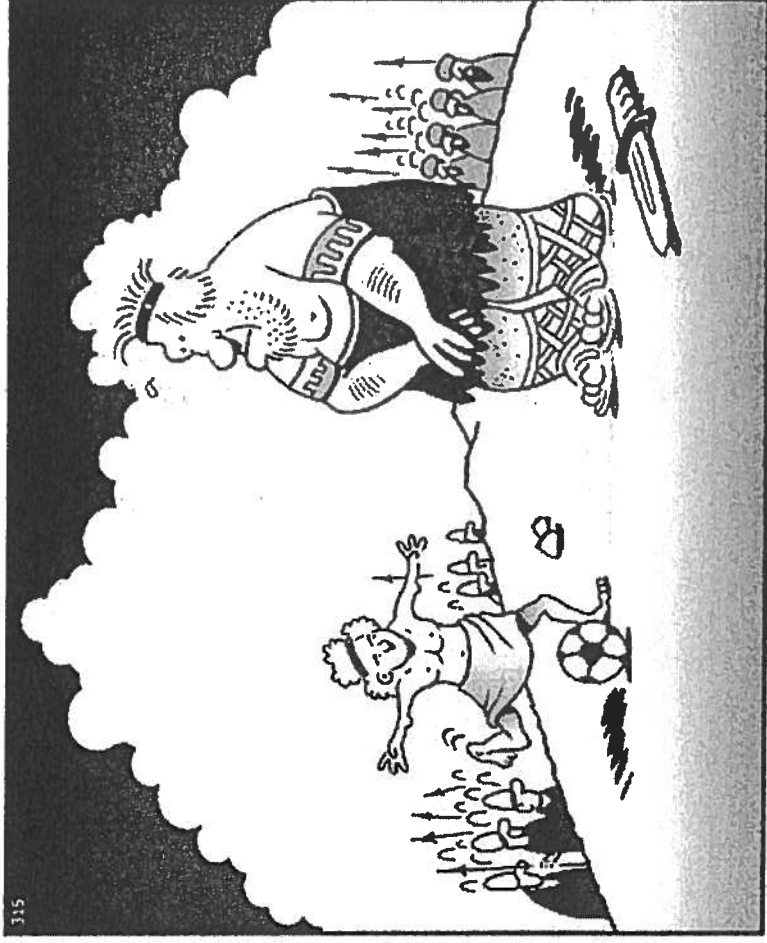


CORBY LITIGATION

..... a real David and Goliath story



The Claimants

- Group of 18 children suffered birth defects between 1985-1999
- Mothers all allege exposed to dust from reclamation
- Limb reduction and club feet in common



Case Background Details

The claim brought by Collins Solicitors of Watford. They had the case from the outset . The case came to light in part following allegations of corruption by an employee and senior technical engineer and a councillor to whom he whistleblaw.

The funding for the case was concerning !

Proceedings were issued against the Council in 2005 that were made the subject of a group action known as a Group Litigation Order by the High Court in February 2006.

The case was heard at a three month trial in the High Court in 2009, for which the Judgement was handed down by the Judge, Justice Akenhead on 29 July.

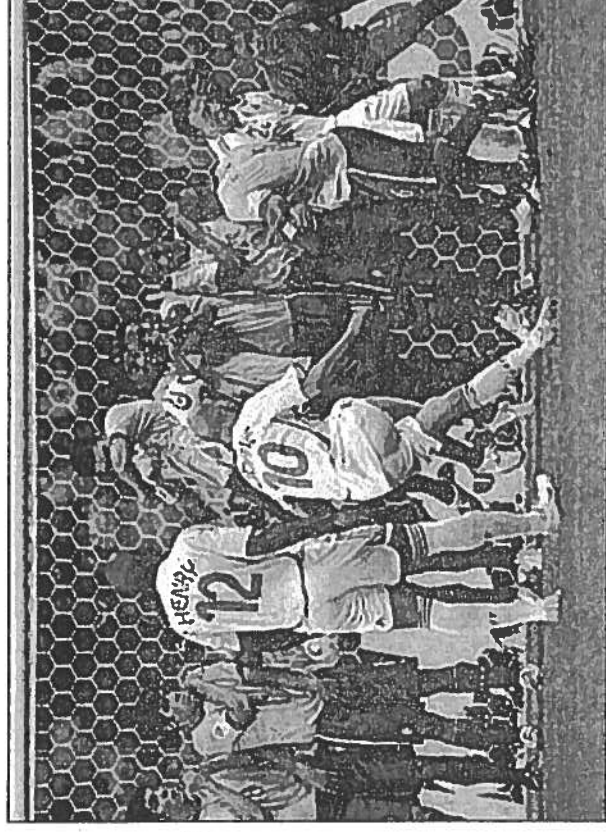
It is important to understand the purpose of the Trial, which was to obtain a preliminary ruling on a series of general issues, which could then be applied to determine whether individual claimants have a good case and in making judgements which affect the amount which each should receive if successful.

The allegations

- Breach of statutory duty: s.33 + 34 of Environmental Act 1990
- Common law negligence
- Public Nuisance giving rise to a private right of action for damages

The Defence

- No guidance linked to chemical exposure to birth defect
- Properly delegated job to third party
- Works carried out properly
- Exposure did not occur as a result of council activity



The evidence

- The Claimants
- Epidemiologists
- Toxicologists
- Lay witnesses



What were the findings?

The Judge ruled

- Claimants owed duty of care by Council
- The council did breach that duty of care
- The breach did have the ability to cause physical defects to the claimants of the types claimed (with one exception)
- The alleged loss was foreseeable
- In the alternative the council was liable to the claimants in public nuisance and under Section 34 of the Environmental Protection Act 1990

What now ?

- The claimants are not yet entitled to an award of damages. Indeed, there is still a long way to go.
- Each of the claimants supported by the judgment on generic group issues now needs to show that his/her particular condition was actually caused by the Council's identified shortcomings.
- Even before they can do this, they will have to deal with the appeal of the judgment on generic group issues which the Council obtained in December 2009.

Would you take it on ?

- To get to this stage, the Claimant costs are rumoured to be in the region of £4 million.
- The case was primarily a cfa !
- The Council is reported to have incurred defence costs of £1.9m.
- Corby have had to make an interim payment of £1.6m in respect of the claimants' costs, which is rather less than the claimants asked for.
- Whilst Appeal granted to Def , we suspect mediation will produce a settlement.