

Successful court fees challenge for mesothelioma victims

The Lord Chancellor has agreed to change the law on court fees following a successful challenge by the Asbestos Victims Support Groups Forum UK, represented by Jeremy Hyam and Kate Beattie.

Background

The Forum brought a judicial review claim challenging the requirement to pay up to £10,000 by way of court fee to initiate proceedings as in breach of mesothelioma claimants' rights of access to the courts under Article 6 ECHR.

The increases to civil court fees came into force in April 2015. Although a Fee Remissions Scheme is in place, mesothelioma victims invariably obtain state payments in the form of an award under the Pneumoconiosis etc. (Workers' Compensation) Act 1979, the 2008 Scheme or the Diffuse Mesothelioma Payment Scheme, making it unlikely that they would benefit from the fee remissions scheme and would have to meet the substantial court fee themselves (or rely on their solicitors to pay).

Judicial review

The claimants obtained permission to proceed with the judicial review from Blair J and the case was set down for a substantive hearing in July 2015. On 2 July 2015, the Government agreed to amend the Courts and Tribunals Fee Remissions Order 2013 so that payments made under the PWC Act, the 2008 Scheme and the Diffuse Mesothelioma Payment Scheme would be excluded from the definition of "excluded capital". In this way, mesothelioma claimants who, aside from these payments, do not have £16,000 of spare capital will now be entitled to rely on the Fee Remissions Scheme. Pending the statutory amendment, the Lord Chancellor will exercise his discretion to treat such awards as excluded capital.

On the basis of this concession, the claim for judicial review has been withdrawn and the claimants' costs paid by the Lord Chancellor.

The outcome will make a key difference for mesothelioma claimants, not least those instructing small specialist firms without the funds to pay for their clients' court fees.

Jeremy Hyam and Kate Beattie of 1COR acted for the Forum, led by Rob Weir QC of Devereux Chambers. They were instructed by Harminder Bains and Jamie Beagent of Leigh Day.