

“I thought it would be therapeutic for my back... bruv”

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Jamayne Brown v Paul Smith

This case was handled by DAC Beachcroft’s Counter-Fraud Department on behalf of the Defendant following instructions from his insurers NIG which saw the Claimant provide an interesting response to some damning social media evidence which undermined his claim for whiplash following a minor road traffic incident.

Facts of the Case

Proceedings arose out of a minor incident, which occurred in February 2018 in the car Park on Upper Dean Street in Birmingham. The Defendant was proceeding to manoeuvre into a parking space when his bleeper went off to signal that there was an object directly behind him. The Claimant’s case was that he had been stationary behind the Defendant when he reversed into him at speed causing his vehicle to be written off and that he suffered personal injury. The Defendant disputed that he had caused any damage to the Claimant’s vehicle and that anyone could have been injured.

DAC Beachcroft defended the claim on the grounds that no damage was caused in the minor incident and that the Claimant could not have been injured. DAC Beachcroft obtained favourable forensic engineering evidence to support the fact that the damage alleged by the Claimant could not have been caused in the index incident. The Claimant’s solicitors agreed to the Defendant having permission to rely upon this evidence. It was known to NIG that the Claimant had been involved in a previous road traffic accident in 2017, despite requests the Claimant failed to provide documentation from this incident.



The Claimant served a witness statement maintaining that all the damage in the above photographs had been caused by the index incident and that he had almost recovered from his previous incident by February 2018 and therefore blamed the index incident for his ongoing whiplash and anxiety, which he had caused him to stop working and enjoy every day activities for nearly 12 months.

DAC Beachcroft’s intelligence team were able to gather evidence from his (public) social media page which undermined the Claimant’s case, in particular they were able to download a video of the Claimant in a skydiving machine in April 2018, when according to him his symptoms were still moderately severe.

DAC Beachcroft made the Claimant a “drop hands” offer which was rejected.

Trial

The matter proceeded to Trial in Birmingham CC, with Counsel Daniel Wood of Ropewalk Chambers representing the Defendant. On the morning of Trial the Claimant’s barrister made submissions that it was not his client in the video from April 2018. The Claimant on the morning of Trial was also trying to frantically get hold of engineering evidence from his previous accident in December 2017 to support his case, it will come as no surprise was not entertained by the Court.

When cross-examined by Daniel Wood on the fact that the Facebook post had come from an account which the intelligence team had been able to link directly to the Claimant and that he had commented to confirm that it was him in the video the Claimant conceded that it was in fact him. The Claimant’s explanation for going skydiving despite his impairments was that he thought it would be “therapeutic for my back bruv”.

The Court dismissed the Claimant’s claim and made findings of fact, having reviewed all the evidence (including the social media) and the multiple inconsistencies in the Claimant’s account drawn out in cross-examination that there had been no damage caused in the incident and that the Claimant had not proven any injury as a result of the incident. The claim was dismissed in its entirety.

Our counter fraud team deal with cases like this on a regular basis. For more information or advice, please contact one of our experts.

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