

## “Have a red hot go!”

By Lexi Legis

One of my favourite political lines would have to be that of former NSW premier, Nathan Rees: “I’ll have a red hot go.” Mind you, he failed dismally to have a red hot go at much, but that’s another story.

One of the solicitors in my office will have a red hot go at anything (providing it has reasonable prospects of success, of course). He’s not afraid of losing, although he has been known to transfer the case to me at the point when that becomes the most likely outcome, with a post-it note to the effect of: “Please work out how we can win this case”, usually followed by “that is listed for hearing on...”. Great, thanks! Sure, add it to my list of matters before we cop a V for the D and I’ll be responsible for the 0.5 per cent of cases we lose.

There’s nothing better than getting your teeth into a difficult case that many a budget-conscious solicitor in their right mind would steer clear in favour of a sure-fire winner guaranteed to reap in some costs. But where’s the fun in that? Don’t you sometimes feel like you’re doing the same crap, different day (to use one of my dad’s favourite expressions) if you don’t take on something a little juicy? We tell our clients all the time about the risks of litigation, and yet some solicitors shy away from a case at the first sign of something a bit tricky.

I once took a case over from a firm who had advised their then client that he’d be better off staying on workers’ compensation benefits, rather than risk losing a case against a third party and having an adverse costs order against him (in my view, the chances of losing were minimal and the

guy didn’t have two cents to rub together – they can’t get blood from a stone). He was compensated for 6 per cent whole person impairment (\$7,500), and the advice to stay on workers’ comp benefits meant continuing to receive the measly statutory rate of \$396.10 gross per week (at the time) for the foreseeable future, or until the insurer decided to cut him off. I can blow that amount on a good meal and a nice bottle of wine, let alone having to pay my rent with it! Having handled workers’ compensation claims for over 10 years now, I can safely say that, in my view, hardly anyone is better off on workers’ comp – especially not when it requires only a little bit of effort on the part of a willing solicitor to prove negligence on the part of the client’s ‘quasi-employer’.

I drill all clients who have been injured at work, where there may have been some negligence, as to who their actual employer is: ‘Are you sure you were employed by that company? What’s the name of your employer on your payslip? Who did you take your day to day instructions from?’ The words ‘labour hire’ have become music to my ears. Yay, bring on *Civil Liability Act* damages and bye bye dreaded modified work injury damages.

My point is that a lot of clients just want a solicitor willing to have a ‘red hot go’ for them and go the extra mile. And, personally, there’s nothing more rewarding than the feeling of relief, joy and satisfaction on hearing the words, ‘award for the plaintiff in the sum of...’, after the initial butterflies in the stomach before, and often during, taking judgment.

Of course, it would also be nice to receive a cheque within 28 days after judgment once in a while, rather than discovering that the hearing is only round one... ■

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