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Our Ref: { MERGEFIELD MATTER\_FEE\_EARNER\_ID }/{ MERGEFIELD client\_no }/{  
MERGEFIELD matter\_no }

{ QUOTE { DATE \@ "d MMMM yyyy"} }

{ IF { MERGEFIELD FW\_CN\_CLI\_INFO\_FW\_CN\_CLI\_LIT } = "Yes" "{ MERGEFIELD  
"FW\_CN\_CLI\_INFO\_FW\_CN\_LF\_TITLE" } { MERGEFIELD  
"FW\_CN\_CLI\_INFO\_FW\_CN\_LF\_INITIA" } { MERGEFIELD  
"FW\_CN\_CLI\_INFO\_FW\_CN\_LF\_SNAME" }" "{ MERGEFIELD "LINKNAME\_TITLE\_1" } {  
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{ IF { MERGEFIELD FW\_CN\_CLI\_INFO\_FW\_CN\_CLI\_LIT } = "Yes" "{ MERGEFIELD  
FW\_CN\_CLI\_INFO\_FW\_CN\_LF\_ADD }" "{ MERGEFIELD CALCULATION\_ADDRESS }" }

Dear { IF { MERGEFIELD FW\_CN\_CLI\_INFO\_FW\_CN\_CLI\_LIT } = "Yes" "{ MERGEFIELD  
FW\_CN\_CLI\_INFO\_FW\_CN\_LF\_TITLE } { MERGEFIELD  
FW\_CN\_CLI\_INFO\_FW\_CN\_LF\_SNAME }" "{ IF { MERGEFIELD  
CLI1\_ADD\_INFO\_FW\_CLI1\_SAL } = "" "{ MERGEFIELD LINKNAME\_TITLE\_1 } {  
MERGEFIELD LINKNAME\_SURNAME\_1 }" "{ MERGEFIELD  
CLI1\_ADD\_INFO\_FW\_CLI1\_SAL }" }" }

**Re: { MERGEFIELD MATTER MATTER\_DESCRIPTION }**

I am now about to deal with the stage in your court case known as 'disclosure'.

You will know, from my letter summarising the steps in the court proceedings, that this stage of the case involves disclosure of relevant documents. I must therefore prepare a list of all documents you have, or have had, relating to the claim. This list must be filed at court and sent to { IF { MERGEFIELD FW\_CN\_DEF1\_FW\_CN\_D1\_TRUST\_name } <> "" "{ MERGEFIELD FW\_CN\_DEF1\_FW\_CN\_D1\_TRUST\_name }" "{ MERGEFIELD "FW\_CN\_DEF1\_FW\_CN\_D1\_FNAME" } { MERGEFIELD "FW\_CN\_DEF1\_FW\_CN\_D1\_SNAME" }" } ('the Defendant').

In return, the Defendant must file at court, and send to us, a list of all documents the Defendant has, or has had, relating to the claim. We may well obtain useful information from such documents disclosed by the Defendant.

Disclosure is a very important part of the preparation of the case for a final hearing, if necessary. Accordingly it is essential that the list of documents sent out on your behalf complies with the requirements of the court. As you will need to sign the list confirming that you have complied with these requirements, it is important that I explain in some detail exactly what the court expects.

## 1. The documents to be disclosed

(1) The court expects disclosure of:

- (i) documents on which you rely; and
- (ii) documents which adversely affect your case; and
- (iii) documents which adversely affect the Defendant's case; and
- (iv) documents which support the Defendant's case.

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*Either*

[If you refer back to the letter I sent you detailing points raised in the Defence, you will know the main issues in the case, which should help identify documents which support or adversely affect any party's case.]

*Or*

[In a case of this kind the court will however expect disclosure only of such documents which relate to claims for financial losses and expenses arising out of the injuries.]

- (2) The term 'documents' includes any:
  - (i) written documents;
  - (ii) photographs;
  - (iii) video recordings;
  - (iv) tape recordings;
  - (v) computer records;
  - (vi) e-mails;
  - (vii) other permanent or semi-permanent records.
  
- (3) However only documents in your control have to be disclosed. The court regards a document as being in your control if:
  - (i) it is in your physical possession; or
  - (ii) you have, or have had, a right to physical possession of the document; or
  - (iii) you have, or have had, a right to see or take copies of the document.
  
- (4) In a case of this kind typical documents which would be relevant and ought to be disclosed would include:
  - (i) receipts for any property damaged in the accident;
  - (ii) receipts for any expenditure incurred as a result of the injuries;
  - [(iii) any documentation relating to how the injuries were suffered;]
  - [(iv) any contract or written particulars of terms of employment;
  - (v) safety literature;]
  - [(vi) tax documentation;
  - (vii) State benefit documentation;
  - (viii) pay slips or pay advices.]

You do not need to let me have letters or other documents I have sent you as of course copies are in my file, and I am arranging to include these where appropriate, in the list.

## **2. The duty of search**

- (1) The court expects a reasonable search to be made for documents.
  
- (2) In particular I need to know if you have not undertaken any search for:
  - (i) documents pre-dating a particular date;
  - (ii) documents which may be at any particular location;
  - (iii) documents in any particular category.

Unless I hear from you to the contrary I shall assume the search has not been limited in any such way.

### 3. The format of the list

- (1) The list must disclose any documents in your control, including any that have come into existence since the case began. Accordingly if you do have any further documents, please could you let me have them without delay.
- (2) The list must also disclose any documents you have had but no longer have, with details of:
  - (i) a description of any such documents; and
  - (ii) what has happened to those documents.

If there are any such documents please can you let me have the necessary details. Unless I hear from you accordingly I shall assume there are no such documents.

I am sorry to have to write at some length on this stage of the case, but it is important to stress that the court expects disclosure of relevant documents to be dealt with very carefully.

Based on the documentation already available to me I have prepared and enclose a draft list of documents for your approval. Once you have read this letter would you please check the draft list to ensure that all relevant documents are disclosed. If you are content that the list is complete, please sign it in the space provided on the second page and then return it to me in the pre-paid envelope also enclosed. If however there are any further documents that ought to be disclosed in the list, please could you return the draft list either amended or with a separate note attached detailing those documents so that the list can be amended ready for final approval.

If you are not sure whether further documents ought to be disclosed in the list please telephone me.

I look forward to hearing from you.

Yours sincerely

{ MERGEFIELD CALCULATION\_FEE\_EARNER\_DESCRIPTION }  
{ MERGEFIELD PRACTICEINFO\_PRACTICE\_NAME\\*UPPER }