

Julian Summerhayes

From: Stephen Dilley
Sent: 24 February 2006 18:49
To: Julian Summerhayes
Cc: Tom Beezer; Simon Richardson; Laura Peto; Gareth Kagan
Subject: Post Office -v- Castleton

Dear Julian,

Since my last email, I have spoken to Mandy to agree the strategy moving forward. She said:

(1) Internally, the P.O feel conflicted about the Castleton case. The P.O believes to be the Horizon system is robust, but the downside is the cost (in P.O time and money) of proving a negative (i.e that there are no faults) is expensive. For example, she'd need to get a report from Fujitsu (who apparently have difficulty writing in plain English) and get someone in the P.O to review Fujitsu data to see if there are any anomalies.

(2) However, her view is that the P.O must not show any weakness and even if this case will cost a lot, there are broader issues at stake other than just Castleton's claim: if the P.O are seen to compromise on Castleton, then "the whole system will come crashing down" i.e it will egg on other sub postmasters to issue speculative claims. She knows that Castleton is talking to Bajaj (the other subpostmaster bringing a Horizon based claim). Her clear message is that we must be seen to take a firm line. With this in mind, our instructions are as follows:

(a) Please can you draft a Part 18 request on the Defence and Counterclaim, send it to her for approval and then fire it off to Castleton asap. (she agrees that we need to better understand his case and give him pause for thought. She thinks the counterclaim is weak because even if the P.O had dismissed him on notice (3 months) (which she thinks they can do w/out reason), instead of summarily, his compensation would be those 3 months pay. [We need to check the Subpmr contract to see if it says that and if so, ram this point home to him in the Part 18 e.g "Given P.O could have terminated on 3 months without reason and payment would be limited to £X, please explain how you calculate your claim at £250k" -sthg a bit more sophisticated but along those lines]. She therefore thinks Castleton's counterclaim appears optimistic.

(b) Please can **Laura** arrange to do a discreet asset check on Castleton.

(c) Please can we draft and send directions to Castleton to include (1) He must answer the Part 18 by X date, then (2) a 1 month stay for settlement... etc The settlement point will make the P.O "looks good" from the Court's perspective but also will give Castleton a chance to settle. However, she is not holding much hope out for Castleton paying anything voluntarily and is mindful that making any concession to him could send out the wrong message and egg on other claims.

(d) The P.O does not have a preferred expert. She wants us to instruct a well known accountant with a speciality in IT (but not their auditors, Ernst & Young) e.g KPMG as expert. She thinks the expert will need a long time to understand the Horizon system (certainly a very full briefing and demonstration but for obvious reasons I suggest not exclusively at Marine drive as Castleton owns it). The fact that Castleton's "experts" got it so wrong by misunderstanding the limited info they were given, amply demonstrates that the expert needs to be familiar with the system to get it right. We need to consider how to build this into the directions. (**Gareth** this will be an opportunity for us to make a decent referral to an accountant albeit not on the IP side, so we need to identify some potentials).

(e) Generally, she wants us to build a long time for everything in the directions because it is going to take her a while to get info from Fujitsu and an internal P.O report on Fujitsu info.

I am copying this to Tom and Simon for info as it gives a useful insight into the way the P.O is approaching Horizon issues.

Kind regards.

Stephen

From: Stephen Dilley
Sent: 24 February 2006 14:56
To: Julian Summerhayes
Cc: Tom Beezer
Subject: FW: Post Office -v- Castleton

Julian,

If I do not manage to speak to Mandy this afternoon, please could I ask you to drive this forward next week in my absence and give her a call on GRO Tactically, I do not want us to take our foot off the gas now we have the initiative - it has taken a lot of work to get us there. However, I have had difficulty getting hold of Mandy to take instructions. My view is that:

1. P.O likely to be sensitive about pursuing this claim to trial because of Horizon issues and publicity. For no other reason than this, they therefore may want a settlement meeting. I think we should not have such a meeting until after we Part 18 Castleton and get reply, but before disclosure.
2. P.O appear to have a strong case despite not having all documentation, but position unlikely to become clear until expert independently confirms losses. We need to know if PO favour using any particular experts.
3. We need a strategy chat with Mandy to discuss how P.O wants to play this. See my thoughts below. If they want to do a discreet asset check, we can ask Laura to put this in hand.
4. If we go down the Part 18 route, we need to draft and serve sthg next week because we can then send out draft directions incorporating a requirement for Castleton to reply to the Part 18 request. Whilst I believe we should be doing a Part 18, Counsel is all for getting to trial asap so Castleton does not spend as much money on lawyers fees, reducing available assets for us to enforce against if we win. This is a commercial decision for the client, but I think Part 18 will push Castleton to settlement and give us a better idea of his defence and counterclaim and we should do this.

Many thanks. Stephen

From: Stephen Dilley
Sent: 24 February 2006 14:42
To: 'mandy.talbot' GRO
Cc: Tom Beezer; Julian Summerhayes
Subject: Post Office -v- Castleton

Dear Mandy,

I tried to catch you today but you were engaged. It'd be great if we could catch up today, as I am away next week.

27/02/2006

Castleton's solicitors have today asked us to put forward a timetable for moving the case forward and invited us to organise the CMC to take place by telephone, to save costs. I'd like to discuss strategy with you so that I can reply to them. Now that we have served some strong evidence and set aside the default judgment, the P.O has the initiative and Castleton is on the back foot, so it would be great to capitalise on our advantage.

Please could you give me a call if you get a spare moment this afternoon? If not, please could you call my colleague Julian Summerhayes next week on GRO The CMC is on 10 March, so we'll need to send out a draft timetable to Castleton's solicitors shortly.

Kind regards.

Stephen Dilley
Solicitor
for and on behalf of Bond Pearce LLP

GRO

www.bondpearce.com

From: Stephen Dilley
Sent: 20 February 2006 17:33
To: 'mandy.talbot'; GRO
Cc: Tom Beezer; Julian Summerhayes
Subject: Post Office -v- Castleton

Dear Mandy,

I refer to my 7 February email.

I attach a copy of the sealed order setting aside the default judgment, just for your information.

The Court has listed a CMC to take place on 10 March 2006 where it will set the timetable for bringing the claim to trial. I have provisionally reserved Counsel to attend that CMC (since his attendance is likely to be more cost effective than mine). However, if we are able to agree directions with Castleton's solicitors before the next hearing, then we may be able to get it vacated and save the costs of an attendance.

I'd like to have a chat with you about strategy, so that we can try to agree a timetable with Castleton. It would be helpful to discuss the following points:

1. P.O's view of pursuing the claim in the light of the favourable evidence from John Jones, Cath Oglesby and Helen Rose, balanced against any broader concerns over Horizon issues;
2. Whether to make a Part 18 Request on the Counterclaim - i.e trying to "flush out" Castleton's position so we can better prepare for it and also to press him into negotiating;
3. Asset check - whether we should be discreetly checking Castleton's assets to see if he would have assets available for us to enforce against, if successful at trial;
4. Mediation/settlement - Castleton previously rejected the P.O's offer of mediation, but it would be interesting to see what his view is now in the light of the strong evidence served against him and our critique of his "experts" reports; and
5. Expert evidence - This case will turn mainly on the figures and I anticipate both sides will want to put forward someone to do a financial analysis. Is there anyone the P.O tends to use in

27/02/2006

these sorts of cases who you would prefer us to instruct?

I am around this week apart from Thursday and out of the office next week on holiday. Is there a convenient time this week for you?

I look forward to hearing from you.

Kind regards.

Stephen Dilley
Solicitor
for and on behalf of Bond Pearce LLP

GRO

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