

Dominic Cudmore

From: Mgr Brian Rayner
Sent: Friday, 10 September 2004 9:46 AM
To: Michael Casey
Cc: Dominic Cudmore; Danny Casey
Subject: RE: Legally privileged and confidential

Michael,

I do not understand why we would go down this path if CCI accept full liability in a particular case. For other cases I can see the right of the A/D to engage the firm of their choice.

If CCI are paying I would think that they have a right if they are footing the whole bill to proceed as they determine. I do not know of any other insurance arrangement where the client could engage private lawyers and expect the insurer to pay all outgoings. Our lawyers could be judged to have in fact jeopardised the settlement to the detriment of CCI

It is a different matter where the client is liable to contribute to the payout.

Regards

Mgr Brian Rayner
 Vicar General/Chancellor
 Catholic Archdiocese of Sydney

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-----Original Message-----

From: Michael Casey
Sent: Thursday, 9 September 2004 6:39 PM
To: Danny Casey; Mgr Brian Rayner
Subject: FW: Legally privileged and confidential

DC & BR: Subject to your own views, I think we should proceed in the manner Paul McCann recommends below, following the Melbourne practice - he should review the policy for us, but given that that Cardinal has indicated he wants Corrs to handle the matter we should go ahead even if CCI prove difficult in this present matter (Ellis).

Longer term, I would have thought there is a good chance of bringing CCI to the table if Sydney follows the Melbourne practice and joins with it (together, CCI's two biggest shareholders) in demanding a better response to indemnifying us which preserves our right to instruct our own lawyers - not just on prof stds matters, but also on "slips and falls" matters too.

happy to discuss.
 MC

-----Original Message-----

From: Paul.McCann@corrs.com.au [mailto:Paul.McCann@corrs.com.au]
Sent: Thursday, 9 September 2004 12:12 PM
To: Michael Casey
Cc: Anna.Ross@corrs.com.au; Richard.Leder@corrs.com.au; John.Dalzell@corrs.com.au; Mgr Brian Rayner
Subject: Legally privileged and confidential

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 Chambers Westgarth
<http://www.corrs.com.au>
Phone: (02) 9210-6241
Fax: (02) 9210-6611

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