on Thursday 12 December 2024, and then the matter will come back before me on the Monday, 16th. The costs today I suggest should just be reserved to the hearing.

TOMASICH, MR: And, your Honour, liberty to apply, or just taken as a given?

COBBY J: There will be liberty to apply as well.

TOMASICH, MR: Thank you.

COBBY J: And in the meantime, your instructors might speak to Mr Coates about what it is he's signing up for. Hopefully you will get some representation. Is there anything further?

ABBERTON, MR: No, thank you, your Honour.

COBBY J: Orders will be extracted in those terms, and you will have those sometime today.

TOMASICH, MR: Thank you, your Honour.

COBBY J: Thank you for your assistance.

AT 9.52 AM THE MATTER WAS ADJOURNED ACCORDINGLY

VIQ Solutions are contracted by the Department of Justice to record and/or transcribe court and tribunal proceedings in Western Australia as specified under a government Contract. This Contract prescribes the recording and transcription production standards that must be adhered to.

The transcript of COR 166/2024 White & Anor heard on 3/12/24:

- Is a written reproduction of the audio record of the proceeding;
- Is a complete transcript except where otherwise stated. Any "indistinct" notations within the transcript refer to those parts of the recording that could not be accurately transcribed due to speech clarity, recording quality or other factors impacting word intelligibility.

Certified on 3/12/2024.