

Canberra Civil cases: July 2008

1. In the past month, a set of interrogatories from Parkinson was sent to us. Brian Sweeney was drafted in to help reply.
2. Over the holiday period, a number of documents have been sub-poenaed. Much of this work fell to Rick.
3. Rick showed signs of pressure: irritation, reticence to make a court appearance. This was adjourned from July 21 to 28. Under sub-poena: Rick and the proper office of the Trustees of the Marist Brothers: both Brian Sweeney and Alexis. The purpose of this sitting from Parkinson's side is to determine who to sue. Brian can answer questions about insurance matters from the 1980s and about our governance structures.
4. Teleconference 21 July 2008: 8.30 – 10am (Howard Harrison, Pat Moraghan, Alexis, Jeff)

- a. General court strategy:

CCI position: be of assistance to the court by identifying individuals as appropriate defendants

Principals, Provincials, Provincial Councillors

That is, neither the Trustees nor the Office of Provincial be offered as appropriate.

We do accept a moral responsibility, however, and will make financial settlements.

Parkinson's position is to keep the matter in the courts. He refuses to talk about court-ordered mediation.

We will continue to 'play hardball' until we move to mediation. This means using all legal defence strategies open to us: Ellis-Pell; statutes of limitation etc.

If we offered a 'corporate' target, we would probably be up for \$300,000 per claimant of whom there are 26. That is \$7.8 million. This is about 5 times what we are paying others. This figure alone should make us think about our defence strategy.

(Cf ACI just settled for \$50,000 in a Towards Healing Kostka case.)

CCI will send us a written statement of their approach.

We will have to brief all the individual Brothers concerned. The main people are Marshal McMahon and Terry Heinrich.

b. Public Relations

We want to correct the false impression given on the Lateline program by Parkinson that we are proposing Towards Healing mediation for all. We are proposing court-ordered mediation.

Contacting victims?

There is a possibility of writing directly to each victim.
Such a letter would inevitably find its way into Parkinson's hands, so send him a copy.

A paid advertisement in the Canberra Times at some stage
i.e. our press releases are not being printed in full. We do not know what the victims are hearing.

c. Investigation:

This has been a very slow process and even now we do not have a complete report.
The question "What did people know?" should have been put to many people but it has not been.

CCI is now asking about possible conversations with former staff members of long-standing after Jeff mentioned that we have the contacts of a number of them.

So far, Greg Walsh has blocked any contact with Kostka himself. For example, we would like to ask him who he told about his problems, when, and what action resulted. What was said in court by Greg Walsh, quoting Canaris the psychiatrist, was potentially damning for us in that it hinted at prior knowledge.

d. For the future: Incorporation of schools

The question of ownership and legal entity has been central to the civil claims being contested.

For the future, HH advises us to consider incorporation for the sake of clarity and coherence. At the moment we cannot even say that we owe kids in our RI schools a 'duty of care'. We cannot use the language of ownership.

Jeff