



**St John's  
Buildings**

## **MEDIATION AT ITS BEST**

AG (Claimant)  
And  
EF (First Defendant)  
And  
AXA Insurance UK PLC (Second Defendant)  
And  
MA (Third Defendant)  
And  
Advantage Insurance Company (Fourth Defendant)

---

**Michael Redfern KC**

**Henry Vanderpump**

**Barristers**

**St John's Buildings**

- 1 On 5 March 2021, AG was the front seat passenger in her father's, the First Defendant's, Toyota motor car when it was involved in a major collision with the Third Defendant's Volkswagen Golf R motor car. AG was just 20 years of age and suffered a traumatic brain injury in conjunction with fractures to the whole of the pelvic region, lower limbs, back, wrist and concomitant overall pain and malaise. She and her father blamed the accident upon the Third Defendant's negligent driving. In turn, the Third Defendant made allegations of negligence against the First Defendant.
- 2 The First Defendant had been driving along Stratford Road, Birmingham which is subject to a 30mph speed limit away from the City. It is a dual carriageway and at the intersection of the carriageway with Highfield Road, the First Defendant turned right through the intersection and was just entering Highfield Road when the Third Defendant, who was driving along Stratford Road towards Birmingham at 76mph, collided amidships with the nearside of the First Defendant's car causing devastating damage to it. The Claimant suffered severe personal injury, loss and damage.
- 3 The First Defendant's insurers, the Second Defendant, denied liability and blamed the Third Defendant whose insurers resisted liability on the basis that Article 75 of the MIB Articles of Association applied and as the Third Defendant was driving outside the limitation of his social domestic and pleasure policy of insurance, the Fourth Defendant contended that they had no liability as insurers of last resort who they contended were the Second Defendant. It was also alleged that Regulation 3(2) of the European Communities (Right Against Insurers) Regulations 2002 precluded the Third Defendant from making a claim for indemnity and that the Fourth Defendant was not liable to indemnify if cover was restricted to social domestic and pleasure.
- 4 Evidence of the Third Defendant's dangerous speed of 76mph in a 30mph zone was obtained by the Second Defendant in what the Fourth Defendant described as murky circumstances from the police. The evidence in question derived from the Third Defendant's Volkswagen Golf R's airbag control module. Whatever the status of that evidence, it was powerful causative evidence which could not be ignored.
- 5 The dispute between the Second and Fourth Defendants was referred to mediation which took place on 31 March 2025. The Claimant was an innocent passenger bound to recover her damages and was invited to the mediation. It would have been amiss not to have attended with a worked up Schedule of Loss.
- 6 During the course of a lengthy mediation, the Second and Fourth Defendants reached an agreement on the apportionment of liability. Good sense prevailed and the mediation then extended to assessing the value of the claim. This was put at £2,237,000. There had been an interim payment of £50,000 and CRU benefits were in a similar sum.

- 7 At the time of the accident, the Claimant was a first year student studying English at Coventry University. She attempted to return to her studies but was prevented from doing so by reason of the nature and extent of her injuries and their long term consequences. Recently she had married and moved from Birmingham to her husband's family home in Blackburn. It is by no means certain that even if she had obtained a degree she would have had any long term career. She had tentatively considered a career in journalism. It is a highly competitive field.
- 8 The Claimant suffered a closed head injury with moderate brain damage. She has capacity to litigate and manage her finances and related affairs. But for the accident, she would have been average in cognitive function and have completed her degree.
- 9 The car in which the Claimant was travelling was hit on the nearside at high speed by the Third Defendant's Volkswagen Golf R. In addition to her traumatic brain injury, she suffered complex fractures of the left hip and pelvic region, fractures of the ribs, ruptured diaphragm, grade 3 liver lacerations, fracture of the right wrist, injuries to the neck and shoulder, lacerations and scarring over her body. She underwent significant remedial surgeries. Her recovery was long, painful and involved lengthy periods of immobilisation. She is left with urgency of micturition, incontinence, extensive pain and disability in the pelvic region. Her mobility is significantly reduced particularly in respect of activities involving the left leg. She struggles on stairs, showering, dressing and putting her socks on and her problems are complicated by episodes of headache and dizziness. There is extensive unsightly abdominal scarring. When she has children, she will need a complicated caesarean section requiring obstetric consultant care.
- 10 The Claimant still complains of pain in the neck and shoulders due to soft tissue damage. There is discomfort and restriction of her thoracic spine. She complains of impaired motivation and low mood. She is short of breath on exertion. Her whole lifestyle has altered. She struggles with sleep and fatigue is a major problem. There is some ringing in her ears and altered smell and taste. She still complains of dizziness and headaches aggravated by bright light. She has mild problems with concentration, memory, executive functioning and temperament. Her moods can be low and she has episodes of depression and tearfulness. She is frustrated by pain. She has a chronic pain disorder which responds to treatment. There is a secondary adjustment disorder with which she needs appropriate help from time to time. It is quite clear that her prospects on the open labour market are significantly impaired.
- 11 The Claimant should respond well to multiple therapy, brain injury and physical rehabilitation. She will need some assistance implementing this treatment. She would benefit from some case management input.
- 12 The mediator, Richard Methuen KC, formally retained Counsel by the Motor Insurers Bureau, discussed the prospect of overall settlement of the claim. The Claimant put forward an overall figure for settlement in the sum of £2,237,000. The Defendants made a counter

offer of £1,600,000. She settled for £1,861,000 and upon giving credit for an interim payment of £50,000 and CRU repayment, the net settlement figure was £1,720,000. This was made up as to £125,000 for pain, suffering and loss of amenity. Past loss included earnings, increased home running costs and care costs totalling £41,000.

- 13 The gross amount recovered was £1,861,000 and the net sum after deducting CRU and interim payment was £1,720,000 and all her costs.
- 14 The Claimant's expectations had been in the order of £200,000. She was overjoyed that the whole case was settled on 31 March 2025 and was overcome by the efficacy of mediation resulting in a settlement for a figure way in excess of her expectations. These were modest indeed.
- 15 The mediator and the insurers are to be congratulated for relieving the Claimant of the worry, anxiety, distress and concern of lengthy ongoing complex damages claim which would have taken a further 2 or more years to litigate to conclusion.
- 16 The Claimant had retained medical evidence involving orthopaedics, neurology, plastic surgery, gynaecology, neuropsychology, fertility, trauma surgery, neuropsychiatry and pain management pain. There were reports from care and case management experts and physiotherapist. A number of these had been replicated by the Defendants. The costs of the overall medical and non medical experts would have been gargantuan and the process to trial inevitably slow.
- 17 The outcome highlights many of the benefits of mediation. All parties were reasonably satisfied that the outcome was fair and reasonable.

**Michael Redfern KC**

**Henry Vanderpump**

**May 2025**

**clerk@stjohnsbldings.co.uk**