

Update

Jail time for fraudsters in a landmark case

A view from Greg Lloyd, Senior Associate

On 28 February, the landmark case of *Liverpool Victoria v Bashir & Others* was heard in the Royal Courts of Justice. This was the first case of its kind for committal for contempt of court where the alleged accident had been entirely contrived, that is to say no accident ever took place. It comes at a time when insurance fraud is high on the agenda in the press and at Downing Street; consequently the decision of the court regarding sentencing as deterrence was of great importance.

Instructions to our fraud team were initially received from Highway (now LV=) Insurance back in 2008. It had already been flagged as a potentially staged accident. It involved a three car shunt. Vehicle one was alleged to have collided with vehicle two, which was stationary at a junction. Vehicle two was then pushed over the give way lines, into the main carriageway, colliding with vehicle three which was driving along. All the vehicles were full of occupants and the overall reserve for the case was £75,000.

Further investigations were completed including the use of our Intel Team and the evidence started to stack up against the claimants. The initial concerns were that the LV= policy had been inceptioned only a few days before the alleged incident and there were thought to be links between the parties. Further investigations confirmed these suspicions and proved no accident actually took place. The whole accident had been fabricated and was entirely a paper

exercise by the fraudsters. Enquiries into vehicle three highlighted a previous accident in which it had been damaged. This accident had been dealt with by Admiral and included some of the same parties in this incident and their family members. The engineering evidence obtained from Admiral showed the damage to vehicle three was an exact match to the damage alleged to have been caused in the index accident, therefore proving it had not been involved in this alleged incident. It also showed the vehicle had been stationary on impact, which did not match the version of events alleged.

Only Samina Bashir (the driver of vehicle two) issued proceedings via her solicitors, Armstrongs. Her husband (Faisal Rauf), mother (Kaneez Ahkter) and father (Mohammed Bashir) all alleged to have been injured passengers in vehicle two provided signed statements in support of Samina Bashir's claim. Despite the weight of evidence against the

Further information

If you would like further information on any issue raised in this update please contact:

Damian Ward

E: damian.ward@clydeco.com

Clyde & Co LLP
The St Botolph Building
138 Houndsditch
London EC3A 7AR

T: +44 (0)20 7876 5000
F: +44 (0)20 7876 5111

Further advice should be taken before relying on the contents of this summary.

Clyde & Co LLP accepts no responsibility for loss occasioned to any person acting or refraining from acting as a result of material contained in this summary.

No part of this summary may be used, reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, reading or otherwise without the prior permission of Clyde & Co LLP.

Clyde & Co LLP is a limited liability partnership registered in England and Wales. Authorised and regulated by the Solicitors Regulation Authority.
© Clyde & Co LLP 2012

claimant, Armstrongs forged on to trial. Unfortunately, the claimant and her witnesses did not show up despite Armstrongs, obviously worried they would not attend, sending cars to pick them up to drive them to the court for the trial. As a result we won the case and the court granted permission to bring contempt proceedings against the claimant and her witnesses.

Fast forward to February 2012 and the tables had turned. Now the claimant and her witnesses were the defendants and LV= were the claimant. The week before the hearing four out of five of the defendants finally admitted to all charges in full and were faced with the imposing team including myself, Marcus Grant (counsel), Alison Kirkham (Head of Clyde & Co's Intel Unit), Paul Murry (LV= file handler), Vanessa Chance (LV= media relations manager) and PC Alex Coley (City of London Police - IFED). Sir John Thomas PQBD and Justice Silber listened intently to the evidence of the full extent of the intelligence gathered and also the details of the identical damage. When Samina Bashir was warned she must give consideration to what she would do with her four month old baby if she were to receive an immediate custodial sentence, an adjournment was requested by her barrister and information about how this had been set up and run started to emerge. It emerged that the defendants had been approached by an accident management company and paid money to say they had been involved in an accident. Crib sheets were provided with information on to give the medical expert. The defendants had no input into their witness statements save for signing them. It was made clear by all of the defendants that they had no or very minimal contact with their instructed solicitors, Armstrongs, throughout the whole civil claim. Even after fraud had been pleaded, Armstrongs did not meet with them for a conference

to discuss the issues. The hire vehicle provided by Direct Accident Management, which gave rise to a claim for just under £4,000, was never received and Samina Bashir simply signed off the agreement. As a result of the information provided and the fact Samina Bashir had a young child, Sir John Thomas was at pains to state that this had significantly reduced the sentence they were to receive from one well in excess of 12 months to just six weeks each for Samina Bashir and Faisal Rauf. Given the age and ill health of both parents (defendants three & four), they were given suspended sentences of six weeks each. They were also ordered to pay the costs of the contempt proceedings of £17,000 (this in addition to the costs of the civil case).

The outcome of this case is significant. The court was obliged to take a tough stance and consider what was in the public interest when dealing with cases of this nature. It was the first to be brought before the Divisional Court where the accident was entirely fictitious. Despite the admissions and information provided in mitigations and the personal circumstances of Samina Bashir, an immediate custodial sentence was required and given. As quite often the case, the unlucky parties were merely the bottom layer of what is undoubtedly a much larger operation. However, the City of London Police, who were invited to attend as guests of Clyde & Co, confirmed they would investigate this matter further. It is hoped this message will filter down to those who might be tempted to get involved in this type of activity for a bit of quick cash and it is another step forward in an ongoing battle against insurance fraud. The tenacity of LV= to stick with this case to the bitter end will also hopefully encourage other insurers that the cost of running these cases is worthwhile. The deterrence and future industry wide savings will potentially be massive.