

10/10 2003 FRI 17:16 FAX

001/003



U0015

**FACSIMILE MESSAGE***Please advise urgently if you have any problem with this transmission*

CONTACT: Lisa Smith  
 CONTACT EMAIL: bne-sp@shine.com.au  
 DEPARTMENT: Victims of Abuse  
 DEPT MANAGER: Roger Singh  
 OUR REF: LS:M02:4264001  
 YOUR REF:  
 REPLY TO:

BRISBANE  
 Level 6, 30 Makerston Street  
 PO Box 12011  
 George Street Qld 4003  
 DX 1057 Northpoint  
 Tel: (07) 3006 6000  
 Fax: (07) 3229 1999

DATE: 10 October 2003  
 FAX NO: (07) 3228 9444  
 NO. OF PAGES: 3 (including this page)

**WITHOUT PREJUDICE**

For the Attention of:  
 David Abernethy  
 Corrs Chambers Westgarth

**SHINE  
 ROCHE  
 McGOWAN**   
 SOLICITORS | Your Voice

Offices Statewide:

BRISBANE

CAIRNS

TOOWOOMBA

GOLD COAST

SUNSHINE COAST

TOWNSVILLE

Email: law@shine.com.au

Website: www.shine.com.au

Dear Colleagues

**ADDITIONAL CLAIMS V BRISBANE GRAMMAR**

We refer to our previous communications in relation to the above and in particular we make reference to Simon Morrison's telephone discussion with David Abernethy of your offices earlier this month. It is noted that during the course of that discussion reference was made to the additional 10 ("ten") claimants who have consulted us in connection with allegations of abuse suffered by them at the hands of "Lynch" during their student years at Brisbane Grammar.

We note Mr Abernethy's view that the "limitation problem" as he perceives it, in so far as it relates to prospects of securing an extension of time (S31 of the Limitations of Actions Act), stands in the way of the additional claims and for this reason it is his view that there is limited scope to give these claims due consideration. Notwithstanding this assertion it was resolved that we write to you with a proposal for the purposes of resolving these claims sensibly; such proposal to make provision in relation to risk particularly in so far as that risk relates to the S31 Limitation of Actions issue.

It is acknowledged that none of the additional claimants were part and parcel of the group of claims mediated in October 2002 and thus they are arguably "further out of time".

**Limitation of Actions**

Despite the foregoing it is noted that 4 claimants who have consulted us were abused subsequent to complaints that were made by BQP and BQH hence these matters are "post BQP / BQH" claims. It is not our intention to set out the basis of the BQP BQH evidence, this was properly articulated at the previous

*This facsimile transmission is intended for the persons named above. If you are not one of those persons we do not waive any privilege attaching to this facsimile transmission, and any disclosure or use of the transmission by you is prohibited. If you receive this transmission in error please notify the sender immediately and return the original transmission by certified mail. We will reimburse your reasonable costs in returning the original transmission.*



CCW.028.0041

10/10 2003 FRI 17:16 FAX

002/003

mediation's, suffice to say that it was not until the time of consultation with us that these individuals first became aware that there was evidence which lent support to the school's possession of "prior knowledge" of Lynch's misconduct. Consequently it is our contention that this in itself is a "material fact of a decisive character" which serves to bring each of these additional claimants within the prescribed 12 month period.

Of those additional claims 6 (six) are "pre BQP / BQH", this category of claim formed part and parcel of the group of claims that were previously mediated, in each case some concession was agreed to between the parties for the purposes of amicable resolution.

We recognise that argument prevails against submissions for time extension however with reference to the foregoing there is scope to present a proper basis for an extension of time in each matter. This is particularly so in relation to the post BQP / BQH claims. Bearing this in mind, to curtail the escalation of legal costs it is proposed that matters proceed with a view to the parties agreeing a basis for sensible resolution of each of the claims .

#### **Proposed Resolution Framework**

It is not intended that an approach similar to that adopted in the previous mediations be followed in this instance. However some meaningful information and detail ought to be gathered in order that the parties are able to make some assessment of each claim. Accordingly it is proposed that these additional claims be dealt with as follows:

#### **Post BQP / BQH Matters:**

- A letter to be provided to defendant solicitors on behalf of each claimant setting out detail including: nature and incidents of abuse, impact of the same on well being and employment capacity.
- A medical report be provided in relation to each claimant for the purposes of assessing the extent and nature of injury .The report to be prepared pursuant to a joint letter of instruction in terms similar to those adopted in the previous mediation process. The medical expert to be jointly agreed to between the parties.
- The respective parties solicitors to engage in conference at a time and venue to be determined in order that the matters are given due consideration for the purposes of settlement. Alternatively the matters to be considered by way of correspondence and telephone communication so as to avoid the expense of conference time and venue.
- Prior to conference, a "threshold" to be set as to a maximum payment for this category of claim The threshold to be set at a level which fairly reflects the severity of injury ( diagnosis / prognosis) and risk as to limitation

#### **Pre BQP claims**

An approach similar to that adopted in the previous mediations be implemented in this instance, namely a fixed compensation sum that reflects the severity of injury and limitation of actions risk. Written submission to be provided on behalf of each claimant including: incidents of abuse; and impact upon well being and employment capacity together with medical report to support diagnosis/ prognosis.



10/10 2003 FRI 17:16 FAX

003/003

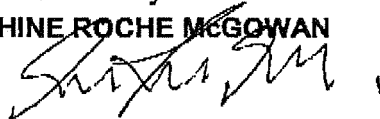
**Expenses**

It is proposed that the parties share the cost of medical examination / and report on an equal basis. It is further proposed that each claimant be afforded the opportunity to meet with representatives of the school for the purposes of an apology similar to that administered in the previous mediation process. Alternatively so as to save time and expense a written apology be provided

We recognise that these additional claims stand separate and apart from those that were mediated in October of last year. In the light thereof appropriate recommendations will be made to our clients for the purposes of resolving their claims at this juncture.

We request that you seek instructions on the above and return to us in early course .In the event you should wish to discuss matters then please do not hesitate to contact Mr Roger Singh of our offices.

Yours faithfully

**SHINE ROCHE MCGOWAN**

CCW.028.0043