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[AVIVA INSURANCE LTD v AHMED \(2017\)](#)

QBD (Spencer J) 21/11/2017

CIVIL PROCEDURE - INSURANCE - FRAUD (LTL) - ADMINISTRATION OF JUSTICE

ABSENCE : COMMITMENT FOR CONTEMPT : FALSE STATEMENTS : FRAUD : INSURANCE CLAIMS : ROAD TRAFFIC ACCIDENTS

A man who deliberately caused a road traffic accident by braking suddenly in front of another vehicle in order to make a fraudulent personal injury claim was sentenced to nine months' imprisonment for contempt of court for making false statements about the cause of the collision, which were disproved by CCTV footage of the incident.

The applicant insurance company applied for the respondent's committal for contempt of court for making false statements in relation to a fraudulent claim arising from a contrived road traffic accident.

The respondent had made a claim against the applicant in the county court seeking damages for personal injury suffered in a three-vehicle collision. He alleged in witness statements that he had been driving in slow-moving traffic when he saw traffic building up in front of his car. He said he reduced his speed and then felt a sudden impact, followed by a second impact. He stated that he had suffered neck and shoulder pain as a result. The applicant had insured the driver of the car which had collided with the respondent's car and it served a defence and counterclaim. The second driver asserted that the applicant had overtaken his vehicle on the inside lane, cut sharply in front of him, travelled for a distance and then braked suddenly for no reason. The driver of the third vehicle, which hit the second car, agreed with that version of events and said that he had been able to see from his van that the carriageway in front of the respondent's car had been clear. The applicant's case was that the respondent had deliberately caused the accident in order to make a fraudulent claim. The claim was moved to the fast track and directions were made, but when CCTV of the accident was served the respondent's solicitors came off record. The respondent then failed to pay the required hearing fee or file the listing questionnaire. Further directions and an unless order followed, but the respondent played no further part in the proceedings. At the hearing a district judge found that the claim had been fundamentally dishonest and ordered the respondent to pay costs of over £10,000. The applicant applied for permission to bring committal proceedings for making false witness statements verified by statements of truth wherein the respondent claimed that the accident had been caused by the second driver's negligence, that there had been traffic in front of him, and that he had been reducing his speed when his car was struck from behind. The applicant made repeated attempts to effect personal service of notification of the instant proceedings on the respondent, and wrote to him on a number of occasions and at various addresses. He did not respond and did not appear at the instant hearing. He failed to pay the costs order and was made bankrupt on the applicant's application.

HELD: Proceeding in the Respondent's Absence - The court was satisfied that the respondent had received notification of the proceedings, had had sufficient time to respond, and had provided no reason as to why he had not engaged with the proceedings. He was aware of, and indifferent to, the consequences, and an adjournment was not likely to secure his attendance. There was an inference that his solicitors had come off record because of the conclusive CCTV evidence. To adjourn would prejudice the applicant which would incur further costs with no prospect of recovering them, [R. v Jones \(Anthony William\) \[2002\] UKHL 5](#) followed and [Sanchez v Oboz \[2015\] EWHC 235 \(Fam\)](#) considered.

Contempt of Court - The applicant had to prove beyond a reasonable doubt that the respondent had made false statements which, if persisted with, were likely to interfere with the administration of justice, and that he could not have had an honest belief that they were true. But for the CCTV footage, the respondent's claim was a classic small personal injury claim where the court had to assess fault based on conflicting accounts. The footage established beyond any doubt that the respondent's version of events was false. He had made false statements and could not have had an honest belief that they were true. He knew his claim was fundamentally dishonest as he had caused or contrived the accident.

Sentence - False claims undermined the administration of justice, wasted time and money, and damaged the insurance system. The need to investigate insurance claims hindered honest claimants. Staged or contrived accidents risked injury to innocent drivers. The applicant was unable to recover its costs and the respondent had not

acknowledged his wrongdoing or pleaded guilty. The most that could be said was that he had not persisted with his claim after the CCTV footage had been served. The gravity of such conduct had to attract a prison sentence, [South Wales Fire and Rescue Service v Smith \[2011\] EWHC 1749 \(Admin\)](#) considered. There was a distinction between exaggerated personal injury claims and those where the entire claim had been staged, the latter being far more serious, [Liverpool Victoria Insurance Co v Bashir \[2012\] EWHC 895 \(Admin\)](#) considered. The court had limited information about the respondent. He was 32 years old and had worked part-time as a security guard at the time of the accident. His serious dishonesty struck at the foundation of the justice system. He was sentenced to nine months' imprisonment on each of his three false statements, to run concurrently. A committal warrant was issued. He would have an opportunity to purge his contempt and was entitled to appeal the instant judgment.

Application granted

Counsel:

For the applicant: Michael Lemmy

For the respondent: No appearance or representation

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