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Admissibility of ‘Without Prejudice’ Communications - Morris v Williams [2025] EWHC 218 (KB)

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Key Words:

Without prejudice rule, Unambiguous impropriety, Fundamental dishonesty, Settlement negotiations, Public interest, Admissibility of evidence, Exaggerated injuries, Interim stage

Summary

Keith Morris, the Claimant, sought damages for injuries from a road traffic accident caused by the Defendant, William Simon Williams [2]. The Defendant admitted negligence but alleged the Claimant exaggerated his injuries [3]. He applied to admit a "without prejudice" letter from the Claimant's former solicitors, Minster Law, arguing it showed fundamental dishonesty [4]. District Judge Dodsworth allowed the letter, finding it fell within the "unambiguous impropriety" exception [21].

Key Themes:

The key themes in this case are:

1. ***Without Prejudice Rule:*** *Settlement communications are generally inadmissible [7]*
2. **Exceptions:** Evidence may be admitted if it conceals perjury, blackmail, or "unambiguous impropriety" [8].
3. **Fundamental Dishonesty:** The Defendant alleged the Claimant exaggerated his injuries [3, 10, 11].
4. **Public Interest:** The judgment weighs encouraging settlement against ensuring full disclosure in litigation [7, 21].

Background

The Claimant was injured in a road traffic accident on 20 July 2018 due to the Defendant’s negligence [1, 2]. The Defendant alleged fundamental dishonesty regarding the Claimant's injuries [3, 10]. He sought to admit a "without prejudice save as to costs" letter from Minster Law, claiming it revealed an admission of dishonesty, triggering the exception to the without prejudice rule [4, 10].

Legal Issues and Analysis

1. **Admissibility of Without Prejudice Correspondence:** "Without prejudice" communications are generally inadmissible to encourage settlement [7]. This principle is grounded in *Rush & Tompkins Ltd v Greater London Council* [1989] AC 1280 and *Cutts v Head* [1984] Ch 290 [7].
2. **The "Unambiguous Impropriety" Exception:** This exception applies when excluding correspondence would cloak perjury or other clear impropriety [7, 8]. The court referenced *Unilever PLC v Procter & Gamble Co* [2000] 1 WLR 2436, noting the exception should be applied with caution [7, 8, 9, 1, 12, 13].
3. **Application to the Letter:** The judge found the letter contained an explicit admission of fundamental dishonesty [19, 20], proposing the Claimant admit to dishonest representations [Annex to the Judgment].
4. **Balancing Public Interests:** The court balanced promoting settlements against ensuring full disclosure [7, 8, 21]. It ruled that preventing the Claimant from pursuing a false claim outweighed protecting the without prejudice communication [21].

Conclusion

District Judge Dodsworth admitted the letter as evidence, finding it revealed fundamental dishonesty and met the threshold for the "unambiguous impropriety" exception [20, 21, 22]. Excluding it would let the Claimant benefit from dishonesty [21].

Key Takeaway:

While "without prejudice" communications are usually protected, the exception applies when excluding them would facilitate "unambiguous impropriety" [7, 8]. An admission of dishonesty during such negotiations can be admitted if it meets this threshold [20, 21].

Parting Thoughts

In legal disputes, communications marked "without prejudice" are typically protected to encourage open settlement negotiations [6, 7]. However, this protection is not absolute [8]. The case of Morris v Williams illustrates that ***if a party makes an unambiguous admission of impropriety within such communications, the court may allow that evidence to be admitted*** *[8, 10, 11, 20, 21]. This exception is invoked when excluding the evidence would allow a party to benefit from their dishonesty [21, 22]. This serves as a reminder that while candid discussions are encouraged,* ***overstepping into clear dishonesty can remove the shield of "without prejudice,"*** *and that the courts will balance the public interest in encouraging settlement with that of ensuring full and honest disclosure [7, 8, 21].*

My thanks to Len Bunton and his Adjudication Mentee Group for bringing this case to my attention.

#WithoutPrejudiceRule #UnambiguousImpropriety #FundamentalDishonesty #SettlementNegotiations #PublicInterest #AdmissibilityOfEvidence #ExaggeratedInjuries #InterimStage #Morris #Williams

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