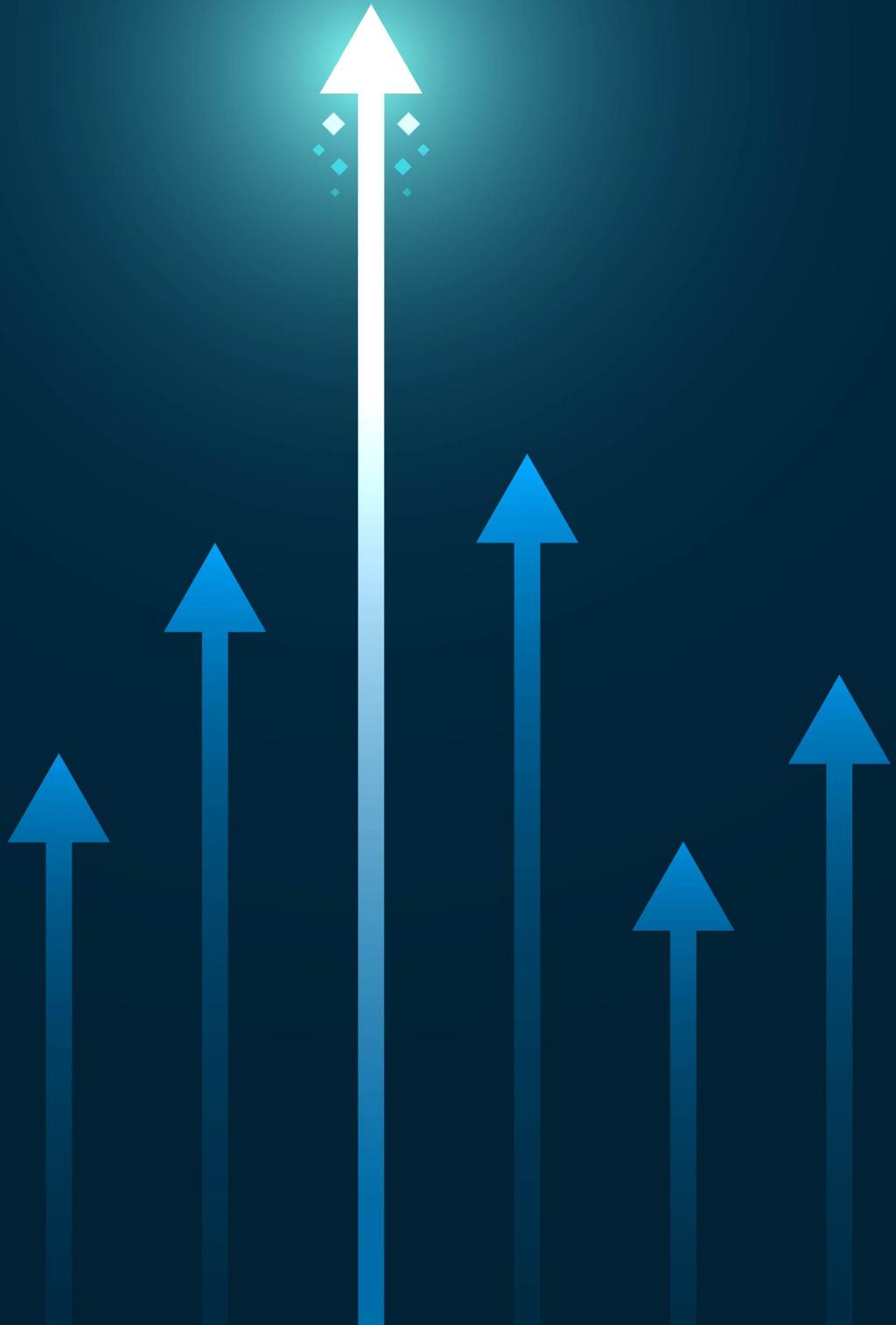

STRATA LITIGATION SUCCESS



CASE STUDY

Strata Service:

Defence
Litigation

Claim Handler:

Laura Stemp

Client:

Vehicle Rental
Client

Result:

Trial Win

TOTAL Saving:

£28,000.00

Strata Approach:

We provide an in depth service to our clients providing a robust, expert and proven capability that delivers results. Our strategy is to coordinate and control every aspect of the claim to drive it forward to conclusion, minimising cost/leakage and reducing claim lifespan.

Overview:

Our Recovery department recovered our client's uninsured losses in full as the Third Party policy was voided as it had been taken out illegally using stolen identity by a known fraud ring.

The Third Party still disputed liability and pursued a personal injury claim including a significant claim for credit hire charges. The matter was therefore passed to our Defence Litigation department.

The Third Party gave inconsistent incident circumstances within the pleadings as to how their injuries were caused and we were advised by the Client that the Third Party was not even in their vehicle at the time of the incident.

An investigative report was obtained which confirmed that the Third Party was known under several aliases and addresses, as well as owning a string of taxi and car sales companies.

As it was clear we were facing a fraudulent claim against our Client, we filed a robust Defence putting the Third Party to strict proof of their identity, their right to bring the claim and the incident circumstances.

Outcome:

The Third Party persisted with their claim up until exchange of witness evidence, when the Third Party solicitors put forward a 'drop hands' offer for both parties to walk away from litigation. Due to the weight of evidence against the Third Party, we rejected this offer and maintained that the case was a fraud. Subsequently, the Third Party discontinued their claim creating a saving of over £28,000 for our Client. In addition, the Third Party solicitors agreed to pay our wasted costs for dealing with a matter which should have never been brought.

CASE STUDY

Strata Service:

Defence
Litigation

Claim Handler:

Heather Pearce

Client:

Managing
General Agent
(MGA) Client

Result:

Trial Win

TOTAL Saving:

£8,317.00

Strata Approach:

We provide an in depth service to our clients providing a robust, expert and proven capability that delivers results. Our strategy is to coordinate and control every aspect of the claim to drive it forward to conclusion, minimising cost/leakage and reducing claim lifespan.

Overview:

This claim was brought by the claimant as a result of a road traffic accident for which liability was disputed with both parties essentially alleging that the other encroached into the others lane. The litigation team submitted a Defence and Counterclaim.

Reliance was placed on the Defendant, who had an independent witness who had provided a statement, however, they were not willing to attend the hearing. The witness resided in France which would normally pose an issue, however, given the current Covid restrictions, it was more likely that the case would be able to take place via video link and that the witness would possibly be in a position to attend.

We chased the Claimants for their comments regarding liability and the independent witness evidence however, they continuously ignored our requests, we suspect that they hoped the witness being French, wouldn't be in attendance and so not much weight would be given to their statement.

Outcome:

We proceeded to the hearing where the claim was dismissed and counterclaim awarded. We were successful on the basis that the Defendant had an independent witness (despite not being present), their written statement was considered. The Judge also considered the content on the Defendant's phone of what happened after the accident highly contradicted the Claimant's evidence.

CASE STUDY

Strata Service:
Defence
Litigation

Claim Handlers:
Laura Stemp

Client:
Retail Vehicle
Rental Client

Result:
Successful
strike out
for abuse of
process

Strata Approach:

We provide an in depth service to our clients providing a robust, expert and proven capability that delivers results. Our strategy is to coordinate and control every aspect of the claim to drive it forward to conclusion, minimising cost/leakage and reducing claim lifespan.

Overview:

This matter concerns a file arising from a road traffic accident which started in the Recovery team in Tamworth. Liability was disputed therefore proceedings were issued against the Third Party Insurer. The Insurer failed to respond to the claim therefore Judgment in Default was entered, which was later paid by the Insurer in full.

Over a year later just before limitation expired, a claim was brought by the Third Party for personal injury and subrogated losses, arising from the same incident. Armed with the knowledge of the successful Recovery Litigation, the client was advised to Defend the matter in full.

This was a clear abuse of the Court's process under CPR 3.4 (2)(b), therefore, rather than allow the claim to run through the litigation process, the Litigation team made an application to strike out the claim in its entirety.

At the hearing, our Solicitor made arguments to support the strike-out application, referring the Judge to the principles laid down in the case of *Henderson v Henderson*, and it was argued that cause of action estoppel prevented the Third Party from bringing a new claim in this matter, as the factual matrix was identical to the first set of proceedings.

Furthermore, it was clear that the Third Party sought to undermine the first set of proceedings and we applied the case of *Hunter v Chief Constable of the West Midlands Police*, asserting that the Third Party was making a collateral attack on the outcome of the first set of proceedings.

Finally, it was argued that regardless of whether the Insurer or the Third Party was bringing the claim, due to the rights of subrogation they were essentially the same and all losses should have been brought within the first set of proceedings.

Outcome:

The Judge found in our client's favour, adding that the payment by the Insurer was acceptance of liability, Striking out the Claimant's claim in its entirety and awarding costs for the application.

CASE STUDY

Strata Service:

Defence
Litigation

Claim Handlers:

Heather Pearce

Rachael
Hargreaves
for conduct of
hearing

Client:

Managing
General Agent
(MGA) Client

Result:

Successful
strike out of 4 PI
claims

TOTAL Saving:

£39,859.00

Strata Approach:

We provide an in depth service to our clients providing a robust, expert and proven capability that delivers results. Our strategy is to coordinate and control every aspect of the claim to drive it forward to conclusion, minimising cost/leakage and reducing claim lifespan.

Overview:

The Claimants issued proceedings to recover their injury related losses further to a road traffic accident in which Liability was not an issue. The matter was sent to our defence litigation team to defend as a result of concerns over occupancy and LVI (Low Velocity Impact).

Throughout the duration of the ongoing claim we received no cooperation from the Claimant's Solicitors hindering our investigations and all Claimants failed to comply with all directions. We decided to write directly to the Claimant's giving them the opportunity to reply before we took any further action for their/ their solicitor's breach.

When no responses were forthcoming we made an application for strike out and to disapply QOCS under CPR 44.15 (1)(c), in that the claimants conduct had been such that it obstructed the just disposal of this matter.

The afternoon prior to the application hearing we received Notice of Change but noted that the handler of the new solicitors was also the director of the previous firm. A statement submitted along with the Notice of Change clarifying the reason for the non-compliance had been the change of solicitors and due to Covid.

At the application hearing we took a strong stance, as director of the previous firm, steps should have been taken to protect their clients over the transfer period. Covid restrictions should also not be used as an encompass all excuse. We claimed that someone from one of the solicitors or one of the four Claimants could have contacted either us or the court if there had been issues as alleged.

Outcome:

The District Judge agreed with us that by writing to the Solicitors and the Claimants directly on multiple occasions we had given sufficient notice and that by failing to reply there was no doubt in her mind that the criteria of CPR 44.25 had been satisfied. Covid could not be used to excuse them in this case as the claimants failures had spanned the whole matter and there were too many occasions of noncompliance/ failure to reply to requests.

It was held that all four claims were struck out, QOCS to be disapplied and our client was awarded their costs.

CASE STUDY

Strata Service:

Defence
Litigation

Claim Handlers:

Laura Stemp

Client:

Utility

Result:

Successful
strike out of 4 PI
claims

TOTAL Saving:

£20,000.00

Strata Approach:

We provide an in depth service to our clients providing a robust, expert and proven capability that delivers results. Our strategy is to coordinate and control every aspect of the claim to drive it forward to conclusion, minimising cost/leakage and reducing claim lifespan.

Overview:

Our Recovery department issued County Court proceedings against the Third Party as liability could not be agreed. The Third Party subsequently issued a counterclaim for personal injury, vehicle damage and credit hire, and the matter was passed to our Defence Litigation department.

This incident concerned occurred on a roundabout.

Our Client's driver stated that they were in the process of exiting the roundabout when the Third Party failed to give way, entered the roundabout at speed and collided with the Client's correctly proceeding vehicle. The Third party alleged that our Client's driver changed lanes.

The Third Party solicitor put forward an offer to settle the claim on a 50/50 split liability basis in accordance with the case of Grace v Tanner, however we took instructions to reject the offer as our Client's driver was adamant they were not at fault and gave across as a strong witness.

Outcome:

At the final hearing, the Judge decided 100% in our Client's favour. It was decided that our Client's driver was in the correct lane for their exit and that the Third Party should not have entered the roundabout as it was not safe to do so with our Client's driver already established.

Our client's losses and costs were awarded in full and the Third Party counterclaim was dismissed in full, creating a saving of over £20,000 for our Client.

CASE STUDY

Strata Service:

Defence
Litigation

Claim Handler:

Fern Jobling

Client:

Passenger
Transport Client

TOTAL Saving:

£9,050.00

Strata Approach:

We provide an in depth service to our clients providing a robust, expert and proven capability that delivers results. Our strategy is to coordinate and control every aspect of the claim to drive it forward to conclusion, minimising cost/leakage and reducing claim lifespan.

Overview:

We were instructed to defend a claim for personal injury and general damages following a RTA on a dual carriageway. Liability for the accident was firmly disputed from the very start of the accident. We filed a Defence disputing the Claimant's claim, and had concerns with liability, causation, and quantum. We ensured all Court deadlines were met and adhered to, however the same could not have been said for our opponent, who failed to comply with several Court deadlines, and directions (some for 5 months). As a result of this failure to comply, and in order to avoid the client's position being severely prejudiced, we made an Application for Strike Out, relying on CPR Rule 3.4(2)(c).

Outcome:

Our Application was listed some 2 months after being initially made, and at the point of the hearing, the Claimant and their representatives had still failed to comply. The Judge presiding over the matter agreed to strike the claim out on the grounds that the Claimant had failed to comply, and that significant prejudiced was now to be stood by our client if the matter proceeded.

Within our Application, we sought for QOCS to be disallowed under CPR 44.15(1)(c), due to the conduct of the claim by the other party. The presiding Judge agreed for QOCS to be disallowed, as to not do would be unjust, stating that "the Claimant's conduct was likely to obstruct the just disposal of the proceedings". As a result of the successful Application, Strata Solicitors have the opportunity to recover their costs on a standard basis for the client.

This is a clear example where compliance and maintaining good conduct throughout a matter is critical.

