

DAC Beachcroft and AXA secure landmark fraud ruling

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- Court of Appeal ruling clarifies a 50-year-old law on exemplary damages.
- The decision means that fraudsters may have to pay damages above and beyond a claimant's losses if their behaviour and conduct is 'outrageous'.
- The case relates to an AXA investigation from 2014, which uncovered ghost broking, policy inception fraud and bogus claims.

International law firm DAC Beachcroft and AXA Insurance have secured a major Court of Appeal ruling which could see fraudsters pay additional damages to insurers if their behaviour and conduct are deemed 'outrageous'.

The payments, known as exemplary damages, which are damages paid over and above the claimant's loss, are governed by a 50-year-old law clarified by the Court of Appeal today.

In its ruling in *AXA Insurance UK Plc v Financial Claims Solutions Limited and others*, the Court of Appeal confirmed that AXA, advised by DAC Beachcroft, was entitled to exemplary damages against a group of fraudsters behind a large scale personal injury claims scam operated through Coelum Legal, a fake law firm.

The case relates to an AXA investigation from 2014 which uncovered ghost broking, policy inception fraud, bogus claimants, forged witness statements, fake medical reports and one of the fraudsters posing as a solicitor. It was described by Lord Justice Flaux in the Court of Appeal today as 'a sophisticated and sustained fraud involving deceit and fraudulent misrepresentation from the outset'.

In earlier litigation, the claims were described as 'rotten to the core' by one High Court judge when awarding an injunction against Coelum Legal to prevent them from litigating against AXA. Another High Court judge had awarded AXA its costs but had refused to award exemplary damages.

"I am delighted with the decision which finally resolves decades of uncertainty around the application of exemplary damages," comments Claire Laver, Counter Fraud Partner at DAC Beachcroft. "It is still rare for courts to award exemplary damages but the Court of Appeal clearly felt that the fraudsters' activities were so extreme that exemplary damages were appropriate. I am thrilled for those at AXA who have worked tirelessly to bring about this change and who have led a novel approach to tackling organised fraud. This is a great example of collaboration and partnership between insurer, solicitor and barrister at its best."

"This decision from the Court of Appeal, clarifying the law on exemplary damages, helps send out a clear message to anyone attempting to defraud insurance companies and will make unscrupulous organised fraudsters pause and think about their actions carefully," says Tom Wilson, Counter Fraud Manager, AXA Insurance. "Insurance fraud of this type hits ordinary policyholders in the pocket and we are delighted that this new ruling could see fraudsters pay in kind for their outrageous actions."

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