DOLMANS INSURANCE BULLETIN

Welcome to the March 2024 edition of the Dolmans Insurance Bulletin

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If there are any items you would like us to examine, or if you would like to include a comment on these pages, please e-mail the editor:

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REPORT ON

A Finding of Fundamental Dishonesty on the Basis of Inconsistent Medical Entries

T C v Cardiff Council

In the recent case of *TC v Cardiff Council*, Dolmans represented the Local Authority Council in a case where allegations of fundamental dishonesty were raised at trial.

Background and Allegations

The Claimant's claim arose out of an alleged accident on 30 January 2020 on Eclipse Street, Cardiff. A CNF was submitted relatively soon after the accident, on 16 May 2020, which indicated that the Claimant had been walking along the pavement of Eclipse Street, pushing a pushchair, when she caught her foot on a raised paving stone, causing her to fall to the ground and injure her finger. In subsequent pre-action correspondence from the Claimant's solicitors, it was confirmed that, at the time of her accident, the Claimant was walking, with her family, from her grandmother's house towards City Road, on their way to a restaurant for a meal to celebrate her birthday. Photographs of the raised paving stone which was alleged to have caused the Claimant's accident were attached to the CNF, together with a map identifying the location of the Claimant's accident, the grandmother's house and the route which the Claimant took along the highway.

The usual allegations of negligence and breach of statutory duty were raised against the Council.

Investigations into the Claimant's claim were carried out by the Council in July 2020, following which breach of duty was admitted in August 2020.

Following the admission of breach of duty, the Claimant's solicitors disclosed a medical report, which indicated that the account of the Claimant's accident recorded by the medical expert and entries in the Claimant's medical records were inconsistent to the circumstances of the accident set out in the CNF. Netwatch Global Ltd were instructed to carry out social media enquiries in relation to the Claimant on behalf of the Council. Although the report produced by Netwatch was supportive, to a certain extent, of the Claimant's injuries, it reinforced the Council's concerns in relation to causation (see further below). Accordingly, despite the admission of breach of duty, no admissions were made in relation to causation and the Claimant was put to strict proof as to the circumstances of her accident, with the inconsistent entries in her medical records being relied upon.

Proceedings were issued by the Claimant and Dolmans were instructed. The position on liability which had been taken pre-action was maintained, and the proceedings proceeded on factual causation and quantum only.

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The Claimant's claim was pleaded up to £35,000. As a result of her alleged accident, the Claimant sustained a fracture/dislocation to her non-dominant hand of the long, middle finger. Despite undergoing surgery, and having a K wire inserted across the joint, the Claimant remained symptomatic. At the time of issue, the Claimant's evidence was that the joint had become "incongruent" and it was likely that there would be some further deterioration in the joint over the next 5 to 10 years. As this occurred, osteoarthritis would develop in the joint and there would come a point where the Claimant's symptoms would be "intolerable". At this stage, the Claimant would benefit from a fusion of the joint. The Claimant's position was that the symptoms were already intolerable and she intended to proceed with a fusion of the joint, the costs of which she sought from the Council as part of her Special Damages claim.

Evidence

Documents

When the Claimant was examined for the purpose of her claim, she told her medical expert that she *"was due to go out for a meal with her friends at City Road in Cardiff to celebrate her birthday. She walked around the corner between System Street and Eclipse Street and tripped over some raised paving stones falling over and injuring her left long finger.* This suggested that the Claimant was going out with friends, not her family, as the CNF and pre-action correspondence had suggested.

The Claimant did not immediately seek treatment for her injuries. Her case was that she was reluctant to attend A&E and wanted to see her doctor before attending and, in fact, she insisted on seeing her GP before she went to A&E. Her evidence was that she regularly rang the GP, but they were fully booked until 2 weeks later. Over this period of time, her finger became more swollen and painful.

The Claimant first attended upon her GP on 18 February 2020, just over 2 weeks post-accident. During this attendance, her GP recorded *"2/12 ago woke up following night out, middle finger L (left) hand swollen/bruised/painful. Could not recall any incident from the night before. Thinks would remember whether she would have hurt herself or not but admits hazy memory as intoxicated. Swelling and bruising improved but finger now bent laterally and unable to straighten".*

The GP followed up this consultation with a letter, in which was requested an assessment of the Claimant's middle finger and stated she *"appears to have damaged … 2 months ago following a night out"*.

These entries were clearly inconsistent to the account of the accident provided in the CNF and to the medical expert at the time of his examination. They also suggested an alternative accident date.

The Claimant was seen by a Consultant Hand Surgeon, on 21 February 2020, when it was reported that the Claimant was *"3 weeks down the line following a fall*". There was no mention of a trip on a pavement as being the cause of the fall.

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Netwatch were instructed to carry out social media enquires/ investigations in relation to the Claimant. Their Investigation Report indicated that, on 30 January 2020 (the alleged date of the Claimant's accident), the Claimant uploaded an image to Instagram showing herself celebrating her 26th birthday. On 31 January 2020, the Claimant uploaded two further photographs of herself apparently attending her "birthday meal". The view was formed that it was very likely that the images uploaded on 30 and 31 January 2020 were captured on the same date because the Claimant was pictured wearing the same outfit.

The photographs posted on 31 January 2020 appeared to have been taken outside restaurants in Cardiff Bay and not on City Road, where the Claimant had alleged she was going at the time of her accident. The photographs also suggested that the Claimant had celebrated her birthday on 30 January 2020 in Cardiff Bay and that she did attend some form of "birthday meal". There was no sign of any injury to the Claimant's left hand in the photographs posted.

The Claimant uploaded a further image to Instagram on 15 February 2020, suggesting that she was having a spa day at the Hilton Hotel in Cardiff. The Claimant could be seen holding a phone in her left hand. This photograph was posted 3 days before the Claimant attended on her GP.

There was no reference on the Claimant's social media profiles to any accident or injury to her finger.

Witness Evidence

Following the issue of proceedings, Dolmans instructed Netwatch to prepare an evidence pack, which included the provision of a detailed Witness Statement from the Senior Intelligence Analyst who had conducted the investigation into the online activity of the Claimant.

A Civil Evidence Act Notice was prepared, and served, in respect of the inconsistent medical entries.

Because breach of duty was admitted, no further witness evidence was obtained/served on behalf of the Council.

The Claimant served a large amount of witness evidence in support of her claim, comprising Witness Statements from herself, her mother, her father, her sister and her partner, who were all said to have been present at the time of the Claimant's alleged accident. The Claimant's solicitors confirmed that the Claimant intended to call all of her witnesses to give oral evidence at trial, save for her mother, whose evidence was served under a Civil Evidence Act Notice, due to her ill health.

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In her Witness Statement, the Claimant maintained that on the evening of 30 January 2020, 9 members of her family had arranged to go for a meal to celebrate her birthday and it was their intention to go to a restaurant on City Road. The Claimant's evidence was that the restaurant did not serve alcohol.

The Claimant said that the family had left her grandmother's house and walked together to the restaurant. She said that she was pushing her 5 month old son in a pram, when she suddenly tripped and stumbled forward. She said that she put her left hand out to break her fall and landed on her left hand and knee. She said that the pram was sturdy enough so it did not 'topple over' or fall backwards. After her fall, she had looked at the ground and had seen a raised paving slab. She said that her left foot had caught the slab as she was walking, but that the wheels of the pram must have gone either side of the slab.

As her son was crying and her parents were saying that she should get her finger checked out, the Claimant said that they cancelled their plans and the birthday meal did not go ahead. The Claimant's evidence was that her mother tried to phone the GP surgery for advice (from the accident location) but they were closed. She then phoned A&E, but was told there was a 12 hour wait. Instead, the Claimant went home to rest. The next day, the Claimant tried to get an appointment with her GP, but, despite calling a number of times, she was not able to get an appointment until a couple of weeks later. The Claimant confirmed that she did not go to A&E in the meantime.

The Claimant's position was that when she finally got an appointment with her GP two weeks later, she informed her GP that she had injured her finger on her birthday, but that there were "significant inaccuracies" in the note her GP made of her appointment. The Claimant denied that she was intoxicated at the time of her accident and said that she did not drink and had not done so for the last 10 years. The Claimant "categorically" denied that she had consumed any alcohol on the date of her accident.

The Claimant gave evidence that as soon as she became aware of the incorrect entry in her GP records she spoke to the manager of her GP surgery, who advised her that the record could not be changed because the GP no longer worked there because she "had been sacked", with the manager informing her that the GP had had a number of complaints made against her. As the records could not be amended, the manager put a note on the records of the issue raised by the Claimant, which was entered as a "disclaimer" to the original record. It recorded "*Mrs C has rung (10/12) having seen her notes and is unhappy with the comment in this consultation suggesting that she was intoxicated. She denies making this comment and feels it is an inaccurate description of events. As Dr Jones is no longer in the Practice I cannot ask her to change the consultation and for governance reasons I cannot alter a consultation made by another clinician and so I have added this disclaimer".*

The Claimant's family all provided Witness Statements, which confirmed the Claimant's account of the circumstances leading up to the accident as set out in the pleaded case. With regards to the subsequent "inaccurate GP record," all of the Claimant's witnesses confirmed that the Claimant had not been drinking prior to her accident and that no members of the family were 'drinkers' and so none of them had been drinking on the date of the accident. They all maintained that the information in the GP record was simply not true.

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Tactics

Following exchange of evidence, there were some concerns as to the extent of the evidence served by the Claimant in support of her claim. However, despite the volume of evidence served by the Claimant in support of her claim, a decision was made, in conjunction with the Council and their Insurers, to defend the Claimant's claim to trial on the following basis:

(a) The Claimant's medical records clearly suggested that she fell while drunk/intoxicated on a night out and that she had no idea what caused her injury. Whilst the Claimant alleged that she did not drink and referred to entries within her GP records from October 2019 which recorded that she drank "zero" units of alcohol a week, this was unsurprising as her son was only born a couple of months earlier. There were no other medical records which confirmed that the Claimant was teetotal in her medical records.

(b) Although the Claimant had supporting witnesses as to mechanism of her accident, all of the witnesses were members of the Claimant's immediate family and so they were not independent. We took the view that this weakened their evidence.

(c) If the Claimant had been pushing a pushchair, as she and her witnesses suggested, it was difficult to understand how the Claimant fell forwards and landed on her left hand and knee, as she described. It was also hard to see how the wheels of the pushchair avoided the defect and did not hit it first.

(d) The photographs posted by the Claimant on social media on 31 January 2020 were taken in Cardiff Bay and not at the restaurant on City Road, which was inconsistent with the Claimant's own, and her witnesses', account of her birthday.

(e) The account of the Claimant's parents calling the GP surgery from the pavement where the accident occurred seemed implausible, even more so because the Claimant then waited just over 2 weeks to attend upon her GP, despite a serious injury to her finger.

(f) It was difficult to accept that a GP would have made so many errors in their record of the consultation with the Claimant, as the Claimant alleged. The GP had no motive to fabricate such matters and the entry recorded had 'the ring of truth' about it.

(g) In addition, when the entry was "corrected" in the GP records, it was recorded that the Claimant was unhappy with the consultation suggesting that she was intoxicated. It was recorded "*She denies making this comment and feels this is an inaccurate description of events*." It was not recorded that the whole of the entry was completely wrong. The allegedly correct account of the accident was also not recorded.

(h) The reference by the Claimant to the fact that she was informed that the GP who created the "inaccurate record" in her GP notes had been "sacked" by the surgery and that complaints had been raised against them was not considered to be credible. We took the view that it was highly unlikely that the manager of the surgery would have disclosed this information to the Claimant (even if it were true).

(i) We considered that it was unusual that none of Claimant's family, some of whom lived nearby, made any report to the Council about the defect following the Claimant's accident. The Claimant's family had a history of insurance claims with the Council.

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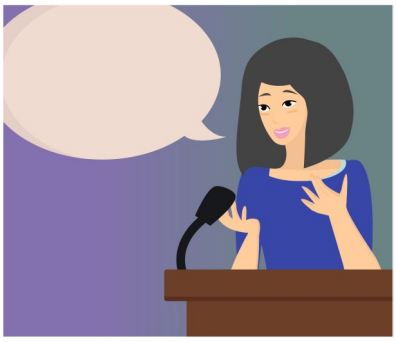
Judgment

Following a Trial at Cardiff County Court on 5 February 2024, in opening his Judgment, the Judge confirmed that the Court was required to determine the Claimant's claim on the balance of probabilities and held that he could not accept that the Claimant's accident had occurred as she had suggested in her evidence.



Firstly, the Judge found that the mechanics of the Claimant's fall "made little sense". The Judge found that had the Claimant tripped on the defect, as alleged, he would have expected the Claimant to fall forwards and not to her left (as she described) or her right (as her father described). The Judge found that it was difficult to understand how the Claimant fell to the left and landed on her left hand and knee, as she described.

Secondly, the Judge was "generally unimpressed" with the Claimant and overall he found her to be "defensive and not straightforward". Likewise, he did not find her witnesses to be credible.

In relation to the mainstay of the Council's defence (the inconsistent medical entry), the Judge found that the Claimant's explanation for the inconsistent entry (an error by the GP) and the fact that she had been informed that the GP had been 'sacked' from the surgery and had other complaints made about them was highly unlikely. The Judge formed the view that it was also highly unlikely that the GP who examined the Claimant on 18 February 2020 could have made so many mistakes about the Claimant's injury; not only about when the injury occurred but also how she had actually injured herself, that she had a 'hazy' memory of the incident and that she was intoxicated at the time. The Judge was of the view that all medical records record what medical professionals are told during their consultations. He also found that it was surprising that when the entry was 'corrected' in the GP records, the note recorded simply made reference to the Claimant being unhappy that the record referred to her as having been "intoxicated" and there was nothing amended/added as to the circumstances of the accident or the correct date of her accident. He noted that there were no entries within the Claimant's medical records which supported her assertion that she was teetotal.

The Judge could not accept that the manager of the GP surgery would have disclosed the information that the Claimant alleged she had when she raised a complaint about the entry (even if it were true). He found that it was highly unlikely that the Claimant was actually told this information as this information was "highly confidential".

The Claimant's, and her father's, evidence at trial was that they attempted to call the GP surgery from the pavement. This was also not accepted. The Judge commented that he was unaware of any GP practice which would be open at the time that the Claimant's accident occurred. Instead, the Judge would have expected the Claimant, her father and her partner to have returned home. He would then have expected the Claimant to contact her GP the following day. Having suffered a serious injury, it seemed odd that the Claimant waited nearly 2 weeks before seeing a GP. The Judge said that the Claimant's evidence that she wanted to see a GP before going to A&E was quite "inexplicable".

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The Judge held that it was “very odd” that no one from the Claimant’s family (or the Claimant herself) reported the defect to the Council following the accident, in view of the potentially serious injury sustained. The Judge also found it “odd” that, the day after her accident, the Claimant posted photographs on Facebook. In cross-examination, the Claimant asserted that these photographs had been taken on the weekend before her birthday (and the date of her accident), but she had not posted them until the day after. However, the Judge noted that when the Claimant posted the photographs she did not make any mention of the accident or the injury she had sustained on the day prior to her posting the photographs, which he found “implausible”.

The Judge commented upon the fact that all of the Claimant’s witnesses were all members of her family, which was a factor that the Court had to take into account when assessing the weight of their evidence overall. Ultimately, the Judge found that the Claimant had not proved her claim and he dismissed the Claimant’s claim.

The Judge then turned to the issue of Fundamental Dishonesty and dealt with the issue very briefly and swiftly in light of the findings he had made. Taking everything into account, the Judge found that such a finding was appropriate. Whilst he acknowledged that the Claimant had sustained a serious injury to her hand, he had found that she had not done so as she was alleging in her pleaded case. That went to the heart of the Claimant’s claim, and, on that basis, there should be a finding of Fundamental Dishonesty against the Claimant.

As a result of the finding of Fundamental Dishonesty the Claimant lost her QOCS protection, and so the Judge held that the Council were entitled to recover their costs on the standard basis based upon the hourly charge out rates applied in the Cardiff County Court. We had filed a Schedule of Costs in advance of the hearing and the Judge took the view that the costs and disbursements claimed were entirely reasonable. He noted the very serious allegations which were being raised by the Council and, as such, it seemed to him that the costs claimed had been reasonably incurred. Accordingly, the Judge ordered the Claimant to pay the Council’s costs of the action, which were summarily assessed in the sum of £18,690.00.

Comment

Despite the fact that an admission of breach of statutory duty was made pre-action, a robust stance was taken to the Claimant’s claim from the outset and maintained throughout, even though a wealth of, seemingly, ‘supportive evidence’ was served by the Claimant. Whilst, on paper, there was a concern that there may have been ‘strength in numbers’ on the Claimant’s side which may have presented difficulties to the Council in defending the Claimant’s claim on causation alone at trial, this case is a useful reminder that it is always almost impossible to predict how well witnesses will perform in the witness box at trial. In this case, the poor performance of the Claimant and her witnesses, combined with the inconsistent medical entries, resulted in the dismissal of the Claimant’s claim.

The Judge accepted that it was implausible that a GP would have made so many errors in one record. Judges tend to base their decision about the veracity of inconsistent medical records upon their view of the credibility of the Claimant (or other witnesses) by virtue of their demeanour or the manner in which they give their evidence. The fact that neither the Claimant, her father nor her partner performed well in the witness box undoubtedly assisted us in persuading the Court to accept the arguments which were put forward on behalf of the Council as to the veracity of the information in the GP record and to make a finding of Fundamental Dishonesty. Ultimately, the Court was not prepared to accept the Claimant's position on this.

Our system of adversarial justice depends upon openness, upon transparency and above all upon honesty. The system is seriously damaged by Claimants who bring dishonest claims. The burden is on Local Authorities, as Defendants, to gather evidence that will address the requirement for providing dishonesty. The circumstances of inconsistent medical entries and an explanation from the Claimant that the medical professional has made an error will not be unfamiliar to our readers. The GP in question had left the Claimant's surgery by the time that proceedings were commenced and so it was not possible for them to be located and a witness statement obtained. Despite this, we maintained our reliance upon the documentary records and served a formal Civil Evidence Act Notice at the time of exchange. It remains the case that inconsistencies in medical records are, undoubtedly, important and may defeat a claimant's claim, even in circumstances where the medical professional cannot be located.

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CASE UPDATES

Costs - Attendance at Rehabilitation Case Management Meetings

Hadley v Przybylo
[2024] EWCA Civ 250

The first instance decision in this case was reported upon in the July 2023 edition of the Dolmans' Insurance Bulletin. The decision arose in relation to costs budgeting when Master McCloud was required to determine whether the inclusion of solicitor attendance time in a budget for attending case management meetings with medical and other professionals in the course of management of the Claimant's rehabilitation needs and for meetings with financial and Court of Protection deputies as part of inputting into a Schedule of Loss were in principle costs which may be included in a budget.

The Master made it clear that her decision was not concerned with whether some legal charges relating to case management and/or rehabilitation can be properly claimable in some parts of budgets, e.g. time incurred liaising over a witness statement from the case manager or disclosure issues. Her decision focussed only on the specific question of the expense of lawyers attending case management meetings on a regular and, in this case, very extensive basis. The Master concluded that having a fee earner attending rehabilitation case management meetings was not materially progressive of the case and, therefore, did not fall within the notion of 'costs'. The Master gave 'leapfrog' permission to appeal to the Court of Appeal on the basis that she had decided a matter of principle.

The Court of Appeal summarised the applicable principles in deciding whether the Master's decision was right.

Pursuant to s.51(1) of the Senior Court Act 1981, a party can recover the '*costs of and incidental to the proceedings*'. The three criteria set out in *re Gibson's Settlement Trusts [1981]* provide the applicable general test as to the recoverability of any given item of cost; that is that in order to be recoverable the costs must relate to something which (i) proved of use and service in the action, (ii) was relevant to an issue and (iii) was attributed to the Defendant's conduct (i.e. that which gave rise to the cause of action in the first place). The reasonable and proportionate costs of the Claimant's rehabilitation which meet these criteria will generally be recoverable. The precise amount of recoverable time spent by a solicitor in respect of rehabilitation will always depend on the facts of each individual case and it is unwise to set out guidelines or rules intended to apply in every case. Therefore, it would be unusual to rule that any generic category of cost was irrecoverable in principle. In every case it will depend on the facts.

In this case the Master held that the costs were not 'progressive' and, therefore, irrecoverable. Whilst this may have been shorthand for the use and service criterion, it was not clear. The Court of Appeal, therefore, held that, on the face of the Judgment, the Master may have applied the wrong test. However, that alone was not sufficient. The real issue was whether the Master was right to say that having a fee earner attending rehabilitation case management meetings does not fall within the notion of costs.

The Court of Appeal held that this element of costs is recoverable in principle. The Court said: '*It would be wrong to decide that the costs of the solicitors' attendance at rehabilitation case management meetings are always irrecoverable. Equally, it would be wrong for the claimant's solicitor to assume that routine attendance at such meetings will always be recoverable. It will always depend on the facts*.' Accordingly, in this case, what may or may not be recoverable on assessment was a matter for the Costs Judge.

The Court of Appeal did agree with the Master (and the Defendant) that the figures in this case appeared very high and seemed to go well beyond the usual costs of reasonable liaison with case managers and deputies. The Court commented that if the Claimant's solicitor operated on the assumption that they were entitled to attend every routine rehabilitation case management meeting they were wrong to do so. However, with that caveat, the Master's decision on the point of principle was wrong and the appeal allowed.

Human Rights - Negligence - Police Authorities - Child Abduction

Bell v Commissioner of Police of the Metropolis
[2024] EWHC 379 (KB)

The High Court explored whether the actions of the police constituted a violation of the Claimant's rights under Article 8 of the ECHR and whether a concurrent negligence claim was justified.

The Claimant brought claims against the Commissioner of the Police of the Metropolis in negligence and under the HRA s.6 for breach of his rights under Article 8 in respect of the abduction of his son by his former partner. The police had failed to act in accordance with the child abduction standard operating procedure and, having initially secured the child's passport from the mother, had returned it to her without good reason and without putting in place other protective measures, such as a port alert.

HRA Claim

The Court applied principles under Article 8 ECHR that obligate the State not only to refrain from arbitrary interference but also to act positively to protect private and family life. The Judgment handed down in this case highlights that Article 8 encompasses a 'positive obligation' inherent in effective respect for private and family life, necessitating the State to implement procedures and preventative measures to ensure the protection of such rights.

The officers were, or should have been, aware of the SOP, which set out the applicable procedure where there was a "real and imminent" threat of abduction. All the risk factors set out in the SOP illustrated that, just before the return of the passport to the Claimant's mother, the risk of abduction was real and imminent. The officers should have known that the Claimant's private and family life were at risk by the mother abducting the child.

The Claimant's child abduction complaint was not recorded or responded to in accordance with the SOP. The SOP risk assessment was not conducted and recorded, and the key decision to return the child's passport to his mother was not documented. Those failings contributed directly to the officers' flawed assessment that there was no real and imminent risk of abduction.

There was a duty to advise or warn the Claimant that the passport might be, or had been, returned. In Article 8 terms that was necessary to ensure effective protection of the Claimant's rights and to ensure that the legal scheme operated competently.

The officers did not take the necessary steps to ensure effective protection of the Claimant's Article 8 rights and ensure that the legal and administrative scheme set up to prevent child abduction was operated competently so as to achieve its aim. The officers did not strike a fair balance between the competing interests of the Claimant, the child, the mother and the wider interests of the State. The Defendant's actions, therefore, violated the Claimant's Article 8 right.

There was a causative link between the violation and the Claimant's losses. Just satisfaction required a declaration and an award of financial compensation in the sum of £137,999.49.

Negligence

In assessing the negligence claim, the Judge involved the threefold test of duty, breach and causation. Establishing a duty of care, the Court drew upon the established categories of liability, specifically referencing *Al-Kandari v JR Brown & Co [1988] 1 QB 665* and highlighting principles from *Hedley Byrne & Co Ltd v Heller & Partners Ltd [1964] AC 465.*

The Court determined that the police had assumed responsibility by securing the child's passport, a finding consistent with the solicitors' duty in *Al-Kandari* to safeguard against a foreseeable harm coming to the children. Additionally, principles surrounding representational liability and reliance were pivotal, given the Claimant's reliance on the police's assurances regarding the passport's custody.

The Defendant had breached the duty of care owed to the Claimant and the breaches were causative. The special damages claimed in relation to attempts to secure the child's return were reasonably foreseeable and recoverable in the negligence claim.

Had the Claimant not been awarded damages in the HRA claim, he would have recovered them in the negligence claim.

Judgment for the Claimant.

Payment on Account of Costs - Enforceability

Patel & Others v Awan & Another
[2024] EWHC 464 (Ch)

Seemingly for the first time, the Court was required to consider the specific point as to whether an order for payment on account of costs under CPR 44.2(8) was an enforceable order. A High Court Master confirmed that it was, in the same way as any other money judgment or order, notwithstanding the reference to "on account" and irrespective of whether detailed assessment proceedings have concluded.

CPR 44.2(8) provides that where the Court orders a party to pay costs subject to detailed assessment, the Court will order the paying party to pay a reasonable sum on account of costs, unless there is good reason not to do so. The object of the rule was to enable a receiving party to recover part of their costs expenditure before the possibly lengthy process of detailed assessment proceedings. Implicit in that was that such interim payments were enforceable.

The Master considered that a payment on account of costs was not a contingent liability dependant on the ultimate outcome of any detailed assessment. It was a final judicial determination or decision of a reasonable sum to be paid by the paying party.

The ruling meant that the Claimants were entitled to seek an order for sale against the First Defendant's property to enforce a Charging Order securing the sum payable under an order for payment on account of costs in underlying proceedings between the parties.

For further information on any of the above cases, please contact:

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Judith Blades at **judithb@dolmans.co.uk**

TRAINING OPPORTUNITIES

At Dolmans, we want to ensure that you are kept informed and up-to-date about any changes and developments in the law.

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All seminars will be tailored to make sure that they cover the points relevant to your needs.

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- Bullying, harassment, intimidation and victimisation in the workplace – personal injury claims
- Conditional Fee Agreements and costs issues
- Corporate manslaughter
- Data Protection
- Defending claims – the approach to risk management
- Display Screen Regulations – duties on employers
- Employers' liability update
- Employers' liability claims – investigation for managers and supervisors
- Flooding and drainage – duties and powers of landowners and Local Authorities for drainage under the Land Drainage Act 1991. Common law rights and duties of landowners in respect of drainage
- Flooding and drainage – duties and powers of Highway Authorities for drainage and flooding under the Highways Act 1980. Consideration of case law relating to the civil liabilities of the Highway Authority in respect of highway waters
- Highways training
- Housing disrepair claims
- Industrial disease for Defendants
- The Jackson Reforms (to include : costs budgeting; disclosure of funding arrangements; disclosure of medical records; non party costs orders; part 36/Calderbank offers; qualified one way costs shifting (QWOCS); strikeout/fundamental dishonesty/fraud; 10% increase in General Damages)
- Liability of Local Education Authority for accidents involving children
- Ministry of Justice reforms
- Pre-action protocol in relation to occupational disease claims – overview and tactics
- Public liability claims update

If you would like any further information in relation to any of our training seminars, or wish to have an informal chat regarding any of the above, please contact our Training Partner:

Melanie Standley at **melanies@dolmans.co.uk**