DAC BEACHCROFT

PROFESSIONAL LIABILITY – LEGAL UPDATE

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SRA v NASAR HUSSAIN **SDT – 16 OCTOBER 2025**	**DISHONESTY / CONDUCT**

COMMENTS

- There is a high threshold for a finding of dishonesty in disciplinary proceedings. This decision suggests that the SDT will not always be led by findings in civil court. It will make its own assessment and seek to reach a proportionate outcome in the circumstances.
- Solicitors have an ongoing duty of disclosure in proceedings and this extends to the accuracy of witness statement and expert reports. However, there is a distinction between failure to disclose and deliberate dishonesty.
- Self-reporting and cooperation with the SRA may be taken into account as mitigating factors as part of the SDT's determination.

FACTS

Nasar Hussain, a solicitor, represented himself in a personal injury claim. During those proceedings, he failed to disclose information which he knew was relevant to the expert report and the issues being litigated. In particular, he did not disclose that he had a pre-existing shoulder injury, instead asserting in pleadings and a witness statement that his symptoms were wholly attributable to a road traffic accident. At trial, the judge rejected Mr Hussain's evidence as "*conflicting and incoherent*" and found he "*knew jolly well*" that his account was false. The claim was dismissed for fundamental dishonesty, and Mr Hussain made a self-referral to the SRA.

DECISION

The SDT imposed a 4 month suspension (which was suspended for 2 years) and costs of £15,000. It found that Mr Hussain had breached SRA principles 1 (upholding the rule of law), 2 (maintaining public trust) and 5 (integrity).

In reaching a decision, the SDT applied the test for dishonesty in *Ivey v Genting Casinos*. It firstly determined Mr Hussain's knowledge or belief as to the facts, finding that he knew details of his earlier accident and resulting injury would be relevant to the expert in the personal injury claim. Secondly, it assessed whether the conduct was dishonest by the standards of ordinary decent people.

This was a finely balanced question. Mr Hussain's witness statement had been misleading and he had failed to disclose relevant information in his submissions. However, Mr Hussain had provided his GP records to the defendants in the personal injury claim, he had attempted to rectify the expert report twice, had not otherwise exaggerated his symptoms or fabricated documents, he had a 23 year unblemished career, and had self-reported to the SRA and co-operated with them, as well as submitted character references.

The SDT found that Mr Hussain's conduct breached his ongoing duty of disclosure (and fell below the conduct expected of a solicitor). However it distinguished between that failure and deliberate dishonesty. Having regard to the factors set out above, it determined that the conduct did not meet the threshold for dishonesty.

SRA v CLAIRE FRANCES GILL **SDT – 22 DECEMBER 2025**	**SLAPPs**

COMMENTS

- SLAPPs cases have caused concern within the legal profession (particularly in defamation cases) but solicitors and their insurers can take some comfort from the principles set out by the SDT in dismissing the allegation against Ms Gill.
- The SDT relied upon the contemporaneous documentary records on the issues of Ms Gill's knowledge. Accordingly, it is imperative that solicitor maintain good records of their advice given, and the basis for such advice.

FACTS

Carter-Ruck was instructed by Dr Ruja Ignatova and One Network Services Ltd, a fraudulent cryptocurrency scheme thought to have defrauded investors of around $4 billion. One of the partners, Claire Gill, sent a letter to Jennifer McAdam, an investor-turned-whistleblower, which the SRA alleged contained an improper threat of litigation (defamation proceedings).

The SRA argued that the threat of litigation was issued for the dominant purpose of creating a misleading public message that OneCoin was ready to vindicate its reputation in court when the opposite was true. It considered that Ms Gill knew of the lack of underlying evidence and the client's refusal to provide it, and that issuing a threat to a vulnerable layperson amounted to taking unfair advantage. It argued that Ms Gill breached principles of the SRA Principles and the 2011 Code of Conduct and referred her to the SDT.

Ms Gill applied for summary dismissal of the SRA's allegation.

The central question for the SDT was whether the material relied upon by the SRA was capable of establishing a case which ought to proceed to a substantive hearing.

DECISION

The SDT considered whether Ms Gill knew that the threatened defamation proceedings would not be pursued or that the letter was sent for an improper purpose. It was central to the SRA's allegation that Ms Gill had possessed that knowledge at the time of sending the letter. However, the contemporaneous documents showed that her advice had been measured, professional and conscientious. She asked her client appropriate questions, identified further information required and was properly investigating matters. She had acted on explicit client instructions and there was no evidence suggesting the client's instructions were false. This undermined the SRA's allegations. The SDT rejected the suggestion that the communications showed any improper motive or a departure from Ms Gill's professional judgement, but merely "*reflected the realities of advising in a rapidly developing and highly sensitive situation*". Ms Gill recommended that litigation was not pursued only after the letter to Ms McAdams had been sent, following receipt of advice from Counsel.

The SDT considered the letter sent to Ms McAdams. It described the correspondence as "*moderate in tone and entirely consistent with standard letters before action*". There was nothing in its content or language that was misleading, abusive or improper. It reflected the instructions Ms Gill had received at that time. It was impossible to conclude that Ms Gill knew the claim could not be advanced and there was no evidence to support any such inference.

The SDT identified several principles which were established by previous case law, including:

- A solicitor does not act improperly simply by acting for a client with a potentially hopeless case (*Ridehalgh v Horsefield [1994] Ch 205*);
- Advocates owe no duty to their client's opponent and should not be penalised for advancing a case in accordance with instructions (*Medcalf v Mardell [2002] UKHL 27)*;
- Solicitors are not obliged to investigate or verify the truth of instructions before advancing them *Al-Haddad Rostami and Ors [2024] EWHC 448 (Ch)*;
- The use of legal proceedings to protect reputation, even where reputational or public relations considerations were engaged, falls within the proper scope of defamation litigation (absent knowledge the claim is not genuine and not otherwise abusive) (*Jameel v Wall Street Journal Europe [2006] UKHL 44)*; and
- Collateral abuse of process arises only in the clearest and most obvious cases *(Wallis v Valentine [2003] EWCA Civ 1034)*.

Whilst the SDT commented that solicitors are not "*hired guns*" to advance any case, neither are they required to withdraw whenever doubts arose as to a client's credibility or prospects. The "*dividing line*" was knowledge. A solicitor must not knowingly advance false instructions or assist in an abuse of process, but absent such knowledge, they are entitled (and often obliged) to continue to act (the SDT cited an analogy to criminal defence solicitors).

The SDT concluded that the SRA's allegations were founded on hindsight, rather than evidence of professional misconduct; indeed they referred expressly to the clarity of the documentary evidence in this regard. There was no evidence in support of the SRA's allegation. Accordingly, it was not in the interests of justice (or proportionality) for the matter to proceed when the evidential foundation was insufficient.

Although the SDT described summary dismissal as an "exceptional step", it found that it was appropriate in this case. The proceedings were dismissed. The SDT also ordered the SRA to pay Ms Gill's costs (which will be subject to detailed assessment, if not agreed).

HENDERSON & JONES LIMITED v TYSERS INSURANCE BROKERS LIMITED COMMERCIAL COURT – 29 JANUARY 2026	STRIKE OUT / AMENDING PLEADINGS / STATEMENTS OF TRUTH

COMMENTS

- The case provides a reminder that care should be taken when providing a statement of truth in support of a pleading or other court document; although the Court may not be too engaged where the issue has been rectified.
- The case also highlights some of the factors a Court will consider in deciding whether to allow amendments to pleadings, and that there remains a high threshold should a party seek to argue that pleadings constitute an abuse of process.
- Furthermore, where parties have not expressly excluded the ability to assign a cause of action, the court is likely to exercise a "*general willingness*" to find that parties have a legitimate interest in the assigned claims.

FACTS

The Claimant is the (purported) assignee of causes of action against an insurance broker (**Tysers**), having purchased claims from companies which had become insolvent (**the assignors**).

The assignors had an interest in apartments in two blocks situated in Liverpool. From September 2013 to August 2016, insurance was provided by Travelers Insurance Company. In 2017, the assignors instructed Tysers to find an insurer who would provide cover on a "*like for like* basis" including, in certain circumstances, cover for loss of rent. Cover was placed with NIG. In 2017, there was a fire at a nearby entertainment venue which damaged the apartment blocks, rendering them unusable. NIG refused to cover the loss of rent, but later resolved the assignors' claim for a total of £6.3million (including £150,000 in respect of loss of rent).

The Claimants issued proceedings in October 2023 for £2.45million (the difference between the amount of the settlement attributed to loss of rent and the level of indemnity cover under the policy for loss of rent).

The Defendant made an application to strike out some or all of the claim or alternatively, summary judgment. In response, the Claimant made an application to amend the Particulars of Claim. The Defendant argued that the claim to damages was inconsistent and incoherent; the schedule of loss was not verified by a statement of truth and should be struck out; the proposed amendments should not be allowed; and the purported assignment had no effect.

DECISION

The original proceedings did not include a schedule of loss, but one was ordered at a CCMC. When the schedule of loss was served, the amount claimed was higher than that in the Particulars, and referred to a number of additional apartments. The schedule of loss was verified by a statement of truth, but this did not comply with the Civil Procedure Rules. The Court noted that a person signing a statement of truth for the Claimant needs to give a description of their role which satisfies the Court that they are of sufficient seniority. The name of signatory must be used, not the name of the company and the

statement should confirm that the "facts" (not the "information") in the schedule are true. However, the Claimant had since provided a new statement of truth that was (broadly) compliant with the CPR. The Judge therefore refused to strike out the now verified schedule of loss.

The Court noted that the amendments to the Particulars of Claim sought would bring the pleadings in line with the schedule of loss. However, these were not the only amendments.

The Defendant argued that the proposed amendments amounted to an abuse of process because of the "*scattergun and inconsistent approach*" adopted. However, the judge rejected this, commenting that there was a high hurdle for pleadings being abusive. Such a decision would only be reached in rare and extreme cases. This was not such a case, and the correct approach was therefore if permission to amend should be granted. His Honour Judge Bird found that the amendments were clear and would allow the matter to proceed to a fair determination of the issues between the parties. There was no doubt that the Defendant completely understood the case against it and would be able to plead to that case, disclose documents relevant to it and prepare (or supplement) its witness statements.

The amendments addressing the assignment of the claims pleaded that the Defendant was estopped from denying the validity of the assignments, having entered into standstill agreements which expressly acknowledged the validity of the assignment. The Defendant argued that the assignments were contrary to public policy and were invalid. The Judge did not agree. He found that the claims were property of the companies before they went into liquidation and there was no reason they could not be assigned (subject to the assignment being contrary to public policy). Judge Bird acknowledged that a cause of action can only be assigned when the assignee has a legitimate interest in it, but noted the law has a "*general willingness*" to find that parties have a genuine interest. He held that the Claimant had a sufficient interest to avoid the Defendant being able to plead champerty and that the assignment did not "*tend towards the corruption of public justice*". The parties could have prevented an assignment if terms to this effect had been included in the contract between the Defendant and the assignors.

There was no suggestion that allowing the amendments would result in the loss of the trial date, and the Claimant's application had been necessary because the Defendant had refused to consent to the changes.

The Claimant was granted permission to amend its case, and the Defendant's application for strike out or summary judgment was refused.

COHEN v (1) MORRISON (2) ARTMONSKY (3) REID (4) RUSSELLS SOLICITORS AND (5) APOLLO BRANDED CONTENT GROUP INTERNATIONAL (IN LIQUIDATION) **HIGH COURT – 2 FEBRUARY 2026**	**STRIKE OUT / LOSS OF CHANCE / FIDUCIARY DUTIES**

COMMENTS

- Loss of a chance claims cannot survive without a clearly articulated counterfactual. A claimant must set out what would have happened absent the alleged wrongdoing.
- The judgment also demonstrates the court's readiness to scrutinise complex pleadings at an early stage and dismiss proceedings if those proceedings are insufficient.

FACTS

The Claimant, Mr Cohen, invested in a startup business which was dependent on people being permitted to gather together for entertainment. The implementation of restrictions on such gatherings in response to the Covid outbreak caused it to fail. The Claimant lost his investment and commenced legal action to recover from the Defendants (being the company, its directors and its solicitors) over £20m in lost investment and profit.

The Particulars of Claim (drafted by the Claimant personally) made wide allegations of wrongdoing which did not match the causes of actions identified, which included deceit, dishonest assistance, conspiracy and breach of common law duties. Notably, the Claimant alleged that he had suffered loss due to the loss of a chance to sell his shares before the collapse of the business.

The Defendants sought to have the claims struck out or alternatively for reverse summary judgment.

DECISION

The Court found that the Claimant's case had been inadequately pleaded. It was summarily dismissed

Notably, the judge set out the requirements for pleading 'loss of a chance claims'. The Court stated that when causation depends upon what the claimant and a third party *would have done*, it is for the claimant to plead and prove on the balance of probabilities what he would have done, and then what third parties would have done.

The Claimant needed to establish that the chance existed before arguing it had been lost. In this case, it was not open for the Claimant to argue he had lost the chance of selling his shares to a third party purchaser. He had made repeated efforts to do so but had failed because he wanted a higher price than any buyer was prepared to pay. He could not now say that he would have accepted a lower price and seek to recover that lower price from the Defendants.

ADCAMP LLP v OFFICE PROPERTIES PL LIMITED (AND ORS) and BDB PITMANS LLP AND ADCAMP LLP v LEE (AND ORS) **COURT OF APPEAL – 6 FEBRUARY 2026**	**Substitution after limitation**

COMMENTS

- As mergers and acquisitions of professional service firms are becoming more prevalent, Claimants need to take care that the correct defendant is identified and that proceedings are issued in time.
- A mistake as to the identity of the defendant cannot be rectified under s. 35(6) of the Limitation Act, nor can a mistake be rectified where the essential facts of a claim would not remain the same following the substitution.
- The Court of Appeal's decision provides some certainty to defendants, but its decision is now being referred to the Supreme Court.

FACTS

This judgment concerned appeals brought by the defendants in two cases, *Adcamp LLP v Office Properties PL Limited* and *BDB Pitmans LLP v Lee* (reported in our February and December 2025 updates).

In both cases, the Claimants alleged that Pitmans LLP (**Pitmans**) had provided negligent advice. Pitmans had subsequently changed its name to Adcamp LLP (**Adcamp**), but the Claimants issued proceedings against BDB Pitmans LLP (**BDB**) – Pitmans' successor practice following a law firm merger – mistakenly believing it had taken on Pitmans' liabilities.

The Claimants realised their mistake after expiry of limitation and sought to add or substitute Adcamp into the proceedings. Adcamp objected to those amendments.

At first instance, the Court in each case allowed substitution but granted the defendants permission to appeal to the Court of Appeal.

DECISION

The defendants' appeals were allowed.

The substitution of a party after the expiry of the limitation period is governed by section 35 of the Limitation Act 1980 and rule 19 of the Civil Procedure Rules. It may only take place if necessary for the determination of the original claim and either, the new party is being substituted for a party due to a mistake as the name of the correct party (referred to by the Court of Appeal as the "*first gateway*") or the claim cannot be maintained unless the new party is joined or substituted (the "*second gateway*").

It was accepted by the parties that the first gateway did not apply. The question for the Court of Appeal therefore concerned the second gateway, i.e. whether the claims could be properly continued unless Adcamp was added or substituted as defendant.

The High Court decisions had relied on obiter dicta comments in *Insight Group Ltd v Kingston Smith*. In *Insight Group*, Leggatt J suggested that a claimant who sued the wrong entity as it mistakenly believed it to be the successor to the negligent party could

be saved by the second gateway if the "same claim" was advanced against the substituted party.

The parties disagreed over what was meant by the "*same*" claim. The Claimants contended that the claims against BDB and Adcamp were the same, as they were founded on Pitmans' alleged negligence. Adcamp argued that the claims were not the same, as the claims against BDB included allegations relating to the transfer of liabilities, whereas the claims against Adcamp did not.

The Court of Appeal found that the substitution would mean that the essential facts of these claims would not remain the same following the substitution of the defendants. The Court of Appeal emphasised that Parliament had deliberately limited the circumstances in which addition or substitution can be made after the expiry of the limitation period.

Whilst the defendants' appeals were allowed, and the substitutions were not permitted, the Court of Appeal has granted the Claimants permission to appeal to the Supreme Court.

MANOJ SALUJA AND THAMESMERE LTD v VYMAN SOLICITORS LTD HIGH COURT (KBD) – 6 FEBRUARY 2026	SOLICITORS' DUTIES

COMMENTS

- The case highlights the importance for solicitors (and their insurers) to clearly delineate which party they are acting for, and to document this explicitly; this will often be key in determining the scope of the solicitors' duties.
- The decision underscores the necessity for professional indemnity insurers to consider how well their insureds record and communicate the boundaries of their duties, especially where multiple parties and potential conflicts of interest are involved.
- The case reinforces that solicitors must ensure clarity about their client relationships and duties, especially when acting for multiple parties in related transactions.
- A connection between the borrower and its solicitor does not necessarily mean the solicitor is not independent. In each case, the solicitor must carefully consider whether there is any conflict of duty or interest and whether accepting the instructions would be in the client's best interests.

FACTS

The case concerned two claims arising out of loan agreements. Thamesmere Limited loaned Manoj Saluja £742,000 (the **Thamesmere loan**) to help fund an onward loan. The onwards loan (referred to as the **Gracechurch loan**) was in the sum of £1.6million, lent by Mr Saluja and Gracechurch Limited to an individual called Milan Patel and HBMP Developments Limited for the purposes of property development. Security for the Thamesmere loan was a charge over 18 Hillcroft Crescent, a property owned by Mr Patel's parents.

Vyman Solicitors acted in relation to the loans. Vyman emailed Mr Patel attaching a letter for his parents (which was also sent via post), requesting confirmation they had obtained independent legal advice and asking for details of their nominated solicitor. In response, Vyman and Mr Saluja received an email apparently signed by Mr Patel's parents and nominating Axiom Stone Solicitors. Within minutes however, Mr Patel sent a further email explaining that due to time constraints, a solicitor called Shital Shah (a consultant for ALD Legal) would instead be signing the necessary documents. Mr Saluja was copied into these email exchanges. There was an internal discussion about whether Mr Shah would be independent (ALD Legal was owed by Mr Patel) and Vyman spoke to Mr Saluja and Thamesmere's agent about possible risks with ALD Legal being a small firm and therefore its undertakings carrying limited weight, but ultimately the parties decided to proceed.

The following year, the Gracechurch loan was assigned. It also became apparent that the Thamesmere loan would not be repaid. Mr Patel's parents sought a declaration that their signatures had been forged and obtained an injunction preventing 18 Hillcroft Crescent from being sold. It transpired that Mr Patel had committed fraud and there was no valid charge against the property. The security documents had been signed by imposters and Mr Shah had failed to make the proper checks. Thamesmere and Mr Saluja reached a settlement over the loan, and both subsequently brought claims against Vyman.

Mr Saluja claimed that Vyman acted for him and had acted in breach of contract or negligently, causing him loss (including the settlement payment of £150,000 to Thamesmere, legal fees for the proceedings to enforce the security against 18 Hillcroft Crescent and costs for those proceedings when they were unsuccessful.)

Thamesmere Limited (**Thamesmere**) also alleged that Vyman had breached its contract or acted negligently in respect of the Thamesmere loan. Its losses included the £742,000 loan amount, its legal fees for the enforcement proceedings against 18 Hillcroft Crescent and costs for those proceedings when they failed.

Vyman denied it had acted for Mr Saluja in the Thamesmere loan or breached any duty to Thamesmere or Mr Saluja. It denied responsibility for any of the losses to the claimants.

DECISION

Judge de Bertodano dismissed Mr Saluja's claim. She held that Vyman did not act for Mr Saluja on the Thamesmere loan, expressly confirming in an email "*we are not representing or advising you in connection with the transaction*". Mr Saluja gave evidence that he had had a subsequent discussion in which he had been assured that the charge over Hillcroft Crescent would safeguard his interests (as well as Thamesmere's). However the judge found that "*informal general verbal assurance*" was not enough to infer a representation retrospectively.

In any event, Mr Saluja had not suffered any loss as a result of the defective security. He had assigned the Gracechurch loan (and had received substantial money for it) and had settled the loan to Thamesmere, paying only a fraction of his debt of £900,000 (which was less than the amount he would have owed, even if the charge had been valid). As far as his claim for the legal fees and the fees for the successful parties in the proceedings to enforce the charge against Hillcroft Crescent, Vyman had stopped acting for him long before a settlement had been reached and costs orders made. The judge also commented that Mr Saluja had failed to identify what costs were incurred by the purported negligent advice given by Vyman in relation to those proceedings.

Thamesmere's claim was also dismissed. The Judge considered the steps set out in *Royal Bank of Scotland Plc v Etridge*[1] when a charge is granted by a third party to avoid the risk of securities being later challenged. In accordance with *Etridge*, Vyman had sent Mr Patel's parents correspondence requesting written confirmation that they had received independent legal advice and for them to nominate a solicitor. There were no grounds to suggest that Mr Patel would act fraudulently and the judge did not agree that the email communications ought to have raised red flags. A change in nominated solicitor was not inherently suspicious, Mr Saluja and Thamesmere were aware of the exchanges and all the parties wanted the transactions completed quickly. *Etridge* does not require the independent solicitor to be distanced from the borrower, so the relationship between Mr Shah/ALD Legal and Mr Patel did not make him inherently unsuitable. The fraud which occurred did not arise due to a lack of independence, but by Mr Shah's negligence. Vyman had verified Mr Shah's status with the Law Society and considered his professional link with Mr Patel. It was entitled to expect that he would discharge his duties and carry out his work properly. No-one could have foreseen that Mr Patel would employ imposters to pose as his parents and forge their signatures.

The claimants therefore failed to establish that Vyman acted in breach of its duty, and their claims failed. The costs of proceedings to enforce the security were not the result of negligence on Vyman's part, and were not recoverable.

[1] [2001] UKHL 44

Other developments

The SRA's thematic review into compliance officers

In December 2025, the SRA undertook a review into compliance officers. Many compliance officers reported time pressures, a lack of support and competing priorities as particular risks or challenges in their role. The SRA indicated it would develop its support for people in this role and, in the longer term, undertake a more fundamental review of the compliance officer regime.

Interest on lawyers' client accounts scheme

The government is seeking views on a proposal to introduce an Interest on Lawyers' Client Account Scheme, whereby a proportion of the interest earned on lawyers' client accounts - the current proposal being 75% of the interest generated on pooled client accounts and 50% on individual client accounts - would be remitted to the government. The consultation is open now and will close on 9 March 2026.

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