

Dominic Cudmore

From: Michael Casey
Sent: Tuesday, 14 September 2004 2:47 PM
To: Dominic Cudmore
Cc: Danny Casey
Subject: Ellis/Duggan

Importance: High

DEC,
 thanks for your email. The Cardinal's instructions in this matter are quite clear, and Mons. Rayner has confirmed in writing to Corrs that we wish them to act for us in this matter. I think we should notify M+R as soon as possible that Corrs has carriage of the case, and they will be in contact with them in due course (see below).

It has been proposed that we should follow Melbourne's practice in this area, because of the far greater control that diocese retains in dealing with litigation through using their own legal advisers rather than those of the insurer. I paste into this email Paul McCann's advice on this below. As you will see, M+R will continue to be kept in the loop as long as they are examining or providing indemnity (which I think addresses the particular sensitivities you have raised). If they decline to do so, they fall out of the loop, and the we can take it up with them afterwards, probably in concert with Melbourne, to get a better deal.

I have discussed this with Danny, and have confirmed with him that this is the appropriate way to proceed. Please let me know how comfortable you feel after reading these reassurances. I am happy to advise M+K if that would help.

happy to discuss.
 MC

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Dear Michael

As foreshadowed in my email of yesterday, Richard Leder has now provided us with an understanding of the approach that the Archdiocese of Melbourne takes in these matters. The approach in Melbourne is as follows: The Archdiocese instructs Corrs to act Corrs informs CCI that the writ has been served, send them a copy of the writ and say that the Archdiocese seeks indemnity in respect of the matter and that Corrs has been instructed to act Corrs sends the bills in the matter to the Archdiocese. Then the Archdiocese sits back and waits to see what CCI does. Sometimes CCI deny indemnity immediately, and if Corrs and the Archdiocese agree that we have no hope of being covered (which can occur depending on the date of the incident) then that decision is accepted and CCI is not kept in the information loop any further. Apparently however, CCI usually say that they are examining indemnity, in which case Corrs keeps them informed about major developments in the litigation. Very rarely, CCI have responded to say that indemnity is granted but that they direct that the file be handled by their solicitors, Corrs not being on the CCI panel. When that has happened Richard has arranged for the Archdiocese of Melbourne to write a letter to CCI insisting that Corrs remain briefed. So far, that has worked, but there may be more manoeuvring that is needed. Generally, it appears that there is often considerable resistance and delay from CCI in reimbursing the Archdiocese of Melbourne for its costs. Richard has advised that we should expect similar difficulties in relation to the Archdiocese of Sydney. Obviously the approach taken in Melbourne may have been overtaken by events in this case if CCI has already been approached and has instructed solicitors to act in the matter. If CCI has not yet accepted indemnity, Richard has suggested that the terms of the relevant CCI policy should be reviewed to determine whether the Archdiocese should be indemnified and if so whether the Archdiocese has the right to appoint its own solicitors. I am happy to review the policy on your behalf should you require this. My recommendation is that the Archdiocese should insist on retaining Corrs in this matter at least to see out the argument on the extension of limitation point. In my preliminary opinion, we have an extremely good chance of succeeding on this point and the Archdiocese should commit to vigorously defending Mr Ellis's application to extend the limitation period. Unfortunately however, it seems that the Archdiocese must also weigh up the possibility that CCI may delay or refuse reimbursement of any fees the Archdiocese pays to Corrs in defending this claim. Please do not hesitate to contact me should

you wish to discuss this further on 9210 6241. Regards _____ Paul McCann Corrs
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-----Original Message-----

From: Dominic Cudmore
Sent: Monday, 13 September 2004 5:02 PM
To: Michael Casey
Cc: Danny Casey
Subject: Ellis/Duggan
Importance: High

Greetings MC (cc DC)

I am somewhat at a loss to know what to do in this matter given Msgr BR's email to you and Danny of last Friday encouraging the continued involvement of Monahan + Rowell due to the fact that they are paid for by CCI.

I am in a bind - I know that His Eminence stated his decision that Corrs are to act for us. Msgr BR did acknowledge this fact in my presence mid last week and he confirmed His Eminence's instructions and gave me the go-ahead to advise Patrick Monahan.

I was poised to contact Patrick Monahan to advise of same - but before I was able to do so Msgr BR sent his email to you - which indicated that he was now of a different mind and no longer happy for Corrs to act for us.

To complicate the matter further, Patrick Monahan called me today to say that he has spoken to Mr Ellis' solicitor who recommends that the litigation be put 'on hold' so that mediation can be arranged.

I need (i.e. via Patrick Monahan or Corrs) to get back to Mr Ellis' solicitor ASAP.

Given Msgr BR's view of Friday I am uneasy about formally advising Patrick Monahan that Corrs are now running with this matter for us. I would appreciate you advising His Eminence of Msgr BR's view on the matter and confirming that His Eminence still wants Corrs to act. I do not have the authority to override Msgr BR.

Happy to chat of course - at any time.

Thanks

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