

**FOIL**

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## COMMENT

### Supreme Court encourages lying to insurers **Duncan Rutter**

The Supreme Court's decision several days ago in [Versloot](#) is perfectly logical but does nothing to discourage fraud.

There are three types of fraudulent first party claims: those that are wholly fabricated; those that are genuine but fraudulently exaggerated; and claims that are justified but dishonestly embellished by collateral lies, or so-called fraudulent devices.

By a four to one majority, the Supreme Court held that only the first two types would result in the whole claim being defeated. In the third type, collateral lies - whatever one might think of them morally - are irrelevant and cannot be relied on to defeat the claim.

Lord Sumption noted that it had been submitted to the court that there was "little empirical evidence that the [fraudulent devices] rule was an effective deterrent to fraud". Yet Lord Mance's approach chimes with the views of the insurance fraud task force.

In its report from the beginning of this year, the task force said many consumers perceive that "it is necessary to negotiate with insurers at ... the claims stage. This can lead to consumers providing overly optimistic valuations or exaggerating claims in expectation that insurers will try to haggle down the settlement. Many consumers do not recognise that this behaviour is dishonest despite being at risk of submitting fraudulent claims ... the normalisation of fraudulent behaviour is socially corrosive and undermines social cohesion by eroding trust."

In other words, many consumers regard lying as a normal part of the claims process. The problem at the heart of insurance fraud is a culture that sees no wrong in telling lies to promote a claim.

If Lord Mance is right, this latest Supreme Court decision will only serve to encourage the very behaviour that the task force is trying to stamp out.

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