

IN THE COURT OF APPEAL OF NEW ZEALAND

CA715/2012
[2013] NZCA 90

BETWEEN	NZ TAX REFUNDS LIMITED Appellant
AND	BROOKS HOMES LIMITED First Respondent
AND	MY REFUND LIMITED Second Respondent
AND	STEPHEN CAVELL BROOKS Third Respondent

Hearing: 13 March 2013

Court: O'Regan P, Arnold and Miller JJ

Counsel: Z G Kennedy and M D Toulmin for Appellant
B W F Brown QC and D J C Russ for Respondents

Judgment: 27 March 2013 at 3 pm

JUDGMENT OF THE COURT

A The appeal is allowed.

B We grant an injunction prohibiting the respondents from using the trade name Tax Refund NZ and the web address www.taxrefundnz.co.nz until further order.

C The respondents are jointly and severally liable to pay the appellant costs for a standard appeal on a band A basis plus usual disbursements.

REASONS OF THE COURT

(Given by Arnold J)

Introduction

[1] The appellant, NZ Tax Refunds Ltd, issued proceedings against the respondents alleging that they had breached s 9 of the Fair Trading Act 1986 (FTA) and committed the tort of passing off by adopting the trade names NZ-Tax Refund and Tax Refund NZ and establishing websites utilising those names in their respective website addresses. In conjunction with its claim, it sought interim injunctions prohibiting the defendants from using such names and continuing to operate the websites.

[2] In a judgment dated 5 October 2012, Fogarty J granted an interim injunction in respect of the name NZ-Tax Refund and its associated website but declined to grant an interim injunction in respect of the name Tax Refund NZ and its associated website.¹ The appellant appeals against the latter aspect of the Judge's decision.

[3] Given that the end of the tax year is approaching, we were asked to hear this appeal as a matter of urgency and, if possible, to give judgment before 31 March 2013.

Factual background

[4] The third respondent, Mr Brooks, is a young entrepreneur. He is a shareholder in the first respondent, Brooks Homes Limited, and the sole shareholder of the second respondent, My Refund Ltd. NZ Tax Refunds and My Refund both provide online tax refund services. Clients provide tax information to the service provider through an internet-based application form, which the service provider processes, as the clients' tax agent, with the Inland Revenue Department (IRD) through its online facilities.

¹ *NZ Tax Refunds Ltd v Brooks Homes Ltd* [2012] NZHC 2598 [High Court decision].

[5] Ms Priscilla Hegarty is a founding director and shareholder of NZ Tax Refunds. In her principal affidavit she said that NZ Tax Refunds commenced business as an online provider in 2008, operating from a website at the web address www.nztaxrefunds.co.nz (it also had another web address: www.nztaxrefund.co.nz). She deposed that NZ Tax Refunds has invested considerable capital in developing and advertising its service and is now the largest player in the market, having a market share of around 30 per cent.

[6] My Refund also commenced business in 2008 but utilising a different service model. It operated through booths in shopping malls and similar locations, utilising a combination of computer processing and personal contact. Clients took their tax details to My Refund's personnel at the booths. Those personnel then entered the details into computers for processing. The computers were linked to the IRD's online services. If it turned out that a client was entitled to a refund, the information was entered into My Refund's database for manual processing. Office staff would contact the IRD by telephone to make arrangements for the refund to be sent to My Refund, which would account to the client for it, less any appropriate fee or commission. My Refund established the web address www.myrefund.co.nz in January 2008.

[7] Subsequently, My Refund moved to a fully online operating model and now does not operate booths in shopping malls and such like. In his principal affidavit, Mr Brooks deposed that in 2010, he became aware of competition in the New Zealand market from overseas providers, particularly providers based in Australia. He said that, given the popularity of internet searching, one factor that assisted with the capture of domestic customers was to utilise a New Zealand-based website address – .co.nz. He also said that using "NZ" within the website name ensured that the relevant website would rank in an internet search targeted towards New Zealand services. Mr Brooks said that My Refund worked through various potential combinations of names and adopted Tax Refund NZ and the website address "www.taxrefundnz.co.nz". It appears that My Refund registered the domain name in June 2010 although did not begin to use the website until June or July 2011.

[8] Ms Hegarty said that she became aware of Tax Refund NZ and its website around 1 November 2011. On accessing the website, she noted that the juxtaposition of the two elements “Tax Refund” and “NZ” was such that the name could reasonably be read as NZ Tax Refund. Ms Hegarty deposed that customers who accessed the website were redirected to an application form that was exactly the same as that utilised by My Refund and were required to agree to My Refund’s terms and conditions. On 30 March 2012, NZ Tax Refunds’ solicitors sent a cease and desist letter to My Refund and to Mr Brooks. The letter alleged that they were attempting to “coat-tail” off NZ Tax Refunds’ reputation. Mr Brooks’ solicitors responded by letter dated 26 April 2012 denying this allegation.

[9] Then, around 24 May 2012, Ms Hegarty became aware of a further provider of online tax refund services, NZ-Tax Refund, which operated from the web address “www.nz-taxrefund.co.nz”. Ms Hegarty said that she discovered that this web address had been registered by Mr Brooks in December 2010 but that it did not go live until May 2012. She said that this website was also linked to the My Refund website. NZ Tax Refunds issued proceedings against the respondents on 6 June 2012.

[10] Before we move on to the substance of the case, we should say something about the state of the market in which the appellant and My Refund operate. There are at least four significant providers. The appellant has the largest market share with around 267,000 customers. My Refund has around 150,000 customers, of which around 50,000 are linked to the IRD.² Two other firms operating from the web addresses TaxRefunds.co.nz and MyTax.co.nz respectively have around 120,000 and 100,000 customers each. There are then some smaller providers with a total of around 100,000 customers.

[11] Fogarty J noted that the respondents had provided a list of 24 web addresses in New Zealand which use the phrase “tax refund” or something similar, around

² Mr Brooks said that it was important to distinguish between clients held in a company’s database and clients for whom the company acts as tax agent. The former includes anyone who comes to the company to see whether they are entitled to a refund. The latter includes customers who are entitled to a refund and are linked to the IRD through a tax agency linking in order to process the refund.

15 of which were live. This list did not include the 11 or so web addresses that the respondents had registered utilising similar words.

Approach

[12] The approach to an application for an interim injunction is well established. The applicant must first establish that there is a serious question to be tried or, put another way, that the claim is not vexatious or frivolous. Next, the balance of convenience must be considered. This requires consideration of the impact on the parties of the granting of, and the refusal to grant, an order. Finally, an assessment of the overall justice of the position is required as a check.³

[13] The grant of an interim injunction involves, of course, the exercise of a discretion. Such a decision is amenable to appeal, on the basis that the judge has erred in law, taken account of an irrelevant matter, failed to take account of a relevant matter or is plainly wrong.⁴ This is subject to the qualification, however, that whether there is a serious question to be tried is an issue which calls for judicial evaluation rather than the exercise of a discretion. Where an appellate court disagrees with a judge's finding that there is no serious issue to be tried, the appellate court will have to carry out its own assessment of the balance of convenience and the overall justice of the case, although it may well derive assistance from the judge's analysis of those aspects.

Evaluation

[14] As we have said, NZ Tax Refunds alleged two causes of action, breach of the FTA and passing off. Section 9 of the FTA provides:

Misleading and deceptive conduct generally

No person shall, in trade, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.

³ See, for example, *Roseneath Holdings Ltd v Grieve* [2004] 2 NZLR 168 (CA) at [35]–[37].

⁴ *Novartis New Zealand Ltd v Aktiebolaget Hassle* [2004] 2 NZLR 721 (CA) at [53]; *Kacem v Bashir* [2010] NZSC 112, [2011] 2 NZLR 1 at [32].

Section 11 deals with misleading conduct in relation to services and s 13 with false or misleading representations. Section 43 empowers the court to grant an injunction where there is breach.

[15] As the Supreme Court said in *Red Eagle Corporation Ltd v Ellis*, s 9 is “directed to promoting fair dealing in trade by proscribing conduct which, examined objectively, is deceptive or misleading in the particular circumstances”.⁵ It is not necessary to show that the person alleged to have breached the section had an intention to mislead or deceive, nor is it necessary to show that someone was actually misled – a capacity to mislead is sufficient.⁶

[16] Passing off also involves conduct in the course of trade which is misleading. The conduct must be directed at prospective users of goods or services and it must be reasonably foreseeable that it will injure the business or goodwill of a competing trader by free-riding, or attempting to free-ride, on that goodwill or business reputation. In *Tot Toys Ltd v Mitchell* Fisher J summarised the requirements as being:⁷

- (a) that there is some *reputation* or goodwill attached to [the plaintiff’s] name, mark or get-up;
- (b) that the defendant has used the same or a deceptively similar name, mark or get-up so as to confuse or *deceive* the relevant public or if unrestrained is likely to do so; and
- (c) that as a result, *damage* has been or is likely to be caused to the plaintiff’s business, reputation or goodwill.

The elements of the tort are discussed in more detail in the speeches of Lord Diplock and Lord Fraser in *Erven Warnick BV v J Townend & Sons (Hull) Ltd*⁸ and in the speech of Lord Oliver in *Reckitt & Coleman Products Ltd v Borden Inc.*⁹

⁵ *Red Eagle Corporation Ltd v Ellis* [2010] NZSC 20, [2010] 2 NZLR 492 at [28].

⁶ *Ibid.*

⁷ *Tot Toys Ltd v Mitchell* [1993] 1 NZLR 325 (HC) at 334.

⁸ *Erven Warnick BV v J Townend & Sons (Hull) Ltd* [1979] AC 731 (HL) at 742 per Lord Diplock and at 755–756 per Lord Fraser.

⁹ *Reckitt & Coleman Products Ltd v Borden Inc* [1990] 1 WLR 491 at 499. See also the discussion in Stephen Todd “Interference with Intellectual Property” in Stephen Todd (ed) *The Law of Torts in New Zealand* (5th ed, Brookers, 2009) at [14.2.01].

[17] Again, it is not necessary to show instances of confusion in order to succeed in a passing off claim, although if such instances can be shown, that will enhance a plaintiff's case.¹⁰ Nor is it necessary to show an intention to deceive – a likelihood is sufficient. Proof of intention is likely to be a powerful evidentiary factor, however. As Fisher J said in *Tot Toys*:¹¹

Although the plaintiff need not show an intention to deceive, the Court will more readily find that a defendant who intended to deceive has succeeded in his objective: *Parker-Knoll Ltd v Knoll International Ltd*;¹² *Black and White Cabs Ltd v McEneaney*.¹³

[18] A significant difficulty faced by the appellant is that its name is descriptive of the services it provides. They are services provided by a variety of other entities. As Stephen Todd says:¹⁴

The more a name is generally descriptive of a commercial activity, the less likely it is that the public will associate the name with a particular source or that the courts will protect the words.

[19] However, the courts have recognised that a descriptive name may acquire what is described as a “secondary meaning” that is identified with the goods or services of the party with the descriptive name. This does not seem to be an invariable requirement, however. In *Shotover Gorge Jet Boats Ltd v Marine Enterprises Ltd*, Hardie Boys J held that it was arguable that, even if the plaintiff in that case could not show the words “Shotover Jet” had acquired a secondary meaning, the plaintiff was entitled to protection from a competitor which sought to operate under the same name even with the addition of a differentiating word (in that case, “Lower” as in “Lower Shotover Jet”).¹⁵ Hardie Boys J granted an interim injunction.

[20] A further example is *Airport Rentals Ltd v Airport Car Rentals (Southern) Ltd*.¹⁶ There the plaintiff traded from Christchurch Airport under the name Airport

¹⁰ See *Anheuser-Busch Inc v Budweiser Budvar National Corporation* [2003] 1 NZLR 472 (CA) at [128].

¹¹ At 354.

¹² *Parker-Knoll Ltd v Knoll International Ltd* [1962] RPC 265 (HL).

¹³ *Black and White Cabs Ltd v McEneaney* [1927] NZLR 862 (CA).

¹⁴ Todd, above n 9, at [14.2.03].

¹⁵ *Shotover Gorge Jet Boats Ltd v Marina Enterprises Ltd* [1984] 2 NZLR 154 (HC) at 158–160.

¹⁶ *Airport Rentals Ltd v Airport Car Rentals (Southern) Ltd* (1995) 6 TCLR 664 (HC).

Rentals Ltd and had done so for some years. When the defendant, Airport Car Rentals (Southern) Ltd, set up to operate from the airport, the plaintiff sued it in passing off and under the FTA and sought an interim injunction.

[21] Tipping J set out the basic approach:¹⁷

As a general rule the more distinctive a trading name is, both in itself and as identifying the plaintiff's business, the further away competitors must keep in the names they adopt. On the other hand, if the plaintiff's trading name is generic or descriptive (ie made up of words which describe common things and are in common use) the nearer the competitors may approach. In the second type of case only small distinctions may be enough to avoid passing-off or conduct which can be impugned under the Fair Trading Act 1986.

Cases of this kind involve not only a comparison of the names themselves, but other factors, including the length of time the plaintiff's name has generally been identified with the plaintiff, the similarity of the markets in which the competing parties are trading, the sophistication of those markets, and the circumstances in which the defendant has come to use the name of which the plaintiff complains.

The Judge later said that there was "no absolute embargo on descriptive words being afforded some measure of protection".¹⁸

[22] Tipping J granted an interim injunction. He said:¹⁹

The essential point is that the difference between "Airport Rentals" and "Airport Car Rentals" is such that I am of the view that there is still a strong likelihood of confusion. Members of the public are likely, in my view, to mistake one business for the other or to take the view that they are essentially the same business. Although the names are semantically different and, from the point of view of a company name, can be seen to describe different legal entities, an ordinary person interested in hiring a rental car is unlikely to think like a lawyer. Some looseness of thought and speech must be likely to occur. It is in my view really self-evident that the two names are materially so similar that the potential for confusion and people being misled is considerable.

[23] Returning to the present case, having analysed the position in relation to serious question, Fogarty J concluded:²⁰

[58] In conclusion I think that it is too early to say whether or not there is a seriously arguable case that the [appellant's] name has become distinctive.

¹⁷ At 665.

¹⁸ At 667.

¹⁹ At 669.

²⁰ High Court decision, above n 1.

The [appellant's] case is not as strong as the plaintiff in *Airport Rentals*. The [appellant] may, however, at trial, be able to show that customers have been misled. Discovery may show loss of some customers to the [respondents] and subsequent interviewing of those customers may disclose that they became confused – that they thought they were dealing with the same company from whom they had, in a previous year, obtained a tax refund.

[24] Later, when discussing the balance of convenience in relation to the name NZ-Tax Refund and the web address www.nz-taxrefund.co.nz, the Judge said:

[63] It is one thing for all the competitors to endeavour to use the word TAX or tax and REFUND or refund in both branding and [web addresses]. It is another to adopt precisely the same combination. There is a serious argument that using NZ-Tax Refund was a deliberate act to pass off the [respondents] as the [appellant], and to mislead in trade. ...

[64] I am satisfied that it is appropriate that there be an interim order in favour of the [appellant] restraining the [respondents] from using the name NZ-Tax Refund, and its domain name, www.nz-taxrefund.co.nz. The [respondents] can plainly carry on in business without the name NZ-Tax Refund for it has only briefly, if at all, been used as a trade name.

[25] However, in relation to the name Tax Refund NZ and the web address www.taxrefundnz.co.nz, Fogarty J concluded:

[65] It is another question, however, as to whether the [respondents] should be stopped using the name Tax Refund NZ and www.taxrefundnz.co.nz. This would be a significant immediate impairment of its business, and not necessarily to the immediate advantage of the [appellant], given the other very similar names in use.

[66] I do not think it is in the overall justice of the case, as it has progressed so far, for this Court to injunct, even on an interim basis, the continued use of Tax Refund NZ and www.taxrefundnz.co.nz. That would very likely force the [respondents] into a new brand name which does not use the words “tax” or “refund”. The [appellant] is not challenging Tax Refunds.co.nz. On the evidence so far, this company has the second highest market share with 120,000 clients.

[26] In relation to NZ-Tax Refund it seems that the Judge considered that there was a serious question to be tried. As the extracts quoted at [24] above indicate, the Judge regarded NZ-Tax Refund as effectively a direct copy of the appellant's name, NZ Tax Refunds, and concluded that there was a serious argument that the respondents had deliberately attempted to pass themselves off as the appellant by adopting it. There has been no challenge to the grant of the interim injunction in respect of that trade name and its associated web address.

[27] In relation to Tax Refund NZ and its associated web address, it appears that the Judge did not consider that there was a serious question to be tried. The Judge may have seen this case as falling within the class that Tipping J identified in *Airport Rentals* where a small difference in wording is sufficient to avoid liability.²¹ In any event, the Judge determined that the balance of convenience did not favour the grant of an injunction. We do not agree with the Judge on either point, as we now endeavour to explain.

Serious question to be tried

[28] First we deal with the serious issue to be tried. The appellant's evidence is that it has spent some \$3.5 million dollars in the development and advertising of its brand. It has a large market share that has recently grown. This suggests that its marketing strategy has been successful and that it is building goodwill in its brand. If this is so, it is at least arguable that its brand is beginning to develop distinctiveness. There may be an explanation for this that is not associated with the appellant's trade name. It is that the appellant has recently attempted to brand its services with the phrase "Woo Hoo", presumably to reflect the satisfying sensation of receiving a tax refund. But at this stage, there is evidence that the appellant has built a good reputation for its business, which may amount to "distinctiveness".

[29] In addition to this – and here we go further than Fogarty J – we consider that it is at least arguable that when Mr Brooks adopted the name Tax Refund NZ and its associated web address, he intended to free-ride on the appellant's goodwill and business reputation, as the Judge found was the case with NZ-Tax Refund and its associated web address. We reach this preliminary view for two reasons.

[30] First, the name NZ-Tax Refund is effectively a direct copy of the appellant's name; the name Tax Refund NZ is a variation – the NZ is moved from the front to the end of the name. Mr Brooks explained in his principal affidavit that he wanted a name and web address with NZ in it to meet competition from overseas providers. He also referred to changing consumer practices, saying that rather than searching on the internet for a specific provider, such as My Refund, consumers would put terms

²¹ See the extract quoted at [21] above.

such as “tax”, “refund”, “NZ” and “IRD” into a search engine to find a provider. But this does not explain why Mr Brooks could not have used his existing trade name and web address and simply added NZ – My NZ Refund or My Refund NZ. On the face of it, that was an obvious solution and some explanation was required as to why it was not adopted.

[31] Second, the evidence indicates that the www.taxrefundnz.co.nz website is administratively linked to the My Refund website, in the sense that visitors to it are required to use the My Refund application form and to accept My Refund’s terms and conditions. This is significant because it suggests that the use of the name Tax Refund NZ and its web address was directed at gathering more customers for My Refund, not establishing a new or independent business. Put another way, the use of the name and the establishment of the website were, arguably, simply an attempt to broaden the scope of My Refund’s catchment for customers.

[32] It may be that Mr Brooks will be able to justify his decisions at trial. For present purposes, however, it is sufficient to say that there is a gap in the evidence which requires explanation and, on the face of it, it is plausible that Mr Brooks intended to mislead or deceive consumers when he established both trade names and websites. As we have already noted, although an intention to deceive or mislead is not a component of either a passing off action or a claim alleging breach of the FTA, the presence of such an intention strengthens the plaintiff’s position in both contexts.

[33] We should mention a point that troubled the Judge and received some emphasis in argument before us. As we have noted, another significant competitor in the market operates from the web address www.taxrefund.co.nz. That has not been challenged by the appellant.

[34] The appellant accepts that it cannot stop competitors using the words “tax” and “refund”, either alone or in combination, in trade names or web addresses. It says that it seeks only to prevent the use only of “tax”, “refund” and “nz” in combination. It says the country designator – .co.nz – should be ignored for these purposes as that is common to all New Zealand-based web addresses.

[35] On a preliminary view, we are inclined to agree that the country designator should be ignored for these purposes, although we accept that the point is arguable. Because it is common to all New Zealand-based providers, the country designator .co.nz is neutral.

[36] In summary, then, we consider that there is sufficient material to indicate that the appellant's claim in relation to Tax Refund NZ and its associated website is more than vexatious or frivolous and raises a serious issue to be tried. This brings us onto balance of convenience.

Balance of convenience

[37] The Judge's reasons for not granting an injunction in relation to Tax Refund NZ and its associated web address were:²²

- (a) An injunction would be a significant immediate impairment of Tax Refund NZ's business.
- (b) An injunction would not necessarily be to the appellant's immediate advantage given the other similar names in use.
- (c) An injunction would force the respondents into a new brand name which did not use the words "tax" or "refund".
- (d) The appellant did not challenge taxrefund.co.nz despite its considerable market share.

[38] As to the first point, the Judge is, of course, right that an injunction would have a significant impact on Tax Refund NZ's business. But, on the evidence before us, it does not operate any business independent of My Refund. All visitors to the Tax Refund NZ website are required to use My Refund's forms and accept My Refund's terms and conditions. So the real loss would be to My Refund. The evidence does not indicate what any loss of business to My Refund is likely to

²² See [25] above.

be as it does not disclose how many visitors there have been to the Tax Refund NZ website and how many went on to utilise My Refund's services. So the impact may be great or small.

[39] As to the second point, given the lack of evidence just mentioned, it cannot be said what practical advantage there might be to the appellant in terms of customer numbers if the injunction were to be granted. At least, if the appellant does manage to sustain its claims, the grant of an interim injunction will ensure that its goodwill will is not further eroded in the meantime.

[40] As to the third point, it is not correct. The respondents will not be forced to develop a new brand name which does not have "refund" or "tax" in it. First, Mr Brooks has an existing brand name "My Refund" which he can continue to use. Second, he could modify that brand name by adding "NZ", to which the appellant could not properly object, as Mr Kennedy accepted. The only thing that is presently at issue is the unadorned combination of the three words previously mentioned – "tax", "refund" and "nz".

[41] As to the final point, we do not see that it is relevant, in part for the reason we gave earlier about the presence of the New Zealand web designation .co.nz being neutral and in part because of the existence of an arguable case that the respondents intended to mislead customers by adopting the trade name and web address at issue, which is a material distinction between the two providers.

[42] It follows from what we have said that we do not see the reasons given by the Judge as justifying the refusal of an injunction. We need to consider, therefore, whether there are any other factors that are relevant to the exercise of the discretion.

[43] Most obvious is delay. The evidence indicates that the appellant learnt of Tax Refund NZ and its associated website in November 2011 but did not send a cease and desist letter to the respondents until 30 March 2012 and did not issue proceedings until June 2012. The consequence is, presumably, that the website www.taxrefundnz.co.nz was in operation for the tax year ending 31 March 2012.

The appellant's case for relief would be stronger if it had issued proceedings and sought an interim injunction before the end of the 2012 tax year.

[44] Ms Hegarty explained the delay between November and March as resulting from pressure of work, the intervention of the Christmas holidays and a change of solicitors. While we understand the impact of such pressures on relatively small businesses such as the appellant, these explanations would not be sufficient to justify the delay if it was unacceptably long. However, we do not see the delay in the present case as being unacceptably long. The respondents received the cease and desist letter from the appellant's solicitors on 30 March 2012 and chose to proceed in the face of it. As we have said, we consider that there is an arguable case that the respondents intended to free-ride on the appellant's goodwill or business reputation when they established Tax Refund NZ and its associated website. In these circumstances, a delay of several months is not fatal. Moreover, it is relevant in this context that the Tax Refund NZ website does not relate to an independent business but effectively links back to the material on the My Refund website, so My Refund will still be able to operate its business.

[45] Finally, in relation to the adequacy of damages, we make two points. First, the appellant has, we understand, provided an undertaking as to damages but the respondents have not. Second, neither party argued strongly that damages would be an adequate remedy for the other. Undoubtedly, there would be difficulties of quantification. In any event, in circumstances where there is arguably a deliberate attempt to mislead, the availability of damages may be a less significant consideration.

[46] In our view, the balance of convenience favours the grant of an injunction.

Overall justice

[47] The overall justice assessment is essentially a check on the position that has been reached following the analysis of the earlier issues of serious question to be tried and balance of convenience. We are satisfied that the overall justice of the case requires the issue of an interim injunction.

Conclusion

[48] To summarise, as we interpret his judgment, Fogarty J considered that there was no serious issue to be tried in relation to the name Tax Refund NZ and its associated website. We reached a different view on that point. That being so, we went on to make our own assessment of the balance of convenience and the overall justice of the case, albeit one informed by the Judge's analysis. Consideration of both aspects pointed, in our view, to the grant of an interim injunction.

Decision

[49] We allow the appeal. There will be an injunction prohibiting the respondents from using the trade name Tax Refund NZ and the web address www.taxrefundnz.co.nz until further order. The respondents are jointly and severally liable to pay the appellant costs for a standard appeal on a band A basis plus usual disbursements.

Solicitors:
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