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# Supreme Court Clarifies Legal Boundaries in Motor Finance Commission Cases

**Regulatory & Compliance** on **August 5, 2025**

In a landmark decision in *Johnson v FirstRand* ([2025] UKSC 33), part of the broader Hopcraft appeals, the UK Supreme Court has ruled that car dealers who arrange finance do not owe fiduciary duties to their customers. This judgment significantly reshapes the legal landscape for motor finance claims and has immediate implications for both litigation and regulatory exposure.

### Key legal findings

- **No fiduciary duty in standard dealer-lender-customer relationships**: The Court confirmed that, in typical motor finance arrangements, dealers are not fiduciaries. As a result, claims based on bribery or dishonest assistance cannot succeed unless a true fiduciary relationship exists – which, in these cases, it does not.
- **Overruling of *Hurstanger*and *Wood***: The Court expressly rejected the notion that a “disinterested duty” could give rise to fiduciary obligations. This marks a clear departure from previous case law and sets a higher bar for establishing liability.
- **Disclosure must meet the standard of informed consent**: The judgment emphasises that vague or boilerplate disclosures, such as stating that “a commission may be paid”, are insufficient. Full and transparent disclosure is required to meet legal standards.
- **Limited success under section 140A of the Consumer Credit Act 1974**: Only Mr Johnson succeeded in his claim, and solely on the basis of an “unfair relationship” under section 140A. This was due to a substantial undisclosed commission (25% of the loan amount) and misleading documentation.
- **Links to official materials**:
  - Full judgment
  - Press summary

## Regulatory implications: the FCA's response

While the Supreme Court has clarified the legal position, the regulatory dimension remains active. The Financial Conduct Authority (FCA) issued a statement shortly after the judgment, making clear that:

"The judgment does not prevent the FCA from determining that redress is owed where firms have not met standards set in our rules."

The FCA has confirmed in a statement that it will now assess historic commission practices, including discretionary commission arrangements, against its existing rules, such as the Principles for Businesses and the Consumer Duty. A decision on whether to implement a formal redress scheme is expected by the end of September.

## What this means for firms

- **Reduced litigation risk, but ongoing regulatory exposure**: The threat of widespread civil claims has diminished, but firms remain at risk of regulatory action.
- **Review of historic practices is essential**: Firms that previously used discretionary commission arrangements (DCAs) should urgently revisit their historic disclosure practices to ensure compliance with FCA standards.
- **The legal bar has shifted, but scrutiny continues**: The Supreme Court has raised the threshold for legal liability, but the FCA retains broad powers to enforce its rules and demand redress.

We are closely monitoring developments and are available to discuss the implications of the judgment, as well as the potential shape of the next phase of regulatory action.

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