

EXAGGERATED PERSONAL INJURIES LEADS TO A CONTEMPT OF COURT CHARGE

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In the recent English decision of *Airbus Operations Ltd & Anor v Roberts* [2012] EWHC 3631, the defendant, Mr Roberts, was found to be in contempt of court for exaggerating his symptoms in his personal injury claim.

By way of background, Mr Roberts brought a personal injury claim against his employer, Airbus, after suffering an injury at work. In October 2007 Mr Roberts fell from the wing of an Airbus 380 twisting his back while he was attempting to fit cable to the wing. Liability was subsequently admitted by Airbus.

Mr Roberts claimed the sum of £250,000 for his back injury and alleged that he was in constant pain, could only walk short distances and had to use two crutches. Mr Roberts also alleged that he was unable to carry out any domestic activities apart from some light cleaning work and relied on his neighbours for help with gardening. Mr Roberts signed a statement declaring this was the case and also informed medico-legal experts of this.

In England, pursuant to Civil Procedure Rule 24.12, proceedings for contempt of court may be brought against a person if they make, or cause to be made a false statement in a document verified by a statement of truth without an honest belief in its truth.

Airbus became skeptical of Mr Roberts' allegations and obtained surveillance footage of him over a period of 3 days. The footage showed Mr Roberts working on a house renovation where he was seen carrying a bath and a toilet as well as other building materials and throwing a roll of carpet into a skip for an hour and three quarters. This was done without any apparent difficulty.

The footage clearly contrasted with the picture Mr Roberts was trying to paint of his injuries. Airbus disclosed the existence of the surveillance evidence and settled the claim shortly after. Without the surveillance evidence, the claimant would most likely have recovered a substantial sum in damages. Airbus then made an application to the Court seeking orders that Mr Roberts be found in contempt of court.

Mr Roberts unsuccessfully argued that he was only able to complete the work after taking

several morphine tablets and other medication and that he had to stay in bed for a day and a half after because the pain was so intense. The Court did not accept this because there was no evidence to support Mr Roberts' explanation.

The Court found him in contempt of court based on the surveillance evidence. The Court said that there can be no doubt that Mr Roberts' witness statement was intended to persuade the court to find that he was seriously and permanently disabled and to award him damages to which he was not entitled.

While we do not have a similar rule to rule 24.12 in Queensland's *Uniform Civil Procedure Rules*, claimants in personal injury matters can be fined or imprisoned for up to 1 year for providing a false or misleading statement in their notice of claim forms both under the *Personal Injuries Proceedings Act 2002* and *Motor Accident Insurance Act 1994*. Claimants can also face up to 3 years imprisonment if they provide information by way of a statement or statutory declaration knowing that the information in the declaration is false.

A gentle reminder of these penalties may on occasions assist in the settlement of claims.

AUTHORS