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AP225

APPEAL COURT JUDGES ORDER CEASEFIRE IN TRENCH WARFARE

A major threat to access to justice for injured people appears to have been lifted after a series of Court of Appeal judgments were handed down this morning

The long-anticipated judgments are the result of appeals relating to the validity and interpretation of conditional fee ('no win, no fee') agreements, or CFAs, which were introduced by the Government three years ago.

And they amount to a rap on the knuckles for insurers who have delayed payment of costs to claimants' solicitors in a long series of petty and destructive arguments through the courts. The main finding of the Court was that, provided there is no serious breach of the rules and a claimant is not adversely affected, the CFA will be enforceable.

"Finally we have a clear decision which should put an end to the petty arguments which have log-jammed the courts, delayed payment of compensation and brought many solicitors acting for injured people to the brink of bankruptcy," said David Marshall, president of the Association of Personal Injury Lawyers (APIL).

"The appeal court judges are clearly fed up with the way insurers have tried to thwart the Government's intention of increasing access to justice through CFAs by challenging every uncrossed 't' and undotted 'i'."

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The appeal court judges said: “Experience has shown and is continuing to show that there is no end to the arguments of [insurers]. It is a fair assumption that once one head of the hydra has been slain, two more will pop up in its place.”

Referring to the purpose of CFAs, the judgment reads: “The court should be watchful when it considers allegations that there have been breaches of the Regulations. The parliamentary purpose is to enhance access to justice, not to impede it, and to create better ways of delivering litigation services, not worse ones. These purposes will be thwarted if those who render good serve to their clients under CFAs are at risk of going unremunerated at the culmination of the bitter trench warfare which has been such an unhappy feature of the recent litigation scene.”

And on the judges’ remarks that the whole CFA should be disclosed to defendants at the end of a case, David Marshall said: “Now we can be confident that insurers won’t be able to bring a case to a grinding halt by blowing insignificant points out of proportion, I think claimant lawyers may be far less reluctant to hand over their CFAs to the other side.”

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Note to editors: For further information, please contact:

Lorraine Gwinnutt
Press & Parliamentary Manager
APIL
11 Castle Quay
Nottingham
NG7 1FW
Tel: 0115 958 0585
Fax: 0115 924 3485
email: lorraine@apil.com