

## **Principal's rekindled defamation battle extinguished in Court of Appeal**

**By Abby Williams**

High school principal Tracey Brose has returned to court following a landmark defamation trial to appeal the dismissal of a case against one parent who criticised her on social media.

The Tamborine Mountain State High School principal was disparaged online by eight parents of former students in 2016, igniting a dispute which unfolded in the Southport District Court and lasted almost four years.

Of the eight parents initially embroiled in the lawsuit, four reached out-of-court settlements and two were sued for defamation.

The remaining two parents' cases were dismissed when Judge Catherine Muir found that their comments were not defamatory.

But on August 10, nearly six months after the judgement was delivered, the legal battle rekindled in the Supreme Court as Mrs Brose sought an additional \$2000 in defamation damages from one defendant who did not take part in the trial during October last year.

Trudie Arnold, a school lollipop lady whose daughter attended the high school, became involved in the saga when she published a comment on Facebook calling the principal a "lying, manipulative bully".

Ms Arnold was legally represented prior to the trial, but was unrepresented and bankrupt by the time it started.

Mrs Brose submitted that Ms Arnold's comment had defamed her as it "undermined and devalued everything she had done in her role as an educator", though the trial judge's findings suggested otherwise.

Judge Muir had dismissed Ms Arnold's case on the grounds that, despite the hurtful words, the comment would not cause a reasonable reader to think less of the plaintiff, and would likely be disregarded as a "baseless, exaggerated, meaningless, emotive rant".

When Mrs Brose lost her lawsuit against Ms Arnold, she applied for leave to appeal the court's decision to dismiss the case, and overturn the order that she pay costs to the bankrupted parent.

Barrister Rob Anderson, who appeared for Mrs Brose in the Court of Appeal, said that this was "a case with very good merits" and that it contained an "element of vindication" for the plaintiff.

However, a significant concern expressed by the Court of Appeal, comprised of Justice Philip McMurdo, Justice David North, and Justice Debra Mullins, was the applicant's motivation for appealing the decision.

Justice McMurdo noted that Mrs Brose had failed to lodge her application for leave to appeal within the standard 28 day period following the delivery of Judge Muir's decision in late February.

Though Mr Anderson maintained that the case was not "all about the costs", the court found that she "became minded (to appeal) only when ordered to pay the respondent's costs".

The Court of Appeal upheld Judge Muir's decision, refusing Mrs Brose's application for leave to appeal and ending the monumental defamation battle.

**Reference**

DISTRICT COURT OF QUEENSLAND

Brose v Baluskas & Ors (No 6) [2020]

<https://archive.sclqld.org.au/qjudgment/2020/QDC20-015.pdf>