

## Architect's Car – Exempt or Not?

A local authority recently received representations from an architect claiming her vehicle was exempt from seizure as it was a **tool / vehicle necessary for use personally in her business employment**. The lady claimed she needed the vehicle to get to her office and to carry out site visits.

In order to satisfy our client that the seizure was valid we undertook some research and came up with the following interesting facts -

It has been held (*Sheriff of Bedford & Toseland Building Supplies Ltd v Bishop 1993*) that if a tool was occasionally used by another person then it is not protected. (Therefore if anyone else ever drives the debtor's vehicle then it is not exempt).

Furthermore Motor Vehicles are only treated as a necessity in exceptional cases. The vehicle will be needed by the debtor to continue a job or business or to get to work and there will be no reasonable alternative.

In *Burns v Christianson 1921* a chauffeur claimed that the car he used for his business was exempt from seizure. The court held against him by strictly interpreting the words of the legislation trade is not synonymous with business, occupation or employment and includes only the occupation of one who is a mechanic and works at manual labour with the aid of tools, and is not one who conducts the business of contractor, manufacturer or merchant. Thus in the case of the claimant the occupation of chauffeur was not a trade and a car was not a tool. The court also added that the aim of the exemption was **NOT** to protect expensive chattels.

A motor vehicle will NOT be regarded as exempt from seizure where the debtor's contract of employment neither requires the employee to have a car nor defines the person's duties as involving the use of one. In *Goldsmith v Harris* the claimant was a manager in a house building firm and used his car to travel from

site to site within the area where he supervised the construction work. The vehicle was claimed as a necessity but it was not required by the terms of his contract nor was it essential because of the nature of his occupation. The Judge held.. "The mere statement that a person is a manager of a building company does not import that a private motor car is necessary. It is only after special evidence is given to show special circumstances relating to a particular position, which involves special duties, that one may say that the work cannot be done without a motor car." The debtor may suffer inconvenience, but that was a matter for arrangement between him and his employer and was not a concern of the judgement creditors.

**In Summary** - it is quite a common claim for debtors to believe that their car is essential for their work. In reality a vehicle is usually more a convenient (rather than an essential) mode of transport. If a copy of the debtor's contract of employment and job description could be produced clearly stating that s/he must use her own vehicle to perform the duties then the levy would need to be withdrawn. If, however, the documents merely state she must make site visits then the levy is good and valid.

When given the above facts it is quite clear that the vehicle was not exempt in law. The lady's primary task of work is to produce drawings at her head office and she had alternatives that would enable her to undertake site visits as required. We hope Local Authorities find the information in this article useful when faced with similar claims in the future.



# Jacobs News

## Certificated Bailiffs

[www.jacobsbailiffs.co.uk](http://www.jacobsbailiffs.co.uk)

Issue 5 - September 2007



Pictured above are the Partners: Dave Cornes, Paula Jacobs & Simon Jacobs at the Staff Awards 2007

The largest event to happen in bailiff law for years is the enactment, finally, in July 2007 of the Tribunals Courts and Enforcement Bill – this follows some 10 years after the Lord Chancellor ordered a Review of Civil Enforcement. Work is already ongoing in respect of the Regulations that are anticipated to be introduced in April 2009.

A summary of a couple of key issues are included in this edition and we hope you enjoy our latest publication.

**Simon Jacobs, Paula Jacobs and Dave Cornes**

## Tribunals Court & Enforcement Act 2007

<http://www.justice.gov.uk/docs/TCEbill-policy-statement-delegated-powers.pdf> <http://www.justice.gov.uk/docs/TCEbill-policy-statement-delegated-powers.pdf>

Civil Servants are busy working on the draft regulations that are due to be issued for consultation in Autumn 2007. The draft regulations will be based around the Ministry of Justices "Delegated Policy Statement on Delegated Powers" for the Act which can be found at the HYPERLINK above.

The main aspects involving bailiffs are included in pages 24-36 of the Policy Statement but there are two key areas that need serious consideration –

### Three Month Rule

1. It is suggested that the local authority will have to go back to court every three months and apply for an extension to the liability order where the bailiff hasn't (a) received payment in full or (b) taken control of goods (by way of controlled goods agreement, securing them on the premises or removing goods).

Such a ruling would not only use up valuable court time and Council staff administration resources but also slow down recovery and reduce the effectiveness that you experience with current working arrangements. It would also place additional pressure on bailiffs to act in a firmer manner for those debtors less able to meet payments within a short period.

In our opinion the minimum timeframe should be 12 months - if at all - to mirror the current regulations for the "life" of a Road Traffic Warrant.

### Upfront Fee

2. An "Upfront Fee" is proposed payable to Bailiffs by Local Authorities. Such a fee may force Councils to re-think whether they use External Bailiffs at all due to the cost implications. The Government's thinking is that an "up-front" fee will improve the quality of cases issued to the bailiff however it is often only as a result of bailiff action that "gone aways", "vulnerable groups" and "other cases" - eg "not liable" are identified. In other words Councils do not always know that a debtor's circumstances have changed until the bailiff calls and this fact won't change with the introduction of an "up front" fee.

Councils do not currently have the budget for the up front fee and, if introduced, will mean in order to continue to use external bailiffs then the burden may have to be shared amongst all Council Taxpayers.

### Summary

At Jacobs we were entrusted with over £50 million of debt last year and collected £27 million for our clients – "bailiffing" is an effective way to coerce payments for local authorities and we need to protect the powers that we currently enjoy.

We will, therefore, continue to liaise with our clients in respect of draft regulations and consultation papers that may need responding to. The fact is that using external bailiff works well for local authorities in England and Wales and contributes significantly to excellent collection rates when compared to Scotland where the threat of removal of goods is not allowed anymore.

## Business Development Manager's Update - Paul Kelly IRRV MESA



Over the last 3 months Jacobs has experienced further success in local taxation, road traffic and sundry debtors sectors.

In respect of local taxation we have been appointed by St Helens MBC and re-appointed to work for Knowsley MBC. Our Road Traffic appointments include the London Borough of Barnet, Calderdale and Wolverhampton Councils. For Sundry Debts we recently signed a service agreement with Penwith Council in Cornwall. These appointments further cement our pledge that we are able to provide a variety of services nationwide.

We will not rest on our success and intend to further enhance our Business Development Strategy over the coming months – the Partners and myself are very keen to be able to speak / meet with prospective clients in order to relate why we feel our firm offers a unique service for our clients. Any service development plan has to

be backed up with excellent service delivery and this is emphasised by the fact that in respect of local taxation contracts we currently enjoy a 100% retention rate.



On a personal note I was very pleased to speak at the recent Staff Awards which is reported elsewhere in this newsletter. The fact that delivery of a couple of papers was given by experienced professionals from outside Jacobs only added to the impact and benefit of the day for our bailiffs.

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## Forthcoming Conferences

Jacobs will be present at the following Conferences and hope to meet with you if you are in attendance –

**9th – 12th October 2007 – Stand 16 IRRV National Conference in Brighton** (Pictured at a recent conference Bob Trahern Vice President of IRRV and Paul Kelly).



Should any prospective client wish to contact Jacobs to discuss our services further please contact Paul Kelly on: Tel: 0151 650 4988 Email: [pk@jacobsbailiffs.co.uk](mailto:pk@jacobsbailiffs.co.uk) Alternatively write to Paul at: 4 Europa Boulevard, Birkenhead, Merseyside, CH41 4PE

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# Partner's Presentation & Staff Awards 2007



The Speakers at the Bailiff Training Sessions - Paul Kelly, John Lee, Keri Gibney, Frank Lamb & Sharon Williamson.



Paul Kelly delivering the latest on Bailiff Law Reform



Dave Cornes co-ordinating a Bailiff Workshop



The 3 Partners of Jacobs with guests Alan & Cora Jacobs



Dave Cornes delivering the Partner's Annual Presentation

## Bailiff Training

Proceedings commenced on the Thursday afternoon when the Partners held a training session for all bailiffs in respect of the new "Digital" or "Magic" Pens. The logistics of changing over 100 mobile telephones and data memory was overcome and examples of how to use the new style forms was demonstrated.

The Friday morning was split into 2 parallel sessions – Bailiff workshop sessions co-ordinated by the Partners to share "good practice" amongst colleagues and a training programme covering

- *Bankruptcy and Process Serving of Documents* by Sharon Williamson (DWF Solicitors) and John Lee (Horsfields)
- *Bailiff Law Reform Update* by Paul Kelly (Jacobs)
- *HR and Health & Safety for Bailiffs* by Keri Gibney (Jacobs)
- *What Clients Demand and Expect from Bailiffs* by Frank Lamb (BT/Liverpool Direct Ltd)

Simon Jacobs explained "The training was very well received by our staff who appreciated the knowledge, experience and variety the speakers could share. From our perspective it is good for morale and team building that we can bring together a mix of internal and external trainers to deliver to all our bailiffs during the morning."

"The workshops also worked extremely well as good practice was shared openly and freely by both the Enforcement and the First Call Bailiffs. Although we are satisfied with the level of performance achieved by the top performers we wanted to facilitate something whereby that everyone had the opportunity to pick up some tips that will enhance their own performance. This in turn helps our collection levels and quality service for clients."

## Partner's Presentation

The Partner's Presentation was given by David Cornes. David reported on steady market growth over the last 9 years and that the firm currently has 96 local authority clients. He reported on the success of Jacobs in winning 2 out of every 3 tender bids in the last 12 months. David said "Our client base confirms that we are a truly nationwide firm and with 100% retention rate at contract renewals bodes well for the future development."

David also explained that future bids will reflect the Business Strategy of the firm whereby Jacobs only bid for work where excellent service delivery can be provided.

David emphasised the points made earlier in the day by Frank Lamb in respect to the quality issues required by clients including details of proof that a debtor has gone away and finding out employment details wherever possible.

He explained the importance of the awards day and that all shortlisted staff should be proud of their achievements. It should also act as an inspiration for others to work hard and aspire to be nominated in future years.

Other aspects of the presentation included a report of the improved collection rates for each type of debt, the best performance rates for bailiffs and the plans for future expansion.

The address concluded with David reviewing the impact of the BBC TV "Whistleblower" programme and how it had enabled us to emphasise to prospective clients some key areas of work that we had previously taken for granted – for example the abandonment rate for incoming calls from debtors being as low as 1% is excellent when compared to most other call centre facilities. David explained "This means that when a debtor telephones our offices we are there to answer the call – once you have the debtor on the line it is likely that you can turn that contact into a payment arrangement over a short period."

## Dinner / Staff Awards

The staff enjoyed a 4 course meal and this was followed by an impromptu fun game of "Heads and Tails" where all persons have to stand up and touch their heads or backside – a coin is tossed and only those who guessed correctly remain standing. Ultimately you are left with only one winner – Andy McDermott – who received a bottle of champagne.

The serious business of rewarding staff performance followed. Winning staff were given "Red Letter Day" gifts so that their partners could enjoy entertainment of their choice later in the year.

Presentations were made in several categories –

**The Best Enforcement Bailiff** was closely contested with **Derek Jones** winning the award. He achieved an average of over 100 paid in full cases per month throughout the year.

**The Best 1st Call Bailiff** was won for the second year running by **Ian Cottam** from the Lake District. Ian's monthly performance averages were 139 Levies and 100 Part Payments.

**The Office Employee of the Year** went to **Christine Dempsey** on Client Liaison for her excellent workrate and productivity.

**"Rising Star" of the Year** went to **Denise Lewis** who has improved greatly and is one of the mainstays on the Client Liaison Team.

**The Manager of the Year** went to **Joanne McGarry** who oversaw a great transition in Council Tax administrative issues and the **Team of the Year** was given to **Council Tax & Client Liaison**.

David Cornes said "Although the winners predominantly came from Client Liaison it is important to note that persons from all sections were short-listed and received consolation prizes. This proves that there is a good all-round contribution to the Jacobs success."

Simon Jacobs added "There are significant benefits to the firm in rewarding those who contribute the most to our success throughout the year. It is pleasing to see staff enjoying themselves and getting to know each other in less formal surroundings."

After the awards the partners of staff joined the gathering and entertainment was provided until late in the evening.

### Comment from One of the Speakers

"The invitation to do a presentation to Jacobs Bailiffs was an excellent opportunity to advise on the expectations and demands of the Council. I was genuinely impressed at the knowledge of the bailiffs who all showed a commitment and desire to meet the client's performance standards as well as meeting the very high standards of conduct set by the company.

The information I provided concerning the pressures of Local Authorities in the area of Council Tax collection was well understood by all and the questions asked demonstrated the attentiveness and real knowledge of the subject matter.

The day was also very informative for me as I came away with a clear understanding of the professionalism, ability and dedication to the task that the bailiffs have for achieving the results for their clients. I was also impressed by the commitment of the company to deploy new technology, training and evaluation and the investment made on the whole event. It was very pleasing to see the proper importance given to subjects such as health and safety and green issues including reducing carbon footprint. These areas are also very important to the Council and it is always gratifying that our agents share in our emphasis of these important topics.

I thoroughly enjoyed the day and appreciated the opportunity to relay information from the Council which I trust was insightful and interesting. I was also left assured that the high standards demanded by the Council were employed by the company and the bailiffs."

**Frank Lamb, BT / Liverpool Direct.**



Staff relaxing after the Awards Dinner



Staff enjoying a game of "Heads & Tails"



Enforcement Bailiff winners with Simon Jacobs



The "Team of the Year" with the Partners



Individual Prizewinners with the Partners