

John Dalzell ext-6160

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To: "John Usher" <john.usher@ado.syd.catholic.org.au>, "Michael Casey" <mcasey@ado.syd.catholic.org.au>, "Michael Moore" <mmoore@ado.syd.catholic.org.au>  
cc: Paul McCann/Sydney/CORRS/AU  
Subject: Re: Ellis 

Dear Michael, Michael and Father John,

The matter of Ellis finally came to an end this afternoon, for the time being anyway.

As expected, His Honour Judge Patten has reserved judgment. I would not anticipate the judgment being handed down anytime in the near future given the large volume of material he has to consider.

It is difficult to second guess what the outcome of this hearing will be, but I share counsel's views on the following points:

1. The judge seemed to be sympathetic to the proposition that a *material fact* in this case was the threat to Ellis's employment as a partner in Baker & McKenzie (caused by the psychiatric symptoms). If this is accepted and if the Judge finds that the threat to his employment was of a *decisive character* (as defined by the Limitation Act) and that he was unaware of that fact until September 2003, then Ellis may succeed on the jurisdictional aspect of his application, namely, by satisfying the criteria under section 58 of the Limitation Act;
2. The case against His Eminence Cardinal Pell is largely hopeless and will probably fail;
3. The case against the Trustees is less clear-cut and, on balance, *may* be held to be arguable (the threshold test at this stage) and therefore, for the sake of this application, successful;
4. We are unlikely to be burdened with the SA  / Duggan / McGloin complaint at this stage; and therefore
5. The Court will therefore assess the prejudice to the Defendants as of 2004, not when the SA  complaint was made in 1983 (which was the palintiff's submission).

I will resist the temptation to offer any ex tempore advice on appeals etc. until we receive judgment. I have already talked to counsel about possible avenues of attacking this claim should we be unsuccessful at this stage.

I will inform CCI of the status of the case.

Thank you again to Michael Moore for his cameo appearance this morning. Both counsel and I were of the view that his evidence was compelling and extremely helpful. I hope he is not traumatised as a result.

I will, of course, keep you informed of any further developments in this matter.

Kind regards

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