

Compass Chambers



Problems and pitfalls of
litigation,
and how to (try to)
avoid them

Steve Laing & Gavin Thornley

Steve & Gavin:
In Conversation

Steve & Gavin: In Conversation



How not to f**k
your case up



How not to f**k
your case up
(any more than it already is)



Effective communication



Effects of lockdown and “Working From Home”?



Preparation of your case

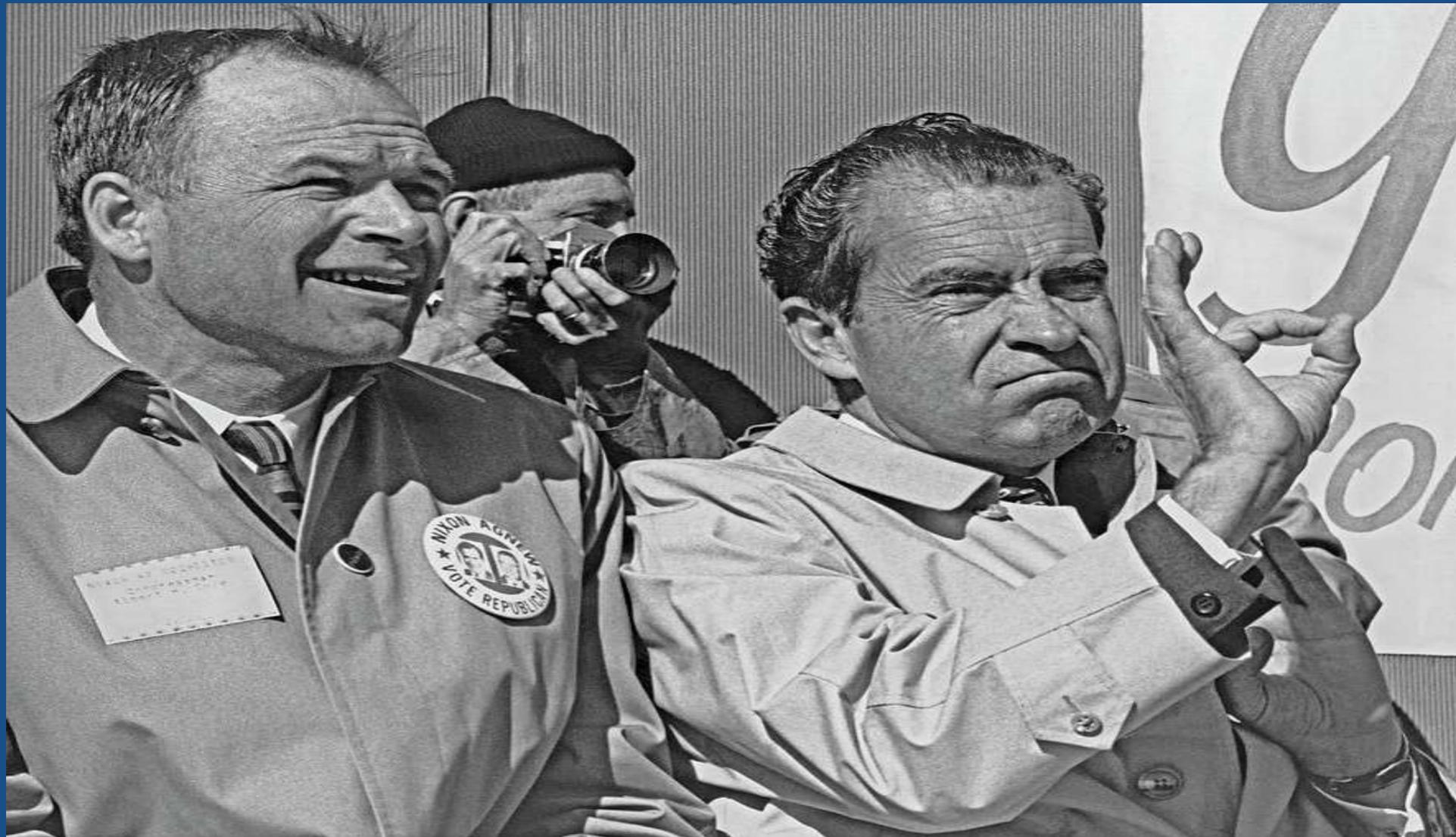


*Ask your client
(Pursuer or
insured), factual
witnesses and
experts*

Preparation of your case



Preparation of your case



Don't assume you know or understand!

Active listening



*The
“Daft
Laddie”
approach*

Admission of liability

A binding obligation

or

*an extrajudicial
admission???*



Withdrawal of admission of liability

Van Klaveren v Servisaor UK td 2009 SLT 576

Mather v Easyjet 2022 SLT 631



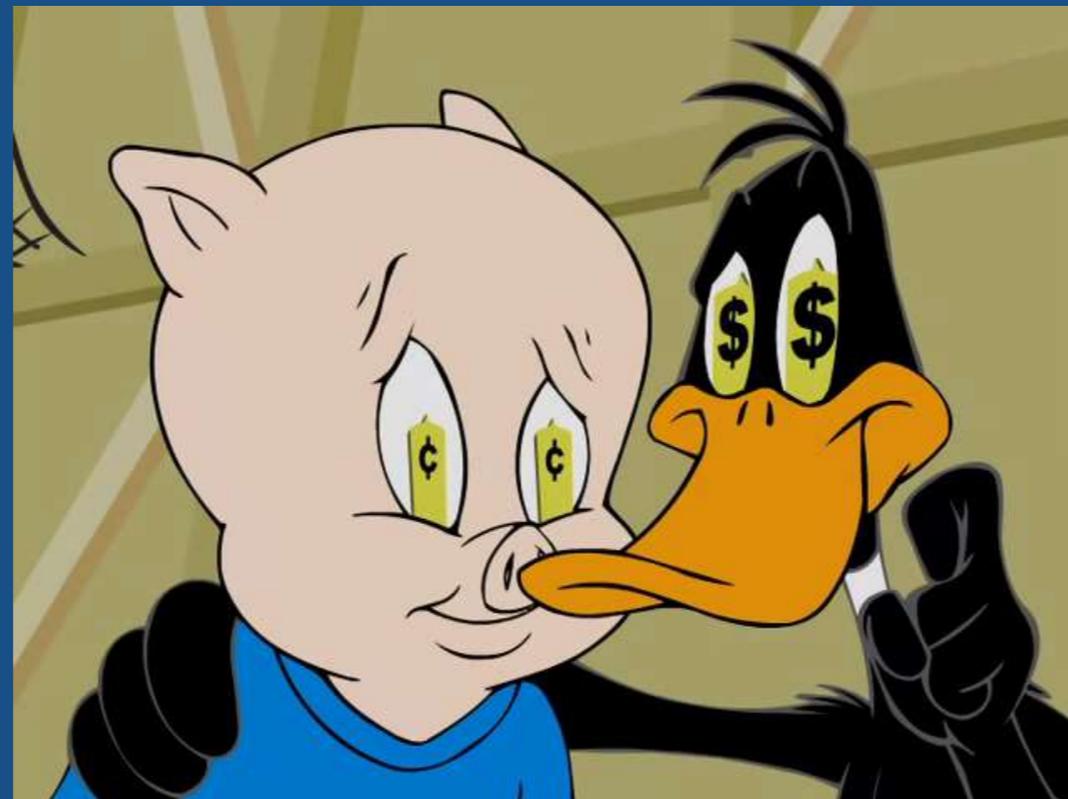
Managing the Pursuer's expectations



Managing the Pursuer's expectations

“What’s my case worth?”

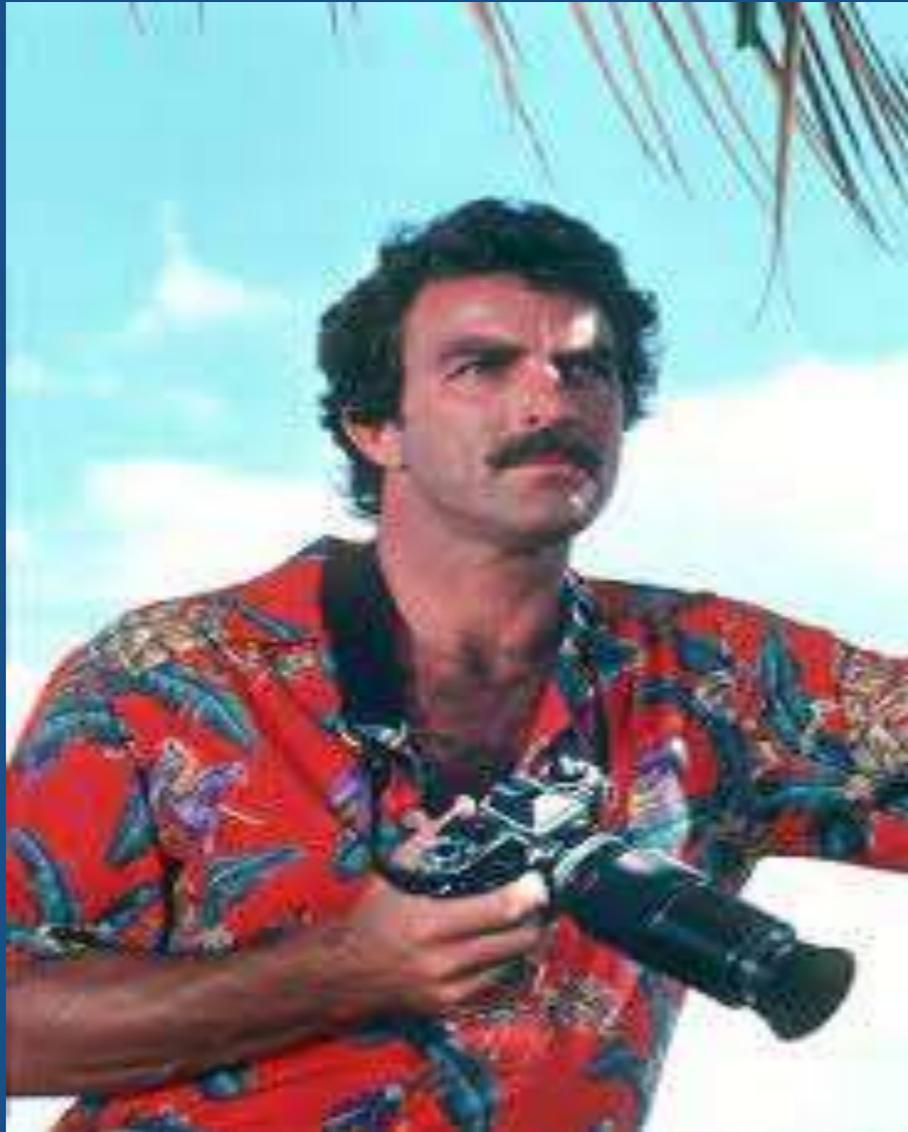
*Statements of Valuation of Claim
and Schedules of Damages*



Managing the insurer's expectations



Surveillance: video and social media



[Princ](#)
“To forewarn or not to forewarn?”
That is the question

When to confront the Pursuer with the footage or social media?



“I can see!! I have legs!!”

Surveillance

Is there an alternative explanation ?



“Good days. Bad days”

AB v Inverurie Skip Hire
2019 Rep LR 96

*Recovery of all footage and
PI reports?*

Surveillance

Is there an alternative explanation ?

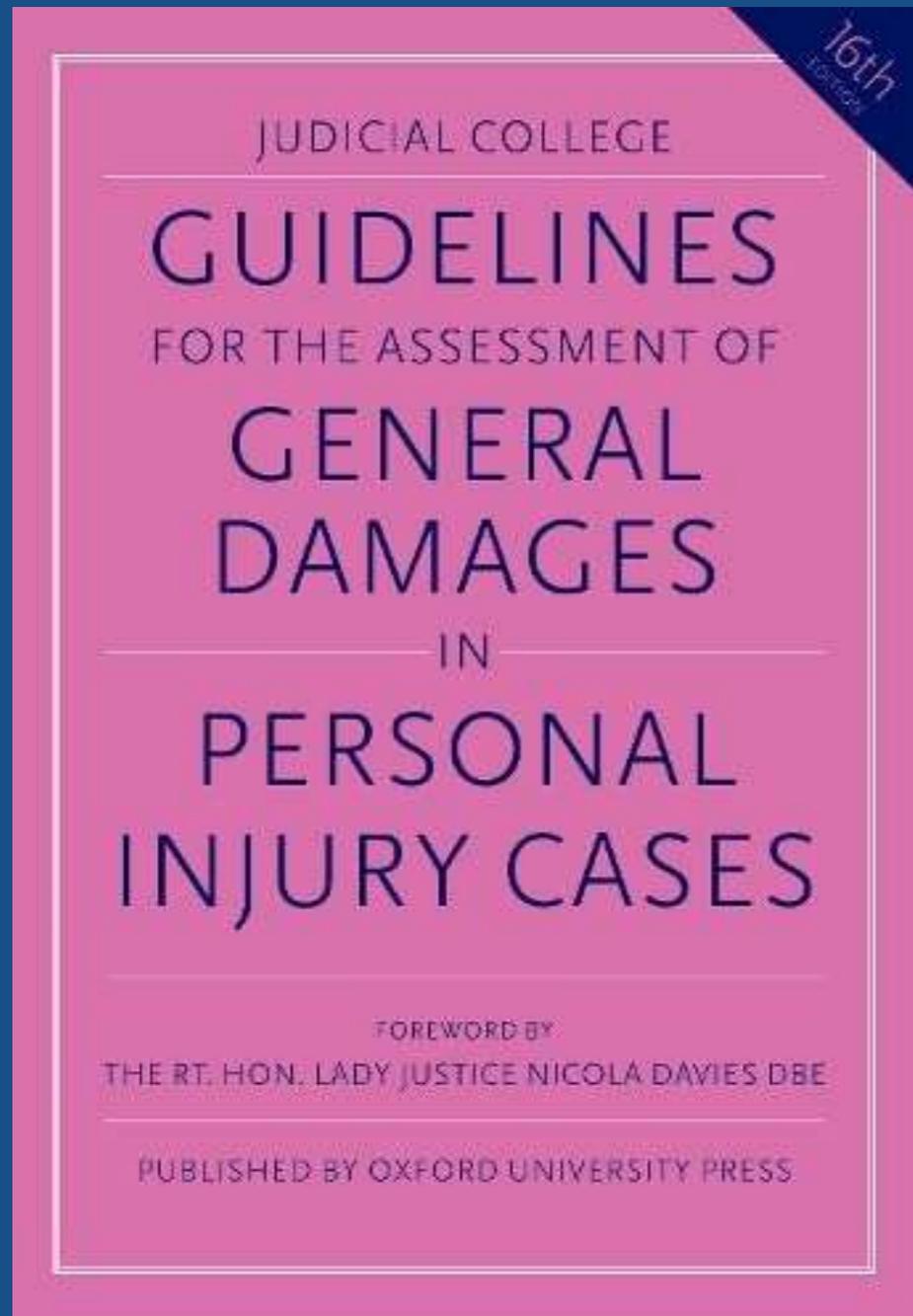
Mistaken identity?

A.I.?!



[Princ](#)

Solatium and inflation



*16th Edition (Apr 2022)
took into account general increase in
RPI over period since 15th edition
(Nov 2019) of 6.56%*

Blair v Jaber 2023 EW Misc 3 (CC)

Loss of earnings

*Pre-accident “cash in hand”
with no deduction for tax or NI*

Newman v Folkes 2002 EWCA 591



Loss of earnings

Pursuer sets up limited company

Director's salary and dividends

Wife is co-director with share of profits

Ward v Newalls Insulation 1998 PIQR Q41

Rix v Paramount Shopfitting [2020] 4 WLR 123



Loss of life expectancy



*Due to accident
or industrial
disease?*

*Due to
comorbidities?*