

LESSONS IN LITIGATION

EXPERIENCE COUNTS

When your GP identifies a problem that requires specific medical treatment it makes sense to see a specialist doctor. When you are faced with a serious legal problem, especially costly disputes, the same rule applies.

Lawyers that practice exclusively in the area of dispute resolution and litigation have developed their expertise, systems and skills over many years and provide a level of service that a “GP” lawyer simply can’t match.

This Lesson in Litigation is demonstrated by a recent case involving a client of Clifford Gouldson.

Our client’s crane was damaged when the vehicle transporting it to Mt Isa lost control and rolled over.

Our client made a claim against its insurance policy for the total loss of the crane. The insurer obtained a report from an engineer inexperienced in crane repairs which suggested that the crane was repairable. Based on the engineer’s report the insurer authorised repairs to be carried out in Perth, Western Australia, against strong opposition from our client who firmly believed the crane was a total loss.

The sum insured for total loss which our client sought was \$60,000. Unfortunately the matter dragged on for several years with our client spending over \$90,000 in legal fees with three different law firms before engaging Clifford Gouldson.

Once we had been engaged we quickly came up to speed on the issues and recognised the need to resolve the matter for the client as quickly as possible. We took steps to push the matter to trial at which point the insurer offered to settle for \$250,000 which our client accepted. Clifford Gouldson demonstrated the value of engaging specialised litigation lawyers by pushing a costly, long running dispute to a favourable settlement for our client.

TOUGH LOVE FOR FAMILY

Some of the most emotional, difficult to resolve and lengthy disputes occur when family members have a falling out over joint business dealings. An important Lesson in Litigation is that it is better for the parties to take the “tough love” option than to let a dispute drag out and emotionally and financially ruin the whole family.

Our client was, together with his brother, a 50% shareholder in a group of companies with interests in substantial farming activities in the southern Queensland region. Over time, our client had been forced out of the business through a series of oppressive acts by his brother including having his employment terminated by the employing entity.

In spite of the oppressive behaviour involved our client sought the least confrontational options to achieve a successful, and hopefully less acrimonious, settlement of the dispute.

He sought the assistance of a generalist legal firm who followed his instructions to take a relatively soft approach in dealing with the company’s solicitor and the company accountant.

Unfortunately after a considerable length of time had passed and considerable costs had been incurred the matter remained unresolved because the approach adopted could not bring a settlement.

Clifford Gouldson was then engaged and recommended a course of action that temporarily dismissed the family bonds and took swift and aggressive action against the other party.

The result was a settlement on very favourable terms to our client that involved a significant payment for his shares in the group of companies. While relations may become strained within the family the quick resolution of a dispute that isn't going to go away by itself is, in the long run, in everyone's best interest.

With the main dispute out of the way, any desire to reconcile the past differences (if that desire exists) can at least be pursued.

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