

**Dr Steven Lovell-Jones**

From: John.Dalzell@corrs.com.au
Sent: Tuesday, 13 May 2008 12:39 PM
To: Marita Wright
Cc: John Usher; Michael Casey; Michael Moore
Subject: Ellis
Attachments: 4777507v1_Fax_to_Begg_&_Associates_13_05_08.doc; Letter from David Begg & Associates dated 12.05.08 .pdf

Dear Marita, Michael and Fr John

The *Ellis* matter came back before Registrar Bradford yesterday.

Ellis is still hanging on to the fact that he may be able to amend the statement of claim to invoke a cause of action against the Trustees. He is doing this in an attempt to dissuade the Trustees from enforcing the costs order against him.

At the hearing, Registrar Bradford was drawn to paragraphs 9 of the Court of Appeal Judgment handed down on 24 May 2007, that:

"In my view the proceedings in their present form are doomed to fail and ought therefore to be dismissed as against the first and second defendants in both as regards the claims in tort and the claim for breach of fiduciary duty. The first and second defendants are not liable at law or in equity with respect to the matters alleged..."

Registrar Bradford seemed to agree that the matter was in fact dismissed. However, as Begg was insistent that the case can be revived, the matter has been adjourned before the duty Judge on 26 May to resolve once and for all whether the matter is in fact over.

I will brief Richard McHugh to attend to this hearing. I will also instruct his reader to act as junior.

Following the hearing we received the **attached** correspondence from Begg. You will see that he still appears to be proceeding on the basis that the Trustees will simply sign a deed of release with his client and not pursue costs. I have **attached** my draft response for your comments.

I will await your instructions

Kind regards

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