**Maureen Fairbairn**

From: John.Dalzell@corrs.com.au
Sent: Wednesday, 28 November 2007 3:16 PM
To: Marita Wright; Michael Moore; JBucci@ccinsurances.com.au>; John Usher
Cc: WYDCorpAffLIST Paul McCann
Subject: Ellis - Costs - Privileged and confidential

Dear Marita

Unfortunately the only time that Michael Moore was available to catch up about this matter was this afternoon at 2.00pm. I know that this was very last minute and that you could not be there. Rather than waste that time, I spoke with Michael Moore and Danny Casey to canvass their views.

I should say from the outset that Paul McCann has a number of significant concerns about pursuing the plaintiff for costs. He has considerable experience of bearing the brunt of negative publicity caused by clients attempting to recover costs at the end of hostile litigation. The test Paul applies is whether you would be prepared to accept the risk of this story appearing on the front page of the Telegraph newspaper (a real risk in this case, given the plaintiff's predilection for flirting with the press). The media will certainly be interested in this story given the recent bad press surrounding Randwick and World Youth Day. It is worth noting the front page of the papers this morning are filled with stories about Bernie Bantom's treatment at the hands of James Hardie.

Michael's view is that it is ultimately a matter for CCI, however he acknowledges that we are potentially giving away a considerable amount of money. Danny's view is that he would be prepared to forgo the costs if the plaintiff would undertake not to approach the press about this matter in the future.

For what it's worth, my own view is that although the "Telegraph" test may create some negative publicity, it would also have the effect of sending a clear message to potential litigants that the Church takes these matters seriously and that they will not be given a free kick.

A more moderate option which is available is to write to the plaintiff, inform him of our estimated costs and ask how much he is prepared to contribute.

Perhaps you could give me a call at a time that is convenient and we can discuss the options more fully.

Kind regards

John

John Dalzell
Senior Associate

john.dalzell@corrs.com.au

Tel +61 2 9210 6160

Mob 0419 168 345

Fax +61 2 9210 6611

www.corrs.com.au

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"Marita Wright" <MWright@ccinsurances.com.au>

27/11/2007 05:46 PM

To <John.Dalzell@corrs.com.au>

cc "Joseph Bucci" <JBucci@ccinsurances.com.au>, "Peter Rush"

<PRush@ccinsurances.com.au>

Subject RE: Ellis - Costs - Privileged and confidential

Hello John,

Thanks for your note - I think it would be beneficial if you could organise a telephone conference between all of us to further discuss this issue, what do you think?

Regards

Marita Wright
National Claims Manager
Catholic Church Insurances Limited
(03) 9934 3070

From: John.Dalzell@corrs.com.au [mailto:John.Dalzell@corrs.com.au]
Sent: Tuesday, 27 November 2007 11:44 AM
To: Marita Wright; Michael Casey; Michael Moore; John Usher; Danny Casey
Cc: Paul.McCann@corrs.com.au
Subject: Ellis - Costs - Privileged and confidential

Dear Marita and others

Now that this matter is concluded, you should consider your position in relation to costs. There are cost orders in favour of the Cardinal and the Trustees at first instance and on appeal.

There will be a reduction applied when the costs are assessed, however, the recoverable amount is likely to be in the region of \$500,000-\$600,000 (being 65%-75% of the costs expended on the matter). The Cardinal's costs at first instance have already been assessed to be approximately \$200,000 (by Alyson Ashe, the former Costs Registrar of the NSW Supreme Court)

There are a number of factors to be considered in pursuing the costs of these proceedings, including the possible negative publicity that may arise if the plaintiff takes this to the press. There is also the overriding issue of the

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plaintiff's ability to pay the costs. On the other hand, the Church may want to demonstrate (publically if need be) that it will take steps to recoup its costs and that plaintiffs cannot expect to litigate with the unwritten insurance policy that the Church will not pursue its costs if they lose.

I understand that the plaintiff is currently working as a lawyer for the solicitors who represented him in these proceedings, David Begg & Associates. He is therefore likely to have a salary that may be garnished to recover the costs. There are a number of investigative steps that I could carry out and I would be happy to advise you as to the most efficient method of establishing his financial circumstances before you make the decision to enforce the costs order.

I will await your instructions in this matter.

Finally, I have **attached** a link to the High Court's transcript of the special leave application.

Kind regards

John

John Dalzell

Senior Associate

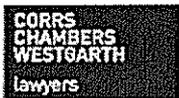
john.dalzell@corrs.com.au

Tel +61 2 9210 6160

Mob 0419 168 345

Fax +61 2 9210 6611

www.corrs.com.au



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Contact Details:

324 St. Kilda Road, Melbourne, 3004, AUSTRALIA

Telephone - (03) 9934 3000

Facsimile - (03) 9934 3460

Interstate Callers - 1300 655 001

Email - mailsweep@ccinsurances.com.au

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