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To: swoods <swoods@wentworthchambers.com.au>, Jodie_Vella <jodie_vella@agd.nsw.gov.au>, mcashion <mcashion@sixthfloor.com.au>, parblaster <parblaster@selbornechambers.com.au>
Cc: evangelos_g_manollaras <evangelos_g_manollaras@agd.nsw.gov.au>
Sent: Thursday, 16/02/2012 02:30 PM
Subject: RE: Biles

CSO REFERENCE: 200801481 - D2012/51280

Steven

Thanks for your draft. Whilst I agree with the substance of the draft, you should also be aware that the letter form WLS does not accurately reflect the conversation that took place between counsel outside court. Whilst I don't want to get into a game of breaching the confidentiality of counsel to counsel conversations, in my view we should set the record straight immediately. To that end, the draft needs to include an additional paragraph. As you were not privy to the conversation, Paul and I will draft it and be in touch.

Regards

Michael

Michael Cashion SC
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From: Steven Woods [mailto:swoods@wentworthchambers.com.au]
Sent: Thursday, 16 February 2012 1:37 PM
To: Jodie_Vella@agd.nsw.gov.au; mcashion@sixthfloor.com.au; swoods@wentworthchambers.com.au; parblaster@selbornechambers.com.au
Cc: evangelos_g_manollaras@agd.nsw.gov.au
Subject: RE: Biles

Dear All,

Paul and I will draft a response.

Paul, I will prepare an initial draft.

Michael, please check the draft below, and determine if you wish it to be ignored, printed in capitals and bold and sent out, or toned down.

As I have a particular abhorrence to the knee-jerk assertion of "model litigant", I think we should respond, initially, to the letter as follows:

"Thank you for your letter dated 15 February 2012.

I shall seek my client's instructions in relation to the matters raised therein.

In the interim, however, I note your reference to my client's status as a model litigant, and the conduct therefore expected of it in a case of this type.

As you are specifically aware, my client asserts the existence of, and has claimed privilege over, the letters of instruction provided to Mr Maxwell.

The claim for privilege is, at least at this stage, maintained.

I do not understand the basis upon which it is asserted that my client, as a model litigant, ought to deprive itself of a valid claim for privilege.

Please set out, in full, the factual and legal bases relied upon by the plaintiff/s for the proposition that my client's status as a model litigant requires it to act in the manner submitted by you.

I await your reply."

Steven Woods

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From: Jodie_Vella@agd.nsw.gov.au [mailto:Jodie_Vella@agd.nsw.gov.au]
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Cc: evangelos_g_manollaras@agd.nsw.gov.au
Subject: Biles

Dear Michael, Steven and Paul

I enclose a copy of a facsimile from Women's Legal Services, dated 15 February 2012, requesting particulars and Peter Maxwell's letter(s) of instructions.

Would Counsel please consider an appropriate response.

The plaintiff seems to essentially be seeking details of the defendant's evidence/investigations for the substantive proceedings in an attempt to show that the defendant is not prejudiced because of who is available. Also, what the plaintiff is seeking is arguably open to interpretation. For instance,

does the plaintiff also seek the details of 'witnesses' that the defendant may have located (the names of which appear in subpoenaed material available to both parties), but may not necessarily rely on?

I have looked over the documents provided by Peter Maxwell, and the defendant does have statements from a number of witnesses who do not appear in either of Peter Maxwell's two affidavits because it does not show the defendant's prejudice. How useful their statements are on the identified issues is another question.

Kind regards
Jodie Vella
A/Solicitor
for Crown Solicitor

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