

**IN THE COUNTY COURT AT EXETER**

Southernhay Gardens  
Exeter  
Devon  
EX1 1UH

Date : 15<sup>th</sup> December 2015

BEFORE:

**HIS HONOUR JUDGE COTTER QC**

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BETWEEN:

**ASD Metal Services Limited**

**Claimant**

**- and -**

**Mr Jeffrey Alan Heffer**

**Defendant**

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**J U D G M E N T**

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Mr P Turton appeared on behalf of the Claimant  
Mr N Bradley appeared on behalf of the Defendant

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**Draft not yet approved by the court**

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13 folios in transcript  
956 words in transcript

**HIS HONOUR JUDGE COTTER QC:**

1. Fraudulent civil claims have wide-reaching repercussions which resonate beyond the confines of any one individual case and there is a strong public interest in preventing them. By their effect, they stand in the way of speedy compensation for all those injured. Sadly, frauds are endemic in the Civil Justice System within the large number of personal injury claims that are processed. They require defendants, frequently insurance companies, sometimes institutional defendants, to expend very considerable resources to search out and investigate them. They also strike at the reliance our civil justice system has upon openness, honesty and fairness on the part of someone bringing a claim.
2. Here, the value sought, as I indicated in my previous judgment, was in the region of £400,000 to £600,000. Anyone who dishonestly exaggerates to the extent which occurred here, as set out in my judgment and bearing in mind that value, must expect to go to prison. Part of the reason is deterrence and part of it simply is the high level of culpability requiring punishment.
3. The matter has been fully contested, so there is no credit for any admission. Your counsel will have advised you as to the ability to purge contempt. I bear in mind here that there has been persistent deceit, from 2009 onwards, and also that you have continued with your stance when the defence first disclosed the existence of surveillance, through even to the answering of a Part 18 request and the hearing before me.
4. I also bear in mind that, as I stated in my judgment, I think it is proper to proceed on the basis that this was an initially valid claim which has been dishonestly exaggerated rather than a claim which was dishonestly created. I also bear in mind that you have recovered nothing from this claim. Recoverability of benefits payments made is for others to

consider. I bear in mind that you have good character and also that you now have, it appears, some problem with your neck requiring an MRI scan in the near future. Of course, I approach that medical problem with some hesitation bearing in mind the subject matter of this contempt hearing, but I am willing to accept that there is some problem now with your neck, as opposed to the low back, which has been the subject of this matter. I am unable to determine, without further medical evidence, the nature and extent of your current symptoms, such as they are, attributable, if any, to this original index accident or to the original back claim.

5. In deciding the length of your sentence, I have considered cases arising from similar circumstances, including South Wales Fire and Rescue Services v Smith [2011] EWHC 1749, Lane v Shah [2011] and Nield v Loveday [2011], as provided to me. I have also, for my own part, considered other cases. Cases such as this are often reported and do give assistance to a judge as to the approach taken in other cases of the fraudulent exaggeration of personal injury cases. I have noted the case of Surface Systems v Wykes [2014] EWHC, a decision of Judge Robinson, a decision of the Divisional Court in 2012, in the case of Caerphilly County Borough Council v Wells, and the decision in Homes for Harringey v Fari & Fari [2013] EWHC, a decision of Spencer J.
6. A review of the cases shows how there can be a very wide range in approach to an appropriate custodial sentence, from six weeks in the case of Caerphilly, although the facts were slightly different, relating as they did to the dishonest construction of the claim rather than direct exaggeration of symptoms, through to six months in the case of Wykes, with three months in the case of Homes for Harringey v Fari & Fari.

7. However every case must be determined on its own facts. This requires the degree of culpability to be assessed, the degree of exaggeration, the persistence, the impact, but also, of course, because this is a sentencing exercise, the degree of mitigation from the personal circumstances and the other matters to which I have referred.
8. In circumstances such as these a court must be as merciful as it can as regards any length of sentence given its impact
9. In all the circumstances for the contempt that I have found, there will be a sentence of imprisonment of three months.
10. In relation to the costs, I order that the costs be paid by Mr Heffer to the applicant. However, these are not to be enforced without leave of the court, following an assessment in the ordinary way.
11. That is the sentence that I impose. You should now surrender yourself in due course, downstairs.

HHJ Cotter

Thank you, gentlemen.