

17 November 2005
By Fax: **GRO** & DX

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Our ref:
SJD3/ABG1/348035.134
Your ref:
MDT.113969

Dear Sirs

Without prejudice save as to costs
Our Client: Post Office Limited
Your Client: Mr L Castleton

We refer to our fax of 16 November. We have the following comments on your fax of 8 November:

1. Why are you perplexed? You know that Ms Gammack has left the office and it is understandable that her successor would need some time to read into voluminous documents and take instructions. During this time the employees of the Post Office dealing with this case also changed and we are now instructed by the Post Office's Legal Services team in Croydon.
2. You state that Mr Castleton is only willing to even contemplate mediation after certain conditions, including disclosure. We have not even reached the standard disclosure stage of this case yet, but in order to see whether an early conclusion could be reached in this matter, we have already disclosed numerous documents. This includes the final audit, weekly snapshots, final cash accounts, cash on hand/declared cash and weekly cash flow and Giro deposits/withdrawals. Your expert reports concede that the daily snapshots for week 49 does not necessarily mean that an error has been replicated for other weeks.
3. We have already confirmed that our client has been making every attempt to locate the documents you have requested, although since you made your initial disclosure requests we have supplied you with many documents and it is unclear precisely what the balance of information is that you are seeking. Is it just the particular documents mentioned in Bentley Jennison's report? Are you stating that if our client does not locate the documents, Mr Castleton's position is that he will not mediate?
4. We note your request for disclosure of all such documentation in relation to disputes arising with the operation of Horizon. However:
 - (a) CPR 31.22 states that a party to whom a document has been disclosed may only use that document for the purposes of those proceedings in which it is disclosed. Accordingly, if there are other proceedings involving the Horizon system (as to which the writer is unaware) then disclosure made to the Post Office in those proceedings is not permitted in this claim.
 - (b) CPR 31.7 provides that when giving disclosure, a party is required to make a reasonable search for documents and the factors in deciding the reasonableness of the search include the number of documents involved, the nature and complexity of the proceedings, the ease and expense of retrieval of any particular document and the significance of any document which is likely to be located during the search. Your request appears to be very broad and vague and it is not currently clear precisely what it is you are seeking. Having regard to the disclosure rules, we do not believe that it would be reasonable for the Post Office to search and disclose this category of documents.

In any event, this aspect of your disclosure request appears to be superseded by your 10 November letter in which you state that you already have this sort of information that your client has obtained directly from other Sub-Postmasters.

5. Irrespective of the above, it is clear that you have already formed a view on your client's case and you will doubtless air those views during any mediation. The reality is that after disclosure, both parties will have incurred significantly further costs and that even more will be at stake and positions will be more entrenched. It is unconstructive and untrue to suggest that parties can only mediate successfully after disclosure and that the parties cannot try to settle the case at an early stage based on the information then available. Accordingly, we believe that it would be most cost effective to mediate now. If, however, you refuse to do so, then at the next Case Management Conference we will seek a stay of the claim in order that the parties can attempt to settle and we will certainly refer to this exchange of correspondence on the question of costs.

Please take your client's instructions and revert to us.

Yours faithfully

Bond Pearce LLP