



Mediation Case Study

Ace Biogen Limited

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General Instructions

Ace Biogen is a company formed to commercialise the production of a technological breakthrough. The technology involved is the design of a non invasive technique to identify the earliest signs of lung tumours. The biology and technology are complicated but, essentially, it involves advanced blood and saliva testing which can be administered by general practitioners.

The initial research was carried out at the University of Leith by a team of highly regarded young academics under the leadership of Wilma/Will Farmer (WF). Ace Biogen was established to commercialise the technology, if and when research testing established that the technology would work. WF, as the key figure behind the development of the initial idea, became a member of the Board of Ace and has a shareholding of 35%. The remaining 65% was held on behalf of Angel Investors who installed the Managing Director, Rex Jones, a close associate of WF's. Initially, the University research team and Ace Biogen worked closely together, in the absence of detailed specification about what exactly the research would entail and what needed to be achieved in order to vouch the commercial potential of the technology. Angel Investors invested £200,000 in the research.

The research took longer than expected. The initial results were ambiguous. However, the research team took the view that the results were encouraging and that the possibility of gaining a lead in the global market in this field was very exciting and potentially rewarding. Unfortunately, the continuing delays led to the Angel Investors deciding to install a new Managing Director in Ace, Patsy/Peter Rutherford (PR). While the former Managing Director understood the science behind the new technology, PR was a shrewd business man whose primary instincts were to ensure profitability and results. He began to question the research and the results which were forthcoming. This led to growing animosity between him and WF. WF became less willing to share the details of the research with PR. This only served to heighten PR's concerns about the project. After several months, PR decided that he wished to demote WF to a non board position and to seek an independent audit of the research to date and of the viability of the project.

WF took this very badly. There were a series of shouting matches between WF and PR and some fairly strong words were used. WF took the view that he was effectively being removed from the business and sought the advice of his lawyers. His lawyers sent a letter threatening proceedings for constructive dismissal and making the veiled threat that the adverse publicity which may result would not be good for the company.

Both sides have recognised the damage which ongoing conflict and possible tribunal or court proceedings may bring. Each agreed to mediation. There will be the usual round of initial meetings and exploration of issues. With the help of the mediator, things will calm down a bit. The parties will try to look at their options.

P Rutherford and W Farmer will both attend the mediation with their respective solicitors.