



# District Court Slams Taxi Operator

In a decision handed down on 10 November, 2011, Judge Robin of the District Court rejected an appeal by a Taxi Operator, which related to a motor vehicle accident involving one of the operator's cabs.

The operator had been joined as a party to the original claim by the driver, who was being sued by the insurer of the innocent vehicle. The operator alleged that the driver had not properly completed his bailment agreement, and so no protection was afforded to the driver in this case.

The driver consented to judgment being entered against him by the other party, and a trial ensued over the nature of the legal relationship between the operator and his driver.

The trial revealed sloppy practices by the operator, and an assertion that he had "lost" the original document in a flood that had occurred at his base. The driver claimed he was protected by insurance because he paid a certain amount each shift for "loss protection". The operator's case was that there was no such protection as there was never a signed agreement, nor any insurance excess paid.

The operator's case was rejected by a magistrate, although allowed the extent of the \$1000 excess not paid by the driver.

The operator appealed the decision to the District Court. The appeal was rejected by the court. In so doing, the court was "unconvinced" about the operator's view of events. Further, the court said that the modern approach is to try and uphold agreements, even if they are uncertain, but that a common sense approach was required. Here, common sense dictated that the driver would be protected.

This case illustrates the importance of bailment agreements (now compulsory in Qld) being properly drafted and clear, to ensure proper protection for operators and drivers alike. However, proper procedures being in place is just as important.

For further information, about this or other legal issues affecting taxi operation in Qld, please call *Robert Bakker*,

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