

John Dalzell

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To "Marita Wright" <MWright@ccinsurances.com.au>

cc "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>

bcc Nicholas Edwards/Sydney/CORRS/AU@CCW

Subject Ellis

Dear Marita

This is to confirm our conversation earlier this afternoon regarding the costs of the *Ellis* matter.

In attendance was Fr John Usher and Michael Moore from the Archdiocese, yourself and Joe Bucci from CCI and me.

Father Usher conveyed the Cardinal's view which can be summarised as follows:

- His Eminence wants to avoid any negative publicity associated with causing Ellis to go bankrupt or to causing him to experience an exacerbation of his psychiatric condition; and
- Balanced against this, we do not want Begg and other plaintiff lawyers to think that the Church will simply roll over on its costs every time the plaintiff loses a case.

Marita conveyed CCI's provisional opinion that the costs of this matter were significant (amounting to some \$1M) and that although negative publicity should be avoided, more information is required of the plaintiff's financial circumstances before a final decision could be made. Father Usher and Michael Moore agreed that seeking further information should be the next step.

I advised that this may lead Begg to continue to threaten further litigation (although in my view there are no legal arguments that could possibly be extant given the Court of Appeal's judgment - even with an amendment of the pleadings). I also advised that there is a limitation period of 12 years from the date of judgment in which to enforce costs (section 17, *Limitation Act* 1969 NSW); so ultimately the position may be that the plaintiff is informed that costs will not be enforced against him now but that no undertaking is provided about enforcement of these costs in the future.

I have **attached** to this email, a draft letter to Begg explaining the position. I will also draft a short Examination Notice which, once served, will give the plaintiff 28 days in which to provide answers and documents setting out his financial position. If Ellis refuses to answer or indeed supplies inadequate or insufficient answers, we can apply to the court for an examination order causing Ellis to attend court to be examined on his finances.

I will await your further instructions before proceedings.

Kind regards

John



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