

Healthcare Enabled Fraud

By [Sharan Sanghera](#)

3PB

Background

1. Keoghs recently [wrote about their triple success in defeating claims for psychological injury arising out of road traffic accidents](#). The common denominator of the three claims was that each of the Claimants sought to rely upon the medical evidence of a specific Consultant Psychologist. Sharan Sanghera acted for the Defendant in one of those Claims, her comment on the case appears below.

Comment

2. The Claimant was a vulnerable witness with a long history of pre-existing psychological symptoms. Cross examination was lengthy. There were issues not only with the Expert evidence but also with the Claimant's witness evidence, which went to her reliability and credibility.
3. The expert was provided with the Claimant's medical records at the time of preparing his report. The Claimant had attended on her GP around four months prior to the index accident at which time she reported psychological symptoms leading her GP to refer her to the local mental health service. Despite the contemporaneous report of serious ongoing symptoms, the expert found all of the Claimant's PTSD symptoms to be attributable to the index accident.
4. It was submitted that the Expert had failed to take account of relevant ongoing symptoms and that his assessment of the Claimant was wholly inadequate. The Court was invited by Sharan to disregard the content of the report in its entirety. The Judge agreed finding that it was difficult to see how the Expert had reached the conclusions he did. The Judge found the Expert's report to be "too contradictory and just incorrect as to be such that the Court can place any weight upon it." Accordingly, the Judge rejected that evidence and found the Claim for injuries to have not been proven.
5. The case highlights the important role played by file handlers investigating low value claims where medical evidence appears to conflict with records and a common sense view. A forensic examination of medical records is the expected norm in any case where

the Claimant is put to proof on their injury and where allegations of fundamental dishonesty arise. When data is added to that showing that the healthcare professional has disregarded information or otherwise reached unreliable conclusions that can provide counsel with the additional material, they need in order to apply pressure in cross examination.

This document is not intended to constitute and should not be used as a substitute for legal advice on any specific matter. No liability for the accuracy of the content of this document, or the consequences of relying on it, is assumed by the author. If you seek further information, please contact the 3PB clerking team [Charlie Samuel-Hill](#).

13 December 2022



Sharan Sanghera

Barrister

3PB

020 7583 8055

sharan.sanghera@3pb.co.uk

3pb.co.uk