Antippa Lawyers

since 1961

HOW TO END A CASE PREMATURELY

Introduction:
This brochure is a basic guide to how you can end your court case without having to have a final court hearing. We know that you are concerned about rising legal costs. Below, we describe the strategies to avoid Court and why less than 5% of cases go to a final Court hearing.

COMMERCIAL SETTLEMENT

When you began this matter, we sent you a Retainer. This stated our estimate of legal costs to get to a full hearing. We can update our estimate if you want.

If you offer the other party some money, you are attempting to avoid further legal costs. So, if the case finishes because you pay the other party money, then you will not be liable for any more legal costs.

Any offer would be made ‘without admission’. In other words, just because you give the other party money, it does not mean that the other party deserves to receive any money. The money is paid just to stop the case and to avoid on-going legal fees.

1. MEDIATION

Mediation usually begins with general discussion with everyone in the same room. When negotiations begin, each party will move into their own separate room.

The Plaintiff will verbally request the Defendant to pay an unreasonable and extremely large amount of money. The Defendant will then make a counter-offer of an unreasonably and extremely low amount of money. So the process continues. A settlement between those 2 starting amounts may be obtained.

2. WRITTEN OFFER

If the Defendant makes an Offer which is more than the judge awards at a court hearing, then the Defendant does not need to pay the Plaintiff's legal costs from the date of the offer onwards. The costs incentive to settle is very persuasive.

So, to be an effective tool to pressure a settlement, the offer must be sufficiently large to be enticing enough to the Plaintiff to settle the case and at least comparable or more than the amount which a judge is likely to order.

Both sides can make written offers.

3. ON THE DOOR-STEP OF THE COURT

During the period between mediation and the final hearing, we will be finding out about the details of the other side's evidence and their documents.We will be making a determination about the strength of their case and they will better understanding your case. We will be preparing more affidavits for you and for your witnesses. With all of this new information, the result may become so obvious that there is no longer any point going to court.

A verbal offer may be made between Barristers, and quite likely on the morning of first day of the hearing. Your Barrister will give you a clear recommendation as to whether to accept the offer. This is because most of the uncertainty about the other side's case will then be known to your Barrister by that stage and the advice of your Barrister can be quite specific.

SETTLEMENT

Settlement is usually 14 days later. This is when money is actually paid. You do not need to attend the settlement. This is usually by an electronic funds transfer. The amount of the settlement may exceed your daily funds transfer limit and you may need to talk with a banker at your branch to arrange the electronic funds transfer.

Please leave your mobile telephone turned on in case we need to ring you urgently.

EVERY CASE IS DIFFERENT

This is a general brochure. Each situation is different. Please discuss early settlement with us.

FURTHER READING

http://www.antippa.com.au/publications

Antippa Lawyers
Room 3, Level 5, 2 Collins Street,
Melbourne Vic
(03) 9650 2115
lawyers@antippa.com.au
www.antippa.com.au