

Roger André

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Roger André is an experienced personal injury practitioner, with particular specialism in defending against alleged insurance fraud and dishonesty.

Roger is based in the North of England, but with Chambers in London, he offers a truly nationwide service.

Roger has for over 10 years been instructed exclusively on behalf of insurers; but will also work on behalf of Claimants. Roger's practice historically has been motor related, but has increasing interest in other areas of PI, e.g. acted for the employer in a dog bite at work incident. His practice encompasses from high end Fast Track to higher value claims, say below £500,000 value.

Areas of Expertise

Civil Fraud

For over 10 years, Roger André has exclusively represented the insurer and insured in personal injury, credit hire and rehabilitation fraud and dishonesty. He has obtained numerous Fundamental Dishonesty (FD) findings. Roger's costs practice has resulted him obtaining wasted costs and Third Party costs orders against solicitors and rehabilitation providers. Roger has been at the forefront of defending against rehabilitation claims fraud.

Notable Civil Fraud cases

Khan v Aviva, Oxford County Court [2022] 11 WLUK 663 DJ Lumb

In this widely reported case, instructed by DWF, Roger André obtained a finding of Fundamental Dishonesty against the RTA claimant's PI claim. However, in addition and of wider significance, following Roger's cross examination of the Claimant's witnesses and presentation of similar fact evidence, the Judge found it to be powerful and persuasive in demonstrating a similar pattern of action in numerous cases involving the same firm of solicitors, with the judge specifically finding, "In my judgment, this is clear evidence of the layering of this claim and others as alleged by the Defendants. The Judgment specifically referenced the claimant's dishonest collusion with the solicitors, medical agency and other parties confirming that this was indeed a fundamentally dishonest claim.

Elvidge v Covea [2021] 1 WLUK 576

Roger André represented the Defendant and obtained a finding of FD against the Claimant. Significantly, he also obtained a finding that his physiotherapist had presented a fraudulent invoice for “treatment” sessions, resulting in his referral to the Health & Care Professionals Tribunal Service. In subsequent proceedings, Roger obtained a Third Party Costs Order against the firm which issued the invoice.

Zameer v Salah [2020] 3 WLUK 755

Roger André represented the Defendant. The First Claimant’s (C1) PI claim was found to be FD. His sister (C2) claimed for credit hire to replace the vehicle her brother allegedly drove in the incident. She was not involved in the alleged collision. Although she was not found to be FD, her claim was dismissed. Being a mixed claim of PI for C1 and credit hire for C2, it was found that C2 had no QOCS protection and therefore costs were enforceable against her.

Ghani v Advantage Insurance 1.10.20, 26.3.21 Burnley County Court

FD – invoiced physiotherapy dates discrepancies and alleged CBT)

Roger André represented the Defendant in a claim which included damages for personal injuries, credit hire and physiotherapy treatment, arising from an RTA on 2.5.17. Amongst the reasoning for a FD finding were (i) the Claimant presented an invoice for physiotherapy treatment both pre-dating and on the day of his medical-litigation examination which was inconsistent with the fact that the expert made no mention of treatment having taken place in the Report, but recommended he commence treatment. (ii) The Judge was not satisfied that the Claimant had 8 (orally the Claimant could only remember one) or any CBT sessions – he had exaggerated his psychological symptoms.

Malik & Oth v Aviva (2019)

Following the substantive FD finding at trial, Roger André advised upon, settled and successfully advocated for wasted costs against the Claimant’s Solicitors, who had signed a schedule of loss for physiotherapy which did not take place. This action included cross examination of the Claimant’s Solicitor’s Principal.

Credit Hire

For over 10 years, Roger André has exclusively represented the insurer and insured in credit hire claims, often mixed with personal injury. He has obtained numerous Fundamental Dishonesty (FD) findings, including s.57 Criminal Justice & Courts Act 2015.

Notable Credit Hire cases

Blake & oth v Advantage Insurance & oth (June 2022) Warwick CC

Although breach of duty against the insured was found, Roger André persuaded the Designated Civil Judge to make an order dismiss both Claimant’s PI claims and make a finding of FD under s.57 CJA 2015 (due to exaggerated and dishonest PI claims). Accordingly, the credit hire element of the claim was struck out, with indemnity costs in favour of the Defendant insurer.

KHAN v ANTILO UK LTD & oths, Birmingham CC, 20.11.20 (in person) and 10.2.21 (remote)

Fundamental Dishonesty – Credit hire or Nil income Tax Return – Can't have both!

Roger André was instructed for the Defendant insurer.

This matter concerned a private hire driver (alleged, as will become relevant), who claimed to have been involved in a multi vehicle RTA in 2017. After cross examination and submissions, amongst the findings which led overall to the Fundamental Dishonesty Finding, was that the Claimant was forced under cross examination to either accept that his tax return of zero income from private hire in the relevant tax plated credit hire period was either true or not. A warning against self-incrimination was given during cross examination. Realising the predicament, the Claimant opted to accept that he indeed had no income as a private hire driver in the relevant period. This was in contrast to the pleaded claim, in which he sought to justify 188 days worth of credit hire for a private hire vehicle and storage of his damaged vehicle, together worth over £24,000. It was also established that his original car had passed its MOT during the 188 days of storage. Overall, the claim was found to be Fundamentally Dishonest due to the round of inconsistencies in the alleged circumstances of the RTA, the onset, resolution, location of symptoms and importantly the said hire and storage issues. The Claimant was ordered to pay the Defendant insurer £12,400 of enforceable costs.

ALIDARYAB YAGHUBI -v- AXA INSURANCE UK PLC, 18.1.21, Manchester CC (remote)

Unenforceable credit hire and storage purported agreements – check the terms!

Roger André was instructed for the Defendant.

The general damages claim was dismissed on inconsistencies. The Claimant also claimed over £15,000 for credit hire, storage and loss of use. The purported credit hire agreement had a term that the hirer should have had a licence for at least 12 months, but the Claimant had only 4 months; hence an unenforceable agreement. The storage purported agreement was unenforceable, because it said that terms and conditions attached; but they were not. The Claimant was ordered to pay the Defendant's costs.

Ayaz v Advantage Insurance, 7.1.21, Leeds CC (remote),

s.57 CJA 2015 Fundamental Dishonesty – Credit Hire – Impecuniosity – Casinos!

Roger André acted for the Defendant.

The Claimant's general damages claim was found to be Fundamentally Dishonest under s.57 Criminal Justice & Courts Act 2015. The Claimant claimed to have been impecunious for the purpose of credit hire. There was a substantial sum of money in a disclosed bank account, which the Claimant contended was reserved exclusively for a forthcoming house purchase. During cross examination, Roger André put to the Claimant a number of transactions with a casino and regular cash withdrawals at ATMs of hundreds of pounds. Under cross examination, the Claimant was forced to admit that he regularly visited the casino for gambling and the cash withdrawals were intended to be hidden from his wife. As a result, the Claimant was found to be pecunious and the substantial hire claim and period was significantly reduced, though offset against the Defendant's costs of £10,750 under s.57.

Zameer v Salah [2020] 3 WLUK 755

Roger André represented the Defendant. The First Claimant's (C1) PI claim was found to be Fundamentally Dishonest (FD). His sister (C2) claimed for credit hire to replace the vehicle her brother allegedly drove in the incident. She was not involved in the alleged collision. Although she was not found to be FD, her claim was dismissed. Being a mixed claim of PI for C1 and credit hire for C2, it was found that C2 had no QOCS protection and therefore costs were enforceable against her.

Costs

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Notable Costs cases

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Professional Negligence

Insurance coverage and other disputes

For over 10 years, Roger has acted exclusively on behalf of insurers and insured in defending against alleged fraudulent claims. Indemnity disputes have often featured.

Roger successfully represented a firm of surveyors, on appeal, in defence of a professional negligence claim, in a widely reported and commented case concerning Limitation, mistake and substitution of parties in *GE Money Home Lending Ltd v HC Wolton & Sons Ltd (t/a Wolton Chartered Surveyors)* [2010] EWHC 1011 (Ch) [2010] 5 WLUK 114 [2010] PNLR 28 [2010] N.P.C. 53 [2010] C.L.Y. 430.

Personal Injury

Public Liability

Roger has for over 10 years been instructed exclusively on behalf of insurers; but will also work on behalf of Claimants. Roger's practice historically has been motor related, but has increasing interest in other areas of PI, e.g. acted for the employer in a dog bite at work incident. His practice encompasses from high end Fast Track to higher value claims, say below £500,000 value. Roger has obtained numerous FD findings. Roger's costs practice has resulted him obtaining wasted costs and Third Party costs orders against solicitors and rehabilitation providers. Roger has been at the forefront of defending against rehabilitation claims fraud. He is willing to act on CFA for Claimants in appropriate cases.

Occupiers' Liability

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Employers' Liability

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Animals Act

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Catastrophic Injuries

Roger has for over 10 years been instructed exclusively on behalf of insurers; but will also work on behalf of Claimants. Roger's practice historically has been motor related, but has increasing interest in other areas of PI, e.g. acted for the employer in a dog bite at work incident. His practice encompasses from high end Fast Track to higher value claims, say below £500,000 value. Roger has obtained numerous FD findings. Roger's costs practice has resulted him obtaining wasted costs and Third Party costs orders against solicitors and rehabilitation providers. Roger has been at the forefront of defending against rehabilitation claims fraud. He is willing to act on CFA for Claimants in appropriate cases.

Education

- 1999 – Inn of Court School of Law, BVC (Advanced Diploma in Professional Legal Skills)
- 1998 – LLB (Hons.)

Accreditation Logos

