



Clinton -v- Trump

County Court proceedings



County Court

Deals with civil disputes covering a wide range of matters including: landlord and tenant disputes; consumer disputes; domestic violence cases; divorce and matrimonial finance; debt enforcement; personal injury claims.



District Judge

- Deals with majority of county court work.
- Qualification: 7 years' post-qualification legal experience
- Hears all types of civil cases, not just personal injury cases.
- Usually has jurisdiction to hear only Fast Track personal injury trials (i.e. claims up to a value of £25,000).



Deputy District Judge

- Part-time judge who has to undertake about 4 weeks' work as a judge per year.
- Will usually be in full-time practice as a solicitor or barrister, but government lawyers and academic lawyers can now be appointed.
- May have no experience of the area of law involved in the case they are hearing.



Fast Track

For personal injury claims in which:

- a) the value does not exceed £25,000 (and in which compensation for the injuries exceeds £1,000); and,
- b) the case can be dealt with in one day.



Opening

- Claimant's advocate identifies the key evidence and the relevant issues in the case, to assist the judge.
- NOT the time to argue the case.
- Rarely required (particularly in Fast Track cases).



‘Housekeeping’/preliminary applications

- To deal with any outstanding pre-trial matters such as:
 - Order/timing of witness evidence;
 - Applications in respect of evidence.
 - Note: much more difficult to persuade a trial judge to allow late evidence since *Mitchell -v- News Group* [2013] as clarified in *Denton -v- TH White* [2014].



Swearing the witness

- Religious oath on The Bible (or other religious text)

OR

- An affirmation that will tell the truth.

Both have the same 'weight'.



Witnesses

- Unlike a criminal trial, witnesses are in the court before they give evidence. They will hear other witnesses give evidence.
- Unlike a criminal trial, witnesses have their witness statements (and the other evidence) available to them in the witness box, to which they can refer.



Evidence-in-chief

- Witness statements will usually stand as evidence-in-chief.
- There is very little latitude for a party to cover additional points with their witness.
- So it is imperative to ensure a statement covers all points you want the witness to address.



Cross-examination

- The questioning of a witness who has already testified seeking to undermine or discredit their evidence, knowledge, or credibility. It's not like you see on the telly!
- Questioning of another party's witness can also sometimes be used to elicit evidence to support your case.



Charnock -v- Rowan [2013]

- The Court of Appeal therefore stated that 32 PD 27 had the force, or at least the support, of law when it provided:

All documents contained in bundles which have been agreed for use at that hearing shall be admissible at that hearing as evidence of their contents, unless –

(a) the court orders otherwise; or

(b) a party gives written notice of objection to the admissibility of particular documents.

- ... the answer should be that the defence (if necessarily amended) should set out those parts of medical records that were deemed to be contradictory to the claimant's case such that there was no danger of trial by ambush.



Judicial interventions

- The judge *"is not a mere umpire to answer the question "How's that?" His object, above all, is to find out the truth, and to do justice according to law"*.
(Denning LJ in *Jones -v- NCB* [1957])
- *"In pursuit of that fundamental objective the judge is not required to sit silent as the sphinx. Appropriate intervention while a witness is giving evidence, even while the witness is being cross-examined, is not merely permissible but may be vital."*
(Munby LJ in *Hadi -v- AZ Law* [2012])



Closing submissions

- Not a jury speech.
- Not a regurgitation of all the evidence that has just been heard.
- Succinct summary of the factual and legal reasons the judge should accept your case/evidence and dismiss the other side's case/evidence.



The burden of proof

- He who asserts must prove.
- For the Claimant to prove their case on ‘the balance of probabilities’ – i.e. that it is more likely than not to be correct.
- Different to the criminal standard of ‘beyond reasonable doubt’.



Judicial College Guidelines

Modest foot injuries

Simple metatarsal fractures, ruptured ligaments, puncture wounds and the like. Where there are continuing symptoms, such as a permanent limp, pain or aching, awards between **£5,860** and **£11,500** uplift would be appropriate. Straightforward foot injuries such as fractures, lacerations, contusions etc. from which complete or near complete recovery is made would justify awards of **£5,860** or less. Modest injuries that resolve within a short space of time will attract lower awards.



Quantum case reports

- Comparable cases to assist the court and support the advocate's submissions on value.
- NOT authorities.



Possible outcomes

- Judgment for the Claimant.
- Judgment for the Claimant, but with deduction for contributory negligence.
- Judgment for the Defendant.



Judgment

- *Eagil Trust Co. Ltd. -v- Piggott-Brown* [1985] 3 All E.R. 119 (CA)(Griffiths LJ):

‘... I cannot stress too strongly that there is no duty on a judge in giving his reasons to deal with every argument presented by Counsel in support of his case. It is sufficient if what he says shows the parties and, if need be the Court of Appeal, the basis on which he acted ...’.



Flannery -v- Halifax Estate Agencies [2000] 1 WLR 377

- 1) *The duty is a function of due process, and therefore of justice. Its rationale has two principal aspects. The first is that fairness surely requires that the parties especially the losing party should be left in no doubt why they have won or lost. This is especially so since without reasons the losing party will not know ... whether the court has misdirected itself, and thus whether he may have an available appeal on the substance of the case.*

- 3) *The extent of the duty, or rather the reach of what is required to fulfil it, depends on the subject matter. ... where the dispute involves something of an intellectual exchange, with reasons and analysis advanced on either side, the judge must enter into the issues canvassed before him and explain why he prefers one case over the other. This is likely to apply particularly in litigation where there is disputed expert evidence; but it is not necessarily limited to such cases.*



Heads of claim (if claim succeeds)

- Pain, suffering and loss of amenity: £4,250
- Loss of earnings: £525
- Additional travel costs to work: £320
- Travel costs: £18.70
- Miscellaneous: £7.95
- Interest: (£60.78 on PSLA + £4.66 specials)
- **TOTAL: £5,187.09**



'Part 36' offer

A settlement proposal in accordance with Part 36 Civil Procedure Rules which will normally have costs consequences if the sum offered is not subsequently bettered by the offeree.