

MAKINSON & d'APICE

SOLICITORS AND NOTARIES

INCORPORATING THE PRACTICE OF
- REMEDIOS & MARTIN

Diocese of Wollongong		
15 SEP 1999		
Bishop	Cancellor	DFA
Refer		
File	Reply	

FAXED

14 September 1999

Partner: Bill d'Apice

**Confidential
Legal Professional Privilege Claimed**

Most Rev Philip Wilson DD JCL
Bishop of Wollongong
PO Box 1239
WOLLONGONG SCMC NSW 2521

Dear Bishop Wilson

RE: **JOHN NESTOR**

I refer to our discussions in your office on Friday 27 August 1999 concerning Father John Nestor and note that you have received a letter from solicitors for Father John Nestor dated 30 August 1999 seeking a withdrawal of your Decree in relation to Father John Nestor. I assume that they are in fact seeking withdrawal of both Decrees.

As I indicated in my discussions in your office on 27 August 1999 and in prior correspondence (particularly my letter of 22 October 1998) the course of action which Father John Nestor was most likely to take would be to challenge the procedural fairness involved in you making the decisions contained in your Decrees.

It is now evident that this is the course of action which he is pursuing, in the light of his solicitor's letter of 30 August 1999.

In my review of the documents in your office on 27 August 1999, I noted that specific allegations were put to Father John Nestor by Howard Murray on 22 April 1998, that Father John Nestor responded (albeit briefly) to Mr Murray on 1 May 1998, a lengthy discussion was held between Mr Murray and a barrister retained by Father John Nestor (Michael McAuley) wherein Mr McAuley advised Mr Murray of Father John Nestor's response to each of the allegations and finally there was agreement between Mr Murray and Mr McAuley that no productive purpose would be served in conducting a formal interview with Father John Nestor.

RICHARD JW d'APICE, A.M. • WILLIAM R d'APICE • ALEXANDER KOHN • ANTHONY F McDONALD
STEWART J ROBERTS • NANCY A BRAMLEY-MOORE • JOHN R BAXTER • GRAHAM MARTIN
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Scheme

Most Rev Philip Wilson DD JCL

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The areas in which you are most vulnerable are the failure by the assessors to formally interview Father John Nestor and the failure to offer Father John Nestor the opportunity to comment on the report from the Professional Standards Resource Group prior to you making your Decrees. Whilst these are the areas in which your decisions are most vulnerable, I do not believe that the decisions are necessarily invalid as a result.

I propose that I respond to the solicitors of Father John Nestor on your behalf refuting the allegation that Father John Nestor was denied procedural fairness, providing him with a copy of the Professional Standards Resource Group report and giving him an opportunity to comment. The letter should also ask formally whether Father John Nestor is prepared to submit to assessment by Encompass Australasia.

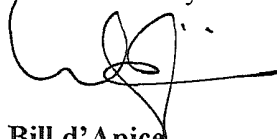
I have drafted a letter to those solicitors which is attached. I expect that the solicitors will respond indicating that they still do not believe that the decisions were made in accordance with the principles of procedural fairness, that Father John Nestor is not prepared to submit to an assessment and that they request a copy of the Assessors' report.

I suggest that it would be useful for us to consider obtaining a further civil law opinion on the matter and I would suggest that we arrange a conference with a barrister experienced in administrative law matters.

Would you please call me to discuss this at your earliest convenience. I apologise that when I called your office on Thursday afternoon I missed you as you had already departed for Hobart.

With best wishes,

Yours sincerely

A handwritten signature in black ink, appearing to be 'Bill d'Apice', with a long horizontal line extending to the right.

Bill d'Apice

Encl.