

IN THE MATTER OF LESLEY DIXON - Solicitor's Clerk

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

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Mr. K.I.B. Yeaman (in the Chair)  
Mr. D.J. Leverton  
Lady Bonham Carter

Date Of Hearing: 10th October 1995

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## FINDINGS

of the Solicitors' Disciplinary Tribunal  
constituted under the Solicitors Act 1974

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An application was duly made on behalf of the Law Society by Geoffrey Williams solicitor of 36 West Bute Street, Cardiff on the 7th December 1994 that on Order be made by the Tribunal directing that as from a date to be specified in such Order no solicitor should except in accordance with permission in writing granted by the Law Society for such a period and subject to such conditions as the Society might think fit to specify in the permission, employ or remunerate in connection with the practice as a solicitor Lesley Dixon of

The Brecks, Rotherham, S65 a person who was or had been a clerk to a solicitor or that such other Order might be made that the Tribunal should think right.

The allegation was that the respondent, having been a Clerk to a solicitor and not being a solicitor had in the opinion of the Law Society occasioned or been a party to, with or without the connivance of the solicitor to whom she was or had been a clerk acts or defaults in relation to that Solicitor's practice which involved conduct on her part of such a nature that in the opinion of the Society it would be undesirable for her to be employed by a Solicitor in connection with his practice in that she forged on a purported affidavit the signature of the deponent and the solicitor before whom the affidavit was purportedly sworn.

The application was heard at the Courtroom, No.60 Carey Street, London WC2 on the 10th October 1995 when Geoffrey Williams solicitor and partner in the firm of Messrs Cartwrights

Adams & Black of 36 West Bute Street, Cardiff appeared for the applicant and Keith Rawlin solicitor and partner in the firm of Messrs. Allan Farrell & Co. represented the respondent.

The evidence before the Tribunal included the submissions of the respondent and exhibit "LD1".

At the conclusion of the hearing the Tribunal made the Order sought and in addition Order that the respondent pay the costs of and incidental to the application and enquiry in the sum of £1,351.25 inclusive.

The facts are set out in paragraphs 1 to 6 hereunder.

1. The respondent who was not a solicitor was at all material times until 8th November 1993 employed as a clerk by Messrs. Oxley & Coward, solicitors. Until about May 1992 the respondent was employed at the firm's Doncaster office. Thereafter she was employed at the firm's office at 34/46 Moorgate Street, Rotherham, S60 2HB.
2. The respondent acted for Mrs R. of Doncaster in a divorce matter. Mrs R. was anxious for progress and, an acknowledgement of service having been filed, it was appropriate for her to swear an affidavit verifying her petition in order to seek a decree nisi.
3. The respondent did not arrange for Mrs.R to attend upon a solicitor or court official to swear the affidavit. She forged on a form of affidavit both the signature of Mrs R. and the signature of a solicitor who purportedly swore Mrs R. to her affidavit. That solicitor was at all material times an assistant solicitor employed by a firm of solicitors at Rotherham. The solicitor had nothing whatsoever to do with the matter and certainly had not attended upon Mrs R. By letter of 14th January 1994 the solicitor complained to the Solicitors Complaints Bureau about the conduct of the respondent.
4. Before it the Tribunal had a copy of the purported Affidavit. The respondent caused it to be filed with the Doncaster County Court and a subsequent appointment before a District Judge proved necessary to resolve the difficulties caused thereby.
5. Messrs. Oxley & Coward dismissed the respondent on 8th November 1993.
6. Having investigated the matter the Adjudication and Appeals Committee of the Solicitors Complaints Bureau resolved that application should be made to the Tribunal for an Order pursuant to Section 43(2) of the Solicitors Act 1974 in respect of the respondent.

#### **The Submissions of the Applicant**

7. It was to the respondent's credit that she had been very full and frank in her explanation and apology. The applicant did not allege that the respondent had been guilty of a course of conduct and believed that this unfortunate incident was an isolated one. It was however a serious transgression. The respondent had in forging the affidavit deceived the Court, the client, and another party in the proceedings. She had forged the signatures of both her client and another solicitor. The document so prepared purported to be an affidavit and it was not.

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8. An Order made pursuant to section 43 of the Solicitors Act 1974 was not a punitive one but a controlling Order. It was right that the Law Society should be in a position to ensure that the respondent might work only where she was properly supervised, indeed it might well be that the element of control could benefit the respondent. It was however essential for the protection of the good name of the solicitor's profession and for the public that the Order should be put in place.

### **The Submissions of the Respondent**

9. Mr. Rawlins who represented the respondent told the Tribunal that she previously had been an employee of his. She had proved a very satisfactory member of staff and he was concerned that she had been badly treated and he had taken it upon himself to look after her without payment.
10. The history of the respondent's employment with Messrs. Oxley & Coward had begun with her being very happy whilst working at the Doncaster office. She believed she was fully in control of her section and had no problems despite being busy, she had a manageable workload.
11. Whilst at Doncaster office she had accepted instructions from the matrimonial client Mrs R. She was being dealt with with the aid of "green form" Legal Aid. She was an extraordinarily difficult and demanding client.
12. Messrs. Oxley & Coward decided to close their Doncaster office and the respondent continued her employment with the firm at the Rotherham office. It was that move which was at the root of all of the respondent's problems.
13. The office at Rotherham was in the view of the respondent less well organised than at Doncaster. Mrs R., the client, did not take kindly to the move. She believed she should be seen by the respondent at her home. She was not prepared to travel to Rotherham. She would not accept discussions in an interview room at the Court as she did not consider that to afford her sufficient privacy. The Legal Aid Board would not have sanctioned extensions to the green form assistance to deal with home visits. That had been a very worrying aspect of the matter for the respondent.
14. The demanding nature of Mrs R. could not be over-exaggerated an example of which arose when the respondent had been paged at court to take a telephone call only to find it was Mrs R. who had telephoned the court demanding an update on the progress of her matter when the respondent had given her a detailed explanation only a day or two before.
15. Whilst subjected to great pressure by a difficult and demanding client, the respondent was having to cope with a number of other difficulties. When she was first moved to the Rotherham office, she was not housed in the same building as the litigation department for some time. When she moved to Rotherham the department contained eight fee earners made up of a partner, three assistant solicitors, two trainee solicitors and two clerks. There followed a number of changes in the staffing of the department. First the partner moved to the firm's Sheffield office in January 1993. He took his workload with him. An assistant solicitor left in 1993, his workload was divided and

the respondent had to deal with a share of it. The second assistant solicitor left in December 1993 and again the respondent took on a share of his workload. One of the trainee solicitors had moved with the partner to the Sheffield office. The department which had started with eight fee earners had contracted to be left with only three although the workload had not contracted accordingly. The respondent was in addition expected to progress work of members of staff who were away on holiday.

16. The agency department had become increasingly successful and at the time when the respondent left Messrs. Oxley & Coward she had handled 375 agency hearings. Her average day gradually became what she described as a "working nightmare" in that her mornings were spent at court and her afternoons were taken up with telephone calls and seeing clients. She found she had very little time to undertake paperwork and consequently began to fall behind. At first she kept on top of things by taking work home but she became too tired to continue with that.
17. The respondent had difficulty sleeping as she was constantly worried about work and had difficulty concentrating on more complex matters at work.
18. The respondent believed she should have looked for alternative employment but she and her husband were in the process of selling their house and buying another and she did not want to prejudice their mortgage application. She hoped that things would improve.
19. The respondent also was concerned about her own mother who had been looking after her elderly grandmother, which was taking a toll on her mother's health.
20. At the time when the respondent forged the affidavit she had been under increasing pressure from the client. She simply did not have the time to see Mrs R. to complete the application. At the time she had lengthy trials at Grimsby and Doncaster and knew it would be three or four weeks before she would be able to see Mrs. R. who would certainly have complained a great deal about that.
21. The respondent could not believe that she could have done such a thing and could never have envisaged that she could have behaved in what she described as "such a disgraceful way".
22. The respondent had not been able to obtain employment within the legal profession because of the subject matter of the proceedings and the fact that the proceedings were extant. She had gained employment working in a shop and as a result had to accept a substantial drop in salary.
23. Mr. Rawlins told the Tribunal that he would be extremely happy to offer the respondent employment if he had a vacancy, unfortunately in times of recession he was not in a position to create a new job. The attention of the Tribunal was drawn also to a letter written in support of the respondent by another local firm of solicitors.
24. It was further drawn to the attention of the Tribunal that a partner of Messrs. Oxley & Coward had appeared before the Tribunal earlier in the year to answer allegations which included misleading a client. The respondent had told the firm that her workload was unmanageable. She had not received any assistance.

The Tribunal FOUND the allegation to have been substantiated; it was not contested.

The Tribunal find this a sad case. It was clear that the respondent had been a competent and hard working solicitor's clerk. It was not difficult to understand that she was unsettled by an office move imposed upon her, which in turn was followed by a number of staff changes after which she became involved in taking over files handled by others and no doubt some of those might not have been dealt with as well as they might have been. The Tribunal recognises that taking over other peoples files is a considerable burden and that was coupled with the unreasonable demands and really insufferable behaviour of a particular client. It has to be said that there is no pressure which would excuse the forgery of the signature of another and the misleading of the Court. That was, as the respondent herself recognised, an extremely serious matter.

The Tribunal has in the past expressed serious concern that the workload of junior members of staff is not always as closely monitored by firms of solicitors as it should be. Junior members of staff, however unpalatable it may be, must always leave their employers in no doubt whatsoever if they find their workload overwhelming. The employee must also take a very firm stand if he or she find that a difficult and demanding client is affecting the way in which they tackle their work. It is hoped that firms of solicitors and their staff will always give due consideration to such difficulties because ultimately if they are not resolved it is the clients whose affairs suffer, and on the way there are casualties of the situation as was the respondent in this matter.

The Tribunal feel considerable sympathy for the respondent and accept that her unfortunate actions in no way benefited her. The Tribunal accept that she behaved entirely out of character. The Tribunal greatly appreciated the attendance of Mr. Rawlins on the respondent's behalf. The Tribunal welcomed the respondent's frankness.

It was however right that the Tribunal should make the Order permitting the respondent to be employed by solicitors only with the consent of the Law Society first obtained. The Tribunal was aware of the respondent's financial situation, but it was right that she should pay the costs of and incidental to the application and enquiry and made that Order after accepting the assurances of the Law Society's representative that his client would be entirely co-operative and helpful should the respondent wish to make payment by instalments.

DATED this 6th day of November 1995

on behalf of the Tribunal



K.I.B. Yeaman  
Chairman

Findings filed with the  
Law Society on the 13th  
day of November 1995

