

EXPERIENCE EQUALS SPEED

JANUARY 2011

Using a lawyer with specialist litigation experience can make all the difference when your back is against the wall. A recent matter conducted by Clifford Gouldson illustrates this point.

On 29 January 2010 our client, a prominent civil construction and engineering company in Queensland, had an insurance claim for around \$300,000.00 rejected by an overseas insurance underwriter on what appeared to be unfair grounds.

The rejection of the claim came after our client had already incurred the bulk of the costs to repair the damaged equipment, which had been damaged in an accident in late 2009. The decision to reject the claim came on the back of verbal representations by the insurer's Australian based agents that the claim had been approved, and repair works could commence.

By the time the decision to reject the claim occurred our client had already paid out the majority of the costs of repair from its own cash flow. When the claim was rejected, it put an enormous hole in our client's cash flow, and this was a disastrous blow on the back of the aftermaths of the global financial crisis, which were still being felt at the time.

Our client needed swift and decisive litigation action. Jobs were at stake. The payment of the costs of repair needed to be reimbursed as a matter of urgency.

Here's what we managed to achieve for our client:

22 April 2010	Notice given to insurer of intention to commence legal proceedings.
12 May 2010	Court proceedings filed in the Queensland Supreme Court.
4 June 2010	Formal Offer to Settle served on insurer placing costs pressure on them in the court proceeding.
17 June 2010	Defence obtained from insurer's solicitor.
17 June 2010	Particulars of our client's claim requested by insurer's solicitor.
25 June 2010	Proposed mediation to insurer's solicitor (a step that must take place before trial).
27 June 2010	Particulars of our client's claim provided to insurer's solicitor.
27 June 2010	Provided List of Documents to insurer's solicitor (gave copies of documents relevant to the proceeding).
19 July 2010	Threaten application to Court forcing List of Documents from insurer (copies of their documents relevant to the proceeding).
22 July 2010	Threaten application to Court forcing insurer to attend mediation.
23 July 2010	Receive List of Documents from insurer.
29 July 2010	File Application to force insurer to mediation, and asking for directions to progress the proceeding towards a trial.
16 August 2010	Application heard in Supreme Court – orders made forcing insurer to mediation.

23 August 2010	Mediator selected, brief of relevant documents for mediator prepared, and sent to insurer's solicitor.
1 September 2010	Re-list proceeding with the Supreme Court for further directions because the insurer was not cooperating regarding mediation.
14 September 2010	Proceeding reviewed before Queensland Supreme Court.
14 September 2010	Pressure causes insurer to agree to directions seeing matter listed as ready for trial on 5 November 2010.
23 September 2010	Mediation held in Toowoomba, insurer sends solicitors from Brisbane and participates by phone from overseas.
24 September 2010	Matter settles for \$290,000 payable to our client.

So in this instance our experience, and swift and decisive litigation action, forced a settlement outcome in 5 months - and this in an industry which is renowned for disputes running for several years.

This case is another useful reminder that using lawyers that practice exclusively in the area of dispute resolution and litigation who have developed their expertise, systems and skills over many years, can achieve real results for their clients.

If you have any questions in relation to this bulletin please do not hesitate to contact any of the members of CG Law's litigation team.

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