

## HENRY DAVIS YORK

28 October 2015

Our Ref RLW/KAS/3139389

**BY EMAIL & POST**

Shine Lawyers  
1st Floor  
125 Russell Street  
TOOWOOMBA QLD 4350  
**ATTENTION Lisa Kinder**

Dear Partners

**Common law damages claim by Glen Greaves**

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We refer to our previous correspondence and the upcoming mediation in this matter on 24 November 2016.

As you are aware we have been concerned for some time about the difficulties associated with attempting to quantify the claimant's economic loss claim in the absence of a significant amount of documentary material including but not limited to:

- copies of the claimant's personal income tax returns and assessment notices for the years ended 30 June 1981 to 1989, 2001 to 2006 and 2008 to 2015;
- a complete copy of the claimant's personal income tax return for the year ended 30 June 2007;
- copies of the partnership income tax returns and detailed financial statements for D&D Pest Control from the date of commencement of that business to cessation.

We also sought additional information based on the records currently available and note your instructions that many of the documents are unavailable and your client is unable to provide you with instructions on a number of financial issues.

Given these difficulties, we have considered the claimant's amended particulars dated 16 September 2015 in some detail. Based on that document we are unclear as to the precise nature of the claim for past and future economic loss which is sought by the claimant. In this regard, we particularly note that at paragraph 5(c) the claimant provides that he electively discharged from the RAN in 1981 because both he and his family preferred that he spend more time with them than he could have done had he remained serving in the RAN. Based on this statement and the claimant's Service Records, the claimant undertook a voluntary discharge from the RAN for family reasons.

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In addition, it appears to us that no claim is made, based on the September 2015 particulars for past economic loss prior to 1999. Our understanding of this comes from the final bullet point within paragraph 5(c). The career progression report was prepared based on earlier particulars and our understanding of the claim being made. That document now appears to have no relevance given that no economic loss claim is made prior to 1999.

Therefore, in order to allow our client to properly prepare for the mediation we would ask that you set out clearly and precisely the claim for economic loss (past and future), which ~~the claimant seeks to pursue at the upcoming mediation.~~


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We also refer to the telephone conversations between Kerry Stewart and Lisa Kinder over the last two weeks regarding the claimant's DVA entitlements. It is our understanding based on the material currently available that the claimant will, if he receives any damages pursuant to the current claim, incur a significant payback to DVA and will prejudice his future rights. In this regard, we note that he is receiving approximately \$1,000 per week pursuant to a TPI pension from DVA. We also note that the claimant holds a Gold Card in respect of medical treatment. Having undertaken a broad brush calculation of future economic loss (although this may require amendment once the above is clarified) it appears to us that the claimant would financially be better off retaining his ongoing TPI pension and his gold card. We have previously relayed to you our significant concern that this claimant will be financially prejudiced by pursuing this claim given the significant DVA entitlements he currently has and will have into the future and the significant payback in relation to moneys already received which will be triggered on payment of any damages. We note that, as you are presently instructed, the claimant wishes to proceed with the mediation on 24 November 2015 and our client is also prepared to participate in a mediation on that date.

We look forward to receiving a clear articulation of the claimant's claim for past and future economic loss as soon as possible.

We look forward to hearing from you.

Yours faithfully  
Henry Davis York



Kerry Stewart  
Special Counsel  
REDACTED  
REDACTED