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Motor Finance Cases Set New Standards for Disclosure

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The Motor Finance Commission Claims – including *Johnson v FirstRand Bank*, *Wrench v FirstRand Bank*, and *Hopcraft v Close Brothers* – are a set of Court of Appeal cases addressing undisclosed or partially disclosed commission payments in motor finance agreements.

Key Points:

1. **Background:**

The claimants were financially unsophisticated consumers who relied on car dealerships to arrange hire-purchase finance for second-hand cars. The dealerships acted as credit brokers, receiving commission from lenders, often without informing the consumers.

2. **Claims and Allegations:**

- Secret and Half-Secret Commissions: In *Hopcraft*, the commission was completely undisclosed, while in *Wrench* and *Johnson*, the commission was only partially disclosed with vague terms like "may be paid," which did not adequately inform consumers.
- Breach of Duty: The claimants argued that the brokers owed them a “disinterested duty” to act impartially in their recommendations, and, in some cases, a fiduciary duty to prioritize their interests.
- Unfair Relationship: The claimants also argued that the undisclosed commissions made the credit agreements unfair under the Consumer Credit Act 1974.

3. **Court Findings:**

The Court ruled that the dealerships breached both the “disinterested duty” and fiduciary duty by failing to disclose commissions adequately.

- Accessory Liability: In *Johnson*, the lender was found liable as an accessory, knowing the broker’s breach of duty and failing to ensure informed consent.

- Remedies: The court ordered that the commissions be repaid as damages or equitable compensation, along with interest.

4. **Implications:**

This ruling requires full disclosure of commissions to consumers, setting a precedent for transparency and fairness in motor finance.

The decision may lead to significant financial liabilities for lenders and brokers, potentially costing billions in repayments, similar to the PPI scandal.

This case underscores the importance of transparency in consumer finance, with dealerships and lenders now facing increased responsibility to ensure consumers are fully informed of any commission arrangements.

For any queries, please reach out to the Proskauer UK Regulatory team.

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Related Professionals

- **Andrew Wingfield**
  Partner
- **John Verwey**
  Partner
- **Rachel E. Lowe**
  Partner
- **Sulaiman I. Malik**
  Associate
- **Michael Singh**
  Associate