

Bond Pearce

Telephone attendance

Client: Royal Mail Group PLC Sub Postmaster Litigation

Matter: Mr Lee Castleton

Matter no: 348035.134

Attending:

Name: Stephen Dilley

Location: N/A

Date: 22 November 2006

Start time:

Units:

I had a telephone conversation with Mr Castleton. Initially it was on an open basis during which time we ran through my unanswered letter to him dated 20 November 2006. Running through each paragraph of that letter as follows:

1 (a) I said that I was surprised that he inserted in paragraph 3 of the draft amended defence and counterclaim that he did not sign the cash account for week 51 given that at Tab 4 of our disclosure bundle there is a signed copy of the cash account for that week. He said that his solicitors had got this wrong and it was week 52 that he had not signed. He had not received a form P242 from the Post Office.

1 (b) I said that he was ordered to serve his amended defence and counterclaim on 6 November, but he hasn't done so. I asked when he anticipated serving it. He stated that he had only just got the papers from his solicitors Rowe Cohen. He has written to the court to ask for an adjournment. This is because he is unwell. He understands that Mr Justice Edie is back at court on Monday. He doesn't really understand the amended defence that has been prepared by his solicitors.

1 (c) I stated that pursuant to paragraph 3 of the order of Master Turner dated 23 October, he has permission to make consequential amendments to the defence and counterclaim, but the reduction of the counterclaim from £250,000 to £11,250 was not a consequential amendment and that as such he did not have permission to make it. I then went on to say that we didn't of course object in principle to him reducing the counterclaim, but he needed to agree to pay the Post Office's costs consequential upon such an amendment which includes the costs of abandoning the counterclaim. He said okay.

1 (d) I said that in the draft amended counterclaim that he sent to us, he stated that his loss of income as a sub postmaster was £11,250. He said he had not disclosed any evidence relating to mitigation of loss, for example how much income he has received from any sub postmasters and if he has not received any, why not and what steps he took to obtain any income. He said okay, he noted my request for information in this regard.

1 (e) I said that in my recent telephone conversations with Mr Turner, he said that he had no objection to us having an extension of time to serve the amended reply, because he had not yet served the amended defence. He again said that this was okay and did not appear to object to the extension.

2. I told him that there was a pre-trial review hearing in London at 10.30am on Monday 27 November. I asked him whether he was going to attend. He wasn't sure. I said I thought it would be a good idea for him to go and he said that he would probably go. I said that I was sorry to hear that he was unwell, but at that hearing we would oppose any adjournment of

the trial. I said that at least if the trial took place in December, the only costs we would incur after then were, if we were successful, going to relate to the costs assessment and enforcing any judgment. However, if the trial is adjourned, this is likely to substantially increase the overall costs of the case and therefore I invited him to re-consider his application to adjourn. He said that he was not well at the moment. He was on medication and confused and therefore would ask the court for an adjournment, notwithstanding the costs increase.

I asked him when he was going to serve us with his witness statements evidence. I said that we really could do with this this week and would he get it to me by Friday. He hoped so. He hoped to serve his witness statement sooner rather than later, but would not commit to a specific date. I explained that unless we got his witness statements by 10am on Tuesday 28 November, we were going to apply for an order at the hearing on 27 November that he be debarred from serving any witness statements. He reiterated that he would try to get the witness statements served on us sooner rather than later.

3. I said that he is out of time to serve his expert accountancy report and that if he wanted to serve it he would need to seek the court's permission. I asked him whether he was going to serve it. He said he did not know and needed to read it.

Thereafter referring him to my second letter dated 20 November. He did not have that to hand. Explaining that I had sent him a draft trial bundle index and wanted to know whether he had any comments on it and whether he agreed with it. He didn't have any comments either way because he didn't have my letter to hand. I said that we felt that it included all the relevant documents. I said that if he thought anything else should be included, he should let me know.

Thereafter I asked him if we could have a without prejudice telephone conversation. He said that he did not know what without prejudice meant. I explained that it meant that I wanted to talk with him about settlement and that anything we said had to remain confidential between us and we could not refer to it in open court until after the conclusion of the trial and after any judgment. At that stage, when the court came to make an order about costs, we could then refer the court to it. He said okay, he was happy to talk on a without prejudice basis. I explained to him that we had come very close to settlement and expressed my regret that he had not felt able to instruct his solicitors to sign the Tomlin order reflecting the settlement that he had proposed. He said that he did not know what proposals they had made on his behalf. I explained that the proposal was that he paid the amount of the Post Office's claim ie £25,858 in full, plus interest. I also said that under the settlement proposal, he agreed to pay the Post Office's costs on a standard basis up to the time in January of our CPR Part 36 offer and afterwards, on an indemnity basis. He also had offered to make an interim payment on account of £30,000. I explained that the Post Office would, under the terms of a settlement, write a letter to him stating that they didn't make any allegations of dishonesty against him. I also stated that in turn, the quid pro quo was that he would write to them and say that he withdrew all his allegations about Horizon.

I said that incidentally, it was not part of the Post Office's case, and never had been, that he had been dishonest. I explained that to win, all the Post Office had to show is that he had received a certain amount of money and stock, that given the transactions that had been performed at the branch, he failed to account for money. The Post Office did not need to show what had happened to that money, merely that he had failed to account for it. He understood this. I said for what it was worth on my part, my private view was that he had not taken the money. He said that if the Post Office succeeded against him, he would need to bring a criminal prosecution against his staff. I said that that was not necessarily the case and that it was also not the Post Office's case that either he or his staff had taken the money. He asked me what I thought had happened to it. I said that I had my own view, but that it didn't necessarily follow, that if he could not account for the money, that either he or his staff had taken it. I said that in fact what had happened to the money, was irrelevant to the issue that would be tried in the Post Office's claim. He thanked me for indicating that I did not believe him to be dishonest. He said that he understood the Post Office's claim against him could not include any allegation of dishonesty.

I asked him whether he was willing to settle on the basis that had been put forward and explained that between now and the end of trial, the additional costs that the Post Office was going to incur, were likely to be very considerable, over £100,000. I stated that if the Post Office was successful and I believed they would be, that they would look to Mr Castleton to pay their costs. I stated that given that the claim was for £25,858 plus interest, the costs would well exceed the amount of the claim and it therefore made sense for the parties to settle. He said that he did not understand the offer his solicitors had put forward and I

explained it to him twice more, really breaking it down very simply so that he would understand it. I again asked him whether he was willing to settle and pointed out the advantages. It would provide certainty for both sides. It would ensure that he didn't get a judgment against him which he was concerned to avoid, given that he wanted to go back to work in the City. He said that given that he was medicated at the moment, he did not feel able to make any decisions on settlement. I said that this may be taken out of his hands, effectively, if the trial proceeds. I said that he might want to reflect upon settlement and that if he changed his mind, he should feel free to pick up the telephone to me and call me to discuss this.

Thereafter preparing attendance note.

Time engaged including attendance note: 54 minutes