



Crown Solicitor's Office

Your Ref: 08/4090 MPL7300972
My Ref: 200801481
T09 Benish Haider
Tel: (02) 8093-5546
Fax: (02) 9224-5122
Email: crownsol@agd.nsw.gov.au

5 November 2012

Mr Derek Smith
Assistant Director, Care Litigation & Support
Legal Services, Community Services,
Department of Family and Community Services
DX 21212 ASHFIELD

Attention: Joanna Mitchell

By email

Dear Mr Smith

State of New South Wales ats Biles

I confirm that this matter is listed for the hearing of the defendant's Notice of Motion seeking a stay of the matter and the plaintiff's Notice of Motion in relation to limitation, on 12 November 2011 for an estimated 3-5 days.

In order to attempt to resolve this matter and save some of the costs associated with this matter proceeding to the hearing next week, I seek your instructions to make a Calderbank Offer to the plaintiff in the following terms:

1. Verdict for the defendant; and
2. Each party to pay its own costs.

I confirm that it appears that Ms Biles is impecunious and is represented pursuant to a grant of Legal Aid. Section 47 of *Legal Aid Commission Act 1979*, states that the Commission shall not pay an amount in excess of \$5000 in the event that a Costs Order is made in favour of the defendant. Accordingly, if the Calderbank Offer is made and accepted, although the costs of preparation for the hearing may still be incurred this week, the costs of the hearing itself may be saved.

In relation to Ms Biles and the other plaintiffs in these proceedings and the effect that the Calderbank Offer would have on them, I note that from a tactical perspective, an offer made on these terms would demonstrate that the state will not compromise these claims by paying a sum of money to resolve all matters.

I seek your **urgent** instructions in relation to making the above Calderbank Offer.

Yours faithfully



Benish Haider

Solicitor

for Crown Solicitor

Encl.