

FBU Personal Injury Legal Services

SOUTH WEST REGION

Spring/Summer 2010



Legal Helpline 0808 100 6061

Always consult your union solicitors

TRADE UNION members who have been injured in workplace accidents are increasingly being approached by employers or their insurers, to settle direct without involving union solicitors.

A member injured in a workplace accident received a letter from his employer's insurer offering "to provide assistance to you concerning the accident". The letter went on: "We would like to deal with you directly to resolve your claim for personal injury and any other associated losses you have sustained as a result of this matter."

This in spite of the insurer's being well aware that the injured man was a trade union member and so would have free independent legal advice and representation.

Third-party capture

Direct approaches by employers and insurance companies is called third-party capture. An employer or insurance company either tries to settle a personal injury claim direct or advises the injured person to use one of their recommended solicitors.

Third-party capture is common in road traffic accident claims. Motor insurance companies contact victims with offers of swift compensation if they agree to deal with them direct, cutting out the hassle of lawyers.

It is also common for road accident victims to be contacted by solicitors on the motor insurance company approved panel. An elderly couple who had already instructed Thompsons to act for them in their injury claim were put directly through to a law firm during a routine call to their insurer.

They didn't want another lawyer but were called and written to by at least two other law firms who had been passed details.

FSA refused to act

It was harassment and Thompsons gave the details to the Financial Services Authority (FSA) in an effort to get such practices stopped. The FSA has so far refused.

Insurance offers to settle direct without lawyers will almost always result in a low offer of compensation. Clearly insurers have a duty to their shareholders to maximise profit, and therefore minimise payouts.

An insurer cannot accurately guess at the value of the claim without knowing all the facts about the seriousness of the injury, the long term prognosis and issues such as how much pay and benefits the injured person has lost as a result. It is necessary to obtain expert medical reports and to calculate losses.

Injured people have a right to independent legal advice and insurance companies have a duty to inform them of this. Offers to settle without taking legal advice should be firmly rejected by union members.

FBU members are under no obligation to use them, whatever an insurer or solicitor may imply, and members are strongly advised not to.

If somebody mugged you in the street, you wouldn't go to a solicitor appointed by the mugger. In the same way, when you're injured it makes no sense to instruct a lawyer nominated by the company or other person who injured you.

Rear end shunt causes whiplash

An FBU member was injured when the vehicle behind him collided with the rear of his vehicle.

Ben Jones was queuing in stationary traffic. As a result of the collision he suffered a painful whiplash injury not expected to improve for about two years.

Despite treatment, he was off work for several weeks. Although his employer continued to pay him, he did have to pay for medication and travel to receive treatment. He also had to pay for help around the house with tasks that he would normally have done himself.

Ben contacted the FBU and was referred to Thompsons Solicitors. Following negotiations, he was offered over £4,000 in compensation which he accepted.

Free legal advice

FBU members and their families can receive expert, independent and free legal advice and representation through the union's legal service. This is not just for accidents at or away from work for the member, but for family and friends injured away from work too.

Union solicitors have no relationship with the insurance company and will seek the maximum amount of compensation possible, with absolutely no deductions. It pays to take advice.



THE MOST EXPERIENCED
PERSONAL INJURY FIRM IN THE UK

www.thompsons.law.co.uk

The duty to exclude vandals from your property

A FIREFIGHTER for the Wiltshire Fire Brigade, who was injured attending a fire, recovered £10,000 in compensation after contacting the FBU for legal support.

Kevin worked as a retained firefighter and was injured when he attended a seemingly disused train hangar where there was a vehicle on fire.

Arriving at the scene, he and his colleagues put on their breathing apparatus and went to tackle the fire. The car that was alight had been driven to the end of the platform which was approximately one metre off the ground. There was very little room to manoeuvre.

As a consequence, Mr Brown lost his footing and fell off the platform. Mr

Brown was referred to Thompsons Solicitors who undertook an immediate investigation. There had been a series of break-ins at this site and around 10 call-outs over the year. The fact that Mr Brown and his colleagues had needed to attend this dangerous site so often had increased their chances of being injured.

Mr Brown's injuries were not the fault of the fire brigade. His injuries were caused by the need to attend such a dangerous site on such a frequent basis and a compensation claim needed to be pursued against the owner of the property for failing to keep it secure from vandals.

Mr Brown was put in a neck brace, was in hospital for a couple of days and

almost bed bound for two weeks. He was off work for several weeks initially and, even when he returned to work, he remained on light duties. However, despite his determination to return to work, he suffered a flare up of his back symptoms and had to take further time off to recover.

The case was complicated in that there were a number of possible owners of the land. It was initially unclear who had the day-to-day responsibility for the security because of a series of leases and licenses attached to the property.

Eventually, the issue was resolved and the representatives of the landowner agreed to pay £10,000.

Advice on manual handling operations

AN FBU MEMBER suffered a number of injuries as a result of lifting and carrying tasks while working with the Cornwall County Fire Brigade.

David Ambler from Liskeard suffered three separate injuries to his back over a number of months.

There are strict legal guidelines for employers to follow where an individual is exposed to manual handling such as lifting, pushing and carrying heavy or awkward equipment. The Manual Handling Guidelines say that an employer must either avoid the need for a manual handling task or should reduce the risk of any manual handling task to the lowest level possible.

They must also ensure that employees are properly trained in correct manual handling techniques and that there are systems for manual handling tasks that have been fully risk assessed.

Excessively heavy

Mr Ambler was working with colleagues in these separate incidents when he either had to lift excessively heavy weights on his own or there was a breakdown in the system of work that could have been avoided by the employer.

Mr Ambler was represented by Thompsons Solicitors and pursued a claim against his employer. He accepted £6,000 in compensation.

About Thompsons

Thompsons Solicitors is the largest national specialist personal injury practice in the country with over 1200 staff in a network of offices nationwide.

We secure over £150m compensation each year for people who have been injured and suffered loss as a result of accidents caused by the carelessness of others.

Thompsons only works for injured people, never for insurance companies or employers.

Please email
newsletters@
thompsons.law.co.uk
to let us know if this
newsletter was
helpful and what
topics you would like
covered in future.

Your legal services package

As a member of the FBU you pay nothing for high quality legal services. The FBU has negotiated with Thompsons Solicitors a range of free legal services which are available to members. These include:

- Free legal representation for any personal injury (at or away from work)
- Free legal representation for road traffic & holiday accidents
- Free legal representation for family member accidents away from work
- Free legal representation for industrial disease
- Free 30 minutes telephone advice on non-work related matters
- Free 24 hour criminal law representation for members arrested and taken to a police station for interview (funded by Legal Aid)
- Free wills service

Call The FBU Legal Service On: 0808 100 6061

T THOMPSONS
SOLICITORS

THE MOST EXPERIENCED
PERSONAL INJURY FIRM IN THE UK
www.thompsons.law.co.uk