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**Attention: Mr David Andrews SC**  
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Queensland Public Hospitals Commission of Inquiry  
Level 9/363 George Street  
BRISBANE QLD 4000

14 September 2005

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Dear Mr Andrews

**Calling of witness Mullen**

Advice has been received that the witness Mullen is to be called to give evidence tomorrow.

We note that the witness statement, supplied today, is dated 7 June 2005.

In this statement, approximately 7 orthopaedic procedures are the subject of strong criticism.

No patient identification is available, nor have patient charts been obtained.

Both ourselves and Counsel are dismayed that apparent forensic errors of the previous Inquiry are being repeated. We are conscious that there is claim and counter-claim from various witnesses about what is said to have occurred in Hervey Bay in relation to orthopaedic procedures. In our respectful submission, it will be impossible to properly test any allegations of unsatisfactory professional conduct made in Mullen's statement.

In our respectful submission, such a situation is not in the public interest.

We will be applying tomorrow to delay the examination of Mullen until relevant material is made available in order that a proper examination of Mullen's allegations in relation to the clinical cases can take place.

We would prefer not to voice our objection on the floor of the Inquiry and we hope that you will agree with us that a delay in the taking of Mullen's evidence is the preferred forensic option, and

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is in the public interest.

Yours faithfully  
GILSHENAN & LUTON



Paul McCowan  
Partner

