

***Doyle v Queensland (No 2)* [2010] FCA 1398**

Collier J, 8 December 2010

Issue

The applicant for the Kalkadoon People #4 claimant application sought orders pursuant to s. 84(8) of the *Native Title Act 1993* (Cwlth) (NTA) or O 35(a) r 3(2)(d) of the *Federal Court Rules* (FCR) that four people cease to be respondents. Orders were made accordingly.

Background

The four respondents were required to, but did not, comply with an order made by Justice Collier on 28 October 2010 to write to the applicant and the court stating whether or not they adopted the admissions made by the State of Queensland and, if they did not, to give an explanation as to why not. Her Honour noted that, where proceedings are brought under s. 61 of the NTA as in this case, ss. 84 (8) and 84(9) provide for 'the removal of parties in appropriate circumstances'—at [6].

Further, at [8], her Honour noted s. 37M of the *Federal Court of Australia Act 1976* (Cwlth) was 'a relevant provision to take into account' in this case. It states that:

The overarching purpose of the civil practice and procedure provisions is to facilitate the just resolution of disputes according to law and as quickly, inexpensively and as efficiently as possible.

Decision

Collier J ordered that all four parties cease to be respondents pursuant to either s. 84(8) of the NTA or O 35A r 3(2)(d) of the FCR because (among other things):

- they did not comply with the orders of 28 October 2010 and so each was required to show cause why they should not be removed as parties;
- the matter had been set down for trial commencing on 28 February 2011 and the purpose of those orders was to 'enable identify any issues ... remaining in controversy';
- their non-compliance meant all matters remain in issue 'as between them and the applicant' and so, if they remain respondents, 'the length and cost of the trial will be significantly increased';
- none of them had shown any interest in actively participating in the proceedings—at [9] to [12].