

Law Society of England and Wales v Schubert Murphy (A Firm) [2017] EWCA Civ 1295

The Court of Appeal has rejected an application by the Law Society to strike out a claim for negligent misstatement brought by a firm of solicitors who relied on the Law Society’s “Find a Solicitor” website facility. Matthew Thorne acted for the successful law firm, Schubert Murphy.

In the course of a transaction, Schubert Murphy checked Law Society’s well-known “Find a Solicitor” facility to ensure that the solicitors on the other side of the transaction were genuine. The Law Society’s website confirmed that they were. Schubert Murphy accordingly accepted an undertaking from them and transferred the purchase funds. In fact, they were fraudsters and absconded with the money. Schubert Murphy was sued by its client and settled the claim. It then sought to recover its losses from the Law Society directly and/or under the Civil Liability (Contribution) Act 1978.

In what may surprise many unsuspecting users of the Law Society’s website, the Law Society sought summary judgment and/or strike out on the basis that it owed no duty of care to users of the “Find a Solicitor” facility.

Its application was rejected at first instance by Mr Justice Mitting ([2014] EWHC 4561; [2015] PNLR 15), who noted that the Law Society’s position called into question the security of current conveyancing practice.

On appeal, the Court of Appeal has like wise rejected the Law Society’s application, noting that:

“the Law Society specifically encouraged the use of the facility to find solicitors rather than licensed conveyancers or other professionals and did not recommend any other checks. By choosing to provide the facility, and in the light of the nature of the facility... I consider that it is arguable that the actions of the Law Society, which has control over the registration of solicitors, created the risk that it would be relied on and the opportunity for fraud and did so in a way going beyond the confines of its statutory regulatory obligations”.

The Court stressed the need for a “full factual inquiry”.

The judgment is available [here](#).