

Message

From: Jarnail Singh [IMCEAEX-
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67E9-4ECA-94F2-005716658847@C72A47.ingest.local]
on Jarnail Singh <IMCEAEX-
behalf _O=MMS_OU=EXCHANGE+20ADMINISTRATIVE+20GROUP+20+28FYDIBOHF23SPDLT+29_CN=RECIPIENTS_CN=JARNAIL+2EA+2ESINGH
of 67E9-4ECA-94F2-005716658847@C72A47.ingest.local> [IMCEAEX-
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67E9-4ECA-94F2-005716658847@C72A47.ingest.local]
Sent: 08 Apr 2014 08:55:40
To: 'Parsons, Andrew' [GRO]; Rodric Williams [GRO]; Jonny Gribben
[GRO]
Subject: FW: CK Mediation Responses - Disclosure Issue [BD-4A.FID20472253] 41188

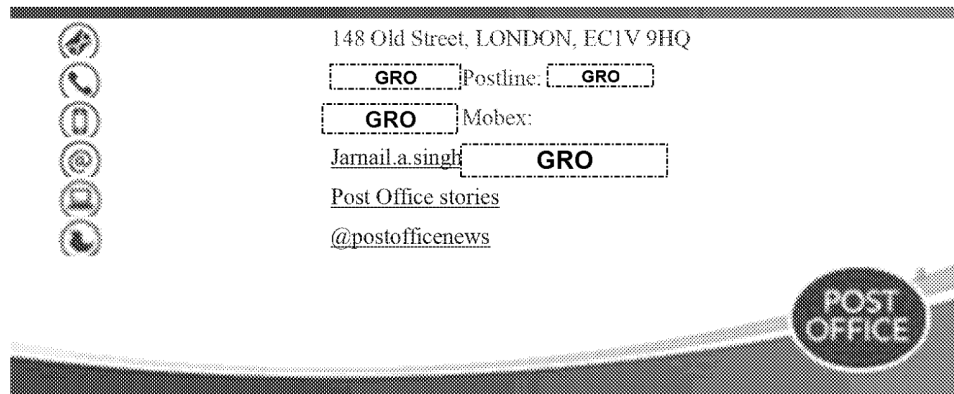
Dear All

Having read Counsel Bowyers advice on disclosure of the investigation officers report In my view the business need to take the view not disclose to such documents at all.

Regards

Jarnail

Jarnail Singh I Criminal Lawyer



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From: Harry Bowyer [GRO]
Sent: 08 April 2014 08:30
To: andrew.parsons [GRO]
Cc: Andrew Bolc; Jarnail Singh; Simon Clarke
Subject: RE: CK Mediation Responses - Disclosure Issue [BD-4A.FID20472253] 41188

Andy,

I am afraid that it was me who started this hare running – more out of caution than trying to be difficult. If we are to be serving these documents then it should be an informed decision of our mutual client to do so as there may well be consequences.

Please forgive me if I appear to be teaching my grandmother to suck eggs in the following paragraphs but I will be grateful for the same when you teach me civil disclosure!

The documents that we are concerned with are the officers' reports. These are prepared at a very early stage of a prosecution and are intended to set out the facts and background of a case in order

that a decision to prosecute might be made. This is necessarily at a stage when the investigation is far from complete and will often contain conjecture and opinion that will subsequently be proved wrong or inflammatory. I was reviewing a case yesterday where the officer was wondering whether the suspect was taking the fall for her daughter when the daughter was, in his view, more than likely to be involved.

They will contain criticism by the officer of POL procedures and suggestions for putting them right – whether these are acted upon history seldom relates.

They also contain, in many cases, operational material that shows how these cases are detected and the investigational resources that are available to POL. This is not something that should be released into the public domain lightly – especially where the audit is intelligence led.

There are certain of these documents where information is revealed, no relevant to the case, which may be commercially sensitive or embarrassing to our client. The case of Walters M006 has an example where the officer raises the concern that there were no checks made on spoiled postage slips to see if they were bogus or not. We do not know whether this has been fixed or even applies today.

The final area of concern is that a substantial minority of these applications contain complaints about the behaviour of our investigators. These documents give the telephone numbers and other contact details of the officers who compile the reports which presumably may well find their way into the hands of those who have a long held animus against them. In a world governed by the Data Protection Act we should think extremely carefully before sending documents out unredacted even to this extent.

These documents are seldom, if ever disclosed to the defence as they are not the primary evidence and are a prosecution working tool. If they contain information that the defence should have we usually serve it in some other way – either by statement, documentary exhibit or a disclosure note which will say that, “Post Office Limited are aware that.....”

This information and documentation is, in the main, POL’s. Where it is POL’s documentation and POL’s information there is nothing to prevent its disclosure by POL (subject to the above) even where we have made the decision not to disclose the document in the criminal proceedings. This is why we have asked for clarification as to what POL wishes to do and the options are: 1) Disclose unredacted, 2) Disclose redacted copies or 3) Do not disclose.

We need a consistent approach or people will notice that we are serving them in some cases and not in others.

If I can be of any further help please let me know

Harry

Harry Bowyer

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Direct:

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From: Andrew Bolc
Sent: 07 April 2014 17:18
To: Harry Bowyer
Subject: FW: CK Mediation Responses - Disclosure Issue [BD-4A.FID20472253]

One for you.

cheers

Andrew Bolc

andrew.bolc [GRO]

andrew.bolc [GRO]

Direct: [GRO]

From: Parsons, Andrew [GRO]
Sent: 07 April 2014 17:16
To: Andrew Bolc
Cc: Jarnail Singh; Rodric Williams; Jonny Gribben
Subject: RE: CK Mediation Responses - Disclosure Issue [BD-4A.FID20472253]

Andrew

Jarnail has forwarded your email below to me.

I'll have to pick up this point with others at POL before coming back with an answer. However, before I do, one point of clarification. From a criminal law perspective, what are the consequences of disclosing a document that had previously been withheld in a prosecution on the grounds that it is a prosecution working document?

Obviously, if the document contains contentious information then disclosure of the document is a commercial decision for POL. From a civil perspective, we are of course being cautious around disclosure of legally privileged material (however, my initial view is that the document referred to below in the case of Walters would probably not meet the test for privilege in a civil case). However, I just want to check if there are any criminal law consequences before reverting to POL.

(Jarnail – hope its ok going straight back to Andrew on this one – shout if not)

Kind regards
Andy

Andrew Parsons
Senior Associate
for and on behalf of Bond Dickinson LLP

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From: Jarnail Singh [GRO]
Sent: 07 April 2014 13:55
To: Rodric Williams; Jonny Gribben; Parsons, Andrew
Subject: FW: CK Mediation Responses - Disclosure Issue

Rodric, Jonny, Andy

Please see email from CK with regards to disclosure of documents containing sensitive information such as Investigation reports in mediation responses. CK say a policy decision is required from POL for consistent of approach to these responses.

CK is of the view POL seem to have 3 options namely

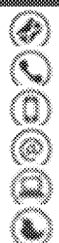
- i) Do not disclose such documents at all
- ii) Disclose them in a redacted form
- iii) Disclose them in their entirety, accepting any consequences that follow.

May I have your views and POL preferred option from above and how CK is instructed on the sensitive information disclosure in their mediation responses..

Regards

Jarnail.

Jarnail Singh I Criminal Lawyer



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From: Andrew Bolc [GRO]
Sent: 07 April 2014 13:20
To: Jarnail Singh
Subject: CK Mediation Responses - Disclosure Issue

Dear Jarnail,

Harry has asked that I raise this issue with you, which has come to light whilst we have been preparing our proposed amendments to the POL Mediation Responses.

It relates to the disclosure of certain documents as part of the POL Mediation Response. At the end of each response is a heading entitled "Documents being provided to Second Sight." We have noticed that some of these documents contain sensitive material which it may be considered is inappropriate to disclose. Typically the problem arises, but is not exclusive to, the investigating officer's original report into the case.

By way of example, I attach our concerns raised by Counsel in relation to a case we are currently looking at; M006 (Terrence Walters). It relates to the investigator's report

"As you know I have worries about these documents being disclosed let alone without being redacted. This document would not be disclosed in a criminal prosecution as it is a prosecution working document. In this case, along with disclosing the investigating officer's mobile phone number, landline and other items of personal data which drive a coach and horses through the Data Protection Act, the document discloses the officer's opinion as to how cases of spoilt postage slips should be dealt with in the future and the fact (which is irrelevant to this case but I would imagine that POL do not want in the public domain) that there was, at the time of this case, no attempt to reconcile spoilt postage claim forms to check whether they were bogus or not."

A similar issue arose last week with regard to M046 (Siobhan Sayer). Counsel is of the view that a policy decision needs to be taken by POL to confirm how it intends to handle such documents containing sensitive information, so that there is a uniformity of approach to these responses.

It would seem the 3 options are

- i) Do not disclose such documents at all
- ii) Disclose them in a redacted form
- iii) Disclose them in their entirety, accepting any consequences that follow.

Please could we be provided with instructions as to which of these options you would prefer us to adopt.

Regards

Andrew Bolc

andrew.bolc

andrew.bolc

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GRO

GRO

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