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**Sent:** Wednesday, 16/06/2010 02:40 PM  
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**Subject:** Biles

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E-mail to: Robyn Young            robyn.young@community.nsw.gov.au

Re:                                State of New South Wales ats Biles

I advise that I attended the District Court Sydney on Tuesday, 15 June 2010, with Mr Paul Arblaster of Counsel when this matter was listed before Judicial Registrar Smith for directions. Ms Wall of Counsel appeared for the plaintiffs.

Prior to the mention, Ms Wall agreed to provide some draft Consent Orders which had been discussed between her and Mr Arblaster. On the morning of the directions hearing, as no draft Consent Orders had been submitted by the plaintiffs' representative, I hastily prepared some Consent Orders based on what we wanted and our perception of the matter. I enclose a copy of the draft Consent Orders. An agreement as to the Consent Orders could not be reached. Ms Wall for the plaintiffs suggested to the Judicial Registrar that the matter should be referred to a Judge for case management. We formed the view that she had a particular judge in mind and we certainly did not want this matter going anywhere near that Judge ever again. Mr Arblaster informed the Judicial Registrar that his predecessor had case managed the matter and there was no need for the matter to be referred to a Judge at this stage. His Honour had previously ordered the parties to prepare a timetable and one had been prepared by the defendant which was handed up (enclosed Draft Consent Orders).

Ms Wall later suggested that the matter should go back to Judge Knox who had dealt with the matter for over seven days. Neither myself or Mr Arblaster could work out where she got the seven days from. Our recollection was that the consolidation motion took a couple of days and then Judgment on the motion was a further mention and as I recall there may have been a further mention for some directions before his Honour. That adds up to about two and a half days. I think Ms Wall was trying to impress upon the Judicial Registrar that Judge Knox has thoroughly looked at the whole matter and should therefore be asked to case manage it.

The Judicial Registrar indicated that it was the Judicial Registrar's job to case manage files and he was not prepared to send it to a Judge at this stage.

His Honour stood the matter down in the list to enable the parties to see whether they might reach an agreement.

The parties did not reach an agreement. It was impossible to agree to what was proposed by Ms Wall. What she proposed was that the defendant serve its evidence on the plaintiff's limitation motion well before the plaintiff served their evidence. It is the plaintiff's motion, therefore it is the plaintiff who has to make out the case to extend the limitation period and it is for the defendant to respond. That proposed Order was just totally ridiculous.

The matter was again mentioned before the Judicial Registrar. IN the absence of any agreement, his Honour indicated that he did not have time to deal with the matter at that time and accordingly stood the directions hearing over to Monday afternoon, 21 June 2010, at 3:00pm. Mr Arblaster has indicated to me that he is available and I will accompany him for the directions hearing.

You will note from the draft Consent Orders that we have made arrangements to have all fifteen plaintiffs examined by either Dr Brown or Dr Skinner commencing early August and the final examination will be in late September.

I also report that the Defences were filed on 7 June. The Court Registry staff would not seal the documents, at that time, on the premise that there were too

many documents and they would be attended to after the close of business on that day. The sealed copies of the Defences still have not been returned by the Court.

On 10 June, as the Defences had still not been received from the Court, I wrote a letter to both firms of solicitors representing the fifteen plaintiffs, indicating that the Defences had been filed on 7 June, but the Registry had still not provided me with a sealed copy of each of those Defences. In the circumstances, I was serving an un-sealed copy of the Defences filed to comply with the order that the defendant file and serve its Defence by 11 June. The letter to Bell & Johnson went through the Document Exchange and was delivered to the Document Exchange before 3:00pm. The letter to the Women's Legal Services, which does not have a DX number, was sent by Express Post. I cannot imagine that either firm of solicitors did not receive the defences on the following day.

At Court on 15 June, the Judicial Registrar seemed to indicate that the Defences were filed on 11 June. If when I receive the sealed copies they reflect that they were filed on 11 June, I will approach the Duty Registrar. There is no doubt in my mind that if a document is filed with the Court on 7 June, that is the date that should be reflected on the document as the date of filing, not when the counter staff feel like sealing those documents.

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