



The Personal Injury and Medical Law Teams' Newsletter

May 2010

This PIMLU focuses on Credit Hire with digest and comment by *Stuart Nicol* on the Court of Appeal decision in **Beechwood v Hoyer** (assessment of loss of use in credit hire claim with a corporate Claimant) in which he appeared as Junior Counsel for the Defence. He also reviews the earlier Court of Appeal decision on spot hire rates in **Bent v (1) Highways & Utilities Construction Ltd (2) Allianz Insurance** and comments on the Court of Appeal referral to the European Court in **Churchill Insurance v Wilkinson** (insurers' right of recovery against insured permitting uninsured third party to drive (s.151(5) RTA). *Stuart* will be giving seminars on recent developments in credit hire in July (see below).

The Asbestos saga continues: in **Reynolds v Secretary of State** the court considered whether practical measures were taken by the standards of the time to prevent or minimise exposure to asbestos with reference to *Fairchild* and the more recent decisions in *Willmore* and *Sienkiewicz* (both of which are going on appeal). *Deirdre Goodwin* comments

Other cases considered this month include:

- **Hiscocks v Dietrich**: the District Judge granted enhanced costs to C as D had not beaten her Part 36 offer. The circuit judge relying on *Carver*, allowed D's appeal even though C's conduct was not in dispute because although C's offer was higher than the damages awarded it was not as 'close' as D's offer which was less. Such decisions provide support for Jackson's view that the rule in *Carver* should be abolished with a return to the certainty of the wording of Part 36. *Deirdre Goodwin* comments.
- **Kris Motor Spares Limited v Fox Williams**: *Sinclair Cramsie* considers a costs assessment on a late and significant ATA premium with comment on the courts' failure to control the size of the premiums contributing to the dissatisfaction with the current costs regime underlying the recommendations in the Jackson Report.
- **Davies v Global Strategies Group Hong Kong Ltd**: death of employee of provider of security services to the US Military in Iraq; whether it was reasonably practicable to source and fit bullet-proof glass to the vehicle in which the employee was travelling to meet a convoy. *Barry Dooley* comments.
- **AB, JA JPM and RM v The Nugent Care Society**: exercise of s.33 Limitation Act 1980 discretion in child sex abuse cases. *Martina van der Leij* comments.
- **Clarke v Maltby**: *Deirdre Goodwin* comments upon a meticulously analysed judgment in a head injury claim where significant damages were awarded for loss of earnings by applying an 'additional claim formula' to 3 career models on percentage assessments of C's likely earnings within each model.

Seminars - 2010: the PI Team is pleased to announce a seminar to be given in our London Chambers on 20th July and in our Oxford Chambers on 28th July by Stuart Nicol on credit hire agreements including the Court of Appeal decision in **Beechwood v Hoyer** which is likely to alter the credit hire.

Back copies of earlier PIMLUs are available upon application to clerks@13kbw.co.uk and **Articles, Case and Practice Notes** on major developments are posted on our website: www.13kbw.co.uk

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The June 2010 PIMLU will be sent out in July