

# ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



## Thompson v Cavalier King Charles Spaniel Rescue (Qld) Inc & Anor [2022] QCA 149

## Thompson v Cavalier King Charles Spaniel Rescue (Qld) Inc & Anor [2023] QCA 21

Supreme Court of Queensland, Court of Appeal, Bond JA, 12 August 2022; Supreme Court of Queensland, Court of Appeal, Morrison and Dalton JJA and Henry J, 17 February 2023

Notice of appeal concerning the termination of association membership was struck out and the appeal dismissed.

**Key words:** Incorporated Association, Queensland, Appeal, Notice, Strike Out, Prolix

*Single judge in the Court of Appeal*

1. The matter involved multiple appeals from [Thompson v Cavalier King Charles Spaniel Rescue \(Qld\) Inc](#) [2022] QSC 82. Mr Thompson, a former member of the Cavalier King Charles Spaniel Rescue (Qld) Inc (the association) sought relief from the Court because his membership was terminated. He was self-represented. He also sought the continuance of his life membership of the association and compensation for loss of income derived from boarding dogs in relation to the association from the association and the association committee members.
2. The primary Court recorded that it had two applications for summary judgment or orders stopping the proceeding under s 73 of the Act, or striking out the statement of claim. The Court found that a committee member's application should succeed on a summary judgment basis. The Court held that the association's application should succeed because a proceeding of the kind with which it was dealing involved unreasonable conduct by Thompson and should be stopped.
3. Thompson appealed the decision with his notice of appeal containing 14 pages with over 48 paragraphs which contained argument, submissions and supposition. The Court observed that (at [35]):

...the form of the notice of appeal is such as would “obscure any substantive ground of appeal the appellant may have and therefore make the task of responding to the appeal unreasonably difficult.”
4. The committee member sought to have the notice of appeal struck out.
5. The Court found that the appeal notice was unnecessarily prolix, failed to briefly and specifically state the grounds of appeal, and contained argument, submissions, and supposition, as well as matters of pure speculation.

6. The matter was struck out.
7. As Mr Thompson had intimated an intention to revise the notice of appeal if it was struck out, the Court made a direction that he deliver a draft notice of appeal to the respondents within a particular timeframe and that he should bring an application for leave to file the draft notice of appeal, in the event that there is any opposition from the Court to the grant of leave.

*Full Court of the Appeal Court*

8. Mr Thompson sought leave from the Court of Appeal to file another notice of appeal. The association and the committee member opposed him.
9. The Court of Appeal noted that revised proposed notice of appeal suffered from the same defects as the first notice of appeal and was more prolix, now being 27 pages with 62 grounds. Therefore, the revised notice of appeal again failed to articulate proper grounds. It was refused.
10. The Court of Appeal noted that the jurisdiction to summarily end an appeal must be exercised with great caution, and Mr Thompson had been given two opportunities to advance proper grounds of appeal. However, the Court noted (at [18]):

A proper statement of grounds of appeal, in accordance with the rules binding all appellants, is fundamental to a just appeal process. Mr Thompson cannot succeed in an appeal which he cannot properly advance.

11. The appeal was dismissed.

## COMMENT



This case illustrates the perils of self-representation.

Previous cases revealed that the court filings in the matter were extensive with 341 filed documents, two aborted trials, numerous interlocutory applications, many directions hearings, three unsuccessful appeals to the Court of Appeal, and one application to the High Court of Australia. The costs for just some of these proceedings amounted to \$130,000, some of which were indemnity costs against Mr Thompson.

In other jurisdictions magistrates and consumer tribunals are empowered to hear such matters which lessens costs, allows quicker hearings, and increases the tolerance for self-represented parties.

## VIEW THE CASE



This cases may be viewed at: <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/qld/QCA/2022/149.html>  
<https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/qld/QCA//2023/21.html>

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**Date of creation:** March 2023

**Number of case:** 2023-17

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*ACPNS acknowledges the funding assistance of Our Community to produce the ACPNS Legal Case Notes Series.*



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