

L A W Y E R S

22 February 2002

**BY COURIER**

Mr Phillip Wotton  
 Wotton & Kearney  
 Level 13, 28 O'Connell Street  
 SYDNEY NSW 2000

**Partner**  
 David Abernethy (07) 3228 9456  
 Email: David\_Abernethy@corrs.com.au

**Our reference**  
 DJA/7545873

Dear Sir

**BRISBANE GRAMMAR SCHOOL - CLAIMS BY VARIOUS FORMER STUDENTS**

Thank you for your letter of 18 February and I refer to our conference on 20 February 2002.

**Insurance Cover**

I refer to the Schedule of Insurers which we previously forwarded to you and which we discussed at our meeting. I now **enclose** a Volume of the material which supports the Schedule. Hopefully some of the policy numbers that have been identified in those documents will assist your clients in locating policies/schedules and wordings. In the meantime we will go back to Aon for any further details it can provide in relation to the excess insurers during particular years. I note, however, there are years when the primary cover and excess layers are with the same insurer.

**Statements of Claim**

As requested we **enclose** copies of the Statements of Claim referred to in your letter.

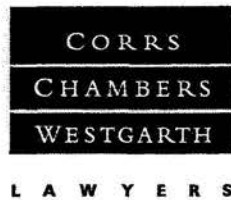
Shine Roche McGowan have not provided any particulars of the further students not referred to in the Submission provided on 11 May 2001.

BQA

We **enclose** copies of the:

WATERFRONT PLACE 1 EAGLE STREET BRISBANE 4000  
 GPO BOX 9925 QLD 4001  
 TELEPHONE (07) 3228 9333 INT +617 3228 9333 FAX (07) 3228 9444  
 DX 135 BRISBANE

SYDNEY MELBOURNE BRISBANE PERTH CANBERRA GOLD COAST  
 OUR LIABILITY IS LIMITED BY THE SOLICITORS SCHEME, APPROVED UNDER THE PROFESSIONAL STANDARDS ACT 1994 (NSW)  
 THIS LIMITATION OF LIABILITY APPLIES TO CLAIMS THE PROPER LAW OF WHICH IS THE LAW OF NEW SOUTH WALES.  
 B/532962/1



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STUDENTS**

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- 1 Claim and Statement of Claim;
- 2 Defence;
- 3 Reply;
- 4 Request for Further & Better Particulars of the Statement of Claim;
- 5 Application to Strike Out together with Affidavit in Support. You will note that the Application is listed for hearing on 21 March.

Further, in response to our serving the Application to Strike Out on his solicitors on the record, Holland & Holland, we have received a response from them to the effect that they are no longer acting for him but that they have passed the documents on to him.

We do not have any medical reports in respect of BQA

**REDACTED**

We enclose copies of the following:

1. Claim and Statement of Claim;
2. Defence; and
3. Report of Dr Derek Tisdall.

**REDACTED**

We enclose copies of:

- 1 Defence;
- 2 Plaintiff's List of Documents and Statement of Loss and Damage;
- 3 Request for Further and Better Particulars of Statement of Claim;
- 4 Further and Better Particulars of Statement of Claim;
- 5 Defendant's List of Documents;
- 6 Request for Further and Better Particulars of Defence;



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- 7 Particulars of Defence;
- 8 Application and Affidavit in support; and
- 9 Medical reports of Dr Gary Persley and Ms Wendy Walker.

**REDACTED**

We enclose copies of:

- 1 Defence;
- 2 Plaintiff's List of Documents and Statement of Loss and Damage;
- 3 Request for Further and Better Particulars of Statement of Claim;
- 4 Further and Better Particulars of Statement of Claim;
- 5 Request for Further and Better Particulars of Defence;
- 6 Particulars of Defence;
- 7 Application and Affidavit in support; and
- 8 Reports of Dr Gary Persley and Ms Wendy Walker.

**Anglican Church Toowoomba Matter**

We confirm this was a jury trial and hence there were no Reasons for Judgment. You will note that all of the proceedings issued by Shine Roche McGowan request trial by jury.

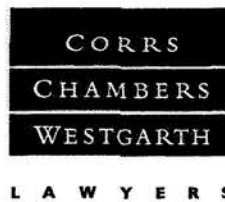
**Strikeout Applications**

We enclose a copy of the joint advice of SC Williams QC and Kevin Holyoak in relation to the strike out application in the Amarcus matter. We do not have separate advices in the other matters.

**Judgement** **REDACTED**

We enclose a copy of the Judgment in this matter in the New South Wales Court of Appeal.





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**HIH**

As requested we **enclose** a copy of the policy wording in relation to the HIH professional indemnity policy together with copies of correspondence passing between ourselves, HIH and their lawyers, Ligeti Partners.

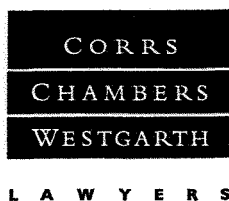
**Further Conduct**

We confirm that our client supports the general approach suggested by Ron Ashton in this morning's meeting. We are accordingly preparing a draft along the lines of the proposal for consideration by yourself and Ron Ashton.

You will appreciate that there is some urgency in pursuing the proposal if it is to be pursued because the Strike Out Applications are listed for hearing on 21 March. Our view is that we will probably be better served in implementing any proposal if there have been no determinations of any applications to extend time. The possible exception is BQA which is not within the Shine Roche camp in any event. Other possible exceptions may emerge during the process when we see material from the plaintiffs.

We appreciate that there remain some indemnity/disclosure issues. We confirm that we are prepared to assist where possible and to facilitate an early resolution of those issues. Ron Ashton indicated he may wish to have the opportunity to interview BQP Max Howell, Brian Cannon and David Coote. We have no objection to that course provided that we are also involved in the interviews and are involved in setting up the interviews. It may be that, once the insurers have seen the statements we have obtained, such interviews will not be necessary. I therefore **enclose** copies of the following:

- 1 Email from BQP to Dr Lennox dated 6 June 2000;
- 2 Note of a telephone conference between David Abernethy/Howard Stack (Chairman of the Board of Trustees of Brisbane Grammar School) and BQP on 1 February 2002. That note has been amended and approved by BQP
- 3 Statement of Max Howell which is unsigned but has been approved by him. The Statement is with Mr Howell for signature at the moment.
- 4 Statement of Mr Brian Cannon. An earlier Statement had been signed by Mr Cannon but we have now included some additional details. While it has not been approved it is with Mr Cannon for signature and we would



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expect only minor amendments.

5 Three separate Statements of Mr Coote. Similarly, they are with him for signature at the moment and we would expect only minor amendments.

We will forward our tax invoice for our reasonable photocopy expenses under separate correspondence.

We look forward to hearing from you as soon as possible.

Yours faithfully

**CORRS CHAMBERS WESTGARTH**

A handwritten signature in cursive script, appearing to read 'D Abernethy', is written over the typed name.

**David Abernethy**  
Partner