

Jane Brown

From: Stephen Dilley
Sent: 09 October 2009 08:59
To: 'mandy.talbot' [GRO]
Cc: 'kausalya.brown' [GRO]
Subject: RE: Mrs Somaskandaraja - Splott Road Post Office [1A.FID75333]

Dear Mandy and Kish,

Many, thank you for your email of 3 September.

When would you be available for a telephone call please?

Mrs Somaskandarajah's contract for services was summarily terminated on 21 November 2005 so limitation for any contractual claim for wrongful termination she may have against Post Office Limited must be brought by 20 November 2011.

Post Office Limited may try to take robust line on limitation by arguing that she is obliged to make good the whole deficiency 6 years after her last day of service ie also by 20 November 2011. (I have seen correspondence from Post Office Limited to her which indicates that is when the business believes that limitation expires).

There is however a counter argument which Mrs Somaskandarajah could run: Under the Limitation Act 1980, claims for breach of contract must be brought within 6 years of the breach: She could therefore argue that Post Office Limited's claim against her will become statute barred gradually rather than all at once. eg, the first Pensions and Allowance shortage is dated 22 October 2003 for £23.43. If she was obliged to make it good that date, then she could argue that it will become time barred on 21 October 2009. Certain other losses totalling £4,654.76 did not come to light until the final audit on 23 October 2004 and she could therefore argue that those losses will become statute barred until 22 October 2010. I think this would be a good argument.

In short, the risk with not formalising the current situation is that Post Office Limited's claim for c.£39k will ultimately become statute barred before Mrs Somaskandarajah's purported counterclaim does. She will not sign up to a drop hands settlement at this stage so your choices are either to let sleeping dogs lie and hope she does not issue a claim in the future (but defend if she does - I think you will have a good defence), or to issue a claim now - but we know that we do not have the original P&A error documentation which underlies £32,879.25 of the claim, so a large portion of the claim is shaky.

Kind regards,

Stephen Dilley
Senior Associate
for and on behalf of Bond Pearce LLP
DDI: [GRO]
Main office phone: [GRO]
Fax: [GRO]
Mobile [GRO]
www.bondpearce.com

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

From: mandy.talbot [GRO] (mailto:mandy.talbot [GRO])
Sent: 03 September 2009 13:15
To: Stephen Dilley
Cc: 'kausalya.brown' [GRO]; 'mandy.talbot' [GRO]
Subject: RE: Mrs Somaskandaraja - Splott Road Post Office [1A.FID75333]

I think that it would be useful to have a conference call on this matter.
We need your assistance on when the counterclaim crystallised so as to take

a view on when limitation would bit on her claim.

Regards
Mandy Talbot
Dispute Resolution
Company Secretary's Office
Royal Mail Legal Services

100 Victoria Embankment
London
EC4Y 0HQ

Postline: [GRO] STD Phone: [GRO], Fax: [GRO] Mobile:
[GRO]
External Email: mandy.talbot@ [GRO]

Stephen Dilley
<Stephen.Dilley@ [GRO]> To: "'mandy.talbot@ [GRO]>" <mandy.talbot@ [GRO]>
[GRO] cc: "'kausalya.brown@ [GRO]>" <kausalya.brown@ [GRO]>
Subject: RE:Mrs SomasKandaraja - Splott Road Post Office [1A.FID75333]
02/09/2009 17:42

My apologies, my email below should have said Mrs Somaskanderajah is not now willing to forego the opportunity to pursue Post Office Limited.

Kind regards,

Stephen Dilley
Senior Associate
for and on behalf of Bond Pearce LLP
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From: Stephen Dilley
Sent: 02 September 2009 17:35
To: mandy.talbot@ [GRO]
Cc: kausalya.brown@ [GRO]
Subject: RE: Mrs SomasKandaraja - Splott Road Post Office [1A.HD75333]

Dear Mandy and Kish,

By way of update, I have spoken to Mrs Somaskanderajah's solicitors.

I have asked them why she is now refusing to settle having previously indicated she would settle. Apparently she is now willing to forego the opportunity to pursue Post Office Limited for any claim she may have.

Having said that she does not have any current instructions to pursue a claim and her file is in archive. For the time being at least there is a de facto "drop hands".

The current stalemate is not ideal: the risk with not formalising the current situation is that Post Office Limited's claim for c.£39k will ultimately become statute barred before Mrs Somaskanderajah's supported counterclaim does. Her tactic may be just to wait until that happens. However if she did issue a claim we would argue that at best it should be limited to 3 months pay in lieu of notice and that Post Office Limited was within its rights to dismiss her given the control gaps found in audit.

Would it be helpful to have a conference call to discuss? I am in the office this week then out of the office from 7 to 18 September on annual leave.

Kind regards,

Stephen Dilley
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-----Original Message-----

From: mandy.talbot [GRO] [mailto:mandy.talbot [GRO]]
Sent: 01 September 2009 09:57
To: Stephen Dilley
Cc: kausalya.brown [GRO]; 'mandy.talbot [GRO]'
Subject: RE: Mrs Somaskandaraja - Splott Road Post Office [1A.HD75333]

Thanks for the update Stephen
Regards
Mandy Talbot
Dispute Resolution
Company Secretary's Office
Royal Mail Legal Services

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Stephen Dilley

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"kausalya.brown [GRO]" <kausalya.brown [GRO]>
[GRO] cc:
"mandy.talbot [GRO]" <mandy.talbot [GRO]>

Subject: RE:Mrs

SomasKandaraja - Splott Road Post Office [1A.FID75333]
24/08/2009 10:10

Dear Kish,

Thanks for your email of 19 August.

Mrs Somaskaderajah has rejected Post Office Limited's drop hands offer, but unhelpfully, her solicitors have not explained why.

I find this odd because the previously agreed to accept it on the basis that you agreed not to prosecute her and to supply an acceptable reference. I can only conclude that they do not like the reference offered

I have tried to contact her solicitors to understand their rationale for rejecting the offer but cannot get hold of them. I will keep trying and let you know what the reasons are if they tell me.

Kind regards.

Stephen Dilley
Senior Associate
for and on behalf of Bond Pearce LLP

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

From: kausalya.brown [REDACTED] GRO
[mailto:kausalya.brown@postoffice.co.uk] [REDACTED] GRO
Sent: 19 August 2009 14:23
To: Stephen Dilley
Subject: Re: Mrs Somaskandaraja - Splott Road Post Office [1A.FID75333]

Afternoon Stephen,

I apologise if I am being a nuisance but I have been asked by mLine Manager to ask if we have had a reply from Mrs Somaskandaraja.

Thanks

Kish
Former Subpostmasters Team
Product & Branch Accounting
2nd Floor West
No. 1 Future Walk
CHESTERFIELD,
S49 1PF

Postline: [REDACTED] STD Phone: [REDACTED] GRO
External Email: kausalya.brown@postoffice.co.uk [REDACTED] GRO

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