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Sent: Thursday, 09/06/2011 01:33 PM
Subject: AIL

CSO REFERENCE: 200801481 - D2011/222445

This matter was listed before the list judge again this morning. I attended the District Court to instruct Mr M Cashion SC and Mr P Arblaster before her Honour Judge Truss. Mr Cotsanos, lead counsel for their plaintiffs appeared for the plaintiffs.

My affidavit as to preparation for the limitation motions was handed up. It reflected that the defendant's evidence comprised an affidavit by an investigator as to prejudice, and documents from materials produced on subpoena. It also stated that an affidavit by the investigator together with an exhibit had been served on 17 May 2011, and that a supplementary affidavit would be required in respect of ongoing investigations. As to the subpoenaed materials, it stated that 3 lever arch folders of documents had been served, but there would be further documents to be served arising from subpoena materials which still had to be perused, as well as documents produced but not accessed as yet. The affidavit sought a further 2 months to complete the defendant's evidence.

her Honour agreed to stand the matter over for 2 months and made the following orders

1. Defendant to complete service of all its evidence as to the limitation motions by 4 August 2011.
2. matter listed for directions and to take a date for the hearing of the limitation motions on 5 August 2011.
3. the parties are directed to work out an expeditious manner to resolve the proceedings.

In relation to order 3, there was some discussion prior to the formal order being made. Her honour was not thrilled at the prospect of the limitation motions having an estimate of 6 to 9 weeks. Counsel for the plaintiff advanced the suggestion that one of the 15 claims be selected and be run both as to limitation and liability. I instructed counsel to inform her honour that it was the plaintiffs who had sought that the proceedings be consolidated, and that it now seemed that what was suggested was an attempt to in effect unconsolidate them.

There was also some discussions following the mention before her honour. The plaintiffs would like to mediate/ they have made noises that they might settle for an apology, some cash and costs. They were asked, as they have been on several occasions previously to formulate a definite offer.

At this stage, I am not in a position to recommend an apology in this matter. There is in my view a big question mark whether anything really happened (despite the plaintiffs' allegations) meriting an apology. In any event, even if the allegations are correct, that does not make the department liable. This is a question which needs careful consideration and cannot be adequately covered in a brief report as to what happened at this morning's mention.

I am sending this brief report now, as I received a telephone message from David Wells that he wanted to know urgently what happened this morning. I tried ringing the mobile number left, but could only leave the barest of messages. I can report more fully at a later stage.

Should you have any immediate concerns you need to discuss today, I will be out for part of the afternoon, but you can contact me on **REDACTED**

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