

**"Stephen Dilley"****GRO**

17/11/2006 11:08

To: <mandy.talbot@GRO>

cc: "Tom Beezer" <GRO>

<rmorgan@GRO>

<martyn.mitchell@GRO>

"Richard Morgan"

Subject: FW: Post Office -v- Castleton

Dear Mandy,

Please see below from Castleton's solicitor. I have spoken to him and chased him to sign the consent order. He is going to call Mr Castleton's GP today to check that Castleton has the mental capacity to give him instructions at the time of their without prejudice save as to costs letter dated 10 November. He will then update me.

In view of settlement discussions, we have deliberately paused on trial preparation to minimise costs. However, unless we receive a signed Consent Order today I reluctantly think we must gear up to trial so that we are in a position to proceed in December.

For what it is worth, I think this case will almost certainly settle shortly, but there is no absolute guarantee.

I will update you when I hear further.

Kind regards.

Stephen Dilley

Solicitor

for and on behalf of Bond Pearce LLP

DDI: <GRO>

Main office phone: <GRO>

Fax: <GRO>

www.bondpearce.com

-----Original Message-----

From: M.Turner <GRO>

Sent: 17 November 2006 10:41

To: Stephen Dilley

Subject: RE: Post Office -v- Castleton

Without prejudice

Dear Mr Dilley

I refer to your voicemail message left yesterday evening.

I tried to speak to my client yesterday but was again unable to do so.

I am now endeavouring to speak to his GP directly as a matter of urgency to find out what the position is regarding his medical condition and whether or not it can properly be said to impair his ability to provide me with instructions.

I am very conscious of the issue of your counsel's brief fee and the need to conclude this matter at the very earliest opportunity. I will hopefully be able to revert to you later today.

Regards,

Mark Turner

Solicitor

Commercial Group

Rowe Cohen Solicitors

T: **GRO**
F:

-----Original Message-----

From: Stephen Dilley [GRO]

Sent: 15 November 2006 16:08

To: Mark Turner

Subject: Post Office -v- Castleton

Without prejudice

Dear Mr Turner,

Thanks for your email of today.

I attach a signed, amended Tomlin Order (3 hard copies to follow by DX) and can confirm that to settle this today, the P.O is willing in principle to agree to:

1. The "no dishonesty" suggested wording you put forward in your email below. This is now incorporated into the Tomlin Order.
2. The suggested wording of the Mr Castleton's letter to the P.O withdrawing his allegations about Horizon that you put forward on 14 November which states:

"I, Mr Lee Castleton, the former subpostmaster at Marine Drive Post Office, Bridlington, fully and unreservedly withdraw the allegations I have made about the operation of the Horizon system. I undertake not to repeat those allegations and/or make any further allegations about the Horizon system and/or its functioning."

This too has been incorporated into the Tomlin Order.

3. Your suggested amendment to the wording of the Tomlin Order i.e the insertion of the words "except as otherwise previously ordered by the court" to preserve the costs order being made on the way. I have inserted this into paragraph 3.

I have inserted the dates when Mr Castleton's payment of the claim, interest and interim costs on account should be made as being Friday 8 December 2006. This is actually 23 days from today.

We have also calculated interest on the claim to 8 December 2006 (calculations attached). It is £3,917.42. This figure is incorporated into the Order at paragraph 2 of the Schedule.

Provided the Tomlin Order is acceptable to Mr Castleton, please sign, date and return the 3 hard copies as a matter of urgency, or alternatively, please confirm that you will now file them directly Court for approval and sealing and ask the Court to vacate the trial date.

I look forward to hearing from you as soon as possible.

Yours sincerely,

Stephen Dilley
Solicitor
for and on behalf of Bond Pearce LLP
DDI: [GRO]
Main office phone: [GRO]

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Fax: **GRO**
www.bondpearce.com

-----Original Message-----

From: M.Turner **GRO**
Sent: 15 November 2006 14:27
To: Stephen Dilley
Subject: Post Office -v- Castleton

Without prejudice

Dear Mr Dilley

I refer to our conversation earlier today. As discussed, I am writing to you in relation to the proposed wording of the Tomlin Order to settle these proceedings and the two letters to pass between the parties even though I am currently without instructions in that regard for the reasons set out in my earlier e-mail. The proposals put forward in this e-mail are subject to revision when I am able to speak to my client and obtain his instructions and are put forward in the meantime at your request and in an effort to try to move matters along pending my receiving those instructions.

We sent to you yesterday a revised proposed form of wording in terms of the confirmation to be provided by my client of the withdrawal of his allegations in relation to Horizon. For the reasons I set out when we spoke, I think it is almost certain that my client will be unwilling to agree your original proposed form of wording. I shall give some further thought to whether there is an "intermediate" form of wording that may be acceptable to both parties but, as things stand, I do not think it is likely that my client will go so far as actively confirming that he accepts that the system functions correctly.

In terms of the letter to be sent by your client in relation to the "no dishonesty" issue, I would propose (without having had an opportunity to discuss with my client whether there is any particular form of wording that he would prefer) the following form of wording:

"The Post Office confirms that no allegation of dishonesty is or has been made against Mr Lee Castleton in claim number HQ 05 X 02706, arising from his tenure as sub-postmaster at Marine Drive Post Office, Bridlington. The claim brought by the Post Office was a claim for Mr Castleton to make good a shortfall showing in the accounts of the Marine Drive Post Office pursuant to his contractual obligations."

There is no particular magic to this form of words - the point is merely to convey that your client has not and does not assert in these proceedings that Mr Castleton has acted dishonestly. I am happy to discuss an alternative form of wording if you have an issue with that which is proposed, subject only to it making clear that particular point.

In relation to your draft Tomlin Order, the only comment I have is that paragraph 3 of the Order itself should insert (probably after "...and the Counterclaim") "except as otherwise previously ordered by the court". This specifically preserves the interim costs orders that have been made along the way.

As I indicated in my e-mail earlier, I shall endeavour to obtain instructions from my client on these points as soon as I possibly can.

Regards,

Mark Turner
Solicitor

1 2 3 4

Commercial Group

Rowe Cohen Solicitors

T: **GRO**
F:

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