

[Print this article](#) | [Close this window](#)

Liquidator hits redial on One.Tel

Elisabeth Sexton

June 13, 2011 - 12:11AM

ONE.TEL'S special purpose liquidator, Paul Weston, has lodged a notice of intention to appeal against a NSW Supreme Court decision which dismissed his \$244 million damages suit against James Packer and Lachlan Murdoch before it began.

Advertisement

Mr Weston had 28 days to file papers in the NSW Court of Appeal to challenge Justice Julie Ward's 318-page judgment handed down on May 13.

Justice Ward's ruling that the damages suit should not proceed because several extensions to the deadline for serving it had been invalidly granted was embarrassing for Mr Weston, who has spent eight years and \$11 million of creditors' funds investigating and preparing the case.

In waiting so long to proceed with his suit Mr Weston seemed to have paid "little, if any, regard" to the need for "due expedition," the judge said.

"Though I accept he had weighed the advantages and disadvantages of various courses of action, it is not clear to me that he factored in any real concern for the potential prejudice to the defendants," she said.

In addition to Mr Packer and Mr Murdoch, Mr Weston sued their fellow One.Tel directors Peter Yates (a former chief executive of the Packer family's Publishing & Broadcasting Ltd) and Peter Macourt (the chief operating officer of the Murdoch family's News Ltd), and companies associated with them which owned shares in One.Tel and had agreed to underwrite the rights issue.

Without the extensions, the case needed to be served within six years of its central event, the abandonment of a \$132 million rights issue on May 29, 2001, the day One.Tel collapsed.

Under court rules Mr Weston, a partner of the accounting firm Pitcher Partners, was able to apply for repeated six-monthly extensions from May 2007 without a judge hearing arguments from the defendants.

When he activated the suit by serving it on the defendants in August, they were entitled to challenge the extensions before the trial began.

Justice Ward said that of six extensions, the last two would not have been granted if all relevant material had been before the court.

She referred to prejudice suffered by the defendants because of the "inevitable deterioration in the quality of evidence" about events which occurred over 10 years ago.

It was also inevitable that the defendants would suffer prejudice "by reason of the significant delay in bringing claims that go directly to their probity, honesty and fitness" for their occupations, she said.

This story was found at: <http://www.smh.com.au/business/liquidator-hits-redial-on-onetel-20110612-1fz8t.html>