



CROWN SOLICITOR'S OFFICE
NEW SOUTH WALES

Your Ref:
My Ref: 200801481
T3 Evangelos G Manollaras

Tel: (02) 9224-5103
Fax: (02) 9224-5122
Email: crownsol@agd.nsw.gov.au

27 June 2008

Mr Patrick Saidi
Barrister at Law
3 Selborne Chambers
174 Phillip Street
SYDNEY NSW 2000

By hand

Dear Mr Saidi

State of New South Wales ats AIL [REDACTED]

I refer to our telephone conversation earlier today and confirm that the Crown Solicitor acts for the Department of Community Services who have instructed me to brief you in this matter.

A brief is enclosed which comprises three folders, a general folder containing pleadings etc and two further folders containing copies of all the materials forwarded to me by the Department of Community Services.

The Statement of Claim

There is one Statement of Claim but there are two plaintiffs. AIL [REDACTED] and Douglas Bruce Biles.

The plaintiffs have served with the Statement of Claim one Rule 15.12 Statement of Particulars. I have written to the solicitors for the plaintiffs and suggested to them that a separate Rule 15.12 Statement of Particulars should be filed in respect of each plaintiff.

Also served with the Statement of Claim was a report by a psychologist. The report is in respect of the plaintiff AIL [REDACTED] only. It refers to allegations of sexual assault on AIL [REDACTED] whilst she was a child by Bert Gordon, and there is a reference in that report that Mr Gordon has since passed away. There are also allegations against presumably Mrs Gordon and Colin and AIT [REDACTED]. I have written to the plaintiff's solicitors as to whether the plaintiffs admit that Bert Gordon is deceased as referred to in that report. In the same letter I have also suggested to the plaintiffs' solicitors that there is no evidence of damage in relation to the second plaintiff. Furthermore I have sought contact details in respect of Edith Gordon, and Colin and AIT [REDACTED] (a similar question has been directed to the Department of Community Services who have indicated that they have no recent contact with any of these people). A copy of my letter to the plaintiffs' solicitors dated 23 June 2008 is briefed.

Limitation period

Whilst I do not have the dates of birth of each of the plaintiffs, they both appear to be at least in their mid thirties. By letter dated 18 June 2008 I have raised the limitation question with the solicitors for the plaintiff. A copy of that letter is briefed. In that letter I also raised the question as to whether each claim should be separately pleaded in its own Statement of Claim. Certainly, it would seem to me that even if each claim is not separately pleaded within its own Statement of Claim, the Rule 15.12 Statement of Particulars should be separate for each claim. It is unlikely that they both have suffered the same injuries and disabilities.

I have no reply to either letter.

Medical evidence

The only medical evidence held to date is a report (more like a letter) by Chris Southwell in respect of the plaintiff, AIL [REDACTED]. Nothing has been served in respect of the other plaintiff.

It seems to me that at the very least we will need the plaintiffs examined by a psychiatrist. With this in mind I have obtained instructions from the Department to have AIL [REDACTED] examined by Dr Yvonne Skinner and to have Douglas examined by Dr James MacGuire. I formed the view that it would be preferable to have each plaintiff examined by a different psychiatrist so as to avoid any situation arising whereby there would be a conflict of interest in one doctor examining both whereby he or she might utilise information gained from a history given to him by AIL [REDACTED] in relation to a report on Douglas.

Given that there is very scant information held as to what the plaintiffs' claim, I have not as yet arranged these appointments. I thought I would at least wait until the plaintiff had served a Rule 15.12 Statement of Particulars in respect of each plaintiff.

Does Counsel consider that I should obtain a medical report as soon as possible and not wait for any further medical evidence to come to hand. In saying this, I am reflecting on Practice Note 1 in the District Court which puts a heavy onus on all parties including the defendant to do everything possible as soon as possible to prepare the matter for hearing, including obtaining the necessary medical reports.

Present status

The claim has only recently been filed. Apart from my letters to the plaintiffs' solicitors dated 18 and 23 June, I have not sought any further and better particulars at this stage. I had hoped that Counsel might be briefed in the matter early and that Counsel might either draft a request for particulars or at least make some suggestions in relation to a request for particulars. I mention that I have not previously dealt with a matter like this and would be grateful for any assistance given by Counsel in this regard.

Apart from that, the matter is listed for a Pre-Trial Conference in the District Court on 23 July 2008.

Plaintiffs' subpoenas

The plaintiffs have issued a number of subpoenas including one which is addressed to the "State of New South Wales", as well as to Brewarrina Central School, Brewarrina Hospital and the NSW Police Service. Copies of all the subpoenas are briefed.

The subpoena to the State of New South Wales, as opposed to being directed to the Department of Community Services, would seem to say the least be extremely wide perhaps so wide as to amount to an abuse of process. Even if the respondent to the subpoena was changed to the Department of Community Services, I would think that the Schedule to the subpoena really amounts to discovery in circumstances where discovery is not otherwise available without leave of the Court.

I have drafted a letter to the solicitors for the plaintiffs. As Counsel is being briefed, I would appreciate Counsel's assistance in settling the letter to the plaintiffs' solicitors.

The subpoenas are returnable on 14 July and I would imagine, ideally, any letter of objection should be forwarded to the plaintiffs' solicitors at least 7 days prior to the return date.

Generally

Counsel is briefed to advise and appear in this matter.

Counsel is also requested, in a timely fashion, to:

1. Settle draft letter to plaintiffs' solicitors in relation to the subpoena to the State of New South Wales
2. Consider what further steps may need to be taken in relation to the subpoena to the State, for example whether a motion to have the subpoena set aside should be filed.
3. Assist with or draft and settle a request for further and better particulars.
4. Assist with or draft and settle a Defence.

I am in Court on Monday 30 June and I am away on Friday 4 July. I am available for any conference with Counsel at Counsel's convenience on any of the intervening days and any day on the following week.

Counsel's brief has been marked at \$1,600.00 per day and \$200.00 per hour for conferences, preparation etc. I understand that is the going Crown Rate, prearranged with Counsel. If I am mistaken please let me know so that I may amend it.

Electronic copy of opinion

Counsel is requested to supply an electronic version (either on disk or via email) with his written opinion. The electronic copy should be in MS Word format. If sending a disk, please format it for PC.

GST

If an amount for GST is to be included in Counsel's fee, Counsel will need to cite his ABN and either:

- indicate that the fee is inclusive of GST; or
- separately indicate the amount of GST charged.

If Counsel's fee is more than \$50.00 and no ABN or compliant invoice is supplied, I am required to withhold 48.5% of the fee on account of GST.

Travelling expenses

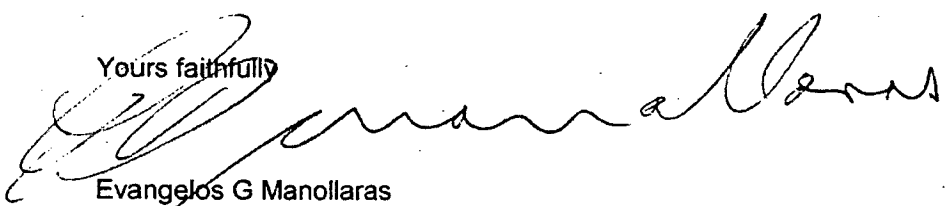
Counsel's air travel if required will be arranged by the CSO.

If an overnight stay is necessary, Counsel's accommodation and meal expenses will be paid or reimbursed at the rates determined by the Premier's Department.

Invoices

It is essential to comply with Australian Taxation Office requirements that any invoice issued be addressed to the business name: NSW Crown Solicitor's Office.

Yours faithfully



Evangelos G Manollaras
Solicitor
for Crown Solicitor

Encl.