

John Dalzell ext-6160
16/11/2007 10:57 AM

To Paul McCann/Sydney/CORRS/AU@CCW, "Michael Casey" <mcasey@ado.syd.catholic.org.au>, "John Usher" <john.usher@ado.syd.catholic.org.au>, "Michael Moore" <mmoore@ado.syd.catholic.org.au>, MWright@ccinsurances.com.au, "Joseph Bucci" <JBucci@ccinsurances.com.au>
cc "Stephen Rushton" <srushton@selbornechambers.com.au>, flynn@selbornechambers.com.au, mchugh@banco.net.au, Richard Leder/Melbourne/CORRS/AU, Victoria Brigden/Sydney/CORRS/AU, "Sera Mirzabegian" <mirzabegian@tenthfloor.org>
bcc "John West" <jwest@selbornechambers.com.au>; Anna Ross/Sydney/CORRS/AU@CCW
Subject Ellis v Trustees - Decision of HCA

Dear Michael, Fr Usher and Marita

John Ellis' application for special leave came before the High Court this morning. The bench was constituted of Justices Hayne and Kiefel.

Andrew Morrison SC opened for the Applicant. After hearing his oral submissions, the bench did not trouble Richard McHugh SC for a response. The Court held that the Court of Appeal decision was founded on "settled principles of law" and therefore special leave to appeal would **not** be granted.

In light of this decision, the law as propounded by the Court of Appeal (on 24 May 2007) now stands as settled law in Australia as to the liability of the Cardinal and the Trustees.

One point I should raise is that I instructed Richard McHugh not to ask for costs of *this* application. Justice Hayne did not invite the submission. In light of the costs orders we already have against the Applicant, at first instance and on appeal for the Trustees and the Cardinal, and the fact that there was a considerable number of the press representatives in Court, I did not feel that the application was appropriate. In reality, the Applicant will not be in a position to pay the costs that he now owes, either to his lawyers or to the Trustees/Cardinal. We should discuss our position on the costs question in due course.

I would also recommend that we meet in the next few weeks to revisit the judgment of the Court of Appeal and consider the impact that this will have on the conduct and obligations of the current Cardinal and his successors. We should perhaps also consider some of the areas that were not the subject of the Court's decision such as occupier's liability.

Please feel free to call me to discuss this.

Kind regards

John

John Dalzell
Senior Associate

john.dalzell@corrs.com.au
Tel +61 2 9210 6160
Mob 0419 168 345
Fax +61 2 9210 6611
www.corrs.com.au



MAKING BUSINESS
SENSE

WINNER 'EMPLOYER OF CHOICE'
2006 AUSTRALIAN LAW AWARDS

Please consider the environment before printing this email.