

From: John Usher</O=FIRST ORGANIZATION/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=JUSHER>
Date Sent: Thursday, 06 April 2006 16:53:37
Date Received: Thursday, 06 April 2006 16:53:37
To: Michael Casey</O=FIRST ORGANIZATION/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=Mcasey>
CC: Michael Moore</O=FIRST ORGANIZATION/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=Michael>
BCC:
Subject: RE: Ellis v Pell: Costs - Instructions required.
Attachment: None

Dear Michael,,

I discussed this with Michael m and I agree that we need further clarification from Cors before giving any instructions about the cost assessor.

John
Chancellor

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

From: John.Dalzell@corrs.com.au [mailto:John.Dalzell@corrs.com.au]
Sent: Wednesday, 5 April 2006 4:40 PM
To: John Usher; Michael Casey
Cc: Michael Moore
Subject: Ellis v Pell: Costs - Instructions required.

Dear all

Today I met with Alyson Ashe, a very experienced and well known costs consultant who we have engaged to prepare a bill of costs for Cardinal Pell. Ms Ashe's CV can be summarised as follows:

May 1975 - admitted as a solicitor;
1976 - 1987 - employed by the Department of the Attorney-General and Justice at the Supreme Court of NSW as a Registrar and Taxing Officer of the Court. Appointed variously as Registrar in Equity, Registrar of the Court of Appeal and Senior Taxing Officer; and
published in the area of practice and procedure, including Nevill and Ashe: Equity Proceedings and Precedents (1981) and editor of Lexis Nexis Butterworths Costs Service "Legal Costs NSW".

Since 1989 Ms Ashe has specialised in the area of legal costs. She has been retained by various staff at Corrs and is highly recommended.

Unfortunately Ms Ashe's fees are significant. The fees for the preparation of the bill of costs will be 10% of the profit costs of the bill, plus a rate of \$250.00 per hour for any apportionment work that is above and beyond the normal preparation of a bill. Profit costs include Corrs fees and disbursements, however, counsel fees (although included in the bill of

costs) are not taken into account by Ms Ashe when she is preparing her invoice for payment.

The preparation of the bill of costs is quite involved and Ms Ashe will be reviewing all correspondence, transcript and pleadings to ensure an accurate apportionment between the costs incurred by Cardinal Pell and the costs incurred by the Trustees.

We have recently corresponded with Begg on the subject of costs. In his opinion, there should not be any costs associated with the defence of Cardinal Pell's case, as the Trustees and the Cardinal were defended by the same solicitors on broadly the same grounds. This does not accord with our understanding of the assessment of costs, nor is it supported by the case law (see *CURRABUBULA & PAOLA v STATE BANK NSW*. *CURRABUBULA v STATE BANK NSW* [2000] NSWSC 232 (31 March 2000))

With this in mind, I would like instructions to brief Ms Ashe to assess the costs of Cardinal Pell.

If you have any queries, please contact me.

Regards

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