

July 2004

INJURY CLAIMS HAVE NO PLACE IN SMALL CLAIMS COURT

Defendants will be laughing all the way to the bank at the expense of injured people if the limit for personal injury claims in the small claims court is increased, warns the Association of Personal Injury Lawyers (APIL).

Following a recommendation by the Better Regulation Task Force that the limit should be increased from £1000 to £5000, APIL president Colin Ettinger said the organisation was vehemently opposed to such a move, claiming it would leave thousands of accident victims either out of pocket or unable to bring a claim at all.

“Personal injury cases have no place in the small claims court as even smaller value cases are complex and can’t be handled properly without legal guidance,” he said. “The costs system of the court does not allow for this – no costs are recoverable at all, so the claimant either has to stand up in court and represent himself, or pay for legal representation out of his own pocket.

“The average claimant will know nothing about putting together a personal injury claim,” said Ettinger. “It is highly unjust that the onus is on the injured party to gather medical reports and present them properly in court, and determine how much compensation they are entitled to. This is not access to justice.”

The Better Regulation Task Force believes that raising the threshold in this way will reduce legal costs, but such a stance is premature as concerns about costs are already being addressed in the civil justice system.

“APIL is directly involved with the continuing development of the RTA predictable cost scheme for smaller cases, fixed success fees and the Department for Work and Pensions’ pilot schemes,” said Ettinger. “Expanding the use of the small claims court would actually increase costs, both for the claimant and the Government.

“More claimants will inevitably choose not to pursue a case because of the complexities, and will ultimately rely on the state to support them through their injuries instead. And there will also be no incentive for defendants or insurers to settle early,” he continued, “as it will be in their interests to drag the case out unnecessarily, knowing full well that the claimant will eventually run out of money.”

The association believes claimants stand little chance of obtaining access to justice, when they are expected to fight their corner against defendants who will inevitably be legally represented in court.

The Department for Constitutional Affairs is due to respond to the recommendation within the next few weeks.

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Note to editors: A full copy of APIL’s response paper to the Department of Constitutional Affairs is available at www.apil.com.

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