

From: McRae, Findlay
Sent: Wed, 7 May 2014 12:49:22 +1000
To: Fontana, Stephen
Subject: FW: Inquest into the death of the Hodsons

Steve

We will open the inquest with a suppression application. This is important whether the witness is called or a statement is provided as credit will be raised as an issue.

Fin

Findlay McRae : Victoria Police
Director, Legal Services
Victoria Police Centre
637 Flinders St, Docklands 3008 : DX 210096
T: [REDACTED] F: [REDACTED]

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-----Original Message-----

From: Ryan, David
Sent: Wednesday, May 07, 2014 12:23 PM AUS Eastern Standard Time
To: McRae, Findlay
Cc: Bales, Belinda; McMaster, Belinda; Pekevaska, Monika
Subject: Inquest into the death of the Hodsons

Hi Fin

I refer to my conversation with you and Belinda Bales earlier today.

I confirm that we seek your instructions to brief Emrys Nekvapil and Fiona Batten on behalf of the Chief Commissioner in this inquest to deal with media issues. The media issues we anticipate will arise relate to the drafting of suppression orders, applications under the *Open Courts Act 2013* and associated submissions and responding to any Supreme Court challenges by the media of rulings by the State Coroner.

The inquest commences in the Coroners Court before the State Coroner on Monday 26 May 2014. We anticipate significant media interest, particularly on the first day of the inquest. Witness F is on the witness list although we anticipate that they will not be called due to concerns for their safety. However, even if Witness F is not called to give evidence, we consider it highly likely that other parties will seek to discuss Witness F's relationship with Victoria Police. Accordingly, we consider that care needs to be taken to obtain at the commencement of the inquest an appropriate suppression order under the *Open Courts Act 2013* which will prevent the media from publishing any information which may disclose any relationship between Witness F and Victoria Police beyond what is already clearly in the public domain in the context of the Dale prosecutions. We are concerned that the Herald Sun may consider the inquest as another opportunity to revisit the Lawyer X story in the context of the inquest. We are concerned not to undermine the protection the Chief Commissioner has obtained through the injunction proceedings in the Supreme Court.

Further, one of the other witnesses is a [REDACTED] and [REDACTED] have concerns for the safety of 2 other witnesses. Suppression orders will also need to be made in relation to the identities of these witnesses and this application may need to be made in a closed court. We anticipate media opposition to these applications.

As you are aware, we have briefed Rachel Doyle SC and Ben Ihle to appear for the Chief Commissioner at the inquest. Given the size of the inquest brief and the forensic knowledge that we consider is required of counsel to adequately prepare for dealing with the substantive issues in the inquest, we recommend that separate counsel be briefed to deal with the media issues. This will allow Rachel and Ben to continue to prepare their cross-examination without being distracted by the media issues. Further, we anticipate that the media issues will come to a head early in the inquest and there may be Supreme Court challenges to rulings made by the Coroners Court in relation to Suppression orders. Briefing independent counsel will provide the resources for the Chief Commissioner to respond to any Supreme Court challenge which may occur during the running of the inquest.

We consider that it is appropriate to brief Emrys and Fiona as they were involved in the Lawyer X proceeding and are aware of the issues. Emrys is not available on the first couple of days of the inquest but we consider that he will be of significant value in developing a strategy prior to the commencement of the inquest and he can settle any proposed suppression orders and ensure that they are consistent with the protection provided by the Lawyer X in junction. Fiona can then appear at the commencement of the inquest to assist Rachel in relation to any application and submissions that need to be made concerning the media. We have discussed this proposal with Rachel and she agrees with our recommendation.

We await your instructions.

regards

Dave

David Ryan

Managing Principal Solicitor

Litigation & Dispute Resolution

Victorian Government Solicitor's Office

Level 25, 121 Exhibition Street, Melbourne Vic 3000

t +61 3 [REDACTED] f +61 3 [REDACTED]

[david.ryan@\[REDACTED\]](mailto:david.ryan@[REDACTED])

www.vgso.vic.gov.au



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