



Neutral Citation Number: [2018] EWHC 2581 (QB)

Case No: HQ16X00032

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 05/10/2018

Before :

MR JUSTICE GARNHAM

Between :

**LIVERPOOL VICTORIA INSURANCE
COMPANY LIMITED
- and -**

Claimant

**KAMAR ABBAS KHAN (1)
SHAFIQ SULTAN (2)
DR ASEF ZAFAR (3)
MOHAMMED SHAZAD AHMED (4)**

Defendant

Paul Higgins (instructed by Horwich Farrelly) for the Claimant
Christopher Tehrani QC (instructed by Haider Solicitors Ltd) for the First Defendant
Gaurang Naik (instructed by Chivers Solicitors) for the Second Defendant
Jonathan Goldberg QC and Senghin Kong (instructed by Goldkorns) for the Third Defendant
Gelaga King (instructed by Avisons) for the Fourth Defendant

Hearing dates: 16-20 & 23-26 July

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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Mr Justice Garnham :

Introduction

1. On 19 May 2012, the Liverpool Victoria Insurance Company Ltd (the Claimant or “LVI”) issued a Part 8 claim form seeking the committal for contempt of court of four persons: Mr Kamar Abbas Khan, the founder of a firm of solicitors in Leeds and Huddersfield called Taylor Knight and Wolff Ltd (or “TKW”), Mr Shafiq Sultan, the proprietor of a claims management business called ‘On Time Claims’ (“OTC”) in High Wycombe; Dr Asef Zafar, a GP who practised from NHS premise in Chessington, Surrey and privately at premises in Southend, Chelmsford, Watford and High Wycombe, and Mr Mohammed Shazad Ahmed, an employee of TKW. It is alleged against each defendant that they are guilty of conduct which interfered with the administration of justice.
2. The application arises from an action for damages for personal injury brought by Mr Mudassar Iqbal, a taxi driver, following a road traffic accident which occurred on 3 December 2011. Mr Iqbal was the driver of a Vauxhall Zafira, which was struck by a Toyota Rav motor vehicle driven by a Ms Nicola Versloot. Ms Versloot was insured by LVI, the Claimant in the present proceedings.
3. Permission to bring committal proceedings was granted by HHJ Walden-Smith, sitting as a deputy High Court judge, on 21 June 2016 and 14 October 2016. Her judgments are reported at [2016] EWHC 1212 and (2016) WL 03409195. A total of 33 counts (or “grounds”) of contempt were advanced. On 30 January 2018, Sweeney J granted the Claimant permission to advance an additional seven grounds, [2018] EWHC 94 (QB).
4. The evidence in this application was heard over seven days beginning on the 16 July 2018. I had the benefit of detailed skeleton arguments from the parties. At the end of the evidence, I gave the parties a day to prepare final submissions, which submissions I heard on 26 July 2018. I am grateful for the careful, courteous and comprehensive submissions I have received from Mr Paul Higgins for the Claimant, Mr Christopher Tehrani QC, for the First Defendant, Mr Gaurang Naik for the Second Defendant, Mr Jonathan Goldberg QC, with Mr Senghin Kong, for the Third Defendant and Mr Gelaga King for the Fourth Defendant.

Legal Principles

5. I begin by setting out the legal principles which fall to be applied to an application for committal in circumstances such as the present.
6. As has been observed on many occasions, the expression “contempt of court” is not an entirely happy one, suggesting as it does that what is in issue is the dignity of the court. It is not. The real nature of the offence is an interference with the administration of justice (see for example *AG v Newspaper Publishing PLC* [1988] Chancery 333 at 341).
7. In *Attorney General v Leveller Magazine Ltd* [1979] AC 440, Lord Diplock held [at page 449] that it is a contempt of court to engage in any conduct which involves an interference with the due administration of justice, either in a particular case or generally as a continuing process.

8. Contempt can be either civil or criminal. The distinction between the two was explained by Lord Toulson in *R. v O'Brien* [2014] UKSC 23:

“The question whether a contempt is a criminal contempt does not depend on the nature of the *court* to which the contempt was displayed; it depends on nature of the *conduct*. To burst into a court room and disrupt a civil trial would be a criminal contempt just as much as if the court had been conducting a criminal trial. Conversely, disobedience to a procedural order of a court is not in itself a crime, just because the order was made in the course of criminal proceedings. To hold that a breach of a procedural order made in a criminal court is itself a crime would be to introduce an unjustified and anomalous extension of the criminal law. ‘Civil contempt’ is not confined to contempt of a civil court. It simply denotes a contempt which is not itself a crime.”

9. There are a number of categories of civil contempt. One is provided for by CPR 32.14, which provides that “proceedings for contempt of court may be brought against a person if he makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.” The majority, but not all, of the contempts in the present case fall into this category.
10. It was held in *Nield v Loveday* [2011] EWHC 2324 (Admin) that, in order for such an allegation of contempt to succeed, it must be shown that in addition “to knowing what you are saying is false, you have to have known that what you are saying is likely to interfere with the course of justice”. A statement made by someone who does not care whether it is true or false is liable as if that person knew what was said was false (see *Berry Piling Systems Ltd v Sheer Projects Ltd* [2013] EWHC 347 (TCC)), but simple carelessness will not be sufficient (see paragraph 30(c) of the judgment in *Berry Piling*).
11. It is beyond argument that to forge the signature on a witness statement may also constitute an interference, or an attempted interference, with the administration of justice.

Self-Directions

12. The jurisdiction of the High Court in civil contempt cases is an unusual one. The burden of proof is on the party alleging the contempt but the standard of proof is the criminal standard (see, for example, *Nield v Loveday*). The sanctions available to the court in the event that contempt is proven are imprisonment (for a period up to two years), a suspended sentence of imprisonment or a fine, sanctions more familiar to a criminal than a civil court.
13. The obligations to ensure a fair hearing are the equivalent of those applicable in criminal proceedings. But there is not the division of functions that are found in a crown court; I sit as judge of fact and law. It seems to me appropriate, however, that I should direct myself as to the approach I should take to the evidence in a manner similar to the way a judge in the Crown Court would direct a jury. In particular:

- (i) I will apply the criminal standard of proof, asking myself whether the Claimant has made me *sure* on each ground I consider. I have to be sure either that the particular defendant concerned knew that what he was saying was false, or did not care whether it was true or false, *and* knew that, or did not care whether, what he was saying was likely to interfere with the course of justice.
- (ii) I will consider each of the 40 grounds separately, considering the case against each defendant separately, and come to a separate decision on each alleged ground;
- (iii) I will consider the evidence given by each defendant in the same way as I assess the evidence of all other witnesses in the case. When the evidence of one defendant bears upon the case of another, I will bear in mind that the defendant whose evidence I am considering may have an interest of his own to serve and may have tailored his evidence accordingly.
- (iv) On circumstantial evidence, I will decide what pieces of evidence are reliable and what conclusions can fairly be drawn from them.
- (v) The First, Third and Fourth Defendants are men of good character, in that there is no evidence before me that any of them has any criminal conviction or any previous finding of contempt against them. I note that good character is not a defence but is relevant in two respects: first, good character is a positive feature that I should take into account when considering whether I accept what a defendant told me; and second, the fact that a defendant has not offended in the past may make it less likely that he acted as is now alleged against him. I note in addition that the first and third defendants are professional men with a great deal to lose were they found to be in contempt of court.
- (vi) By contrast, the Second Defendant cannot claim to be entirely of good character. On 12 April 2017, he was committed to prison for contempt by O'Farrell J (see [2017] EWHC 1421 (QB)). Mr Sultan's previous contempt may provide some support for the Claimant's case, but I remind myself that the fact that someone has committed contempt of court in the past does not prove that he did so on this occasion. I cannot find him guilty on the current allegations of contempt either wholly or mainly because of a previous offence.

The Grounds and the Evidence

- 14. The amended Part 8 claim form identifies a total of 19 grounds against the First Defendant, 4 grounds against the Second Defendant, 13 grounds against the Third Defendant and 1 ground against the Fourth Defendant. I shall seek to set each allegation in its context when summarising the factual history. I will return to the individual allegations when I consider the position of each defendant below.
- 15. Each of the witnesses to whom I am about to refer relied upon their witness statements and their affidavits as evidence in chief. Supplementary questions were asked in chief by those calling those witnesses. Each witness was then cross-examined by each of the

other parties. The caller of the witness was then permitted to re-examine without restriction. On occasion, I permitted additional cross-examination when new points emerged.

16. I heard, first, from Mudassar Iqbal, the claimant in the original personal injury proceedings. He was cross-examined by counsel for each of the defendants. I then heard from Ellen Radley, a hand writing expert, commissioned by LVI to prepare a report on the signatures appended to the witness statement of Mr Iqbal, dated 23 April 2013. In essence, it was her opinion that there was strong evidence that Mr Iqbal did not write the five signatures to be found on that statement.
17. Next, I heard the evidence of Kamar Khan, the First Defendant. He was cross-examined at considerable length by other parties.
18. The trial timetable drafted by the parties made provision next, for the calling of Mr Sultan, the Second Defendant. Prior to his client being reached, Mr Naik indicated he intended to make a submission of no case to answer. In the event, however, no such application was made. When the point in the timetable was reached at which his client was due to give evidence, Mr Naik elected not to call Mr Sultan.
19. Dr Zafar then gave evidence and was cross-examined at length. His testimony was followed by that of Mr Tony Heywood, an enquiry agent instructed by the Claimant to obtain a witness statement from Dr Zafar in August 2013. I also heard from Gregory Jardella, a secretary employed by the Second Defendant, Dr Zafar.
20. The final witness to give evidence was Mr Shazad Ahmed, the Fourth Defendant.

The Facts

21. At my invitation, the parties produced an agreed chronology. This part of this judgment is based on the evidence I heard and that agreed chronology. I have also borrowed from the comprehensive analysis of the facts by Sweeney J in his judgment [2018] EWHC 94 (QB). When asked by me to consider the point overnight, none of the parties raised any significant quibble with that summary of the history of this case.
22. As noted above, the road traffic accident upon which the proceedings that gave rise to this application was based, occurred on 3 December 2011 when Mr Iqbal's Vauxhall Zafira car was in collision with a Toyota Rav 4 driven by Ms Versloot. Six weeks after that accident, Mr Iqbal approached OTC, a claim management business operated by the Second Defendant which described itself as "accident and injury specialist". He visited their office in High Wycombe on 17 January 2012, where he was dealt with by the Second Defendant. Mr Iqbal completed a "passenger personal injury claim form" on which he indicated that he had suffered "shock and shakeup" and "whiplash". By that form he instructed and authorised TKW Solicitors to act on his behalf in relation to his claim "for personal injury arising out of the accident dated 3 December 2011". He signed that form on 17 January 2012.
23. The First Defendant then instructed 'Med-Admin Limited' ("Med-Admin"), a medico-legal agency, run by his aunt, to arrange for a medical report to be obtained on Mr Iqbal. Med-Admin Limited arranged, via the domain "UK-Doctors.com", for the Third Defendant to prepare the report.

24. On 17 February 2012, on the instruction of TKW via OTC, the Claimant was examined by the Third Defendant. A report was produced the same day (“the original report”). Dr Zafar told me he produced medical reports of this sort by typing the relevant data revealed by his patient, or client, into software installed on his laptop. In the space of approximately 15 mins, he could both examine the patient and produce the report. He said he produced 5,000 such reports each year. The report in Mr Iqbal’s case recorded the fact that he had been examined at Dr Zafar’s consulting rooms in High Wycombe on 17 February 2012 on the instruction of TKW. Mr Iqbal’s symptoms were described in this way: “Mr Iqbal developed mild pain and stiffness in the neck on the day of the accident. These resolved one week from the day of the accident. These symptoms were due to whiplash” (*my emphasis*).
25. Dr Zafar described the treatment Mr Iqbal received as follows “Mr Iqbal did not receive any treatment at the scene of the accident. After the accident he drove to work. He took analgesia four hours after the accident. The treatment finished one week later”. The report noted that the “Claimant is fully recovered from the injuries sustained in the accident.” The musculoskeletal examination recorded “Neck - examination of the evidence neck was normal. There is no clinical evidence of any neuro-vascular deficit.” Dr Zafar’s concluding opinion included the following: “Mr Iqbal’s injuries and recovery period were entirely consistent with the account of the accident.” Under the heading “prognosis”, Dr Zafar wrote “Mr Iqbal has fully recovered from the injuries sustained in the accident.” That report, which was dictated in the presence of the Claimant, was signed by the Third Defendant electronically.
26. Mr Iqbal’s file with TKW includes a note apparently written by Mr Khan on 22 February 2012. That file note includes the following:
- “KK (Mr Khan) received (a telephone call) from MI (Mr Iqbal). MI received medical report in post. MI not happy with prognosis – 1 week neck pain. MI told KK that he told expert he had neck pain/wrist pain and shoulder pain. MI said that he had told expert his several acute symptoms settled in 1-2 weeks but ongoing symptoms. KK advised he would go back to expert ASAP. MI and KK to revert back by phone once new report received. MI not happy – ensure actioned asap.”
27. 22 February 2012 is also the date of a letter sent, apparently contemporaneously, by TKW to Dr Zafar, care of Med-Admin Ltd. I was shown a copy that bears a watermark which reads “FILE COPY”. TKW thanked Dr Zafar for sending the medical report to which I have just referred. The letter included the following:
- “We have sent a copy of the report to the Claimant who has advised us that he does not wish for the medical report to be disclosed for the following reasons:
1. The expert has advised that his neck symptoms resolved within one week of the date of the accident. The Claimant advises that there may have been a misunderstanding during the examination and that he advised the expert that acute symptoms resolved within one to two weeks, but he still experiences a dull constant pain in his neck.

2. The expert has not commented on pain symptoms in the Claimant's shoulder.
3. The Claimant advises, the expert has not commented on the right wrist pain, which he describes as moderate in severity...

Please ask the expert to review the Claimant's comments as set out above in line with the medical report he has prepared and his notes following the examination. In the event that the expert, upon review of his clinical notes, original report and his comments to the Claimant feels it is appropriate to prepare an amended report to do so in compliance with CPR Part 35..."

28. On 24 February 2012, there was email communication between the First Defendant, Med Admin Ltd and Dr Zafar's office. This email chain is important and accordingly I set it out, in chronological order, in full.

29. At 12.47 on 24 February 2012, Mr Khan emailed Med Admin in the following terms:

"In the case of our client Mr Iqbal we have received a medical report from Dr Asef Zafar. The prognosis period he has provided is one week. We have taken instruction from our client and can confirm that our client is now over two months from the date of the accident and confirms that he still has moderate to severe pain in his neck and shoulders. Our client also confirms he has mild to moderate pain in his wrist for which he is taking pain killers. Our client confirms, as he is a taxi driver, he is required to sit for prolonged periods of time and is experiencing pain in his lower back which is making it uncomfortable for him to carry out his job. I should be grateful if you could review your notes from the examination in light of the following: given that our client is suffering severe to moderate pain in his neck and upper back, now over two months from the date of the accident, is it likely that he will recover over the next 6-8? If no, can you please amend the report in respect thereof. Given that our client is still suffering pain related symptoms can you confirm whether he is likely to benefit from physiotherapy... I should be grateful for your urgent response..."

30. At 12.50, a woman by the name of "Krystle" at Med-Admin forwarded that email to the Third Defendant's office. At 14.34, Mr Jardella, one of Dr Zafar's secretaries, emailed Dr Zafar and said "I can do this amendment if you tell me (1) if their suggested prognosis (6-8 months – we put down 1 week) is acceptable? And (2) does he need any physiotherapy? Dr Zafar replied at 14.38, "Does he have any other symptoms that I have suggested 6-8 months and physio. What were his injuries"
31. Mr Jardella responded at 14.47 "He has no other injuries. His only symptom is Mr Iqbal developed mild pain and stiffness in the neck on the day of the accident. These were resolved one week from the accident. These symptoms were due to a whiplash injury. His exam shows he has no restriction or palpation (sic). Does that need to be changed too? The 6-8 months and physiotherapy is their suggestion"

32. Dr Zafar replied, "Which agency". Mr Jardella responded "Med-Admin". Dr Zafar replied, "When did I see him". It was the evidence of both Dr Zafar and Mr Jardella that it was likely that that last email was followed by a telephone conversation between them.
33. That same day, 24 February 2012, a revised version of the medical report ("the revised report"), was produced by (or on behalf of) Dr Zafar. Superficially, it appears identical. Like its predecessor, it bears the date of 17 February 2012. The revised report made no reference to the original report; did not explain that it was an amended report or how it differed from the original report; and did not provide reasons for the changes.
34. The Claimant alleges that the following statements by Dr Zafar in the revised report about Mr Iqbal are false:
 - i) "He developed moderate pain and stiffness in the neck and shoulder on the day of the accident. These have not improved yet." (Ground B24)
 - ii) "He developed mild pain and stiffness in the wrist on the day of the accident. These have not improved yet." (Ground B25)
 - iii) "The [taking of analgesia] is continuing." (Ground B26)
 - iv) "He still has difficulty in sitting for prolonged periods of time." (Ground B27)
 - v) "There was paraspinal muscle tenderness on both sides and muscle spasm." (Ground B28)
 - vi) "Examination of the upper limbs was normal." (Ground B29)
 - vii) "I anticipate this symptom [pain to the right wrist] will fully resolve between 6-8 months from the date of the accident ". (Ground B30)
 - viii) "I anticipate this symptom [pain and stiffness to the neck and shoulder] will fully resolve between 6-8 months from the date of the accident." (Ground B31).
35. That amended version of the report was emailed to Med Admin that same day. Med Admin forwarded it to Mr Khan under cover of an email timed at 15.28 on 24 February 2012.
36. There is also a file note dated 24 February 2012 which, it is said, comes from Mr Khan's files on Mr Iqbal's case. That note reads:

"(Mr Khan) called (Mr Iqbal) re (medical report). KK advised MI that an amended report had been received. KK went through amended prognosis period with MI. MI happy to disclose. KK to send report out for completeness anyway"
37. County Court proceedings were begun by TKW on behalf of Mr Iqbal. They were initially handled on behalf of Mr Iqbal by the First Defendant.
38. On 24 July 2012 the First Defendant employed Mr Ahmed, the Fourth Defendant, as a paralegal; (he was to commence a training contract with TKW 13 months later, on 24 June 2013). The Fourth Defendant wrote a number of the letters and emails which are included in Mr Iqbal's file. The matter progressed towards a hearing at Slough County

Court fixed for August 2013. Liability for the road accident was conceded by those acting for Ms Versloot; the only issue remaining was the appropriate quantum of damages.

39. At 10.03 on 25 April 2013 the Fourth Defendant, acting on behalf of TKW, emailed LVI's solicitors indicating TKW were awaiting a signed copy of Mr Iqbal's witness statement and suggesting an extension of time to exchange witness statements till 29 April. At 17.43 that day the First Defendant emailed Mr Iqbal a draft statement and indicated that a number of pieces of information were missing and needed to be supplied by Mr Iqbal. At 17.50, 7 minutes later, the first defendant emailed Mr Iqbal "an amended witness statement" containing the missing information.
40. On 29 April TKW sent LVI's solicitors a witness statement, dated 23 April 2013, purporting to be from Mr Iqbal, and to have been signed by him.
41. The trial of Mr Iqbal's personal injury claim came on for hearing on 14 August 2013 in the Slough County Court. The Fourth Defendant prepared the trial bundle on the First Defendant's instructions, the index to which he emailed to LVI's solicitors in the early afternoon of 6 August 2013. Two days later the bundle itself was sent to LVI's solicitors. However, critically but by mistake, the Third Defendant's *original* report, rather than the *revised* report, was included in that bundle.
42. On 12 August 2013, the Fourth Defendant emailed an amended trial bundle to LVI's solicitors. That revised bundle included the Third Defendant's revised report. He also emailed the revised report to Mr Iqbal, who asserts that that was the first time that he had seen that version. Mr Iqbal asserts that, thereafter, the Fourth Defendant telephoned him and said that he (Mr Iqbal) needed to memorise and to "follow" the revised report.
43. The case was listed for trial before District Judge Devlin on 14 August 2013. Mr Iqbal asserts that, whilst at Court on that date, he spoke with the Fourth Defendant, who told him that he needed to tell the judge that he had recovered after 6-8 months. Against that background, Ground B23 alleges against the Fourth Defendant that "... on or about 14 August 2013 he advised and/or instructed the Claimant to lie on oath at his civil trial and give false evidence that his symptoms had persisted for 6-8 months when the truth was that they had settled within a few days."
44. Mr Iqbal attended Court on the 14th August 2013 and was met by Counsel instructed on his behalf, Mr Paul Sangha. By now, the claimant had the two medical reports, as did the Court and the defendant. It was apparent that some explanation would be required and Mr Sangha phoned TKW. He spoke to the Fourth Defendant who informed him that the original report served in the trial bundle had been created in error; that the revised report was the correct one; and that the LVI's solicitors had been so informed.
45. Counsel relayed what he had been told to the judge, explaining that "I've tried to sort of piece that together with the solicitors in this case and what they say is that they received the report which said it was one week. That doesn't seem to have been discussed with Mr Iqbal at the time... The Claimant's solicitors do say that they have raised this issue with the Defendant's solicitors". The Judge asked, 'What issue?' Counsel replied: 'The idea that there is one report which says its one week and another report which says its eight weeks.' The Judge responded: 'What do you mean, have raised it, what does that mean?' Counsel replied 'They've said and they've informed

the defendant's solicitors ...' The Judge asked: 'But when did they disclose the second report' and Counsel said: 'It has been raised by [Counsel for the insurers] that there has been no sort of discussion about this issue by the Claimant's solicitors, my instructions are that it was clarified'.

46. District Judge Devlin then made an Order requiring:

"i) The fee earner with conduct of the case on behalf of Mr Iqbal (i.e. the First Defendant) to make a witness statement by 28 August 2013 explaining what was going on.

ii) The Third Defendant to make a statement, also by 28 August 2013, setting out all material oral and/or written instructions provided to him.

47. On Friday 16 August 2013, LVIs solicitors sent a letter to the Third Defendant (addressed to his NHS practice) explaining the position and saying that they were intending to send an enquiry agent to speak to him, to find out what had been happening, and to take a statement from him.

48. On 19 August 2013, there was telephone contact between the enquiry agent, Mr Heywood (of G4S Ltd) and Dr Zafar, and they agreed to meet the following day. Dr Zafar viewed the revised report on his computer that evening in preparation for the meeting. Mr Heywood duly attended on 20 August 2013 and prepared a witness statement for Dr Zafar which he signed. In that statement Dr Zafar asserted that the correct version of the report was the original report (i.e. that Mr Iqbal's symptoms had resolved within a week of the accident), that he had looked at the revised report - which contained poor grammar and the incorrect use of capital letters - and could tell it had been altered without his consent. Ground B33 alleges that the following passage in the Dr Zafar's statement of 20 August 2013 was untrue:

"This report has been altered whilst in the custody of Med-Admin and has not been altered by myself, and I have not given anyone permission to alter this report."

49. On 28 August 2013, the First Defendant made a witness statement in response to the Order made by District Judge Devlin on 14 August 2013. That same day he created, or he says re-created, a document entitled 'Amendment Instructions (4).pdf', which he dated 22 February, which contained a request to the Third Defendant to amend his original report.

50. It is alleged that the statement of 28 August 2013 contained the following false statements:

"Following an amendment request by the Claimant [Mr Iqbal] on 22/2/2012." (Ground B1);

"The Claimant's primary concern being that his neck symptoms were ongoing..." (Ground B2)

“A copy of Report 2 was sent to the Claimant and authority to disclose the same was received [on or before 24/02/2012].”
(Ground B3)

51. On 5 September 2013, LVI's solicitor spoke to the Third Defendant, who said that he had spoken with Mr Iqbal's solicitor, and had realised that he should not have made his witness statement on 20 August 2013. He said he had now taken time to read the whole chronology. He said that the original examination of Mr Iqbal had only dealt with his initial symptoms, not his ongoing symptoms, and that was why *he* had amended the original report to show the ongoing position.
52. On 22 October 2013, the Third Defendant made a further statement (which included a CPR Part 35 declaration) to the effect that, having since obtained the amendment request that had been sent to him on 22 February 2012, and having looked into the matter in greater detail, the original report had been an error on his behalf as it related only to Mr Iqbal's acute symptoms, and the revised report (which he recalled doing himself) was the correct one.
53. The Third Defendant's statement dated 22 October 2013 was provided to LVI's solicitors, together with an electronic version of the document entitled 'Amendment Instructions (4).pdf', which was said to be the amendment request that had been sent by the First Defendant to the Third Defendant on 22 February 2012. Examination of the electronic document on behalf of LVI demonstrated that it had been converted from an MS Word document entitled "Microsoft Word 28.08.13 - letter to Crown Costs Consultants.doc." into PDF format on 28 August 2013 (the date on which the First Defendant had made his witness statement in response to District Judge Devlin's Order.)
54. On 11 November 2013, at the request of LVI's solicitors, Mr Iqbal attended an appointment with a consultant orthopaedic surgeon, Mr M Spigelman FRCS, instructed on behalf of the defendant in the original action. Mr Spigelman noted a history of pain in the right wrist and back; pain in both shoulders, and stiffness to the neck and both shoulders. He said Mr Iqbal reported that the pain in his wrist meant he had to delegate to his wife the ironing of his shirts.
55. In light of the Third Defendant's statement of 22 October 2013, LVI's solicitors made two applications (which were to be heard on 5 March 2014) for inspection facilities to ascertain the provenance of the letter of 22 February 2012.
56. On 4 March 2014, the First Defendant made a further statement in which he asserted that, in order to comply with District Judge Devlin's Order, the Third Defendant had needed the amendment instructions; that he (the First Defendant) only had a hard copy of the amendment instructions, and so (as his firm's scanner was broken) in order to forward them, he had typed them into a Microsoft Word file using a template from other correspondence that he had completed earlier that day; that he had then converted the file into PDF and then forwarded it to the Third Defendant. LVI asserts that the First Defendant could simply have used his firm's fax to email system, which was demonstrably working, and which would have avoided any need to copy type. It is alleged that this further statement contained the following false statement:

" I confirm that the typed instructions were the same as the hard copy on the file" (Ground B4).

57. The applications for inspection facilities were adjourned to be heard before the Designated Civil Judge. On 15 August 2014, at that hearing, Mr Iqbal served a Notice of Discontinuance. In response, LVI made an application to set aside that Notice and for a wasted costs order. The matter was adjourned until 9 February 2015.
58. In the meantime, on 11 November 2014, a witness statement purportedly made and signed by the Second Defendant, was produced which was corroborative of the First Defendant's later account of how, and in what circumstances, the revised report came to be adopted by Mr Iqbal. A copy of the statement was subsequently exhibited to the statement of Mr Khan dated 21 January 2015. It is alleged that that statement contained the following false statements:
- "i) "The Claimant [Mr Iqbal] regularly attended OTC's offices to obtain assistance in translating and understanding correspondence." (Ground B13) "
 - ii) "The Claimant rang Kamar Abbas Khan and advised him that he was not happy with the report and that it required amending as it did not accurately reflect the injuries that he sustained or his ongoing pain and suffering. " (Ground B14)
 - iii) "On 24 February 2012 Kamar Abbas Khan of Taylor Knight & Wolff solicitors called me advising that he had spoken to the Claimant as he had received an amended medical report and that the Claimant was now happy with the content and prognosis period." (Ground B15)
 - iv) "I confirm that the Claimant attended the office on 25 February 2012 and signed confirming that he was happy with the report." (Ground B16)
59. In a witness statement dated 21 January 2015, the First Defendant produced a number of exhibits including the purported file note of a conversation with Mr Iqbal on 22 February 2012; the purported letter to the Third Defendant dated 22 February 2012 requesting amendment of the original report; the purported file note of a telephone conversation with Mr Iqbal on 24 February 2012; a copy of an email sent to him (the First Defendant) at 15.28 on 24 February 2012 attaching the revised report; and the copy of the Second Defendant's witness statement dated 11 November 2014. The First Defendant asserted that, by February 2012, experience had shown that the best way to communicate with Med-Admin was by post addressed to the General Manager, as emails tended to be dealt with by a myriad of office workers and were occasionally ignored or lost in the system.
60. This witness statement is alleged to have contained the following false statements by the First Defendant:
- "i) "When we wrote to him, he would invariably then visit the offices of On Time Claims." (Ground B5) "
 - ii) "On 22.02.2012 I received a telephone call from the Claimant advising that he was not happy with the content of the

medical report as the injuries recorded therein did not reflect the injuries he sustained." (Ground B6)

iii) "I had specific instructions not to disclose the medical report." (Ground B7)

iv) "On receiving the report, I telephoned the Claimant, read the report to him and obtained his authorisation for disclosure." (Ground B9).

v) "The amended report as agreed was then taken by me on my next visit to On Time Claims on 25 February 2012 whereupon the client attended and signed the report confirming his agreement to the same." (Ground B11)

vi) "I have explained that when a copy of the amended report request was required it had to be re-typed as we only had a file copy and the original had not been saved..." (Ground B12)

61. In connection with the same witness statement, it is also alleged that the First Defendant:

"i) "... made a false document namely a file note relating to an alleged telephone conversation on 22/02/2012 involving him and the Claimant [Mr Iqbal]. A copy of the file note was exhibited to and incorporated into his witness statement..." (Ground B8) "

ii) "... made a false document namely a file note relating to an alleged telephone conversation on the 24/02/2012 involving him and the Claimant. A copy of this file note was exhibited to and incorporated into his witness statement..." (Ground B10)

62. On 9 February 2015, the original case was listed before HHJ Tolson QC. Mark Evans QC, leading counsel for TKW, confirmed that TKW were no longer representing Mr Iqbal (albeit that they remained on the Court record). An Order was made giving various directions - including that TKW, Med-Admin and the Third Defendant disclose incoming emails concerning the amendment of the original report; the outgoing email sending the revised report; and any other document or email which was related to or connected with the amendment of the original report. The judge further directed that inspection be completed on 30 March 2015, and that all copies of electronic documents were to be supplied in their native format (preserving metadata).

63. On 21 July 2015, Mr Iqbal wrote to TKW asking for a copy of his file of papers. In consequence, the Fourth Defendant telephoned him on 4 August 2015. In his file note in relation to the call, the Fourth Defendant recorded, amongst other things, that he had advised Mr Iqbal that it was not possible for him (Mr Iqbal) to be charged as "... the issue of the medical report has nothing to do with him ... SA advised... that we are still on the Court record as acting for MI (Mr Iqbal) therefore the Defendant and their representatives should not be in contact with MI."

64. Nevertheless, Mr Iqbal indicated thereafter that he was willing to talk to enquiry agents instructed by LVI's solicitors. In the result, on 29 September 2015, he swore an affidavit in which he asserted, amongst other things, that:

“i) His principal concern after the accident had been to have his car repaired - which was why he had contacted On Time Claims and had gone to their office in High Wycombe. ”

ii) His contact at On Time Claims had been the Second Defendant, who had filled in various forms for him - one of which had been a personal injury form.

iii) His injuries had been very minor, and he had not intended to make a claim in respect of them, but the Second Defendant had filled in the forms and he had followed his lead.

iv) He had informed the Third Defendant that his symptoms had resolved within 2-3 days of the accident.

v) He had been sent a copy of the original report (which had stated that his symptoms had resolved one week from the date of the accident) and had spoken with the First Defendant on the telephone about it, indicating to him that the report overstated his symptoms, but the First Defendant had told him that it was just the way that doctors worded things, and that he should not worry about it.

vi) He had never informed the First Defendant that his symptoms were ongoing.

vii) He had only attended On Time Claims office once, and did not require any translation services as he could speak and read perfect English.

viii) He had not attended On Time Claims' office on 22 February 2012, nor had he ever taken a copy of any medical report to their office, nor had he telephoned the First Defendant in the presence of the Second Defendant, nor had he told the First Defendant in any such call that his symptoms were ongoing, and the First Defendant's purported file note of a telephone conversation between them on that date was false.

ix) The First Defendant had not telephoned him on 24 February 2012 and read the revised report to him. Nor had he authorised the First Defendant to disclose any revised report.

x) He had not attended On Time Claims office on 25 February 2012; nor seen any revised report at their office (on that or any other day); nor signed anything there to confirm that he was happy with the content of any medical report.

xi) He did not see any revised report until very shortly before trial.

xii) The Fourth Defendant had telephoned him and had asked him whether he had a copy of the revised report, which he did not. The Fourth Defendant had immediately emailed him the revised report and then telephoned him and told him that he needed to memorise and to follow its content.

xiii) On the morning of the trial, he had told the Fourth Defendant that the revised report overstated his symptoms, which had resolved after 2-3 days, but the Fourth Defendant had told him to tell the Court that he had recovered after 6-8 months.

xiv) The impression that he had got was that things would become difficult for him if he said that his symptoms had lasted for only 2-3 days, but that everything would be fine if he said that his symptoms had lasted for 8 months.

xv) Thereafter, he had been required to attend an examination by another doctor, Mr Spigelman. Before that examination, the Fourth Defendant had contacted him again and had impressed upon him that he needed to follow the revised report, and that if he did so everything would be fine. As a result of that pressure, he had told Mr Spigelman that his symptoms had lasted for 8 months.

65. On 31 January 2016, the Third Defendant swore an affidavit in which he asserted, amongst other things, that he had lost his handwritten notes relating to Mr Iqbal; and that, when making his statement to Mr Heywood on 20 August 2013, he had not been clear what Mr Heywood had been talking about; that he had not had the opportunity to go back to look into what the case involved because of the urgency that Mr Heywood had expressed; nor had he had the opportunity to consult his notes and to check how the reports were generated; and nor had he then remembered the amendments being made. Therefore, he had thought at the time that what he was saying in the statement was correct. Exhibited to that statement was the chain of emails, sent between 12.47 and 14.50 on 24 February 2012 referred to above.
66. In the same affidavit, the Third Defendant asserted that he had asked Mr Jardella to make the necessary amendments and to send the draft report to him to check before it was returned to Med-Admin. However, the Third Defendant further asserted, Mr Jardella had not sent the draft report back to him to check, but had forwarded it to Med-Admin after amending it. As mentioned above, an email (produced by the First Defendant in his statement dated 21 January 2015) shows that the revised report was emailed to him at 15.28 on 24 February 2012. The content of the revised report is alleged by LVI to be broadly consistent with the request made in the 12.47 email, but to be inconsistent with the alleged letter dated 22 February 2012 from the First Defendant requesting the revision, and with his alleged file note of that date (both of which refer to Mr Iqbal's severe / acute symptoms resolving after 1-2 weeks) and with the content of the Third Defendant's statement dated 22 October 2013.

67. The 31 January 2016 affidavit also contained an assertion by the Third Defendant that "When I pressed his shoulders I noted tightness and tenderness". Ground B32 asserts that that assertion was false.
68. In a further affidavit, sworn on 19 May 2016, the Third Defendant asserted that, as a result of a specialist electronic investigation of his computer system, he now believed that he had opened and saved the revised report on the night of 19 August 2013 (in preparation for his meeting with Mr Heywood the following day), and that during that process the document (which was otherwise the same as the revised report dated 17 February 2013) had been "auto-changed" in certain respects by a programme on the computer and re-dated 19 August 2013.
69. On 2 March 2017, HHJ Walden-Smith ordered that, at the committal hearing, the Claimant could rely upon the evidence already served in support of the application for permission, that the Claimant should file and serve any additional evidence upon which it wished to rely by 4pm on 3 April 2017, and that the Defendants should file and serve any evidence that they intended to rely upon by 4pm on 2 May 2017. The Claimant duly filed and served its additional evidence (relevant to the Grounds upon which permission had been given) in time.
70. In the meanwhile, as noted above, on 12 April 2017, the Second Defendant appeared before O'Farrell J, for the Final Hearing of a contempt application brought by the insurers EUI Ltd. Mr Sultan admitted contempt in that case but sought the adjournment of sentence until the completion of the instant proceedings - indicating that his case in the instant proceedings was that he did not sign the statement (dated 11 November 2014) in his name, but could not positively say that the First Defendant had done so. The adjournment was refused, and the Second Defendant was sentenced to 9 months' imprisonment.
71. On 4 October 2017, the Fourth Defendant swore an affidavit in which he accepted that, after his telephone conversation with Mr Iqbal on 4 August 2015, he had instructed an enquiry agent to attend at Mr Iqbal's house - and that the agent attended on 24 & 25 November 2015.
72. On 19 October 2017, the Second Defendant served an application bundle on LVI which, somewhat belatedly, set out his position. Reliance was placed by him on a report (dated 22 September 2017) from a handwriting expert, Mrs Allan, whose conclusion (that there was moderately strong evidence to support the proposition that someone other than him wrote the disputed signature in imitation of his style), supported his assertion that he had not signed the witness statement bearing his name dated 11 November 2014 - albeit that Mrs Allan also concluded that the evidence was not conclusive, and that the possibility that he did write the signature could not be excluded.
73. Three days later, on 23 October 2017, the Second Defendant served a witness statement (dated that day) in which he denied having signed the witness statement dated 11 November 2014 bearing his name. Rather, he asserted that in November 2014, the First Defendant had contacted him stating that there was a danger that the courts could strike out the case because Mr Iqbal had stopped communicating with his solicitors, and that he (the first defendant) had drafted a statement for him (the Second Defendant) which he was sending over for him to read and sign. The Second Defendant asserted that he

received that statement at 18.10 on 7 November 2014 via email, but that he had ignored it as the contents were false.

74. In particular, he asserted that he was not aware of any medical report; that Mr Iqbal had not attended his office on 22 February 2013 (when he had been abroad on holiday and had only returned via Luton Airport at 21.15); that Mr Iqbal had not brought a copy of any medical report; that he had not been aware that Mr Iqbal had received a revised report; that neither the First Defendant nor Mr Iqbal attend his office on 25 February 2012; and that he did not see any revised report. He had not, he said, replied to the First Defendant's email, nor had he signed the statement at any point or printed his name or written the date. Further, he said, examination of the properties of the draft statement showed both that the First Defendant was the author, and that it had last been modified by him. He asserted that the First Defendant had tried to contact him again thereafter on numerous occasions, but that he had ignored his calls.
75. On 25 October 2017, before Haddon-Cave J (as he then was), LVI consented to an application by the Second Defendant to introduce that evidence. In the consent order, all parties were given permission to serve handwriting evidence by 15 November 2017.
76. In consequence of the Second Defendant's evidence, on 31 October 2017, LVI's solicitor invited Mr Iqbal to consider more carefully the signatures on the witness statement in his name dated 23 April 2013. Mr Iqbal searched through his stored emails and found the two from the First Defendant dated 26 April 2013, timed at 17.43 and 17.50 to which I have already referred. In consequence, Mr Iqbal recalled that, in the period between the two emails, he had spoken with the First Defendant on the telephone and had given him the information sought in the first email. Mr Iqbal also carefully considered the signatures on the statement dated 23 April 2013 and having done so asserted that he did not believe that he had written them. He said by way of example that the letter 'M' was not how he would sign it.
77. In the result, LVI alleges that:
 - “(1) The statement dated 23 April 2013 purporting to have been signed by Mr Iqbal is different to the one attached to the email.”
 - (2) In any event, the date of 23 April 2013 must be false (which is consistent with the First Defendant's request on 26 April 2013 that the statement be signed but not dated, and with an email timed at 10.03 on 25 April 2013 from the Fourth Defendant to LVI's then file handler).
78. On 8 November 2017, the Claimant's solicitor instructed an expert, Ellen Radley, to examine the witness statement dated 23 April 2013 in Mr Iqbal's name. In her report Ms Radley concluded that, on the documents before her, the five questioned signatures on the statement dated 23 April 2013 in Mr Iqbal's name were not his normal and natural writings, and that there was strong evidence to support the proposition that the questioned signatures were simulations.

79. In the meanwhile, the First Defendant had instructed another expert, Kathryn Barr, to examine the statement dated 11 November 2014 in the name of the Second Defendant, Mr Sultan. In a report dated 14 November 2017 she concluded that:

“The limitations of the specimens are such that I cannot offer any strong opinions. Nevertheless, the differences are such that, in my opinion, there is limited evidence that Shafiq Sultan did not write the questioned signature. By that I mean that, while I cannot exclude the possibility that the signature was written by Shafiq Sultan, on the balance of probabilities, it is more likely that some other person produced the signature (making little or no attempt to copy the genuine signature design). ”

80. On 22 November 2017, Mr Iqbal swore an affidavit dealing with his further evidence. It was served the following day.

81. On 30 January 2018, Sweeney J gave the Claimant permission to include in its application against the First Defendant the following additional grounds; the first five of which related to the witness statement dated 11 November 2014 produced in the name of the Second Defendant:

“C1: He drafted a witness statement in the name of the 2nd Defendant which contained a false statement that he knew to be false, namely that "The Claimant attended the office on 22 February 2012 and brought with him a copy of his medical report." ”

C2: He drafted a witness statement in the name of the 2nd Defendant which contained a false statement that he knew to be false, namely that " On 24 February 2012 Kamar Khan of TKW solicitors called me advising that he had spoken to the Claimant as he had received an amended medical report and that the Claimant was now happy with the contents and prognosis period in the report... ”

C3: He drafted a witness statement in the name of the 2nd Defendant which contained a false statement that he knew to be false, namely that " I confirm that Kamar Khan attended the office on 25 February 2012 and brought the amended medical report of the Claimant with him. ”

C4: He drafted a witness statement in the name of the 2nd Defendant which contained a false statement that he knew to be false, namely that " I confirm that the Claimant attended the office on 25 February 2012 and signed confirming that he was happy with the report. ”

C5: He forged the signature of the 2nd Defendant on the witness statement.

C6: In his own witness statement, dated 21 January 2015, he made a false statement that he knew to be false, namely that "I refer to the Statement of Shafiq Sultan dated 11 November 2014... ", which was false because Shafiq Sultan was not the maker of the witness statement dated 11 November 2014.

C7: He forged, or caused to be forged, the signatures of Mudassar Iqbal on a witness statement bearing the date 23 April 2013.

Credibility of witnesses

82. The issues raised by these proceedings turn, to a greater or lesser extent, on my view as to the honesty of the witnesses from whom I heard. That that was going to be the case was apparent from the beginning of this hearing. Accordingly, I took some care in observing the manner in which all the witnesses gave their evidence.
83. The impression each witness made on me is plainly an important consideration. However, it is not primarily on those impressions that I rely in reaching my conclusions below. An even greater concern was to test the rationality and internal consistency of the evidence of the witnesses and the likelihood of the explanations they offered being accurate.
84. I say immediately, however, that I have very considerable concerns about the evidence given by Mr Iqbal, Mr Khan and Dr Zafar. None of those men was an impressive witness. By contrast I found Mr Heywood and Mr Ahmed entirely straight forward and credible. Mr Jardella was, I am confident, an honest witness although I had some concerns about certain aspects of his evidence.

The Claimant's witnesses

85. I regret to say that the Claimant's principal witness, Mudassar Iqbal, was a very unsatisfactory witness. He was less than frank or forthcoming when giving evidence before me, apparently finding it difficult to answer a straightforward question with a straightforward answer. He repeatedly looked through the witness statements in front of him whilst answering questions, even when the answer could not possibly lie in the statement. The impression he gave was of a man unwilling to trust himself.
86. Much more fundamental, however, was the fact that he was repeatedly forced to admit that he had not told the truth about this claim. He told me at one stage that he had not suffered any injury at all in the road accident on 3 December 2011. At another time, he told me he had suffered injury that had caused symptoms for two or three days. He said that was "what he had told everyone". He said that all he had wanted was to get his car repaired and that he did not want to pursue a claim for damages for personal injuries.
87. That latter stance was wholly inconsistent with the evidence. He had filled out a form entitled "Passenger Personal Injury Claim Form" when he first contacted OTC, a company advertising itself as specialising in injury claims. He must have known the nature of that company's business because he had used them before to pursue other

personal injury claims. He agreed to an appointment with Dr Zafar, a general practitioner, to whom, on any view he reported whiplash with symptoms lasting some days. He attended the clinic of Mr Spigelman, the Defendant's orthopaedic consultant, to whom he reported symptoms lasting 8 months.

88. He said that he had been advised by Mr Khan and Mr Ahmed to "follow the second (revised) report" and that accordingly, he had repeated the untruths in that report to the defendant's expert, Mr Spigelman, and to his counsel, Paul Sangha. As to the interview with Mr Spigelman, Mr Iqbal admitted he lied repeatedly in the history he gave (the answers recorded in paragraphs 7, 8, 9 and 11 of the report were all false). He invented a lie about his having to get his wife to iron his shirts; that was a complaint never made before and so could not have been one in respect of which he was simply following the instructions of Mr Khan.
89. As to his meeting with counsel at court on the morning of 14 August 2013, he lied in his description of his injuries and the time over which the symptoms lasted. He lied about the mechanics of his wrist injury; he never suffered an injury to his wrist.
90. He said he had allowed his case to be advanced on the basis that he had suffered symptoms as a result of the accident for 6-8 months. He agreed it was wrong for him to have done so. He agreed his claim was false from the beginning and that when he filled in the claim form he was being dishonest.
91. I cannot be confident about Mr Iqbal's motive for lying but I suspect it was simple greed. He saw the opportunity to claim compensation for injuries he had not suffered and took it. I cannot be confident about his motivation for giving evidence on behalf of the Claimant in the present proceedings although I suspect that he feared that if he did not co-operate he would be visited with a substantial costs bill arising out of the original action and the investigation of its dishonest basis. I consider below the involvement of Mr Khan in the preparation of this dishonest claim.
92. It suffices for present purposes for me to note that Mr Iqbal was not a witness on whose testimony I could safely rely unless it was supported by other evidence or analysis.
93. Ellen Radley, the hand writing expert, was a reasonable and credible witness. She was cross examined by Mr Tehrani QC at some length on matters of fine detail as to the basis of her conclusion that Mr Iqbal did not sign his statement and the degree of confidence she had in her conclusions. Mr Tehrani QC put to her that the views of Kathryn Barr set out in the report referred to above ought to be preferred. Ms Radley disagreed. In fact, Ms Barr was not called. In any event, I accept Ms Radley's evidence.
94. Mr Heywood was the nearest I had to an independent factual witness. He gave his evidence in a sensible and straightforward manner and I accept it. It was an entirely coherent account. There was, for example, a dispute on the witness statements between his account, that he and Dr Zafar spoke on 19 August 2013 when Dr Zafar telephoned him, and Dr Zafar's account that they spoke when Mr Heywood called Dr Zafar. The explanation, I have no doubt, is that provided by Mr Heywood; Dr Zafar called Mr Heywood back after Mr Heywood left a message for him at the surgery asking him to do so.

The Defendant Witnesses

95. I deal with the credibility of the First, Third and Fourth Defendants when I consider the case against them below. The Second Defendant did not give evidence. I deal with Mr Jardella's evidence when I consider the case against the Second Defendant.
96. I turn now to consider the Claimant's case against each defendant.

Discussion

The First Defendant

97. There are 19 allegations of contempt made against Mr Kamar Khan. As noted above, B1 - B3 relate to statements contained in Mr Khan's witness Statement dated 28 August 2012, B4 relates to statements contained in Mr Khan's witness statement dated 4 March 2014, B5 - B9 and B11 and B12 relates to statements contained in his statement dated 21 January 2015, B10 relates to a document annexed to that statement, C1 - C4 relate to a witness statement which Mr Khan drafted for Mr Sultan, C5 relates to the signature on that statement of Mr Sultan, C6 refers to the statement of Mr Sultan dated 11 November 2014 and C7 relates to the alleged forgery of a signature of Mr Iqbal on his statement of 23 April 2013.

The Order of Events

98. Mr Khan's account of his early involvement was as follows: On receiving instructions to act for Mr Iqbal, he instructed Dr Zafar, via Med Amin, to prepare a medical report. Dr Zafar examined Mr Iqbal on 17th February 2012 and prepared the first report. Mr Khan received the report on 22 February 2012 and sent a copy to Mr Iqbal. Mr Iqbal then contacted him to discuss the report. Mr Khan produced a file note recording that discussion. He noted that Mr Iqbal was not happy with the prognosis; in particular he recorded Mr Iqbal as saying that he had "ongoing symptoms". Mr Khan recorded that he would "go back to expert ASAP". He told me he then both emailed and wrote to Dr Zafar, via Med Admin, asking him to reconsider the content of his report and to make any necessary amendments.
99. In his witness statement dated 28 August 2013, Mr Khan said that Dr Zafar "prepared a medical report dated 17.02.2012...Following an amendment request from the Claimant on 22.02.2012, Dr Asef Zafar prepared a second report also dated 17.02.2012."
100. When first describing the sequence of events in his oral evidence, however, Mr Khan said that he recorded Mr Iqbal's concerns in the file note, looked again at the report and then emailed Med Admin. He said he wrote the email to Dr Zafar "because it was quick and easy to follow up" receipt of the report by that means. When asked by his own counsel, he said the email was sent first and the letter followed. However, on being shown the email dated 24 February 2012, he changed that account; he said the letter, dated 22 February, was sent first and followed up by the email.

101. Mr Khan said that the initial report was amended on 24 February 2012 forwarded to Med Admin and then to him. This was the revised report. Shortly thereafter, the second report was forwarded by TKW to LV's solicitors.
102. In my judgment, at this very early stage of his account, Mr Khan made a significant error and with it his case started to unravel. When asked initially to explain why he had sent the letter *after* the email, he said he had thought better of communicating on a matter like this by email. He said that in 2012 the majority of professional correspondence was by post and that he had thought, after sending the email, that there ought to be a letter on the file. He noted that the letter did not refer to the 6-8 months prognosis and explained that "on reflection", he had thought he "should not have mentioned my opinion".
103. Mr Tehrani QC then pointed out the mistake, indicating that the letter pre-dated the email. Mr Khan was quick to adjust his thinking. He said that of course that was right; he had sent out the letter dated 22 February first and the email, of 24 February, later. The email, he said, was a "follow up" to the letter.
104. When I asked him to explain this error, he said it was a mistake. When I pointed out that he appeared as comfortable and fluent advancing the first version of events as the second, he said he was "nervous". When pressed, he said that when explaining his first answer, to the effect that the email preceded the letter, he was "blagging". I confess I found it extraordinary that a solicitor, facing a contempt of court allegation, should, even for a moment, think it sensible or appropriate to attempt to "blag" his way through his evidence.
105. In his witness statement of 21 January 2015, Mr Khan says: 'by that time [February 2102] experience had shown that the most effective way of ensuring good contact with Med-Admin was by post addressed to the general manager as emails tended to be dealt with by a myriad office workers and were occasionally ignored or lost in the system'. That, however, provides no explanation for his decision to send the letter as well as the email. The email of 24 February 2012 provoked a rapid response; that email was not ignored or lost in the system. In any event, the email and letter contain inconsistent information. There is no suggestion in the email that Mr. Iqbal's symptoms were acute for 1-2 weeks. Rather it is said that symptoms had remained 'moderate to severe' in his neck and shoulders since the accident.
106. But my concerns about this evidence are even more fundamental. A question of some importance in this case is whether the letter dated 22 February 2012 was sent at all, or whether it was a confection produced by Mr Khan in August 2013. No such letter was received by Dr Zafar until the "copy" was received in August 2013. If Mr Khan, on his second version of events, is right and the email was a follow up to the letter, it is unfortunate that Dr Zafar did not receive the letter in February 2012. But it is remarkable that the email does not indicate, either explicitly or impliedly, that it was a follow-up to the letter. The email is set out at [32] above. It begins "In the case of our client Mr Iqbal we have received a medical report from Dr Asef Zafar. The prognosis period he has provided is one week. We have taken instruction from our client..." If this was, in truth, a follow up email to a letter sent two days earlier, it seems to me inconceivable that the email would not have referred to the letter. Instead, the email reads as if that was the first response to the report.

107. In my view, Mr Khan's first version of events in his oral evidence to me is much the more likely. Whether the file note is or is not genuine, Mr Khan was plainly anxious to have the initial report from Dr Zafar "corrected". The file note says this was to be addressed "ASAP". As Mr Khan himself told me, email was the obvious way to respond to this report quickly.
108. Mr Tehrani QC suggests there is a complete answer to this point. He points to the fact that the 22 February letter refers to an injured right wrist and the revised report from Dr Zafar refers to an injured right wrist whereas the email sent to Med Admin at 12:47 on 24 February 2017 refers only to a wrist injury and does not identify which wrist is injured. How, he asks rhetorically, could Dr Zafar, or his staff, know what wrist was being referred to, unless they had seen the letter dated 22 February?
109. In my judgment, however, that is to invert the position. The letter dated 22 February 2012, created in August 2013, referred to the *right* wrist because that is what Dr Zafar had put in his revised report and that report was available to Mr Khan when he wrote the letter. Where Dr Zafar got that piece of information from is a matter of speculation, but he knew Mr Iqbal was right hand dominant and may have simply assumed it was his dominant wrist that had been injured. Furthermore, Mr Tehrani QC's argument simply ignores all the other evidence pointing towards a conclusion that the letter was not sent on 22 February.
110. The motive for the fabrication is plain. Mr Khan was being asked to help explain the origin of the revised report. A letter phrased like that dated 22 February 2012 was a more palatable version of the instructions to consider an amendment than the email of 24 February. The email contained a bald attempt to suggest a prognosis: 'Given that our client is still suffering severe to moderate pain in his neck and upper back now more than 2 months from the date of the accident is it likely he will recover over the next 6-8 [months]?'. That was a prognosis Dr Zafar had simply adopted "without demur", as Mr Higgins, counsel for the Claimant puts it.
111. In any event, it is my judgment that Mr Khan's first description of the order of these events in his oral evidence was the truth. It was no slip of the tongue or the memory when Mr Khan told me the email of 24 February was the first response to the report, not the letter dated 22 February. He may have been off his guard when he said it, but that immediate answer was the honest one. I am quite sure that that was the order of events and that Mr Khan was simply lying when he attempted to row back to a version in which the letter was sent first.

Consequences of the finding as to order of events – Grounds B1, B4, B5, B8 and B12

112. That finding has significant consequences. It means first, that no letter dated 22 February 2012 was posted on the date it was marked. Second, it means there is no satisfactory evidence that a letter bearing the date 22 February 2012 was posted during February 2012 at all.
113. Third, as noted above, examination of the electronic version of the letter in the Third Defendant's possession showed that it had been converted from an MS Word document into PDF format on 28 August 2013 by Mr Khan. Mr Khan says that he did that because the Third Defendant needed the letter to comply with the court order of 14 August 2013. And so, he had re-typed it using a template from other correspondence completed earlier

that day, then converted the file into PDF and forwarded it to the Third Defendant. But if there was no letter sent to Dr Zafar on 22 February 2012, or at all that month, then his instructions to amend the report were those in the email. If that is right, there was no need for Mr Khan to re-type the letter of instruction and the question arises why he should choose to do so.

114. In any event, in my judgment, Mr Khan's explanation for retyping the letter in August 2013 is extraordinary. The retyped "copy" and the original are similar in every possible detail. To have produced this in the short time he had for the task on 28 August, before the time limit imposed by the court expired, was a remarkable feat of copy typing. And it is far from obvious why the laborious task involved was Mr Khan's only option for the purpose of getting Dr Zafar a copy of the document.
115. Mr. Khan says that on the 28th August 2013 the fax and scanner in his office was not working, which is why he needed to type the 'Amendment Instructions (4).pdf' letter into his computer. However, his oral evidence was that the scanner was working the day before when he sent an email to Dr Zafar attaching the 14th August 2013 Court order. Furthermore, there are a number of documents showing that his fax machine was working on the 28th August 2013 including a fax to Slough County Court at 16.05 that day and a fax sent to Horwich Farrelly, the Claimant's solicitors, timed at 16.39.
116. As noted at paragraph 103 above, it is Mr Khan's case that by February 2012 he had learnt that the most effective way of ensuring contact with Med-Admin was by post addressed to the general manager as emails were ignored. Yet in August 2013, when he had a hard copy of the letter allegedly dated 22 February 2012 available, he decided to type it back into his computer so that he could email it. Even if the fax machine was not working, Mr Khan could have posted the document. There is no satisfactory explanation as to why he did not do that.
117. I regard his evidence that he typed the whole document into his computer as a means of providing a copy to Dr Zafar as a lie, committed so that he had on file a letter he could say he sent of 22 February 2012 which was in terms that did not suggest he was directing Dr Zafar what to put in his report.
118. Mr Khan's statement of 4 March 2014 included the following: "I confirm that the typed instructions were the same as the hard copy on the file ". That was untrue; there was no hard copy on the file at the time. That lie was intended to mislead LVI and the Court. Ground B4 is made out.
119. In a witness statement dated 21 January 2015, Mr Khan asserted that "... when a copy of the amended report request was required it had to be re-typed as we only had a file copy and the original had not been saved ..." That was not true; there was no "original". That lie too was intended to mislead LVI and the Court. Ground B12 is made out.
120. This conclusion as to the order of events has further consequences. It leads to an inevitable conclusion that the file note of 22 February was as much a confection as the letter of the same date. I find as a fact that Mr Khan first acted to seek an amendment to the medical report on 24 February 2012 when he sent the urgent email to Med-Admin. Given the view I take about the reliability of Mr Khan and Mr Iqbal, I cannot be certain (although I may have my suspicions) whether the attempt to get the medical report altered was initiated by Mr Khan or Mr Iqbal. But I am entirely confident it did

not happen on 22 February and that the file note was created at the time of the letter of even date in August 2013, to support the dishonest case Mr Khan was seeking to build that the request for an amendment of Dr Zafar's medical report was first made in the careful terms of the letter wrongly dated 22 February.

121. In his statement of 21 January 2015, Mr Khan said that on 20 February he sent a copy of Dr Zafar's (first) medical report to Mr Iqbal. I am not in a position to gainsay that. Mr Khan went on, however, to assert that on 22 February he had a phone call from Mr Iqbal indicating that he was not happy with the medical report. Mr Khan referred to the file note of 22/02/2012 and exhibited it to the statement, implicitly asserting it was a true record of his conversation with Mr Iqbal. Mr Iqbal denied there was any such conversation. But even without Mr Iqbal's evidence I would have had no hesitation in rejecting that assertion of Mr Khan's. In my judgment, whilst it is conceivable that such a conversation took place at some later date, I am quite certain that it did not take place on 22 February and that the file note was invented many months later to support Mr Khan's assertion about the letter dated 22 February 2012.
122. Those lies were intended to mislead LVI and the Court. In those circumstances Grounds B1, B5 and B8 are made out. I am sure that Mr Khan did not receive a telephone call from Mr Iqbal on 22 February 2012, advising that he was not happy with the content of the medical report and that Mr Iqbal did not request an amendment to Dr Zafar's first report on that day. I am equally sure that Mr Khan made a false document, namely a file note purporting to record a telephone conversation between him and Mr Iqbal conversation on 22/02/2012.

Mr Sultan's signature on the statement of 11 November 2014 and Mr Iqbal's signature on his statement of 23 April 2013 – Grounds C5, 6 and 7.

123. By Ground C5 the Claimant alleges that Mr Khan forged the signature of the Second Defendant on the witness statement of 11 November 2014. By Ground C6, they allege that in his own witness statement, dated 21 January 2015, he made a false statement that he knew to be false, namely that "I refer to the Statement of Shafiq Sultan dated 11 November 2014... ", which was false because Shafiq Sultan was not the maker of the witness statement dated 11 November 2014. By ground C7, they alleged that Mr Khan forged, or caused to be forged, the signatures of Mudassar Iqbal on a witness statement bearing the date 23 April 2013.
124. The evidence that Mr Sultan did not sign his witness statement dated 11 November 2014 is powerful. Mr Sultan chose not to give evidence, but the report of Dorothy Allan was admitted by agreement. She concludes that "there is moderately strong evidence to support the proposition that someone other than Mr Sultan wrote the questioned signature in imitation of his signature style." The Claimant has chosen not to obtain its own handwriting expert report in relation to Mr Sultan. Another hand-writing expert, Kathryn Barr, was instructed by Mr Khan. She largely agrees with the conclusion of Ms Allan albeit she was working with poor quality specimens. She says that "the possibility that Shafiq Sultan wrote the signature cannot be ruled out" but she concludes that on "the balance of probabilities it is more likely that some other person produced the signature".
125. The handwriting experts produced a joint statement in which they conclude:

“1. There are differences between the questioned signature on the disputed Witness Statement dated 11/11/14 and Mr Shafiq Sultan’s reference signatures.

2. The differences are such that, on the balance of probabilities, it is more likely that some other person produced the questioned signature.

3. The possibility that Shafiq Sultan signed the disputed witness statement cannot be ruled out.”

126. If this was an ordinary civil trial, I might have had little difficulty concluding that it was more likely than not that Mr Sultan did not sign the statement. But in the absence of oral evidence from Mr Sultan or more conclusive expert evidence, I cannot say that I am sure that that was so. In any event, there is no hard evidence as to the circumstances in which a signature was affixed to that statement; there were others, whether at OTC or otherwise, who might have had the opportunity and the motive to sign off the statement Mr Khan drafted for Mr Sultan. I am quite unable to find, to the criminal standard, that Mr Khan forged his signature or that made a statement that he knew to be false when he referred to “the Statement of Shafiq Sultan dated 11 November 2014”. In those circumstances, grounds C5 and C6 are not established.
127. The signing of Mr Iqbal’s statement is a very different matter. Mr Iqbal denies he signed the statement. Had that assertion stood alone, I would not have accepted it. But it is strongly supported by expert evidence to which there has been no substantial challenge. It was Ms Radley’s firm opinion that the five signatures on the statement of 23 April 20 in Mr Iqbal’s name were not his normal and natural writings, and that there was strong evidence to support the proposition that the questioned signatures were simulations. I accept that evidence.
128. It was Mr Khan who was pressing to have that statement signed on 26 April 2013. He plainly had a motive for getting it signed; he had promised it to LVI’s solicitors in the personal injury action and it supported the case he was trying to advance. Unlike the case of Mr Sultan’s statement, there was no other candidate for the authorship of that signature, other than Mr Khan. I am driven to the conclusion that Mr Khan forged that signature. That lie was intended to mislead LVI and the Court. Ground C7 is made out.

The Delivery of the Amended Report to On Time Claims - Grounds B11, C1, C2, C3, C4

129. In his statement dated 21 January 2015 Mr Khan asserts that “The amended report as agreed was then taken by me on my next visit to On Time Claims on 25 February 2012 whereupon the client attended and signed the report confirming his agreement to the same.” The Claimant alleges that was a false assertion (Ground B11)
130. Mr Khan drafted a witness statement in about November 2012 in the name of the Second Defendant which the Claimant alleges contained a series of false assertions, assertions which Mr Khan knew to be false, namely that Mr Iqbal “attended the office on 22 February 2012 and brought with him a copy of his medical report”, that “on 24 February 2012 Kamar Khan of TKW solicitors called me (Mr Sultan) advising that he had spoken to the Claimant as he had received an amended medical report and that the Claimant was now happy with the contents and prognosis period in the report... ”

(Ground C2); that Mr Khan, “attended the office on 25 February 2012 and brought the amended medical report of the Claimant with him” (Ground C3); and that he (Mr Sultan) could “confirm that the Claimant attended the office on 25 February 2012 and signed confirming that he was happy with the report” (Ground C4).

131. Mr Khan concedes that these assertions were incorrect. He argues, however, that their inclusion in his statement and in that which he drafted for Mr Sultan was an honest mistake. The statement was made on the basis of his memory of events three years earlier and he admitted his error without prompting when giving evidence. Further he said that his recollection had been confirmed by Mr Sultan.
132. I have no hesitation in rejecting those explanations. First, it is to be observed that it was only during close cross-examination that Mr Khan admitted that he did no more than drop off the revised report at OTC’s offices and did not meet Mr Iqbal there. This was no fulsome acknowledgement of error and there was no adequate explanation of how he came to make the “mistake” represented by the rest of this story. Second, as I have concluded above, Mr Khan is not a witness of truth on whom I could place great reliance in any event. And finally, his reliance on the confirming recollection of Mr Sultan is, for the reasons set out above, of limited weight. In my judgment, these assertions were simply inventions by Mr Khan, designed to mislead the defendants and the court in the personal injury action.
133. Accordingly, I find that Grounds B11, C1, C2, C3, C4 are all made out.

Other grounds which turn on a conflict between the account of Mr Iqbal and Mr Khan - Grounds B2, B3, B6, B7, B9 and B10

134. A number of the grounds alleged against Mr Khan turn entirely on whether I accept the evidence of Mr Iqbal.
135. For the reasons set out in the preceding parts of this judgment I regard Mr Khan as a thoroughly dishonest man. He is guilty of the contempts I have referred to above and he continued to lie on those topics before me.
136. However, as I have also explained above, I regard Mr Iqbal too as an unreliable witness who has lied repeatedly in the past and before me. Consistent with my self-direction, I can only find Mr Khan guilty of contempt when I am *sure* of his guilt. On the issues where the Claimants rely on Mr Iqbal’s evidence, and there is no supporting evidence or analysis one way or the other, I cannot be sure of Mr Khan’s guilt. Thus, it seems to me at least possible that Mr Khan and Mr Iqbal came to some sort of agreement about advancing an exaggerated claim to the benefit of both of them, but I cannot be confident that that was the case. If that is what happened, I cannot say which of them took the initiative in that. All that being so, where an alleged ground depends entirely on my accepting Mr Iqbal’s word I will dismiss it.
137. Accordingly, I reject the following grounds for that and the following reasons.

B2 - I am unable to say that I am sure that Mr Iqbal did not indicate that his primary concern was that his neck symptoms were “on-going”. I am unable to determine whether the

suggestion that the neck symptoms were continuing came from Mr Iqbal or Mr Khan.

B3 - I am unable to say that I am sure that Mr Khan did not send a copy of the revised report to Mr Iqbal or that Mr Iqbal did not give authority to disclose it on 24/02/2012.

B6 - I am unable to say that I am sure that Mr Iqbal did not telephone Mr Khan and say that he was unhappy with the content of the first medical report. I am confident any such conversation did not take place before 24 February but cannot exclude the possibility that it took place on or after that date.

B7 - I am unable to say that I am sure that Mr Iqbal did not, at some time on or after 24 February 2012, give specific instructions that Dr Zafar's first report should not be disclosed.

B9 - I am unable to say that I am sure that on receiving the amended report, Mr Khan did not telephone Mr Iqbal, read the report to him and obtain his authorisation for disclosure.

B10 - I am unable to say that I am sure that the 24/02/2012 file note relating to an alleged telephone conversation between Mr Khan and Mr Iqbal, which was exhibited to and incorporated into his witness statement, was a false document.

The Second Defendant

138. Shafiq Sultan, the Second Defendant, was the proprietor of On Time Claims and it was he who introduced Mr Iqbal to TKW. Mr Khan exhibited to a witness statement dated 21st January 2015 what purports to be a witness statement from Mr Sultan dated 11 November 2014. That dealt with Mr. Sultan's alleged interactions with Mr. Iqbal and Mr Khan. It was corroborative of the First Defendant's later account of how and in what circumstances the revised report came to be adopted by Mr Iqbal. I have dealt above with the corresponding allegations against Mr Khan as to how that statement came to be drafted.

139. In their case against Mr Sultan, the Claimant alleges that this statement was either signed or adopted by him and that it contained false assertions particularised in grounds B13 to 16. The Claimant points in particular to the following assertions which they say were untrue:

- that Mr Iqbal regularly attended OTC's offices to obtain assistance in translating and understanding correspondence (Ground B13), "
- that Mr Iqbal rang Mr Khan and advised him that he was not happy with the report and that it required amending as it did not accurately reflect the injuries that he sustained or his ongoing pain and suffering (Ground B14);

- that on 24 February 2012 Mr Khan called Mr Sultan advising that he had spoken to the Claimant as he had received an amended medical report and that the Claimant was now happy with the content and prognosis period (Ground B15) and
- that Mr Sultan could confirm that the Claimant attended the office on 25 February 2012 and signed confirming that he was happy with the report (Ground B16).

140. Mr Sultan did not take an active part in these proceedings until shortly before the trial. In a statement filed in the present proceedings he said that he did not make or sign the 11 November statement. He said that Mr. Iqbal did not regularly attend the offices of OTC and that he did not assist in translating. There was no meeting on the 22 February 2012 with Mr. Iqbal and he did not bring a copy of his medical report with him. He says that he did not arrive back in the UK until 9.15 pm on the night of the 22 February 2012 and therefore was not in the country at the time of the alleged meeting. He says that he was not party to any telephone conversation on the 24 February 2012 and that there was no meeting on the 25 February 2012 involving him, Mr. Khan and Mr. Iqbal. However, Mr Sultan did not give evidence and, accordingly, did not affirm the truth of that statement.
141. Nonetheless, in the light of the evidence from handwriting experts discussed above, the Claimant accepts that they cannot prove to the requisite standard that Mr Sultan signed the statement of 11 November 2014. Recognizing this difficulty, the Claimant now alleges that Mr Sultan adopted that statement.
142. There is, however, no evidence to that effect. There is no evidence of any act on the part of Mr Sultan that suggests he permitted the statement to be adduced on his behalf or that he adopted the statement. I see no basis on which such a conclusion could properly be inferred.
143. The Claimant seeks to get over these difficulties in two ways. First, they invite me to draw an adverse inference against Mr Sultan because he declined to give evidence. Second, they argue that Mr Sultan is a dishonest man who has adopted a false statement in proceedings in the past.
144. In *Wisniewski v Central Manchester Health Authority* [1998] PIQR P324, the Court of Appeal considered the circumstances in which it would be just to draw an adverse inference against a party that failed to adduce evidence on a particular point. After reviewing the authorities, Brooke LJ said:

“From this line of authority, I derive the following principles in the context of the present case:

- (1) In certain circumstances a court may be entitled to draw adverse inferences from the absence or silence of a witness who might be expected to have material evidence to give on an issue in an action.

(2) If a court is willing to draw such inferences, they may go to strengthen the evidence adduced on that issue by the other party or to weaken the evidence, if any, adduced by the party who might reasonably have been expected to call the witness.

(3) There must, however, have been some evidence, however weak, adduced by the former on the matter in question before the court is entitled to draw the desired inference: in other words, there must be a case to answer on that issue.

(4) If the reason for the witness's absence or silence satisfies the court, then no such adverse inference may be drawn. If, on the other hand, there is some credible explanation given, even if it is not wholly satisfactory, the potentially detrimental effect of his/her absence or silence may be reduced or nullified"

145. The Claimant argues that Mr. Sultan's failure to give evidence can support the proposition that he authorised Mr. Khan or someone else to sign the November 2014 statement, that he knew its contents were untrue and that he is accordingly in contempt of court. In my judgment, however, it would not be appropriate to draw such an adverse inference against Mr Sultan; there is, in reality, no evidence at all that he adopted this statement. In fact that is pure speculation on the part of the Claimant. To adopt the adjective used by Brooke LJ, there is not even a "weak" case that this statement was signed or adopted by Mr Sultan.
146. It is right to say that in the case heard by O'Farrell J in April 2017, to which I made reference earlier, Mr Sultan admitted contempt and was sentenced to 9 months' imprisonment. It is also right to say that that case concerned a false claim made by the Mr Sultan, about an accident that was said to have occurred in June 2012, in respect of which he was represented by Mr Khan. The Claimant relies on his admission of guilt in that case. But, consistent with my self-direction about bad character, I cannot find contempt proven based wholly or mainly on a previous contempt.
147. There is no evidence in these proceedings that Mr Sultan approved or adopted this statement. The probative value of the evidence in the previous proceedings is very limited. As Mr Gaurang Naik points out, Mr Sultan's previous behaviour may be of relevance to his credibility but no more than that. It does not enable the Claimant to prove the facts in these proceedings.
148. Certainly, in my judgment, there is not the evidence before me that enables me to conclude to the criminal standard that Mr Sultan was guilty of contempt. The case against him must fail. Grounds B13-16 are dismissed.

The Third Defendant

149. There are 16 grounds of contempt alleged against Dr Zafar. Eight grounds, Grounds B24 – B31, related to statements contained in the revised medical report, which bore the date 17 February 2012, but which was produced on 24 February 2018. Ground B33 relates to a statement in the witness statement made on 20 August 2013. Six grounds, namely Grounds B17 - B22, refer to statements contained in his witness statement dated 22 October 2013. Ground B32 relate to a statement in an affidavit sworn on 31 January 2016. Each of these documents was verified by a statement of truth.

150. I will address the grounds by reference to the documents to which they relate, taking each in chronological order. But it is convenient first to say something about Dr Zafar, his work and his secretary.
151. Dr Zafar is, as Mr Goldberg QC put it, a self-made, professional man. He is a GP with an NHS locum practice. He has also built up a highly successful one-man medico legal career. He works extremely long hours examining claimants in personal injury cases and producing reports. He allows himself just 15 minutes, in total, to conduct the examination and produce the report and is able to produce an astonishing 32 medical reports every day. Mr Goldberg QC describes his client as producing medical reports on an "industrial scale". He charges about £70 for each case. He employs two, three or four secretaries at a time, delegating to them the routine parts of the work. He has been able as a result to generate an income from his medico legal work of £350,000 per annum, on top of his NHS salary.
152. The report on Mr Iqbal was one such report.
153. Dr Zafar's case is that on 24 February 2012 his secretary, Mr Gregory Jardella, brought to his attention an emailed request from Mr Khan to Med-Admin for amendment. The two exchanged the emails to which I have referred. Then Dr Zafar spoke to Mr Jardella by phone. During that conversation, Dr Zafar instructed him to make certain amendments in draft to the original report. He says that the eight impugned statements were added by Mr Jardella's hand. He says that five of them (B24, B26-28 and B31) were added in draft with Dr Zafar's blessing, in the belief at the time that they were true. Three of them (B25 and B29-30) were medically illiterate additions made mistakenly by Mr Jardella and without the doctor's permission.
154. Critically, according to Dr Zafar, Mr Jardella failed to refer the amended draft back to him for prior checking and authorisation as required, before sending it on to Med-Admin.

The Revised Medical report

155. As will be recalled, Dr Zafar produced the original report on the date of the examination, 17 February. Following the emails between Dr Zafar and Mr Jardella, one of his secretaries, the revised report emerged.
156. The difference between the two reports was stark. Under the heading "Symptoms", the original report said "Mr Iqbal developed mild pain and stiffness in the neck on the day of the accident. These resolved one week from the date of the accident. These symptoms were due to a whiplash injury". The revised report said "He developed moderate pain and stiffness in the neck and shoulder on the day of the accident. These have not improved yet. He developed mild pain in the right wrist on the day of the accident this has not improved yet."
157. Under "Treatment", the original report said, "the treatment finished one week later"; the revised report said "'the treatment is still continuing". Under "Present Symptoms Reported by the Claimant the original report said "Claimant has fully recovered from the injuries sustained in the accident"; the revised report said "He developed moderate pain and stiffness in the neck and shoulder on the day of the accident. These have not yet improved yet". Under "Employment Position / Education" the revised report said

"Mr Iqbal explains that he has difficulty in sitting for prolonged periods of time." Under Examination the original report said 'Examination of the neck was normal'; the revised report said 'Neck: There was paraspinal muscle tenderness on both sides and muscle spasm Upper Limbs: Examination of the upper limbs was normal' (i.e. additional examination of the upper limbs).

158. Under Prognosis the original report said "...developed mild pain and stiffness on the day of the accident. These resolved 1 week from the date of the accident... Mr. Iqbal has fully recovered from the injuries sustained in the accident"; the revised report said "For the right wrist pain no additional treatment is required. In my opinion this symptom is due to a whiplash injury. On the balance of probabilities, I anticipate this symptom will fully resolve between 6-8 months from the date of the accident. For the neck and shoulder pain and stiffness no additional treatment is required. In my opinion these symptoms are due to a whiplash injury. On the balance of probabilities, I anticipate these symptoms will fully resolve between 6-8 months from the date of the accident".
159. It follows from my finding above that the trigger for these changes was the email of 24 February 2012 from Mr Khan to Dr Zafar. It is worthwhile repeating the terms of this critical email:

"Given that our client is still suffering severe to moderate pain in his neck and upper back now more than 2 months from the date of the accident is it likely he will recover over the next 6-8? If so, please can you amend the report in respect thereof. Given that our client is still suffering pain related symptoms please can you confirm whether he is likely to benefit from physiotherapy. In the event that he is please can you provide an estimation as to the number of sessions you recommend?"

160. As noted above, the Claimant alleges that a number of statements in the revised report by Dr Zafar about Mr Iqbal are false. The Claimant contends that Dr Zafar was simply doing what Mr Khan asked of him, exercising no clinical judgement in the process. They say, in particular, that he acted dishonestly in responding to that email by making those changes. They suggest Dr Zafar was motivated by the earnings he would make from the provision of such reports to include such inaccurate assertions.
161. I reject that contention of dishonesty. I accept Mr Goldberg QC's argument that it is unlikely in the extreme that Dr Zafar's production of the revised report was dishonest. As Mr Goldberg QC submits Dr Zafar had no prior relationship with anyone else involved that might supply him with a motive for producing an exaggerated report. All communications were sent via Med-Admin and that makes it difficult to see how there could be any conspiracy to produce dishonest reports. In addition, Dr Zafar had (almost) nothing to gain and everything to lose by producing a dishonest report in February 2012 for TKW, a firm which had not previously sent him work and whose work Dr Zafar did not need.
162. However, dishonesty is only one basis for a finding of contempt. As noted above, contempt can also be based on recklessness. And in my judgment, it was Dr Zafar's recklessness that led to the production of this revised report.

163. Dr Zafar's method of working, the "industrialisation" of the process of producing reports for the court in support of personal injury claims, imposed on him the most stringent of timetables. He had to examine and interview each patient and produce the corresponding report in an average of 15 minutes. There was precious little time for thought or reflection. An amended report had to be squeezed into an already frenetic day; he was paid nothing more for it. An amendment did not count as one of the 32 reports he did on average each day.
164. I have no doubt that when Mr Jardella emailed Dr Zafar and offered to make the requested amendment for him, Dr Zafar readily agreed. And I am equally sure that Dr Zafar did not require Mr Jardella to show him the amended draft when he had made the change. Certainly, Mr Jardella did not do so. Mr Jardella could not remember whether or not Dr Zafar asked him to show him the new draft but assumed he would have done so. I do not adopt that assumption. In giving evidence, Mr Jardella displayed a touching loyalty to his employer of whom he was obviously fond and whom he greatly respected. But it is notable that Dr Zafar neither emailed him this instruction (despite his use of email to discuss the case with Mr Jardella) nor did he react when Mr Jardella did not show him the new draft. It was not uncommon for solicitors to ask Dr Zafar to consider amendments to his reports. Such a task would have been routinely delegated to secretaries. I have no doubt that if Dr Zafar required the secretaries to show him the amendments in draft he would have had a system to ensure that happened. There was no evidence of any such system and nothing to suggest that was the practice adopted on this occasion.
165. Furthermore, I have no doubt that *if* Dr Zafar had asked Mr Jardella to show him the draft before submitting it, Mr Jardella would have done so. Mr Jardella was plainly an intelligent and diligent employee and it strikes me as vanishingly unlikely that Mr Jardella would either have ignored or forgotten such an instruction.
166. In my judgment the amendments were made by Mr Jardella, on Dr Zafar's instructions and Dr Zafar was content to allow his secretary to make such changes without his checking his work. I am satisfied so that I am sure that Dr Zafar was so busy that he gave no thought to whether or not the amendments were justified. He did not care whether the amended contents of the report were true or false. All that mattered to Dr Zafar was getting another report out.
167. The allegations which the Claimant assert were false include the following:
- "i) "He developed moderate pain and stiffness in the neck and shoulder on the day of the accident. These have not improved yet." (Ground B24) "
 - iii) "The [taking of analgesia] is continuing." (Ground B26)
 - vii) "I anticipate this symptom [pain to the right wrist] will fully resolve between 6-8 months from the date of the accident ". (Ground B30)
 - viii) "I anticipate this symptom [pain and stiffness to the neck and shoulder] will fully resolve between 6-8 months from the date of the accident." (Ground B31).

168. There was no attempt by Dr Zafar to investigate whether the amendments he was asked to make to the report, or the amendments which in fact were made, were clinically justified. He just did as he was asked by the solicitor. He just accepted what he was told by the solicitor about Mr Iqbal's pain and stiffness in the neck and shoulder not having improved, despite the fact that there was no evidence of that when he had seen him in February 2012. In fact, according to his first report, by the time of the examination there were no such symptoms. He made no further enquiries about whether Mr Iqbal's consumption of analgesics despite there being no report of this when he had seen Mr Iqbal in the February. He had no proper basis for his new prognosis that pain in the wrist, neck and shoulders would subsist for 6-8 months given that he had previously expressed the opinion that Mr Iqbal had fully recovered from the injuries sustained in the accident.
169. In my judgment, it is no answer to those points to say that Dr Zafar or Mr Jardella relied on the email of 24 February from apparently respectable solicitors. The findings recorded in the revised report were not just additions to the findings in the original report, or minor amendments, they stood in stark conflict with the original report. If the revised report was going to be a genuine expression of Dr Zafar's opinion, rather than mere recitation of the solicitor's views, they required, at very least, some further enquiry. Dr Zafar's duty to the court required no less.
170. In my view, Dr Zafar was not just negligent about the content of the revised report; he allowed the assertions referred to at paragraph 153 above to be included in the revised report, not caring whether they were true or false, and not caring whether or not the Court was misled as a result. Accordingly, he is, in those respects, guilty of contempt of court.
171. Accordingly, I find allegations B24, B26, B30 and B31, relating to the revised report, are made out. It might be said that this was less serious contempt than others which are addressed in this judgment, but contempt it was nonetheless.
172. It is also alleged that the report was dishonest in adopting the following assertions:
- "ii) "He developed mild pain and stiffness in the wrist on the day of the accident. These have not improved yet." (Ground B25) "
 - iv) "He still has difficulty in sitting for prolonged periods of time." (Ground B27)
 - v) "There was paraspinal muscle tenderness on both sides and muscle spasm." (Ground B28)
 - vi) "Examination of the upper limbs was normal." (Ground B29)
173. I do not accept that those allegations are made out on the evidence. The electronic notes produced by Dr Zafar, apparently dated 17 February 2012, include the observation "Muscle tightness and tenderness noted on examination, but patient denies any pain". I cannot be certain whether the dating of that entry is genuine or not, but on the face of it that note supports the assertion attacked in Ground B28. As regards the remaining

three allegations, they relate to assertions which are not contradicted by the original report. I am not prepared to hold that their inclusion amounted to a contempt of court.

The Witness Statement of 20 August 2013

174. Ground B33 alleges that the following passage in the Third Defendant's witness statement dated 20 August 2013, which refers to the revised report, was untrue, namely that: "This report has been altered whilst in the custody of Med-Admin and has not been altered by myself, and I have not given anyone permission to alter this report."
175. Dr Zafar acknowledges that that statement is incorrect. But he contends that, at the time he made it, he believed that it was true. Two points are made on his behalf in support of that contention.
176. First, it is said that Dr Zafar was making the statement of 20 August under difficult circumstances. He only learned of Mr Heywood's proposed visit the previous day and he understood that he was attending on behalf of the court. It is suggested that "it suited Mr Heywood for Dr Zafar to believe that Mr Heywood was acting with the authority of the court" and that "Mr Heywood's asserted naiveté was lacking credibility". I reject that contention. As noted above, I found Mr Heywood a thoroughly honest and straightforward witness whose evidence I accept. No difficulty was created by Mr Heywood attendance on Dr Zafar which could possibly explain the errors in his statement.
177. In any event, even if it were the case that Dr Zafar believed Mr Heywood was taking the statement on behalf of the court, that would have made Dr Zafar all the more careful to ensure that the account he gave was accurate. It certainly does not explain why Dr Zafar would have provided an entirely inaccurate denial that the revised report was produced by him or at his direction.
178. Second, it is said that when making the statement of 20 August 2013, Dr Zafar was able to distinguish between the two versions of the statement only on the basis of how they looked not on the basis of any independent recollection. I reject that argument too. Dr Zafar told me that he had looked at the revised report electronically on the evening of 19 August. That is apparent from the data stored on his computer. He said that he simply opened the file to confirm that he had examined Mr Iqbal in February 2012. There are several difficulties with that account. First, it is not clear from his evidence whether Dr Zafar says he knew the name of the client Mr Heywood wished to discuss before he arrived. If he did, there was no need for Dr Zafar to look at his computer records to identify the client; if he did not, he would not have known which file to look for. Second, I regard it as wholly incredible that Dr Zafar was concerned enough about Mr Heywood's visit to open the Iqbal file on his computer, but not concerned enough to read it or view enough of it to detect that it had been amended. And third, the data stored on the computer establishes that a version of the revised report was "built", or completed electronically, a process consistent with the whole report being produced on screen rather than the first page only being viewed.
179. I have no doubt that by the time Dr Zafar saw Mr Heywood he knew that the report had been amended.

180. Based on the evidence I have heard, I am quite sure that what happened on 19 - 20 August was as follows: Mr Heywood phoned Dr Zafar's surgery on or before 19 August and left a message for Dr Zafar to call him back. Dr Zafar did so. The two men agreed that Mr Heywood would visit Dr Zafar at the surgery on 20 August to discuss how it came about that there were two versions of the report on Mr Iqbal. Dr Zafar was anxious to ensure he understood what had happened in that regard for himself, before the meeting took place. Accordingly, he opened the report and looked at it on his screen. He saw that there had been significant amendments, which was not readily explainable based on the one examination of Mr Iqbal, and realised that they had been made by him or with his approval. Dr Zafar therefore determined, either on the 19 August or during the meeting on 20 August, to seek to explain away the amendment by blaming someone else.
181. In so doing, Dr Zafar was acting dishonestly; he could not possibly have believed the assertion that the original report has been altered whilst in the custody of Med-Admin and he knew that it had been altered by himself or with his permission. He knew or believed that his statement was to be used for court proceedings and must have known that what he said was likely to interfere with the course of justice. Ground B33 is made out.

Witness Statement dated 22 October 2013

182. As noted above, Dr Zafar's statement of 22 October 2013 gives a very different account of events from that of 20 August. The Claimant alleges that it contained the following false statements:
- i) "The second report is the true representation of the incident." (Ground B17) "
 - ii) "The first report was mistakenly written." (Ground B18)
 - iii) "[The first report] only represented the first few weeks he felt his acute symptoms." (Ground B19)
 - iv) "The amendment request was sent to me on 22 February 2012." (Ground B20)
 - v) "I [have looked at the notes that I wrote down at the time and] do recall amending it myself." (Ground B21)
 - vi) "The first report was an error on my part and only represented his acute symptoms." (Ground B22).
183. In my view, the Claimant is right in their contention that those statements were not accurate. The revised report was not a true representation of the accident; Mr Iqbal did not, for example, suffer symptoms for 6 months. The original report was not a mistake; it was substantially accurate. It was not intended to refer only to the first few weeks of acute symptoms; it was intended at the time, to cover all of which Mr Iqbal made complaint. The amendment request was not in fact sent to Dr Zafar on 22 February; it was created by Mr Khan in August 2013 and sent to Dr Zafar then. Dr Zafar did not

make the amendments himself, Mr Jardella made them. The first report was not a mistake at all.

184. Dr Zafar's response is directed primarily to his honesty in making those assertions. He says that in October 2013 he believed that the revised report was a true representation of Mr Iqbal's symptoms because he had checked his electronic notes and seen reference to the email of 24 February from Mr Khan asking for the amendments. For the same reasons as I have concluded above, that Dr Zafar acted recklessly in allowing the revised report to be produced, so I conclude that he acted recklessly when he said that the second report was the true representation of the incident. Ground B17 is made out.
185. Similarly, when in October 2013 Dr Zafar wrote that the first report was mistakenly written, that it represented only the first weeks of acute symptoms, and that the first report was an error on his part, he was relying on the justification for the amendments made to the report contained in Mr Khan's February 2014 email. That reliance was reckless for the reasons previously discussed. Grounds B18, 19 and 22 are therefore made out.
186. I have concluded above in relation to Mr Khan that the letter dated 22 February was only created in August 2013. It was created by Mr Khan because he was being asked to explain the origin of the revised report. It was created, not because he did not have a copy of the letter on file, but because he wanted to refer to a letter phrased in a more palatable manner than had been the email of 24 February. When Dr Zafar said that the amendment request was sent to me on 22 February, he was, I am confident, making an assumption based on the date of the letter sent to him in August by Mr Khan. Certainly I cannot find that Dr Zafar was deliberately seeking to mislead when he said that the "amendment request was sent to me on 22 February 2012." Ground B20 must therefore be rejected.
187. Mr Goldberg QC argues that when Dr Zafar wrote that he remembered making the amendments himself, he was simply taking responsibility for the actions of his secretary. I reject that. This was a further attempt by Dr Zafar to explain the origin of the revised report. It is his case that the amendments were made by his secretary and not by him and that in respect of at least some of the amendments he had never authorised them to be made. This is a further example of the extraordinarily casual manner in which Dr Zafar approached the task of providing evidence to the court. I am not prepared in this respect to conclude that this was a deliberate lie. But it was reckless in the sense described in *Berry Piling Systems Ltd v Sheer Projects Ltd*. Ground B21 is therefore made out.

Affidavit of 31 January 2016

188. Finally, it is alleged that Dr Zafar made a false statement in his 31 January 2016 affidavit, namely "*When I pressed his shoulders I noted tightness and tenderness*" (Ground B32).
189. It does seem to me surprising, if that was indeed a finding Dr Zafar made, that he did not record it in his original report. The answer that he did not think it relevant seems surprising to me. However, it is right to observe, as does Mr Goldberg QC, that Dr Zafar's electronic notes record such a finding against the date "17 February 2012".

Whilst there may be some uncertainty about the reliability of the date of that entry, I cannot be sure that it is a forgery and accordingly, I must dismiss this ground.

Fourth Defendant

190. As I have explained above, I found Mr Ahmed an entirely straight-forward and credible witness. He was clear, helpful and consistent in his evidence to me. He was frank in admitting his mistakes. He struck me at every point as an honest and credible witness.
191. Mr Ahmed was a very junior member of Mr Khan's staff at TKW. I accept his evidence that he sent letters and emails, on the Iqbal case, solely at the direction of Mr Khan. The presence of his name on correspondence does not, in my judgment, indicate that he was exercising any real control over the course of the litigation. It is entirely consistent with his account that he was instructed by Mr Khan to carry out particular tasks in a particular manner.
192. Mr Ahmed accepts that he did much and said much which he should not have done. Most notably, on 14 August 2013 when he was left in the office having to deal with a mess that was not of his making. It is undoubtedly right to say that, as Mr Ahmed accepted, "he should not have told counsel that having looked at the file, the revised report was the correct one". But having seen and heard him give evidence, I have no doubt that his error lay simply in "assuming" that the second report must be the correct one. He was a very young man placed in a difficult position, answering questions about someone else's file, by counsel who himself was under pressure, knowing that an explanation would be demanded of him by the Court in very short order, and who assumed that his superior would not have acted improperly.
193. Accordingly, I would reject the criticism of Mr Ahmed that he acted dishonestly in what he said to counsel on the morning of the county court trial, although it is to be noted that that criticism forms no part of the grounds. I reject, too, any suggestion that he was acting recklessly. In my view, it is perfectly clear that he was doing his best and that his mistaken assumption was the product of inexperience and naivety.
194. The ground alleged against him is Ground B23, namely that he did an act that was intended to interfere with, and was likely to interfere, with the course of justice in that on or about the 14 August 2013 he advised or instructed the claimant to lie on oath at his civil trial and give false evidence that his symptoms had persisted for 6-8 months when the truth was that they had settled in a small number of days.
195. The Fourth Defendant denied each of these allegations. I accept those denials. There was on this topic a frank conflict of evidence between Mr Ahmed and Mr Iqbal, and I unhesitatingly, prefer the evidence of Mr Ahmed. I have no doubt that the reason Mr Iqbal said what he did about his symptoms to counsel on 14 August and previously in his written statements, was a result of his willingness to exaggerate his claim to obtain greater damages, as encouraged as he was in that course by Mr Khan. In those circumstances, the claim against Mr Ahmed is dismissed.

Conclusions

196. In those circumstances, the claims against Mr Sultan and Mr Ahmed are dismissed.
197. The claim against Mr Khan succeeds to the extent that the following grounds of contempt are proven: B1, B4, B5, B8, B11, B12, C1, C2, C3, C4 and C7.
198. The claim against Dr Zafar succeeds to the extent that the following grounds of contempt are proven: B17, B18, B19, B21, B22, B24, B26, B30, B31 and B33.
199. I will hear counsel on the appropriate sanctions for the contempts that have been established, and any other orders that are required.