



ALLEN, Steven McIntire <steven.mcintire.allen@originlaw.net>

Personal Injury Claim - Australian client

6 messages

OLOUGHLINS - Michael Connelly <mconnelly@oloughlins.com.au>

14 April 2011 14:19

To: "minamoto@gaiben.jp" <minamoto@gaiben.jp>, "S. McIntire ALLEN" <allen@gaiben.jp>, "steven.mcintire.allen@originlaw.net" <steven.mcintire.allen@originlaw.net>

Dear Mr Allen

Throughout June and July 2010, you may recall that we had some correspondence with one another regarding an Australian client of ours who suffered a motor cycle accident whilst in Japan in 2008. Our client made inquiries through us as to whether he could make a claim in relation to that accident. We contacted you in an attempt to get a handle on the Japanese legal process of making such a claim.

You were kind enough to refer me onto Mr Ryutaro Sano, of Midosujilaw.

I confirm that on your recommendation, we contacted Mr Sano seeking his advice in regard to our client's options for pursuing compensation for that accident under Japanese law. Mr Sano subsequently provided us with a letter, containing a general and useful overview as requested.

We then requested that Mr Sano provide us with an invoice of his fees for that advice. Mr Sano responded with an e-mail to Ms Jennifer Brook of our firm dated 3 September 2010, a copy of which I **attach** with this email for your reference.

In that e-mail, Mr Sano indicated that his hourly rate is JPY 33,000, which roughly equates to \$AUD405.00. He has requested that we wire the sum of \$AUD1,300.00 to his bank account, for his services. We concede that this is a reasonable hourly rate for an experienced solicitor to charge, and paid him that sum.

However, you will note that in his e-mail, Mr Sano also requested that our client deposit the sum of \$AUD50,000.00 into his bank account as an "*initial payment taking into account the processes we should go through*". Further, he noted that a formula is used to "*calculate payment [to him] at the end.*"

Whilst it is common in Australia for a law firm to request that a client place sums of money into its trust account in anticipation of potential fees and disbursements, the sum of \$AUD50,000.00 seems grossly excessive in the circumstances, or in any circumstance for that matter. At this stage of the matter, our client is still yet to obtain full details from police regarding the accident, or from his doctors regarding

the extent of his injuries, and therefore is still unsure as to whether there is any merit in pursuing a claim. In any event, it is unlikely that our client has a spare \$AUD50,000.00 immediately available to him at this point in time.

In motor vehicle accident claims in Australia, in particular where there is no issue of liability on the insured's part (as is the case with this client), it is common for the solicitor to charge the client on an hourly basis, but render an account only once the process has settled or been resolved. It is highly unlikely that a solicitor here would request such a large amount of money into trust, well before the matter is underway.

I write to ask your opinion on whether such a request by Mr Sano is standard procedure in Japan for this type of matter. We also request your opinion as to whether you are familiar with such procedure in Japan that is similar or the same as occurs here in Australia, as I have described above, as it would certainly be a more preferable one to our client.

Mr Sano has unfortunately recently advised that he can no longer assist us, as he is now working in a different area of law, and would require a substantial sum to be paid into his trust account (as stated above) if he was to reconsider acting for our client.

If you could recommend another English speaking Japanese solicitor practicing in the personal injury field, and who would consider acting on a basis similar to that as I have described as that which occurs in Australia, it would be most appreciated.

I am sorry to trouble you with this matter again, however we have contacted both the Japanese Consulate in Australia, and attempted to contact the Tokyo Bar Association, without much luck.

Kind regards


Michael Connelly | Associate | O'Loughlins Lawyers

Level 2, 99 Frome Street, Adelaide SA 5000 | T +61 8 8111 4000 | F +61 8 8111 4099 | mconnelly@oloughlins.com.au

GPO Box 2410, Adelaide SA 5000 | Please visit our website: www.oloughlins.com.au

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208K

ALLEN, Steven McIntire <steven.mcintire.allen@originlaw.net>
To: OLOUGHLINS - Michael Connelly <mconnelly@oloughlins.com.au>

14 April 2011 15:03

Mr. Connelly:

Thank you for letting me know. I sincerely apologize for the difficulties you have encountered. May I approach him on your behalf?

Regarding another referral, how about if I handle the matter for you? If I need local counsel, I will hire them as required.

Regards,
McIntire Allen

S. McIntire ALLEN (源 眞久)
[Origin Law Offices, Professional Corporation](#)
California Bar License #210750 & New York Bar License #2785913
[Quoted text hidden]

OLOUGHLINS - Michael Connelly <mconnelly@oloughlins.com.au>
To: "ALLEN, Steven McIntire" <steven.mcintire.allen@originlaw.net>

14 April 2011 17:03

Dear McIntire

Many thanks for your prompt response.

If you wish to approach Mr Sano, you are welcome. However, we bear no ill feelings to Mr Sano (or you for your recommendation) – we just considered his request rather excessive, and certainly beyond our client's means.

Before we engage you, we would greatly appreciate it if we could get your assistance in terms of getting a "ball park" idea of whether it is worth engaging someone to pursue a claim (and, if in your opinion it is, we would like to engage you) to act for us.

By way of more recent background, I **attach** some correspondence between us and Mr Sano, in the form of annexures to our letter to him dated 1 April 2011. I also **attach** his e-mail in response, advising that he could no longer act for us.

As you will see from the correspondence, and by reason of the fact that we are most unfamiliar with the Japanese legal system in respect of this area of law, we are mostly (still) trying to get an idea as to whether there is any point in our client pursuing a claim. Mr Sano's suggestion to place such a large sum into his trust account would suggest that there is a prospect of receiving a large compensation sum – however to us, this is still very unclear.

Finally, we note from Mr Sano's attached e-mail of 8 April 2011, that the applicable statute of limitations in personal injury claims is 3 years generally in Japan. Our client's accident occurred on 8 May 2008, and therefore, if Mr Sano's advice is correct, and our client does decide to file a claim, then we must act quickly.

I thank you for your assistance once again, and look forward to your response.

Kind regards

Michael Connelly | Associate | O'Loughlins Lawyers

Level 2, 99 Frome Street, Adelaide SA 5000 | T +61 8 8111 4000 | F +61 8 8111 4099 | mconnelly@oloughlins.com.au

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From: ALLEN, Steven McIntire [mailto:steven.mcintire.allen@originlaw.net]

Sent: Thursday, 14 April 2011 3:33 PM

To: OLOUGHLINS - Michael Connelly

Subject: Re: Personal Injury Claim - Australian client

[Quoted text hidden]

[Quoted text hidden]

----- Forwarded message -----

From: Sano Ryutaro <ryutarosano@gmail.com>

To: OLOUGHLINS - Michael Connelly <mconnelly@oloughlins.com.au>

Date: Fri, 8 Apr 2011 19:15:33 +0930

Subject: Re: Personal Injury Claim - Australian client

Dear Michael,

I just received a message from you. Thank you.

When it comes to the statute of limitation for driving accidents in Japan, the default rule is 3 years, and in particular, 2 years for insurance related payments.

I wish I could be of some assistance to you, but I am afraid I cannot. Please refer to other lawyers.

This seems to be an accident to be governed by Japanese laws,

I have to outsource my tasks to other Japanese lawyers or my friends if I am retained by your client.

I talked to some of my friends but I cannot locate my friend helping in this case assuming we cannot get paid as usual.

I fully understand what you mentioned in your letter as to the fee payments in your country but my friends are traditional Japanese lawyers who cannot handle English language case and who only work based on the retainer agreements common to them.

And, it took so much time from the previous contacts to the last letter from you, and we have to review the entire case all over again, which would cost our working time.

As such, I am afraid I cannot start working on this case, and please refer to other lawyers. I am a transactional lawyer with a focus on M&A, and I cannot come up with any appropriate friends at this stage.

Finally, I just got independent. Please use the following contact information hereafter:

Hojo Bldg. 4th Floor, Minamimemba 2-10-30, Chuo-ku, Osaka, 542-0081, Japan

Sano Law Office

Tel: 06-6121-2547

Fax: 06-6121-2540

Email: ryutarosano@sanoandsano.com

Best regards,

Ryutaro Sano

2010年9月23日 16:52 O'LOUGHLINS - Michael Connelly <mconnelly@oloughlins.com.au>:

Dear Ryutaro

I must apologise for our delay in responding, and in payment of your fees.

I will arrange for our accounts department to deposit the sum of \$AUD1,300.00 into your account tomorrow, Friday 24 September 2010.

Please note that we are currently drafting a letter in response to your letter and e-mail to Ms Jennifer Brook of our firm, which we hope to have to you in the coming days.

My apologies for the unintentional delay once again.

Kind regards

Michael Connelly
Associate

O'Loughlins Lawyers
Level 2, 99 Frome St
Adelaide SA 5000
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-----Original Message-----

From: 佐野隆太郎 [mailto:rsano@midosujilaw.gr.jp]
Sent: Wednesday, 22 September 2010 3:23 PM
To: OLOUGHLINS - Jennifer Brook
Cc: OLOUGHLINS - Michael Connelly
Subject: Re: Personal Injury Claim - Australian client

Dear Jennifer,

I hope this email finds you well.

This is a reminder for the "reasonable fee" of AUD 1,300. If you need to discuss anything, please let me know.

Best regards,

Ryutaro Sano
Attorney-at-Law
Tel: 81-6-6251-7282
Fax: 81-6-6245-5520
Osaka Toyoda Bldg 2nd Floor, 4-3-11 Minamisemba,
Chuo-ku, Osaka, Japan 542-0081

On Fri, 03 Sep 2010 12:50:36 +0900
佐野隆太郎 <rsano@midosujilaw.gr.jp> wrote:

> Dear Jennifer,
>
> Thank you for your message.
>
> And thank you for my fee to date.
>
> My hourly rate is JPY 33,000 and I spent approximately four hours.
> For your convenience, if you could wire AUD 1,300 to the bank account as
> designated in the attached, that would be great.
> I would be more than happy to send to you a little more formal invoice
> or receipt on this.
>
> For your information, please let me explain about my fee in the event of
> the retention.
> Frankly speaking, I am employing almost the same rate, which was
> established and already abolished by Japanese bar association, as used
> for accidents where I represent a Japanese person.
> As in the attached chart, we, Japanese attorneys, tend to wish to get
> paid one third at the beginning, and the two thirds at the end.
> The one at the beginning is just based on the expectation as to economic
> benefit the client is likely to be entitled, or on the volume of work we
> expect.
> I would like ASD 50,000 for this initial payment taking into account the

> processes we should go through.
> We use certain formula to calculate the payment at the end.
> The attached spreadsheet can tell the last payment, contingent on how
> much economic benefit (in Japanese yen) the client is entitled.
> Say, if it is 10 million yen, I would get paid 1.18 million yen at the
> end.
> Or, if it is 3 million yen, I would get paid 480,000 yen at the end.
> This type of payment at the end of the case is to be made in addition to
> the initial payment.
> I am not sure the amount of damage in this case, and I just think I
> would like to assist if the client needs assistance.
> Needless to say, we can do this on time-charge basis, if the client so
> requests.
> Either way, actual costs regarding inquiries or registrations will be
> borne by the client in addition to my fee, but I presume such costs are
> minimal in this case.
>
> Best regards,
> Ryutaro Sano
>
> On Fri, 3 Sep 2010 10:32:36 +0930
> OLOUGHLINS - Jennifer Brook <jbrook@oloughlins.com.au> wrote:
>
>> Dear Ryutaro,
>>
>> Thank you for your below email and attachments, which were extremely helpful.
>>
>> We would be grateful if you could email us your invoice/account for your preliminary advice to date.
>>
>> We will now take our client's instructions regarding whether he wishes to pursue one of the three
avenues of compensation discussed. We will keep you informed.
>>
>> Kind regards,
>>
>> Jennifer Brook
>> Associate
>> _____
>>
>> O'Loughlins Lawyers
>> Level 2, 99 Frome St
>> Adelaide SA 5000
>> T: +61 8 8111 4000
>> F: +61 8 8111 4099
>> E: jbrook@oloughlins.com.au
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>>
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>> -----Original Message-----
>> From: 佐野隆太郎 [mailto:rsano@midosujilaw.gr.jp]
>> Sent: Friday, 27 August 2010 11:32 PM
>> To: OLOUGHLINS - Jennifer Brook

> > Subject: Re: Personal Injury Claim - Australian client
> >
> > Dear Jennifer,
> >
> > Attached please find my preliminary comment on this case.
> >
> > I really appreciate your thoughtfulness as to "reasonable" fee for this
> > comment of mine. Please send such fee by wire transfer to my bank
> > account whose information illustrated in another attachment.
> >
> > In the event Mr. Brice will retain me, I will send a draft retainer
> > agreement to be signed by him.
> >
> > I look forward to hearing from you.
> >
> > Best regards,
> >
> > Ryutaro Sano
> > Attorney-at-Law
> > Tel: 81-6-6251-7282
> > Fax: 81-6-6245-5520
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**MJC Letter to Sano 1 Apr 11.pdf**

1390K

ALLEN, Steven McIntire <steven.mcintire.allen@originlaw.net>**15 April 2011 01:18**

To: OLOUGHLINS - Michael Connelly <mconnelly@oloughlins.com.au>

Michael:

I hope you will permit me to write frankly. If not, too late, because here goes.

I suspect, although am uncertain, that Mr. Sano does not want the stigma of withdrawing from your matter at this time. Consequently, he has used this work around. I would like to approach Sano regarding this. Do I have your consent to do so?

For future reference, rather than exchange documentation via email, may we do so via Origin's virtual law office platform? If so, please create an account via the <login> item on the menu on the right side of www.originlaw.net. Please disregard any information about payment at this time.

I could contact an attorney I know, a Mr. Toshifumi Nose, JP Bar Reg. #18818, to find a ball park figure for you. His rates are reasonable, and I wish I had known of him at the time I referred you to Sano. Mr. Nose is my personal counsel.

I suspect pursuing this claim would not be cost effective for your client if the client uses your firm, or a Japanese attorney. I have a proposal. I will find a law student, perhaps graduate level, perhaps undergraduate level. I will employ the student for say, JPY1,000 per hour, and pursue this claim. I will do this work for you for 1/3 of the recovery, minus what the law student charges my firm for an hourly rate. Please let me know if that seems fair or not.

McIntire

S. McIntire ALLEN (源 真久)

[Origin Law Offices, Professional Corporation](#)

California Bar License #210750 & New York Bar License #2785913

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OLOUGHLINS - Michael Connelly <mconnelly@oloughlins.com.au>
To: "ALLEN, Steven McIntire" <steven.mcintire.allen@originlaw.net>

15 April 2011 11:59

McIntire

Many thanks for your response, once again.

I am currently taking instructions and will respond to you once they are received.

Kind regards

Michael Connelly | Associate | O'Loughlins Lawyers

Level 2, 99 Frome Street, Adelaide SA 5000 | T +61 8 8111 4000 | F +61 8 8111 4099 | mconnelly@oloughlins.com.au

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From: ALLEN, Steven McIntire [mailto:steven.mcintire.allen@originlaw.net]

Sent: Friday, 15 April 2011 1:48 AM

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

ALLEN, Steven McIntire <steven.mcintire.allen@originlaw.net>

19 April 2011 08:05

To: OLOUGHLINS - Michael Connelly <mconnelly@oloughlins.com.au>, tedjohnson@paulhastings.com

Michael:

I have copied Mr. Theodore John Son here. He appears to have a burning interest in pro bono work. Perhaps he could serve?

Teddy Bear:

Are you too busy to retain counsel? If not, have the three people present their business cards to me at tonight's dinner, and have each of the three people audibly introduce themselves as your representative. Do you agree with the expression: 'I don't care what you write about me, just spell my name right'? You have until noon to reply to this email. Stay well.

Regards,
Mak your Daddy

S. McIntire ALLEN (源 真久)

[Origin Law Offices, Professional Corporation](#)

California Bar License #210750 & New York Bar License #2785913

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