



**Crown  
Solicitor's  
Office**

## File Note

**Matter:** AIL & D B v State of NSW - Alleged Abuse While in Foster Care **Telephone:** ☒

**Matter No:** 200801481 **Conference:** ☐

**CSO Officer:** Jodie Vella **Attendance:** ☐

**With:** Paul Arblaster **Other:** ☐

**Date:** 31 January 2012 **Time:** 8:40am

### File Note - Telephone conversation with Paul Arblaster

I telephoned Paul Arblaster on the afternoon of Monday, 30 January 2012, to see if Evangelos Manollaras should attend at today's conference between himself and Michael Cashion SC at 11:00am (as Evangelos asked me to ask him). He was not available. I left a message. Paul returned my call on the morning of Tuesday, 31 January 2012.

Paul said that *Batistatos* is the 'bees knees' in that area. In that case, the plaintiff came up with available witnesses to fill in the gaps for the defendant. The Court nevertheless found that there was prejudice to the defendant sufficient to stay the proceedings.

One problem that raises itself is that amongst the documents in Peter Maxwell's Exhibit Bundles, there may be one witness that is deceased, but often there is someone else signing off, who is available.

In *SW*, Matthews got the State up on a similar argument. However, it was overturned on Appeal because the CofA said Matthews misapplied the test.

Paul said that this type of an application is wide open to the view of the judge and his/her prejudice. It'll be determined on the facts, so it is quite discretionary, and easy for the judge to manipulate the outcome on the facts. He said that the onus is on the defendant to point to prejudice to show that a fair trial is impossible.

As for Paul's meeting today with Michael Cashion SC, I asked if he would like Evangelos Manollaras to attend. Paul said he plans on only meeting with Michael Cashion SC for about 15 minutes, because he is aware that there is a fair bit of work to do on this matter and he wants to go back to his Chambers and start work on it right away.

Paul said he is tempted to do another chronology, perhaps using the original one he drafted and deleting references to the other plaintiffs, as a starting point.

Paul is also drafting the objections and statements of law. He plans on spending all week on this matter. If Evangelos does want to have a meeting to discuss where things are at, and the like, Paul said he is happy for Evangelos to arrange that.

**Signed:**

Jodie Vella, Paralegal for Crown Solicitor