**Court of Appeal uphold Judgment of £1.5 million damages**

**against a man who murdered his wife during financial relief proceedings**

**Ian Garth Workman v. Carol Ann Forrester & Others [2017] EWCA Civ.73**

[Stephen Killalea QC](http://devereuxchambers.co.uk/barristers/profile/stephen-killalea)and [Peter Edwards](http://devereuxchambers.co.uk/barristers/profile/peter-edwards)successfully represented the Claimants/Respondents in the Court of Appeal, resisting an Appeal by the Appellant/Defendant, Mr Ian Workman, against a Judgment of £1,503,579 plus interest and costs in favour of the Claimants. An Appeal against a Worldwide Freezing Order granted in the Claimants’ favour was also successfully resisted.

The Judgment of the Court of Appeal (McCombe LJ, Sharp LJ and Thirlwall LJ) was handed down yesterday. A full copy of the Judgment can be read [here](Workman%20v%20Forrester%20(final)%20Judgment.doc).

The background to the case was the murder by Mr Workman of his wife, Susan, on 7th April 2011. At the time of the murder Mr Workman and his wife were engaged in ongoing financial relief proceedings arising out of their bitter divorce. The Final Disposal Hearing (FDR) - at which the amount of the award would be determined by the Court - was scheduled for 6 weeks later. It was anticipated that Mr Workman would be ordered to pay his wife a sum in the region of £1.5 million if the FDR had taken place.

Shortly after a failed Mediation Hearing Mr Workman broke into the former matrimonial home and stabbed his wife in the chest with a kitchen knife. She died almost instantaneously. Mr Workman then stabbed himself in a failed attempt to claim self-defence. An unusual feature of the case was that Mrs Workman opened up her laptop when Mr Workman broke into the property and typed-up the abusive comments that he was making. The text typed by Mrs Workman comes to an abrupt end when Mr Workman stabbed her to death.

Mr Workman was subsequently convicted of his wife’s murder in the Crown Court in Preston and sentenced to life imprisonment, with a minimum custodial term of 17½ years.

Having murdered his wife, the relevant statutory provisions, and existing case-law, suggested that Mr Workman would be entitled to retain the sum of £1.5 million that he would have had to pay to his wife had he not murdered her.

Stephen and Peter were instructed to find a way to ensure that this obviously unjust outcome did not prevail. Utilising various causes of action and damages arguments - described throughout by the Judiciary as *“innovative”* and “*novel” -* and ignoring conventional precedent, they engaged every legal weapon, from ***Dr Crippen’s case*** in 1882 onwards, to seek to deprive Mr Workman of the unjust gains of murdering his wife. Most pertinently, could the Forfeiture Rule be used as a sword to take away Mr Workman’s assets rather than, as previously, a shield to prevent Mr Workman from inheriting Mrs Workman’s fortune? Many respected minds who were consulted cried *“no*” – reciting the conventional mantra “*Equity is a shield and not a sword*”.

Undaunted, and at the same time as launching the novel claim, a successful Application was made to freeze Mr Workman’s Worldwide assets. No confidence that the murderer would not take extreme steps to avoid paying any Judgment against him. The Freezing Order contained the standard provision for Mr Workman to serve an Affidavit listing his Worldwide assets.

The multi-millionaire murderer was less than keen to disclose the details of his assets to the Executor of his murdered wife’s Estate (her sister) or to his 2 estranged sons. So, he failed to make any attempt to comply with the disclosure provisions of the Freezing Order.

Less deliberately, Mr Workman was late in submitting his Defence to the claim, resulting in a Default Judgment on liability. An important, but potentially hollow, victory as, on conventional principles, damages could be limited to funeral expenses of £3,579.

The next question was how to seek to compel a convicted and imprisoned murderer to comply with a Court Order to disclose details of his assets.

With no prior legal precedent – an Application for an Unless Order with the default provision being the entering of Judgment on Quantum for £1.5 million, without the sum being proved. The question was, was it contrary to the basic requirement that losses must always be proven (see the Court of Appeal Judgment in ***Lunnun v. Singh [1999] CPLR 587***)?

The District Judge requested by the Claimants to make the Unless Order agreed that the Court had the jurisdiction to do so (relying on ***JSC BTA Bank v. Ablyazov (No.8) [2013] 1 WLR 1331, CA***) and that the Order was the best/only option to enforce compliance with the disclosure obligations in the Freezing Order.

Even against that draconian threat, Mr Workman still did not comply with the Unless Order, resulting in Default Judgment on Quantum for £1.5 million plus interest plus costs being entered.

Mr Workman applied to have the Judgment set aside. The Application to the District Judge was refused, as was his Appeal to the High Court Judge (HHJ Butler) together with a dozen more hearings instigated by Mr Workman. Hence, the Appeal to the Court of Appeal.

The Court of Appeal yesterday dismissed Mr Workman’s Appeal, holding that, whilst never previously utilised in that form, the Court had an inherent and statutory jurisdiction to make the Unless Order with a view to ensuring compliance with its own Orders. There was no viable alternative option against an imprisoned Claimant where Contempt proceedings would be toothless. Mr Workman’s flagrant breach of Orders of the Court justified the unique procedural step. The Default Judgment in the sum of £1.5 million was upheld.

In a separate Judgment, also delivered yesterday, the Court of Appeal rejected Mr Workman’s attempt to set aside the Freezing Order at a Return Date so long after the original Order was imposed.

Both the case generally and the Appeal has received extensive media coverage. Click to read coverage from [BBC](http://www.bbc.co.uk/news/uk-england-lancashire-39040548) [Daily Mail](http://www.dailymail.co.uk/news/article-4245674/Millionaire-killer-ordered-pay-two-sons-1-5m.html) [Manchester Evening News](http://www.manchestereveningnews.co.uk/news/greater-manchester-news/multi-millionaire-car-dealer-who-12634938)

Stephen and Peterwere instructed by Slater & Gordon UK LLP (Hefin Archer-Williams) and previously Fentons (Mark McGhee and Angela Dobbs)