WITN09510100

Witness Name: Thomas Mathew Beezer

Statement No. : WITN09510100

Dated: 13 June 2023

POST OFFICE HORIZON IT INQUIRY

FIRST WITNESS STATEMENT OF THOMAS MATHEW BEEZER

I, THOMAS MATHEW BEEZER, will say as follows.

INTRODUCTION

1. I am a Partner in the firm of Womble Bond Dickinson (UK) LLP (**WBD**). My qualifications and career history are as follows:

   (a) 1989 – 1993 Keele University, Law & American Studies [BA]

   (b) 1993 – 1994 College of Law (Guildford) [LPC]

   (c) 1994 – 1996 Articled Clerk at Simon Olswang & Co (later just 'Olswang')

   (d) 1996 – 2003 Solicitor at Olswang

   (e) 2003 – 2005 Solicitor at Bond Pearce (later Bond Dickinson and then WBD)

   (f) 2005 – to current, Partner at WBD

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2. This witness statement is made to assist the Post Office Horizon IT Inquiry (the **Inquiry**) with the matters set out in the Rule 9 Request dated 5 May 2023 (the **Request**). I have had assistance in the preparation of this statement from Jon Cooper and Richard Collins of WBD. That assistance has been as to the formalities of the statement. The factual content and any views expressed are my own entirely. Neither Mr Cooper nor Mr Collins have had any involvement in litigation for POL relating to civil claims against subpostmasters or Horizon.

3. The Request that I have received from the Inquiry relates to matters that took place primarily in 2005 and 2006. Given the passage of time, and my limited role in the case (I did not have day to day conduct of the matter but was the Partner responsible for Stephen Dilley, as I set out below), I have very little direct recollection of the issues covered by the Request. In order to provide as full a response as I am now able, and to assist the Inquiry to the greatest possible extent, I have refreshed my memory by reading parts of the Bond Pearce files relating to this case. Where my answers to the Request are based upon my review of those files as opposed to my recollection, I have made that clear.

4. I understand that the Inquiry has had disclosure of our files relevant to the Request. I make that point so that it is recognised that it is my understanding that the information that I have read, in readiness to address the Request, is also available to the Inquiry. Where I refer to material which was not sent to me by the Inquiry with the Request, I make that clear.

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5. In the Request I am asked whether the case against Lee Castleton was the first case in which I was involved on behalf of Post Office / Royal Mail (**Post Office**) concerning the Horizon IT system. I have no direct recollection of other matters for Post Office from 2005 or before which allows me to answer this question with certainty. I do not have any recollection of being involved in cases that touched on Horizon prior to the Lee Castleton case.

THE CIRCUMSTANCES IN WHICH BOND PEARCE LLP ("BOND PEARCE") WAS INSTRUCTED BY THE POST OFFICE IN THE LEE CASTLETON CASE:

6. In the Request I am asked about the "*circumstances*" of our instruction by Post Office in the Lee Castleton matter. I believe that the circumstances of our instruction are broadly summarised on page 3 of document [POL00070496] where Stephen Dilley sets out a background of the case on 18 November 2005.

7. Having reviewed our file, my view of the "*circumstances*" of our instruction is that having regard to the value of the claim, the matter was initially transferred down to our Credit Managed Services (**CMS**) division in Plymouth. CMS was a debt collection team that dealt with straight forward debt recovery actions and on the face of it, it seems from the file, the Lee Castleton case initially fell into that category. From the file, it appears that as the matter became more complex it was transferred from the paralegals in CMS to a solicitor in our Plymouth office. That solicitor then left the firm and handed the matter on to Stephen Dilley around the end of September 2005, which eventually resulted in Stephen Dilley writing his note of 18 November 2005 [POL00070496]. Unbeknownst to me at the time, unfortunately it appears from the file that the previous solicitor

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had omitted to file a Reply & Defence to Counterclaim within the necessary period and (after some confusion as to which party's name the judgment was to be in) Post Office had a Default Judgment entered against it.

THE REQUEST ASKS ABOUT MY ROLE IN RELATION TO THE PROCEEDINGS (INCLUDING BY REFERENCE TO POL00070209, POL00070496, POL00070477 AND POL00069641)

8. From my review of the files that we hold in this matter I can see that my role in relation to the Lee Castleton proceedings was as follows; an email was copied to me by Stephen Lister, a former partner in Bond Pearce, on 7 November 2005 [POL00070486]. I cannot now recall with specificity why I was copied in at that point. That email was, I believe, the first I had heard of the Lee Castleton matter. My more substantive involvement in the case came at a later stage as I detail below in this statement.

9. As I note in this statement, an error had been made in the handling of some of the early procedural stages of the claim so that from a point in later November 2005 the case required increased oversight and careful handling and, from my review of the file, I believe that I was being asked to take that on given that Post Office was a very significant client of the firm. The particular procedural problem on the Lee Castleton file was that the firm missed a time limit for filing a Reply & Defence to Counterclaim which caused a Default Judgment to be entered against Post Office for up to £250,000 (on a "*damages to be assessed*" basis) by Mr Castleton.

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10. From my review of the file it appears that this file came under me from at least 21 November 2005 and I considered that my initial task was to seek to deal with the setting aside of the Default Judgment with the help of Stephen Dilley.

11. One point that I would like the Inquiry to note is as follows; the Default Judgment must have been a very significant issue for Post Office, for the firm and for me to be asked to manage, however, I have very little independent memory of this Default Judgment issue or the matter generally, it having happened around 18 years ago. I mention that here so that the Inquiry is aware of the paucity of direct and independent memory that I am able to draw on regarding this matter.

12. As a point of clarification, I do not believe that the engagement letter dated 14 January 2005 [POL00070209] was sent on around that date. From my review of the file I believe this letter was sent to Mandy Talbot (with her prior agreement) on 1 November 2006. I cannot recall now why this was done, not least because my firm had a global engagement in place with Post Office throughout this period (and, so far as I am aware, at all times in our relationship), and from February 2005, my firm had been billing Post Office (both costs and disbursements) on the Lee Castleton matter in most months throughout 2005 and 2006 at the pre agreed Post Office hourly rates. I think, although I am not able to recall, it may have been because we wanted to ensure as a matter of good administrative practice that case-specific paperwork was in place.

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THE REQUEST QUERIES THE EXTENT OF MY ROLE?

13. From reviewing the file both before and after 21 November 2005, I believe that following the call with Mandy Talbot on 21 November 2005 the client care aspects of the file and general oversight of it sat with me after that date.

THE REQUEST ASKS WHO AT BOND PEARCE REPORTED TO ME IN RELATION TO THE LEE CASTLETON CASE?

14. After 21 November 2005 I believe that I became the Partner with oversight of the matter and from that point in time the main solicitor that worked on the file and reported to me was Stephen Dilley. Stephen Dilley was assisted from time to time by other fee earners in the firm and they too would have reported to me. I see from the file that other fee earners had worked on this case prior to my involvement.

THE REQUEST ASKS THAT I CONSIDER MY EMAIL DATED 21 NOVEMBER 2005 [POL00070496]. THE REQUEST ASKS WHEN I LEARNT ABOUT AN "EMBRYONIC AND NOT YET ISSUED" CLASS ACTION RELATING TO THE HORIZON IT SYSTEM AND WHAT I UNDERSTOOD ABOUT THAT SITUATION?

15. As far as I can now recall, the first time I had heard of the possibility of a class action relating to the Horizon IT system was on a call of 21 November 2005 with Mandy Talbot. In preparing this statement I have refreshed my memory by reviewing parts of the case files. I should say that I do not recall this call at all and so what follows is commentary on the email the Inquiry has asked me to consider.

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16. From reading the internal email chain, including the email of 21 November 2005 [POL00070496], I believe that Mandy Talbot told me on that call that a law firm called Hugh James (instructed by Post Office) had a number of cases involving a possible challenge to the Horizon system. I cannot now recall anything else about what my understanding of the situation would have been at that time.

THE REQUEST QUESTIONS HOW MY KNOWLEDGE OF A POTENTIAL CLASS ACTION RELATING TO THE HORIZON IT SYSTEM IMPACTED UPON MY VIEW OF THE MERITS OF THE CLAIM AGAINST MR CASTLETON AND / OR HIS DEFENCE AND MY ADVICE TO THE POST OFFICE?

17. Other than the limited recollection that I set out above I do not specifically recall my reaction from 2005. I believe my view at around this point in time would have been focussed on setting aside the Default Judgment as a priority. That step had to be undertaken as a matter of urgency and it had to be successful both for the client in this specific case and viewed through my client care responsibilities to Post Office for the firm.

18. Considerable work was done by the firm, led by Stephen Dilley, to collate evidence to support the application to set aside the Default Judgment.

19. Although I cannot recall specifically, I am sure that the Default Judgment would have been a cause of concern to me and that I would have considered that setting it aside would have been a critical first step, not least because, as I say above, Post Office was a very significant client of the firm and we had made an error in our handling of this aspect of the case. The potential significance of the case in terms of the Horizon system being an issue coupled with our knowledge

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of the other cases being dealt with by the law firm Hugh James would only have added to the importance of regularising the procedural position in the Lee Castleton case.

THE REQUEST ASKS THAT I DESCRIBE HOW I CAME TO DISCUSS THE CASTLETON CASE WITH IAN HERBERT OF HUGH JAMES ([POL00070789] AND ALSO [POL00070787], [POL00070778] AND [POL00070850]). THE REQUESTS ASKS WHAT MY UNDERSTANDING WAS OF WHY, IN 2005, THE POST OFFICE CONSIDERED IT NECESSARY TO HAVE CONSISTENCY BETWEEN FIRMS OVER HOW HORIZON PROBLEMS WERE DEALT WITH ([POL00070778])?

20. I do not now recall specifics of how I came to discuss the Lee Castleton case with Ian Herbert of Hugh James, but I feel sure that Mandy Talbot would have asked us to interact. I suspect that the comment about "*consistency*" is generated by the fact that in the Lee Castleton case there were issued proceedings and the pleadings contained (albeit vague and unparticularised) a challenge to the Horizon system. I can see that if each firm were dealing with similar issues connected to a challenge concerning Horizon, then a line of dialogue between the relevant lawyers would be a sensible step.

THE REQUEST QUESTIONS MY UNDERSTANDING OF WHY THE POST OFFICE HAD DIFFICULTY OBTAINING INFORMATION FROM FUJITSU ([POL00070850])? THE REQUEST GOES ONTO QUESTION WHAT STRATEGY WAS PROPOSED AS A RESULT OF THIS DIFFICULTY? THE REQUEST ASKS WHAT I UNDERSTOOD FUJITSU'S POSITION TO BE ON PROVIDING AN EXPERT WITNESS, AS OPPOSED TO A WITNESS OF FACT?

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21. I cannot now recall the specifics of difficulties in obtaining information from Fujitsu. I can see from my review of our file that there were chasers to them for information, so I assume it was felt that they were slow to react and slow to provide what was being sought from time to time. Nor can I recall anything specific about the shift from viewing Fujitsu as a possible expert witness to a possible source for witnesses of fact, although with hindsight I can see that Fujitsu are unlikely to have been sufficiently independent to meet the criteria for being an expert. I cannot recall if I formed that view at the time.

22. From the file, I see that the strategy that we deployed to get round the perceived difficulties of obtaining information from Fujitsu was for Stephen Dilley to get to see certain Fujitsu people face to face to seek more direct interaction. That meeting occurred in June 2006, I believe. Thereafter I understood at the time from Stephen Dilley that interactions with Fujitsu became easier and they were more responsive.

THE REQUEST QUERIES THE ATTENDANCE NOTE DATED 16 AUGUST 2006 AT [POL00072741], AND IN PARTICULAR WHY THAT NOTE STATES THAT IT WAS CRUCIAL TO "...CONCENTRATE ON THE PHYSICAL ITEMS IN ORDER TO BRING BACK FROM THE HORIZON TO THE DOUBLE ENTRY BOOKKEEPING AND DOUBLE DOCUMENT BOOK KEEPING POINT" [POL00072741]?

23. From my review of the file my belief is that I felt that we were confronted with a vague and unparticularised Defence that criticised the Horizon system in broad terms and that Post Office seeking to prove a negative (i.e. that the Horizon system did not cause illusory losses at the Marine Drive Branch) could be

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challenging and costly. From the file I see that the information that the firm was receiving in from Post Office was that the losses claimed were not illusory and that the system had worked as it was meant to at the Marine Drive Branch for the period in question.

24. From my reading of the file for the purposes of addressing the questions put in the Request, it was becoming apparent at that stage (August 2006), and this was a view expressed by Richard Morgan (Counsel for Post Office in the Lee Castleton matter), that Post Office could seek to recover its losses by bringing an accounting / agency claim. Plainly, for cases to be brought on the basis of accountancy / agency there would need to be evidence in support. In the Lee Castleton case, as evidenced by the Judgment, there was.

25. I see from an email (that was copied to me) that as early as 23 November 2005 John Jones of Post Office [POL00070481] was asserting that:

"We can physically prove from the giro deposits made by the customer at the branch that the cash declared was not that, which was physically deposited to the branch and should have been there to be accounted for. It is not a case of mystical money in the Horizon system , it is actual cash deposits that were not accounted for when the cash was actually there.

The analysis of the actual cash usage for the transactions at the branch did not differ from week to week , so why order additional cash remittances. At the end of several balances a large shortage is declared without the branch actually running out of physical cash. There were , and have not been since any subsequent error notices for the branch under Mr Castleton's operation, nor any

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similar experiences of large shortages by a number of locum Subpostmasters who have all operated the same pieces of Horizon kit, week in week out.

…if the Horizon system was incorrect then there would either be a numerical additional error or a client transactional error, all such theories have been discounted as they have been proven not to exist."

26. The issue of actual losses, as opposed to illusory losses, was a concept raised early in this matter.

27. I can see from an email to which I was copied in on 24 February 2006 there was an encapsulation of Mandy Talbot's perspective (as relayed to me by Stephen Dilley in that email) [POL00070910]. That email says:

"Since my last e mail, I have spoken to Mandy to agree the strategy moving forward. She said:

(1) Internally, the P.O feel conflicted about the Castleton case. The P.O believes the Horizon system to be robust, but the cost (in P.O time and money) of proving a negative (i.e that there are no faults) is expensive. For example, she'd need to get a report from Fujitsu (who apparently have difficulty in writing in plain English) and get someone in the P.O to review the Fujitsu data to see if there are any anomalies.

(2) However, her view is that the P.O must not show any weakness and even if this case will cost a lot, there are broader issues at stake other than just Castleton's claim: if the P.O are seen to compromise on Castleton, then "the whole system will come crashing down" i.e it will egg

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on other subpostmasters to issue speculative claims. She knows that Castleton is talking to Bajaj (the other subpostmaster bringing a Horizon based claim). Her clear message is that we must be seen to take a firm line…"

28. I can see from my review of the file that, in parallel with the later development of the accountancy / agency claim, we were seeking information that would allow us to prepare to meet a case more complex than the bare Defence initially pleaded by Mr Castleton. As part of that strategy we issued and served a Part 18 Request dated 6 March 2006 that sought more information on the Defence (the Default Judgment having been set aside by consent on 16 January 2006). In addition, on 9 March 2006 Master Fontaine gave leave to each of Post Office and Mr Castleton to have one accountancy expert and one IT expert each.

29. As an example of the difficulties faced in trying to confirm a negative, I see from an email that I was copied to by Mandy Talbot of 7 April 2005 [POL00070851] the comment (from Mandy Talbot) that:

"Tony Utting [of Post Office I believe] *has the material supplied by Fujitsu on the case of Castleton but without specific details of when it is alleged by Castleton that the system did something wrong it is very difficult for his* [sic] *to translate it into anything meaningful".*

30. On 27 June 2006 Stephen Dilley sent an email Richard Morgan [POL00071138] and stated (having had a meeting or meetings with Fujitsu personnel) that the Fujitsu position was that:

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"Double entry bookkeeping – for every transaction recorded electronically on Horizon, there would be a physical receipt e.g giro receipt, cheque or cash etc which Castleton would have sent to the relevant organisation to be counted. If they didn't tally with what was inputted onto Horizon, this would have been picked up and an error notice would be generated. If Castleton's computers were malfunctioning and recording wrong numbers you'd expect this to be pricked [sic] *up centrally when the receipts are counted".*

31. It is against the general background that is described above that I believe the conference with Counsel of 16 August 2006 referred to in the Request took place.

THE REQUEST ASKS THAT I CONSIDER MY EMAIL TO MANDY TALBOT DATED 21 AUGUST 2006 AT [POL00071081]. I AM ASKED TO EXPLAIN THE POINT RAISED BY RICHARD MORGAN RELATING TO "THE INTEGRITY OF THE FUJITSU PRODUCT GENERALLY" (THE BOTTOM OF PAGE 1). I AM ASKED WHETHER MANDY TALBOT RAISED ANY MATTERS IN RESPONSE TO MY EMAIL TO ALTER MY UNDERSTANDING "THAT ROYAL MAIL / POST OFFICE KNOW OF NO ISSUES WITH THE FUJITSU SYSTEM AND ARE CONFIDENT THAT IT OPERATES CORRECTLY"?

32. Mandy Talbot did not raise any matters to alter my understanding, in response to my email. It appears, however, that she did speak to Stephen Dilley on that issue. From my review of the file I have seen a telephone attendance note from 23 August 2006 where Stephen Dilley notes the content of a conversation he had with Mandy Talbot [POL00072711]. It is stated that:

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"I had a telephone conversation with Mandy Talbot in relation to Tom Beazer's [sic] *e mail of 21 August to her … Mandy doesn't know of any points raised on the question of the question of the Fujitzu* [sic] *product, but she is going to bottom that out with Keith Baines and Graham Ward. Of course from time to time they do have issues that are raised with IT but they are localised and after investigation usually turn out to be the sub postmaster doing something daft. Mandy will come back to me on this"*

33. The file does not record that Mandy Talbot reverted to Stephen Dilley with any issues in this regard.

34. The point raised by Richard Morgan about "*the integrity of the Fujitsu product generally*" was, I believe at this distance, a general question raised by Counsel for us to put to the client to seek a further confirmation in relation to the Horizon system. That resulted in my email to Mandy Talbot of 21 August 2006 [POL00071081] and then Stephen Dilley's conversation with Mandy Talbot as recorded in his attendance note of 23 August 2006 [POL00072711] as set out above in this statement. The issue we faced was that of a vague and unparticularised Defence that criticised the Horizon system in broad terms. A case in agency and accountancy that substantiated physical cash losses at the Marine Drive Branch was, at this point, an avenue that seemed sensible to advance in accordance with our duties to Post Office, alongside taking steps to meet any expert evidence Mr Castleton may serve. In the end, however, he served no such evidence.

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THE REQUEST ASKS THAT I CONSIDER THE ATTENDANCE NOTE DATED 23 NOVEMBER 2005 AT [POL00070480], MY EMAIL TO STEPHEN DILLEY DATED 24 NOVEMBER 2005 AT [POL00070475], MY EMAIL TO JULIAN SUMMERHAYES DATED 12 DECEMBER 2005 AT [POL00071016], THE EMAIL DATED 25 APRIL 2006 AT [POL00070824], THE ATTENDANCE NOTE DATED 8 SEPTEMBER 2006 AT [POL00069603] AND THE EMAILS DATED 16 OCTOBER 2006 AT [POL00069450]. THE REQUEST ASKS WHAT TACTICAL APPROACH WAS ADOPTED BY / ON BEHALF OF THE POST OFFICE IN THE LEE CASTLETON LITIGATION AND WHAT WAS THE REASONING BEHIND IT?

35. I believe that initially the tactical approach adopted on behalf of Post Office was to set aside the Default Judgment. I do not recall the "*sledgehammer approach*" comment that Stephen Dilley attributes to me on the second page of his note of 23 November 2005 [POL00070480] but I can imagine me feeling that we needed to press on in a determined fashion in the circumstances we faced. I believe that a statement in that vein refers to the need for the firm to firstly make good its mistake to Post Office that resulted in the Default Judgment being entered. I believe that I was referring to the need to get the issue dealt with well and swiftly so that we could then move on with the substantive litigation on a more stable footing that would present a better basis for all future steps and also set a better basis for possible settlement.

36. Generally, I can see from the file that that there were numerous and ongoing attempts to settle the case. Some of these attempts are summarised in our letter of 1 November 2006 to Mr Castleton's solicitors [WBON0000089].

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Nothing I have read leads me to conclude that Post Office was intent on obtaining a judgment against Mr Castleton; indeed the file points to the contrary. The tactical approach was to seek to recover the losses (which were public money) through the most effective means which included bringing the case on an accountancy / agency basis. That, as stated above, also meant that we may not have to prove a negative in relation to the unparticularised assertions made by Mr Castleton about the Horizon system, although we only became aware that we would not actually have to "prove a negative" in relation to the Horizon system (on an IT basis) when Master Turner withdrew permission from the parties to adduce expert IT evidence on 23 October 2006 as I go on to outline below in this statement. It is also worth noting that Rowe Cohen (Mr Castleton's solicitors) came to a similar position on the difficulties of "proving a negative" as demonstrated in their letter of 19 October 2006 [POL00069440] as set out below in this statement.

37. I am asked to comment on my email to Julian Summerhayes of 12 December 2005 [POL00071016]. This email is referring to work being done to support the application to set aside the Default Judgment and a Part 36 Offer. I see that I am, in effect, chasing for action on a draft Part 36 Offer and I am wanting each action finalised. I mention "*ramping up the pressure on Castleton*". I believe that I was hoping that the steps that I was chasing would be material steps on the way to settlement of the matter overall.

38. I wanted the Default Judgment set aside for the client relationship reasons addressed above in this statement. Although I cannot now specifically recall, I

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believe that I would have also wanted to pursue settlement. Use of Part 36 is an orthodox tactic in the suite of settlement tools and, in my experience, an ordinary part of the litigation process. As the Inquiry will know, it sets thresholds that have to be met, else costs burdens shift. In this regard it does bring pressure into the system, but in a way that I anticipate would have focused minds and perhaps moved the matter towards settlement. In the same vein, the persuasive (in my view) John Jones statement would add pressure to set aside by consent, which is in the end what occurred although later than I had hoped.

39. I am asked to comment on Stephen Dilley's email of 24 April 2006 to Mandy Talbot. I am copied in to that document [POL00070824]. I do not recall it specifically but I see that it raises a cost / benefit analysis question about the case generally and contains an update to Post Office that we have not been able to ascertain much detail on Mr Castleton's asset position and contains a warning that if Post Office is successful in its claim it may not be able to enforce any costs award that it may obtain. It also records that Stephen finds it "*bizarre*" that Mr Castleton has put off mediation and that he may have adopted an entrenched position. Stephen goes on to set out:

"*There is a "bigger picture" i.e. that the PO wishes to be seen to be taking this claim very seriously, to defend the Horizon system and to discourage other sub-post masters from pursuing similar claims. However, looking at the case in isolation, the cost/benefit of pursuing it to trial, even if you succeed, is uncertain*".

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40. The commerciality (i.e. the cost vs benefit) of taking cases forward is an important topic to review with any client, and I believe that is what the above email is highlighting.

41. Document [POL00069603] is a telephone attendance note of 8 September 2006 prepared by Stephen Dilley but noting the content of a call between me, Stephen Dilley and Mandy Talbot. It sets out that BDO have suggested that the accountancy expert evidence alone could cost up to £62,000 and that it may be information we can use to move the case forward to settlement. It can be seen that I suggest that we float the idea of sequential short-form expert reports (on a without prejudice basis), with Post Office's expert going second. Again, I cannot specifically recall this now. From reviewing the file I believe that the issue here is that at this stage we still did not understand the nature of the Defence Mr Castleton was raising with sufficient particularity and obtaining detail, which we would then be in a position to respond to, would have seemed sensible. My suggestion would also have potentially avoided Post Office incurring further BDO costs if the case went onto settle as I believe that I hoped it would, following clarity that may have been provided by expert analysis. If we had been able to have an ADR process, vacate the trial and ultimately settle, then I am sure I would have thought that would have been a good outcome. That did not occur.

42. I am asked to comment on document [POL00069450], being an email from Stephen Dilley to Richard Morgan. I anticipate that I am being referred to this document to address the word "*brinkmanship*" at the end. This seems to be a

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reference to a word used between Stephen Dilley and Richard Morgan. If this is not the point I am to focus on, then I apologise to the Inquiry. I am unaware of the meaning of the reference.

THE REQUEST QUESTIONS WHAT EXPERT EVIDENCE WAS OBTAINED AND DISCLOSED TO THE POST OFFICE BY MR CASTLETON IN THE COURSE OF PROCEEDINGS?

43. On 30 September 2005 Rowe Cohen [LCAS0000945] disclosed two letter style expert reports on a "*without prejudice*" basis. The enclosed reports were from Bentley Jennison dated 23 September 2005 and from White & Hoggard of 18 August 2005. Neither letter style report was CPR compliant as an expert report but that issue never came up.

44. From my review of the file for the purposes of addressing the questions put in the Request I am reminded that Mr Castleton and / or Rowe Cohen (his solicitors) appeared to have been in possession of some form of accountancy expert evidence in November 2006 but it was not served in these proceedings by either Rowe Cohen or Mr Castleton. Indeed, on 17 November 2006 Rowe Cohen indicated that they held, but were not instructed to serve, expert accountancy evidence in the matter [POL00069756].

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THE REQUEST ASKS WHETHER ANY EXPERT EVIDENCE WAS RELIED UPON BY MR CASTLETON AT TRIAL?

45. Mr Castleton did not rely upon expert evidence at trial. Nor did Post Office. As I set out below, the Court ruled at the Pre-Trial Review on 27 November 2006 (**PTR**) that neither party could adduce expert evidence.

THE REQUEST ASKS THAT I DESCRIBE MY REACTION TO LEARNING THAT BDO HAD FOUND EARLY INDICATIONS OF PROBLEMS WITH THE HORIZON IT SYSTEM, NAMELY THE DISCREPANCY OF £2.47 FOR JANUARY 2004 AND £4.05 FOR FEBRUARY 2004 [POL00081490_008].

46. I was initially concerned by this. I did recognise that the letter from BDO of 5 September 2006 [POL00081490_008] contained a "*preliminary view only*".

THE REQUEST ASKS THAT I DESCRIBE MY CONVERSATION WITH STEPHEN DILLEY ON 7 SEPTEMBER 2006.

47. I do not have an independent memory of the conversation that I had with Stephen Dilley about the BDO report on 7 September 2006. For the purposes of addressing the question put in the Request I have read the note of our conversation that Stephen Dilley has written from that day [POL00069612] and I note that Stephen says:

"*My comment to Tom is that I thought those amounts were quite small and that there will probably turn out to be a rational explanation because I have met Fujitsu and they are utterly convinced of the integrity of their system and really*

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it is just an electronic calculator so it is only as good as the person who inputs information into it".

48. I suspect that I agreed with that sentiment although I have no direct memory of the above conversation.

THE REQUEST QUERIES WHAT THE "£3,500 POINT" WAS, AS REFERRED TO IN THE ATTENDANCE NOTE DATED 1 DECEMBER 2006 ([POL00069871])? IN ADDRESSING THE QUESTION I AM ALSO ASKED TO CONSIDER THE EMAILS FROM STEPHEN DILLEY DATED 9 NOVEMBER 2006 AT [POL00069798] AND [POL00069796] (AND THE ATTACHMENT TO THE LATTER AT [LCAS0000428]).

49. I believe the "£3,500 point" referred to in the note of 1 December 2006 [POL00069871] to be as follows; on 29 November 2006 we received the draft BDO report [POL00069955]. At paragraph 5.5.4 of that draft report is a comment about "*may be a duplication*" of the sum of £3,509.18 connected to a suspense account in Horizon. Were the BDO report ever needed to have been finalised this point (among others) would have needed to be bottomed out and corrected (subject of course to the experts own view).

50. Our letter of 18 January 2006 to Rowe Cohen [LCAS0000428] sought to deal with this same "£3,500" point when Bentley Jennison and Wright & Hoggard made the same incorrect assumption that BDO made.

51. Stephen Dilley's email of 9 November 2006 to Richard Morgan [POL00069796] set out the correct position as confirmed by Elizabeth Morgan's witness statement of 18 September 2006 at paragraph 7. That witness statement says:

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"*If a subpostmaster transferred a shortfall into the Suspense Account, the shortfall would still show in any balance snapshot printed after the transfer until they balanced the following week. This sometimes caused subpostmasters to at first mistakenly believe that they had not transferred the shortfall from the Cash Account to the Suspense Account even though they had*".

52. If the BDO expert agreed with Elizabeth Morgan's explanation about '*duplication*' then the draft report would have needed amendment in at least that regard before becoming final. For the reasons set out below Post Office did not need a final report in the end.

53. I am asked to also consider document [POL00069798]. This document is not dealing with the above "£3,500" issue. This document is looking at the difference between an offer of settlement and the amount of Post Office's claim.

THE REQUEST QUESTIONS WHY WAS THE DRAFT REPORT FROM BDO OBTAINED BY THE POST OFFICE NOT DISCLOSED / RELIED UPON AT TRIAL?

54. From my review of the file I can see that the draft BDO report [POL00069955] obtained by Post Office was neither disclosed nor relied upon at trial. In order to understand why that was the case, the chronology of Orders of the Court on the topic of permission for expert evidence needs to be understood. I have set this out in a little detail below based on my file review as I think it is helpful to the Inquiry to understand the sequence of events which culminated in the Court determining that there would be no expert evidence at all in the trial in the Lee Castleton case.

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55. The short answer to the question is the point made above – namely that the Court ultimately ordered that there was to be no expert evidence at trial.

56. The Master Fontaine Order of 9 March 2006 is described above. There was a similar Order of Deputy Master Nussey (concerning simultaneous exchange of expert evidence) of 25 August 2006. From 10 August 2006 Post Office had been engaging with BDO as both an accountancy and IT expert. Then, on 19 October 2006 Rowe Cohen stated in a letter [POL00069440], shortly before a Case Management hearing listed for 23 October 2006 that (in relation to "Expert IT evidence") that:

"We would propose that the instruction of experts in this discipline be deferred for the time being, pending service of the accounting evidence referred to above … As things stand, the remit of instructions given to our respective experts in this field would be unnecessarily wide. During a telephone conversation a few weeks ago, you summarised the position quite succinctly: Mr Castleton believes that the system is flawed and that the losses which it shows are illusory rather than real, but he is unable to say specifically at this point how the system is flawed and what underlying problem gives rise to this problem.

It may very well be, however, that following service of accounting evidence dealing with what (if any) discrepancies arise as between the transactional data and the week-end cash accounts generated by the Horizon system, the scope of the instruction given to the IT experts could be substantially reduced. Obviously, if the system as a whole does not need to be analysed and surveyed

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and a more focussed brief is given to them, the costs incurred by the IT experts could be very considerably reduced.

Our own experience of IT experts is that they can prove to be very expensive, especially if it is not possible to particularise the detail of the specific aspects of a computer system which they are being asked to test and report. With this in mind, and once again bearing in mind proportionality of those costs given the amount claimed, we think that there is a sensible basis for this limb of expert evidence being put "on hold" for the time being and then re-addressed in the context of a fresh CMC following service of accounting evidence."

57. Thereafter, on 23 October 2006 Master Turner made an Order that there was to be only accountancy evidence and that exchange of it was to be sequential as opposed to simultaneous. Mr Castleton was to serve his expert evidence in the field of accountancy by 10 November 2006 and Post Office was to submit an expert report in reply to that by 24 November 2006, with an experts meeting by 29 November 2006 and a joint statement by 1 December 2006. The time frame for service of accountancy expert evidence was not met by Mr Castleton.

58. Lastly, in the sequence of Case Management hearings, His Honour Judge Seymour QC ordered, at a PTR on 27 November 2006, that "*There be no expert evidence at the trial of the action.*"

59. From the file it can be seen that Post Office had struggled to get expert evidence from Mr Castleton about his case. I believe this to have been a continuing frustration in our efforts to understand the case Post Office may need to meet at trial. The initial Defence had contained an unparticularised assertion about

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the computer system and the Part 18 information Mr Castleton later served in that regard had not moved our understanding of the Defence much further forward. Without Mr Castleton's concerns as to the Horizon system being particularised it was difficult to understand them and hence difficult to obtain expert evidence to address them.

60. Alongside the continuing struggles to get expert evidence exchanged, we were also considering how to frame Post Office's case to deal with matters effectively and in accordance with our duties to Post Office. This process led ultimately to Counsel suggesting that we frame the case through the lens of principal and agent as followed in *Shaw & Ors -v- Picton* (1825) 4 Barnewall & Cresswall's Reports. This approach allowed the case to move forward in a circumstance where we had few details (either accountancy or IT) about the Defence although I see that we continued to take steps to prepare to meet a Defence from Mr Castleton supported by expert evidence right up to the time when the parties were debarred from adducing any such evidence on 27 November 2006 at the PTR. I also believed that the agency approach may assist in possibly avoiding Post Office having to prove a negative about its IT system, a concern that is evidenced on the file from the early days of the matter and echoed in the quote from the Rowe Cohen letter of 19 October 2006 [POL00069440] above. Indeed, on 3 October 2006 as set out in Stephen Dilley's file note of that date [POL00069513], Richard Morgan, was already questioning whether any expert evidence would in fact be needed by Post Office if it put its case based on the cash accounts signed by Mr Castleton and the physical losses found at the branch when compared to those cash accounts.

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61. Following the Order of Master Turner of 23 October 2006 there was permission only for sequential expert accountancy evidence. From my review of the file it appears that the Court, of its own volition, restricted the discipline of any expert to the field of accountancy as it appears to me (from reading the file) that the Court too was frustrated with Mr Castleton's progress in meeting deadlines set by the Court for evidence. Master Turner also, I believe, recognised the difficulty Post Office was facing in getting particularity about the case it was to meet at trial and so ordered sequential exchange as outlined above.

62. As noted above, in order to prepare to meet any expert evidence Mr Castleton may serve, BDO had been instructed by Post Office on 10 August 2006 and then further on 22 August 2006 as IT expert and also as expert accountant. The expert IT aspect of this case fell away following the order of Master Turner of 23 October 2006.

63. Adherence to the sequential exchange time limit, ordered by Master Turner, did not occur and we did not receive any expert accountancy evidence from Mr Castleton on 10 November 2006 or at any time after that.

64. During the time BDO were instructed there was a "stop / start" approach to their work (in order to attempt to save costs) as we attempted to reach a settlement with Mr Castleton which at times looked likely. In the end that settlement did not conclude.

65. From the file, it seems that probably as a function of that stop / start approach to BDO's work their draft accountancy report was not ready for us in the run up to the PTR. It must also be remembered that BDO was to respond to an expert

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report served by Mr Castleton, but that never occurred. As we moved closer to the date of the PTR (being the 27 November 2006) I can see from the file that Stephen Dilley was making efforts to obtain some form of output from BDO in readiness for that Court hearing notwithstanding the fact that we had had no expert accountancy evidence in from Mr Castleton for BDO to respond to.

66. On 27 November 2006 we got an email from Geoff Porter at BDO [POL00069983] stating:

"My conclusions are that there is no evidence of a system failure

Looking at the cash transactions which logically must be the reason for any difference Casteltons daily reconciliations do not make sense There are differences every day which suggest that he was not counting cash accuratelly [sic]

I also think that he has not paid in cash to cover error notices ..."

67. As at the date of the PTR, therefore, my understanding from my reading of the file is that we understood BDO's position to be supportive of the Horizon system in their role as accountancy expert. However, at the PTR His Honour Judge Seymour QC ordered, that "*There be no expert evidence at the trial of the action*." I was not at the PTR but I believe this Order was made to allow the action to proceed without very late evidence being deployed by either party.

68. On 29 November 2006 (i.e. very shortly after the PTR) we received a draft (and by that point debarred) BDO report. That draft report was not in reply to any expert evidence served by Mr Castleton, as he did not adduce any. I can see

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from the file that the draft document had at least one known incorrect assumption (in our view – although it would have of course been a matter for the expert had the report ever needed to be finalised). The incorrect assumption is the "£3,500 point" that is discussed above in this statement.

69. As such, and summarising, the BDO report was not used in the trial because (i) the Court ordered that there would be no expert evidence at trial at the PTR, such that (ii) the report was never finalised and served.

70. In short, the BDO report was not used in the trial because:

(a) Expert evidence was debarred,

(b) in any event, after 23 October 2006, we had permission only to serve evidence in reply, and Mr Castleton never served any expert accountancy evidence for BDO to reply to,

(c) the report remained draft with (in our view) at least one significant incorrect assumption in it (being the "£3,500 point" referred to above),

(d) the report needed substantial work to finalise it,

(e) the normal toing & froing to bottom out queries in a draft expert report (subject to the expert's view) and move it towards finalisation were now pointless (as it was debarred),

(f) in any event steps to finalise the report were by that time (29 November 2006) unachievable in the time available given the imminence of the trial (then 5 December 2006 and in the event 6 December 2006); and

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(g) I believe that Counsel did not feel that unilateral expert evidence (which was meant to have been sequential) was necessary in support of the case Post Office was then advancing.

THE REQUEST ASKS THAT I CONSIDER THE EMAILS FROM NOVEMBER 2006 AT [POL00069766], [POL00069756] AND [POL00113911] AND THE ATTENDANCE NOTE DATED 22 NOVEMBER 2006 AT [POL00069670]. I AM ASKED, TO WHAT EXTENT DID THOSE INVOLVED IN THE MATTER FOR THE POST OFFICE HAVE REGARD FOR MR CASTLETON'S WELLBEING IN RESPECT OF THE CONDUCT OF THE LITIGATION?

71. Mr Castleton was represented by Rowe Cohen from early February 2005 to 20 November 2006. The trial of this matter commenced on the 6 December 2006.

72. From my review of the file, I believe the first time we became aware of a suggestion that Mr Castleton was unwell was on 15 November 2006 [POL00069766]. There were further communications referencing Mr Castleton's health on 17 November 2006 between solicitors [POL00069756]. On that day Mr Castleton's solicitors confirmed that they had spoken to Mr Castleton and his GP. They confirmed he was able to give instructions.

73. Rowe Cohen came off the record on 20 November 2006 and Mr Castleton then made an application to adjourn the trial. That application was to be heard at the PTR scheduled for 27 November 2006.

74. I also understand from Stephen Dilley's note of 1 December 2006 [POL00069871] that Mr Castleton handed up to His Honour Judge Seymour QC

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at the PTR a note (that I understand we did not see) confirming that he was well enough to attend trial. I understand from Stephen Dilley that at the PTR His Honour Judge Seymour QC adjourned the issue of the application to adjourn to the trial Judge. I assume that was due to the then very imminent commencement of the trial.

75. Given the imminence of the trial only His Honour Judge Seymour QC at the PTR or the trial Judge could at that point adjourn the trial. It could not have been done by consent.

76. Mr Castleton had his adjournment application as a live issue at trial. I understand from Stephen Dilley that Mr Castleton voluntarily withdrew his application on 6 December 2006 as by that time he wished matters to be heard in Court.

77. Stephen Dilley's note of 22 November 2006 [POL00069670] records my doubt that Mr Castleton was as "*ill as he made out*". I do not now recall that sentiment being aired by me. I assume that my scepticism was driven by the fact that we still had (at that time) no expert evidence or any witness statements from Mr Castleton (we had served ours unilaterally (to be held to our order) some days earlier) and the trial was very proximate at that point. I had nothing on which to base the comment that is attributed to me. With hindsight I wish I had described my frustrations differently. That comment was never conveyed to Mr Castleton although, as stated, I wish I had described my frustrations differently. I do not think that comment is indicative of Bond Pearce acting inappropriately or unfairly towards Mr Castleton.

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78. As I note above, in the event the trial did commence on the 6 December 2006 and I am told by Stephen Dilley that Mr Castleton both wanted the trial to commence and handed up to the Judge some form of medical evidence or letter (the contents of which are unknown to us) and the then Judge proceeded with the trial exercising his discretion to do that.

79. It can be seen that there is nothing that we did from 20 November 2006 (the time when Mr Castleton became unrepresented) to trial that altered the eventual position as to whether a trial occurred or otherwise. The parties would not have been able to adjourn by consent given the proximity of the trial. Mr Castleton made his application to adjourn, His Honour Judge Seymour QC at the PTR put that off to the trial Judge and then Mr Castleton withdrew his application voluntarily.

80. Lastly, I understand that Richard Morgan did, in his Opening on 6 December 2006, make the Judge aware of health issues around Mr Castleton and that the parties (including the Judge) would need to keep matters under review. In the event the trial was able to proceed, as Mr Castleton wished having withdrawn his application to adjourn.

81. I hope and believe that we had regard for Mr Castleton's wellbeing throughout and particularly when he was unrepresented from 20 November 2006 onwards.

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THE REQUEST ASKS WHETHER THERE ARE ANY OTHER MATTERS THAT I WISH TO BRING TO THE ATTENTION OF THE CHAIR OF THE INQUIRY?

82. As I mention at the start of this witness statement, the Request relates to matters and events that took place many years ago. In preparing this witness statement I have provided information to the best of my ability where I have any direct recollection. I have also reviewed parts of this firm's files relevant to the Request which the Inquiry already has, as I understand it. My independent memory of the Lee Castleton case is very limited given the passage of time and my role in the claim and so much of what I say above is based upon reviewing parts of those files and reconstructing what I believe now I was thinking at the time. As such there is no further information that I wish to bring to the attention of the Chair of the Inquiry.

Statement of Truth

I believe the content of this statement to be true.

Signed: GRO .....

THOMAS MATHEW BEEZER

Dated: 13 June 2023

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Index to First Witness Statement of Thomas Mathew Beezer

No.	URN	Document Description	Control Number
1	POL00070496	Email from Stephen Dilley to Bob Heckford of 18 November 2005	POL-0067059
2	POL00070486	Email from Stephen Lister to Stephen Dilley of 7 November 2005 (see page 3 of 4 of the document)	POL-0067049
3	POL00070209	Bond Pearce letter to Mandy Talbot dated 14 January 2005	POL-0066772
4	POL00070496	Email from Tom Beezer to Stephen Dilley, Bob Heckford and Simon Richardson of 21 November 2005	POL-0067059
5	POL00070789	Hugh James letter to Bond Pearce dated 2 December 2005	POL-0067352
6	POL00070787	Email exchanges between Carol Jones (on behalf of Ian Herbert) and Tom Beezer and Tom Beezer and Stephen Dilley of 2 December 2005	POL-0067350
7	POL00070778	Email exchange between Stephen Dilley and Mandy Talbot on 2 December 2005 and 5 December 2005	POL-0067341

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8	POL00070850	Telephone attendance note of Stephen Dilley of 7 April 2006	POL-0067413
9	POL00072741	Telephone attendance note of Adrian Bratt dated 16 August 2006	POL-0069304
10	POL00070481	Email from John Jones to Stephen Dilley of 23 November 2005	POL-0067044
11	POL00070910	Email from Stephen Dilley to Julian Summerhayes of 24 February 2006	POL-0067473
12	POL00070851	Email from Mandy Talbot to Tom Beezer, Stephen Dilley and Ian Herbert of 7 April 2006	POL-0067414
13	POL00071138	Email from Stephen Dilley to Richard Morgan of 27 June 2006	POL-0067701
14	POL00071081	Email from Tom Beezer to Mandy Talbot of 21 August 2006	POL-0067644
15	POL00072711	Telephone attendance note of Stephen Dilley of 23 August 2006	POL-0069274
16	POL00070480	Telephone attendance note of Stephen Dilley of 23 November 2005	POL-0067043
17	POL00070475	Email from Tom Beezer to Stephen Dilley of 24 November 2005	POL-0067038
18	POL00071016	Email from Tom Beezer to Julian Summerhayes of 12 December 2005	POL-0067579

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19	POL00070824	Email from Stephen Dilley to Mandy Talbot of 24 April 2006	POL-0067387
20	POL00069603	Telephone attendance note of Stephen Dilley of 8 September 2006	POL-0066166
21	POL00069450	Email from Stephen Dilley to Richard Morgan of 16 October 2006	POL-0066013
22	WBON0000089	Bond Pearce letter to Rowe Cohen of 1 November 2006	WBON0000089
23	POL00069440	Rowe Cohen letter to Bond Pearce of 19 October 2006	POL-0066003
24	LCAS0000945	Rowe Cohen letter to Bond Pearce of 30 September 2005	VIS00011185
25	POL00069756	Email from M Turner to Stephen Dilley of 17 November 2006 (bottom of page 1)	POL-0066319
26	POL00081490_008	BDO letter to Bond Pearce dated 5 September 2006	POL-0078053_008
27	POL00069612	Telephone attendance note of Stephen Dilley of 7 September 2006	POL-0066175
28	POL00069871	Telephone attendance note of Stephen Dilley of 1 December 2006	POL-0066434
29	POL00069798	Email from Stephen Dilley to Richard Morgan of 9 November 2006	POL-0066361
30	POL00069796	Email from Stephen Dilley to Richard Morgan of 9 November 2006	POL-0066359

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31	LCAS0000428	Bond Pearce letter to Rowe Cohen dated 18 January 2006	VIS00010668
32	POL00069955	Draft BDO Report dated 29 November 2006	POL-0066518
33	POL00069513	Telephone attendance note of Stephen Dilley of 3 October 2006	POL-0066076
34	POL00069983	Email from Goeff Porter to Stephen Dilley of 27 November 2006	POL-0066546
35	POL00069766	Email from M Turner to Stephen Dilley of 15 November 2006	POL-0066329
36	POL00069756	Email exchange between WBD and Rowe Cohen of 17 November 2006	POL-0066319
37	POL00113911	Email exchanges between M Turner, Stephen Dilley and Mandy Talbot between 15 November 2006 and 17 November 2006	POL-0113019
38	POL00069670	Telephone attendance note of Stephen Dilley of 22 November 2006	POL-0066233