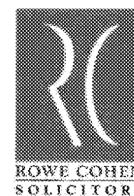


Date: 19 October 2006
Your ref: SJD3/FAC1/348035.134
Our ref: MDT.113969
Please ask for: Mark Turner
Direct dial: **GRO**
Direct fax : **GRO**
E-mail:



Bond Pearce
Solicitors
DX 8251
PLYMOUTH



By DX and e-mail

Dear Sirs

Post Office Limited -v- Castleton

We refer to the forthcoming case management hearing and to your previous correspondence.

We apologise for having taken a little longer to revert to you in relation to the hearing than originally anticipated. This is as a result of our expert witness having been out of the office recently and so it having taken longer to speak to him than we envisaged. Given that the timing of delivery of our client's expert evidence relating to the Week 42 transactional data was central to the proposed directions going forward, we deferred responding until such time as we had been able to obtain from our expert an indication of when he expected to be in a position to deliver it.

Amendment of statements of case

Having considered your proposed Amended Particulars of Claim and Amended Reply and Defence to Counterclaim, we are instructed that this issue can be dealt with consent. This is on the basis that your client agrees to bear the cost of the consequential amendments to our client's own statement of case, as you indicate in your draft order that it is prepared to do.

Transfer to Central London County Court

We see no particular benefit to be derived from the transfer of the case to Central London County Court but nor do we particularly oppose it either.

The nature of our client's counterclaim is such that there is no great amount of documentation to disclose to support it. The principal heads of loss, if he is able to persuade the court that your client wrongfully terminated his contract, would be:

- (a) loss of salary pursuant to the agreement (which we understand to be £45,000 per annum)
- (b) the reduction in value of our client's business if/when he elects to sell it, on the basis that its inherent value is less if he is unable to sell it has a post office and shop but only as a shop alone; and
- (c) loss of profit from the shop itself arising from the removal of the post office.

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Loss in respect of (a) is evidence simply by reference to the contract itself. Losses in respect of (b) and (c) will, in reflection, necessarily require expert evidence to quantify them. As things stand, no loss has yet been suffered in relation to (c) since the post office remains in our client's premises under the management of a temporary sub-postmistress. As and when your client decides to remove the post office, losses in respect of this head of claim will begin to crystallise and become quantifiable.

For these reasons, we do not accept that our client is unlikely to be able to substantiate the £250,000 limit presently placed on the counterclaim. However, on the basis that Central London County Court Business List routinely hears claims with this level of quantum, we do not specifically oppose the proposed transfer. We are content to leave it for the Master to decide whether he is convinced of the desirability of a transfer.

Exchange of witness evidence

We are not presently in a position to exchange witness evidence. We are in the process of taking statements from sub-postmasters who have experienced problems with the Horizon system and envisage that we shall require a short while longer to prepare and finalise these.

We would suggest that exchange of witness evidence take place by Friday 10 November. If we are in a position to exchange evidence before that, we will of course let you know so that it can take place sooner if possible.

Expert forensic accountancy evidence

We understand from our client's forensic accounting expert witness that he hopes to be in a position to finalise his report on the Week 42 transactional data by Friday 3 November. However, since he is away from the office next week for half-term holiday, and to allow for any potential slippage in completion and finalisation of his report, we would propose that the date for service of the report be Friday 10 November. As with witness evidence, if it is available for service beforehand, we shall forward it to you at the earliest opportunity.

You will of course then need to review that report and consider it with your own expert witness. We appreciate that it is difficult to say how long you will require to do so, without having had sight of our client's report at present. We would assume that 4 weeks would suffice, but we are happy to discuss this with you and seek to agree longer if you think it will be required.

We have previously discussed the potential for a similar exercise to then be required in respect of the 11 weeks' data from Week 43 onwards. We understand that your expert has quoted a figure of £62,000 plus VAT to complete this exercise in its entirety. We believe that our expert's own fees are likely to be of the same magnitude.

Clearly, there is little to be gained in those costs being incurred unless they are required. With that in mind, we would suggest that the question of further directions following service of your client's response in relation to the Week 42 figures be deferred until it is clearer whether further work on the following weeks is required and, if so, the extent of that work. Given the comparatively modest amount claimed by your client, there is little to recommend the parties incurring upwards of £120,000 in accounting evidence costs alone unless it is clear that there is no alternative.

Such staged directions would ensure that the work done and costs incurred remain proportionate to the amounts in dispute. If the claim is to be transferred to Central London County Court, it would also allow the judge to whom the claim is assigned upon transfer to form his own view on the further case management directions that are required to take the matter forward.

Expert IT evidence

We would propose that the instruction of experts in this discipline be deferred for the time being, pending service of the accounting evidence referred to above. This could then be addressed at the same time as further case management directions.

As things stand, the remit of instructions given to our respective experts in this field would be necessarily wide. During a telephone conversation a few weeks ago, you summarised the position quite succinctly: Mr Castleton believes that the system is flawed and that the losses which it shows are illusory rather than real, but is unable to say specifically at this point how the system is flawed and what underlying problem gives rise to this problem.

It may very well be, however, that following service of accounting evidence dealing with what (if any) discrepancies arise as between the transactional data and the week-end cash accounts generated by the Horizon system, the scope of the instruction to be given to the IT experts could be substantially reduced. Obviously, if the system as a whole does not need to be analysed and surveyed and a more focused brief is given to them, the costs incurred by the IT experts could be very considerably reduced.

Our own experience of IT experts is that they can prove to be very expensive, especially if it is not possible to particularise in detail the specific aspects of a computer system which they are being asked to test and report. With this in mind, and once again bearing in mind the proportionality of those costs given the amount claimed, we think that there is a sensible basis for this limb of expert evidence being put "on hold" for the time being and then re-addressed in the context of a fresh CMC following service of accounting evidence.

We would welcome an opportunity to discuss this with you once you have had a chance to give it some thought.

Subject to our comments above, and assuming that it proves to be necessary, we broadly agree in principle with the suggestions that you have made in previous correspondence relating to site visits by the IT experts to see the Horizon system in operation at Mr Castleton's premises and also at your client's training centres.

Disclosure

We are endeavouring to address the issue of the outstanding documents that you have requested and will revert to you under separate cover either later today or during the course of tomorrow.

Trial fixture

You indicate in the draft order attached to your notice of application for the CMC that you think that a relisted trial fixture of 10-15 days is appropriate. We think that 15 days is probably likely to be too long. However, until such time as witness statement of fact has been exchanged and it is apparent how much of it can be dealt with by way of pre-trial admissions, and so will not require cross-examination, we are unable to come to an informed conclusion in this regard.

Again, we would propose that re-listing be deferred to a subsequent CMC, either before Master Fontaine or before the relevant Business List judge if the matter is transferred to Central London County Court.

We anticipate that there will doubtless be issues arising from this that will require further discussion. Mr Dilley is therefore invited to telephone the writer at his convenience to discuss whether there is any possibility of seeking to agree a draft minute of order for presentation to the Master.

We look forward to hearing from you.

Yours faithfully

GRO
ROWE COHEN