

Courts, cost and considerations

An experienced solicitor offers viable solutions in the face of legal action.

Leading Gold Coast lawyer Simon Bennett says courts are often described as casinos for the rich. "Most people think only large companies and wealthy individuals can afford the cost of litigation and there is some truth in this," he says. "When civil and business matters can only be resolved by legal action or it is necessary to defend against proceedings there are ways to minimise costs.

"It is essential to remove emotions from the equation. Litigation is often driven by feelings about justice or rights and wrongs. Legal action should only be taken after all the facts and the likely results are established. Few can afford the expense of proving a point in court.

"It is important to choose a specialist solicitor who is experienced and competent. Very few lawyers have experience in running complex litigation in the superior courts. An inexperienced solicitor may make costly tactical errors. Sound representation comes through experience, knowledge of court procedure, and rules of evidence. Poorly drafted court documents are often challenged or redone – this all adds to the cost.

"People who plan legal action should ask their solicitor detailed questions. This will show whether the solicitor has the necessary qualifications and experience. Superior court actions involve a barrister's fee. The choice of barrister is crucial.

"Errors in the preparation and presentation of a case are costly and may result in a negative outcome. Ensure money is spent wisely by engaging a solicitor who has intimate knowledge of and a good relationship with the bar, and I don't mean the local pub," he says.

Simon says the best way of reducing legal costs is to work with a solicitor to establish a reasonable settlement. "Provide the solicitor with as much information as possible as soon as possible," he says.

"A settlement that is commercially acceptable in the light of risks and costs is a positive result. If a settlement can't be reached then at least the solicitor has the full picture and the opportunity to gain the tactical advantage," he says.



O'Keefe Mahoney Bennett