

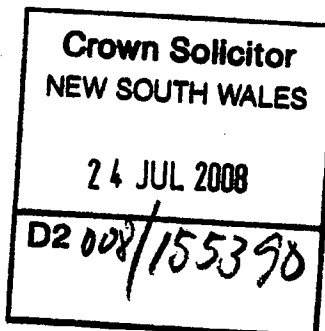
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**Mr. Patrick J. Saidi**  
**3 Selborne Chambers**

(Liability limited by a scheme approved under  
Professional Standards Legislation)

3<sup>rd</sup> Floor  
174 Phillip Street,  
SYDNEY, 2000  
DX 360 SYDNEY

Telephone: 9233.1604  
Mobile: 0414.233.160  
Facsimile: 9223.4032



23<sup>rd</sup> July, 2008

Mr I V Knight  
Crown Solicitor  
DX 19 SYDNEY

Dear Angelo,

Re: State of New South Wales ats. AIL  
Att: Mr. Angelo Manollaras

I confirm the holding of a conference with you on Tuesday, 15<sup>th</sup> July last with respect to the abovementioned matter.

As discussed in conference, there are a number of matters which need to be attended to, and a number of causes of concern. These include the following:-

- (i) One notes that there are in fact two separate plaintiffs in the one Statement of Claim. Whilst it is permissible under normal circumstances to have multiple plaintiffs, this should only be permitted where the same material facts and circumstances are to be relied upon with respect to each of the plaintiffs. Having regard to the nature of the claims made on behalf of each of the plaintiffs, at the moment one has significant reservations as to whether or not this is going to be in fact the case. Further, it is presently difficult to differentiate between the alleged abuse perpetrated on one plaintiff from the alleged abuse perpetrated on the other plaintiff. The nature of the abuse itself, the circumstances in which it arose and associated information impacts upon one's ability to differentiate between each of the plaintiffs, having regard to the pleadings as they presently stand.
- (ii) This error is perpetuated with the Part 12, Rule 4A Statement which has been filed on behalf of the two plaintiffs. The document purports to relate to both plaintiffs and is in exactly the same terms. Whilst one acknowledges that the plaintiffs' solicitor has agreed to file a separate Statement of Particulars with respect to each of the plaintiffs, this of itself needs to be closely looked at in the context of both plaintiffs relying on the same Statement of Claim. In other words, one needs to ensure that there is sufficient differentiation between the

claims made on behalf of each of the plaintiffs so that the Defendant can properly prepare for same.

- (iii) One notes that there is a significant limitation issue in these proceedings. For this reason, and as recommended in conference, Peter Maxwell should be retained for the purpose of assisting in the investigation of this matter. Mr. Maxwell has been retained by your Office in other Department of Community Services claims of a similar nature, and is well aware of the requirements to be met when meeting a limitation issue. I note that during the conference arrangements were made for a copy of the Brief to be delivered to Mr. Maxwell. At a future point of time, it is also recommended that a conference be arranged with Mr. Maxwell so as to assist him in determining what inquiries need to be carried out immediately, and what inquiries can be left to a later date.
- (iv) The Subpoena which has been issued on behalf of the plaintiffs is to my mind deficient. It is too wide in its terms, oppressive, vexatious, constitutes discovery, is a fishing expedition and seeks documents for which there can be no legitimate forensic purpose. Consideration should be given to setting aside the terms of the Subpoena or alternatively negotiating with the plaintiffs to narrow the terms of same.
- (v) During the conference I indicated what the terms of any Request for Further & Better Particulars should be. I understand that my instructing solicitor is going to prepare a draft of such Request and upon this being attended to I would be only too happy to settle same.
- (vi) At the present time, only one report has been served in support of the claim being made on behalf of the plaintiff AIL [REDACTED]. This is the report of Mr. Southwell, the Manager of the Mamoi Family Support Service dated 18 April, 07. Mr. Southwell is not a medical practitioner, and presently it would appear that no medical reports have been obtained on behalf of the plaintiffs, or served upon the Defendant. It may be appropriate to refer the plaintiffs for medical examinations notwithstanding the fact that no medical reports have yet been served on their behalf, and I would agree with my instructing solicitor's suggestion that either Dr. Yvonne Skinner or Dr. James MacGuire be retained. It is understood Dr. Skinner would prepare a report for the female plaintiff, and Dr. MacGuire would be retained to prepare a report on behalf of the male plaintiff.
- (vii) Given that there is a 30 year "stop-gap" limitation period which may be applicable it is recommended that these medical reports be obtained at the earliest possible opportunity. As my instructing solicitor would be aware, when a 30 year stop-gap limitation period applies, the ability of the court to extend the limitation period is much more limited than if the limitation period is less than 30 years. In saying this however, it must be recognised that further particularisation of the plaintiffs' claims needs to be obtained, so that one can determine precisely which limitation period does in fact apply with respect to which acts were allegedly perpetrated upon each of the plaintiffs

It is highly likely that the extension of the limitation period in this matter is going to be a substantial issue. One has to question why it is that the female plaintiff is alleging that

she was sexually abused from a very young age, but did not make this information available to officers of the Department of Community Services, medical practitioners or other responsible adults for a considerable period of years after the alleged assault occurred.

I would recommend that this matter not be progressed too quickly in the District Court List. One's experience with matters currently before the Supreme Court, being similar matters to this one, is that a substantial period of time is required in order to attend to the quite exhaustive investigations necessary in order to meet the limitation issue aspect as well as the factual aspects of the claims being made on behalf of the plaintiffs.

When the medical experts do examine the plaintiffs, they should also be requested to obtain information from the plaintiffs relating to matters such as, when the plaintiffs first became aware of the full nature and extent of their injuries, reasons why they did not report the alleged abuse to other significant adults as well as other factual issues relevant to the limitation question. The reports prepared by the medical experts, one would anticipate, can also be used on the limitation issue itself.

I await your further advices in this matter.

Yours faithfully,



Patrick Saidi