



GREENWAY CHAMBERS

Unlawful Sequestration

Michael Connor acted for the applicant in *EB v GB (No 2) [2022] NSWSC 1011* and *EB v GB (No 3) [2023] NSWSC 514* to obtain access to the applicant's elderly father under the parens patriae jurisdiction of the Supreme Court before he passed away. The applicant's mother had instructed the nursing home at which the father resided not to allow the applicant to visit, purportedly under an appointment of enduring guardian. Robb J held that the appointment of enduring guardian did not authorise the applicant's mother to restrict access to the father and that even if it did, the Court would have made orders under the parens patriae jurisdiction countermanding any prohibition, on the basis that it was in the father's best interests to spend time with the applicant before he passed away. In the days following the judgment, the father was placed into palliative care and the applicant was able to visit him one final time. The respondents opposed a costs order on multiple bases including that there was no relevant event. Robb J held that the determination of the legal and factual issues in the applicant's favour dissolved any impediment to her visiting her father which constituted the event which costs should follow, and ordered the respondents pay the applicant's costs. The judgments highlight the harmful effects of the sequestration of elderly people.

Michael Connor
Greenway Chambers
June 2023

GREENWAY CHAMBERS

ABN 26 009 170 286

LEVEL 10 | 99 ELIZABETH STREET | SYDNEY NSW 2000

GPO Box 4063 SYDNEY | DX 165 SYDNEY

T | 02 9151 2999 E | CLERK@GREENWAY.COM.AU

W | GREENWAY.COM.AU

LIABILITY IS LIMITED BY A SCHEME UNDER PROFESSIONAL STANDARDS LEGISLATION