

L A W Y E R S



3 April 2002

BY FACSIMILE NO: 3229 1999

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Partner

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Our reference

JPC/BRIS2923-7545873

Your reference

rs:m11:4078301

WITHOUT PREJUDICE

Dear Sir/Madam

BRISBANE GRAMMAR SCHOOL - PROPOSED MEDIATION

Thank you for your facsimile received at 5.00pm yesterday enclosing your proposed framework for mediation of your client's claims.

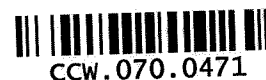
Our views on the proposal are as follows:

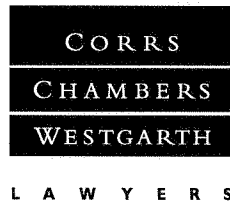
Preliminary Matters

- We agree the Statements of Claim should be served. We are in a position to file and serve Defences without delay.

In our view the appropriate mechanism to exchange the information necessary to mediate the claims is that our client file Defences, and that you then serve a Statement of Loss and Damage in each matter (together with any disclosed documents therein which are requested by us) including, inter alia, a HIC Schedule of Benefits from the time of the alleged abuse.

We agree the matters should then not be taken forward pending mediation. We propose it be agreed that neither party take any further step inter-parties to advance any matter to trial before mediation in all matters is completed.





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BRISBANE GRAMMAR SCHOOL - PROPOSED MEDIATION

Ground Rules

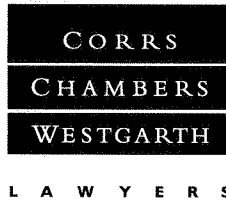
- We agree the ADR regime must include all claims issued on behalf of the various plaintiffs.
- We are not prepared to agree to settlement of each claim being conditional on all claims reaching settlement at mediation. This proposal is, with respect, unworkable. It would mean, for example, that if one plaintiff would not accept your recommendation to settle, or changed solicitors, or required a sanction of the court, that no matters could settle. That is not in the interests of any of the parties, and potentially creates conflicts of interest as between those of your clients who wish to settle and any who do not.
- We see no benefit, and considerable difficulty, with the plaintiffs not attending mediation of their own claims. It is the most fundamental principal of mediation that the plaintiff attend. We propose agreement be reached that each plaintiff will attend the mediation of his own claim, save by agreement between the parties, for example where health issues or distance make attendance impractical.
- We note the plaintiffs are agreeable to a media ban and a confidentiality clause in each settlement. We agree these are appropriate.

Medical Evidence

- Given the delays inevitably experienced in securing psychiatric appointments, and particularly in view of the number of claimants involved, we see no practical way that all examinations could be completed by 30 June. We cannot agree to that timeframe. It is not in anyone's interests to commit to timeframes which cannot be met.
- In order to shorten the time, consideration should be given to a panel of, say, 3 to 5 psychiatrists who would, between them, examine all plaintiffs. In our view, this is less desirable than having one psychiatrist see all plaintiffs, but may assist in completing this stage of the process in a more timely manner.

If you are agreeable to a panel, the plaintiffs should be divided evenly between the psychiatrists, and allocated alphabetically. That would ensure each psychiatrist sees a random sample of plaintiffs.





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BRISBANE GRAMMAR SCHOOL - PROPOSED MEDIATION

- We have no difficulty with an agreed letter of instruction, but reserve our right to:
 - (a) Place before the examining psychiatrist any additional material we consider appropriate; and
 - (b) Request the psychiatrist address any additional issues we consider relevant.

We confirm you would be free to do the same.

- We confirm our client would meet the examining psychiatrist's fees for the examination and report.

Setting Down/Duration

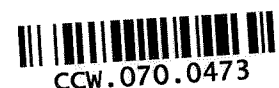
- There is no practical way that all claims will be ready for mediation by 5 August. Further, our senior counsel commences a 5 day trial on that date and the writer has three weeks leave scheduled in August. In any event, more than two weeks will be required to mediate all claims.

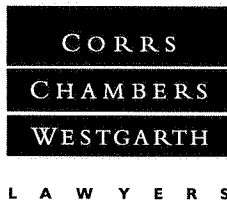
We suggest four weeks be allocated for the mediations, to be commenced in the first week of October, and running every second week thereafter, i.e the first and third weeks in October and the first and third weeks in November.

- The matters should be mediated alphabetically. We are not prepared to agree to an order which is not randomly determined.
- We have no difficulty with the process outlined in the final three bullet points of your proposal in this section, save that we reserve our client's right to raise specific issues in any individual case, as that case progresses.

Exchange of Information Prior to Mediation

- The information you offer to provide on behalf of each plaintiff is achieved by the delivery of a Statement of Loss and Damage which, as outlined above, should occur at the commencement of the process, not two weeks before mediation. Amongst other reasons, some of this material may have to be provided to the examining psychiatrist, so provision shortly prior to mediation is too late.





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BRISBANE GRAMMAR SCHOOL - PROPOSED MEDIATION

- We have no difficulty with your proposal that our client provide a quantum schedule prior to commencement of the mediation process, but in view of our proposal of “rolling weeks” of mediation, propose to provide the schedule for each claim at least 24 hours prior to that claim’s allotted mediation.

Costs and Funding

- Our client is agreeable to meeting the mediator’s fees for the mediation process, subject to fees being agreed with the mediator.

Conclusion

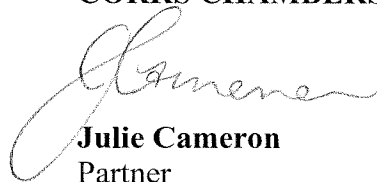
In relation to the timing of the above, we propose:

1. The Statements of Claim in all matters be served on us within 7 days.
2. The defendant file and serve a Notice of Intention to Defend and Defence within 14 days thereafter.
3. Each plaintiff file and serve a Statement of Loss and Damage within 28 days thereafter, but earlier if possible and not necessarily all at once.
4. A panel of psychiatrist be agreed within 7 days, with the defendant’s solicitors to secure appointments with each on the following basis:
 - (a) The plaintiffs be allocated evenly and alphabetically between the agreed psychiatrists;
 - (b) The first available appointments be secured with each.

We confirm we will meet at Ian Hangar QC’s chambers at 1.00pm today to discuss the matters further.

Yours faithfully

CORR CHAMBERS WESTGARTH



Julie Cameron
Partner

