3PB BARRISTERS



Colin McDevitt

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Clinical Negligence

Colin read Biochemistry and Physiology at University and then worked for a number of years in pharmaceuticals. His background in the life sciences and experience in industry gives him an invaluable understanding of the medical and commercial aspects of the claims he assists with. He specialises in personal injury, clinical negligence and fatal accident claims including those with multiple injuries and claims with experts from a number of disciplines. He receives regular instructions from his solicitors in the following areas:

- Employers' liability (workplace regulations including manual handling operations regulations)
- Industrial injuries (including HAVS)
- Defective machinery
- Occupiers' liability
- Road traffic accidents
- Clinical negligence (including cosmetic surgery, dental)
- Ancillary matters including: Extension of time for issuing a claim form; Limitation; Contribution; Causation (including medical causation); Costs; Costs-only proceedings.

Colin is a member of the Personal Injuries Bar Association (PIBA) and the Professional Negligence Bar Association (PNBA)

CLINICAL NEGLIGENCE NOTABLE CASES

- K v Dr B (GP), Walton Centre NHS Trust and Southport and Ormskirk NHS Trust [2014 and ongoing]
  A claim in which the claimant had presented with papilloedema but who went blind in both eyes at the age of 20 years. The claim is that the claimant's GP failed to refer him with sufficient urgency for specialist investigation and that the specialist centres to which he was eventually referred both negligently delayed proper treatment by way of lumbar puncture or other means to reduce his raised intracranial pressure. Causation is disputed and the claim is, naturally, of significant value given the claimant's youth and the effect of his disability.
- B v Frimley Park Hospital NHS Foundation Trust [2013 and ongoing]
  Representing the claimant who underwent a trapeziectomy operation on her wrist to relieve symptoms of arthritis. Due to a surgical blunder the wrong bone was excised (the scaphoid instead of the trapezium). The Trust denied liability on the basis of the inherent risk of scaphoidectomy when undergoing trapeziectomy. After receiving the Particulars Of Claim which argued a lack of informed consent as well as complaining about the surgical technique, the trust conceded liability. The claimant underwent numerous pain blocks, suffered carpal collapse and was treated by way of a 4 corner fusion to stabilize her wrist. This latter procedure was unsuccessful and the claimant had to undergo wrist arthrodesis. The injury is significant with significant ongoing problems.
- A v Dartford NHS Trust [2013 and ongoing]

Acting for the estate, infant daughter and husband of a deceased young wife and mother who was a lupus sufferer. She attended A&E complaining that her throat was "closing up" but was discharged home. Within an hour she suffered a cardiac arrest and fell into a coma. After living in a persistent vegetative state for 18 months she then passed away. Whilst breach of duty (the discharge home) was admitted, the issues of causation and quantum are being litigated. A very high value claim.

- A v Calderdale and Huddersfield NHS Foundation Trust [2013 and ongoing]
  A young woman was subjected to an over-zealous vaginal investigation shortly before giving birth which caused a third degree perineal tear, resulting in faecal and urinary incontinence. She is not likely to return to employment due to her physical injuries and resulting depression. Breach of duty, causation and quantum was initially disputed but, after pleadings, liability was admitted. The claimant has a significant risk of deterioration in her condition. Provisional damages are claimed.
- S v Southend University Hospital NHS Trust [2013 and ongoing]
  Acting for the claimant who acquired a non-negligent bacterial infection after undergoing an elective total hip replacement. There was then a negligent failure to timeously diagnose a gram negative infection followed by a further negligent delay in performing a radical debridement and exchange of components. In addition there was treatment of the E.coli infection with an antibiotic to which the organism was resistant. Causation and quantum are disputed. The claimant has a life-long need for antibiotic therapy and the prospect of completely losing her hip joint. Her business failed and there is a complex claim for loss of business, dividends and earnings.
- B v North Cumbria University Hospital NHS Trust [2013]
  The claimant was prescribed oral ciproflaxin antibiotics which caused the rupture of his Achilles tendon. The claim arose from a lack of informed consent due both to the absence of a warning of the risk of tendon damage and to the absence of advice to immediately cease taking the antibiotic if symptoms suggestive of tendinitis are experienced. The claim was successfully compromised.
- A v The Hospital Group [2012-2013]
  Acting for the claimant who underwent cosmetic surgery procedures of liposuction and abdominoplasty. There were many allegations of negligence including a breach of the heparinisation protocol by the continued prescription of the anticoagulant Clexane, a failure to review Clexane administration after substantial blood transfusion, the provision of a substandard discharge letter and a delay in re-admitting the claimant to hospital for debridement once the wound infection was suspected. The claimant was left with bilateral dog ears, extensive scarring and a loss of the claimant's belly button with a revised belly button being anatomically misplaced. The claimant required 4 remedial surgical procedures. The claim was strongly resisted but it was compromised a month before trial.
- S v Barking, Havering And Redbridge University Hospitals NHS Trust [2012]
  Representing the claimant who underwent elective total abdominal hysterectomy and bilateral salpingo-oophorectomy for the treatment of endometriosis and a large ovarian cyst. As a result of the procedure the claimant developed a vesico-vaginal fistula. During the said procedure no record was made of any adhesions or endometriosis involving either the bladder or in the region between the uterus and the bladder. Towards the end of the hysterectomy and closure of the vaginal vault there was bleeding from the bladder base and additional haemostasis was required to the bladder base. After diagnosis of the vesico-vaginal fistula, the claimant underwent laparotomy with closure of the vesico-vaginal fistula. The allegations of negligence included: poor surgical technique (the surgeon tore the claimant's bladder muscle during mobilisation of the bladder off the cervix as a result of the dissection being in the wrong tissue plane); and the surgeon used excessive electrodiathermy to stem the bleeding from the base of the bladder, causing avascular necrosis. The claim was successfully compromised.
- L v Maidstone and Tunbridge Wells NHS Trust [2012]
  A claim for alleged negligent treatment when the claimant underwent a total abdominal hysterectomy for the treatment of uterine fibroids. The procedure was carried out via a low transverse laparotomy incision and was technically moderately difficult because of distorted anatomy, mainly due to a large fibroid on the right hand side. The operation notes made no mention of the ureters. Within a week of discharge from hospital the claimant was in severe left sided groin pain caused by damage to an ureter. The claimant developed a number of urinary tract infections. The claim was that the total abdominal hysterectomy procedure was carried out negligently because there was no attempt to identify the course of the right ureter during the surgery, resulting in the right ureter being accidentally tied. The contemporaneous operation notes made no mention of the position of the ureter or of any attempt to locate the ureter by palpation or dissection at

any time during the hysterectomy. The claim was successfully compromised.

- P v Choudhuri [2012]
  Acting for the claimant who underwent a breast-enhancing injection of hyaluronic acid. She claimed she did not give informed consent due to a failure to inform of the risks of the procedure and the lack of any "cooling off" period. The claimant developed encapsulated cysts which required remedial surgery. The claim involved allegations of tampering with medical records and allegations amounting to fraudulent non-payment for the procedure. The claim was compromised 2 weeks before trial.
- C v Harley Medical Group [2009]
  Acting for the claimant who underwent a breast reduction procedure in the absence of a warning as to the risks of fat necrosis if the claimant did not lose weight. The procedure resulted in fat necrosis and infection which required 4 further operations to debride the wounds, close the wounds and cosmetically revise the scars. The claimant suffered pain, distress and anxiety.
- B v Royal Bournemouth Hospital [2009]
  An administrative failure led to a 6 month delay in the claimant undergoing a hysterectomy which resulted in an aggressive cancer significantly reducing the claimant's 5 year survival rate. The defendant disputed causation and quantum before the claim was compromised.
- A v Jersey [2007]
  Acting for the infant claimant who was born 3 months after her father's death from pituitary adenoma at the age of 29 years. The dependency claim on behalf of the child arose out of the negligence of an ophthalmologist who failed to diagnose the deceased's condition. Very high value claim.

Recommendations

'He effortlessly puts clients at ease.'

Legal 500 2018 - Employment – Leading juniors

'He has a systematic approach to complex claims.'

Legal 500 2018 - Personal Injury and Clinical Negligence – Leading juniors

'A great advocate, who is well liked by his clients.'

Legal 500 2017 - Employment – Leading juniors

'A specialist in multiple injuries claims.'

Legal 500 2017 - Personal injury and clinical negligence – Leading juniors

'Brilliant at absorbing lots of detail and cutting to the main points.'

Thomson Reuters Report 2017

'Personable experienced counsel who work with me as a team for the client.'

Legal 500 2016 - Employment – Leading juniors

'He gets results.'

Legal 500 2016 - Personal injury and clinical negligence – Leading juniors

'thorough, and has an eye for detail'

Legal 500 2015

'understands the law and the needs of the client alike'

Legal 500 2015

'an astute advocate, who will always fight your corner'

Legal 500 2014

'down to earth and personable'

Legal 500 2014

' experience in a number of complex discrimination cases'

Legal 500 2014

'excellent on his feet and on paper'

Legal 500 2013

What Judges Say:
The following comments have been made by Judges of cases in which Colin has appeared:

- Mrs Justice Slade: "Mr McDevitt's points have been put succinctly and crisply in his outline written submissions. He has been instructed at short notice but that does not detract from the cogency of his arguments to us"
- HHJ Freeland QC, Central London County Court: Colin McDevitt's client has been "excellently advised by a very competent and experienced legal representative" and "the advice from [Mr McDevitt] had been first class"
- Judge Ferris: "Mr McDevitt's advocacy has been of high quality"
- Judge Heal: Mr McDevitt is "experienced counsel using sophisticated cross-examination"

What Clients Say:

- "The opponent accepted all elements of our offer ... The client needless to say was absolutely delighted ... I thank you for your assistance in this complicated case which has resulted in a very good outcome indeed for the client", Marek Bednarczyk, Partner of Personal Injury And Clinical Negligence, Hart Brown Solicitors
- "I did want to notify you direct and to thank you for your assistance throughout. It has undoubtedly been instrumental in enabling us to achieve such a successful and satisfactory outcome for our client", David Black, Partner at Bower & Bailey Solicitors
- "Thank you again for your brilliant work", Nick Owen, Director of William Graham Law Solicitors
- "It was a pleasure to meet you last Friday and I would like to thank you very much indeed for the way in which you conducted the conference. The understanding and sympathetic approach which you displayed enabled [my daughter] to feel very much more at ease than she might have done and you were able to put across to her, in terms that she understood, the salient issues. She certainly left your Chambers feeling that she understood what had been said, had received very good, practical advice and guidance, and found the experience rather less daunting than she expected. For myself, I have been to many conferences over the 35 years of my career as a solicitor and have never attended one better, in all aspects - which is down to you. Not all lawyers (solicitors as well as barristers!) have the ability to relate to a client in an understanding way but this you did, quite in addition to the clarity of the language used and the obvious understanding of the issues (both of which can too often be taken for granted). I have spoken to one solicitor friend recommending you. ...Very many thanks once again and very best wishes for a continuing successful career." E-mail from the father of a teenage client
- "Thank you for your Advice which contains a sound analysis." Richard Fry, Senior Partner, Griffith Smith Solicitors
- "I feel I must write to express the gratitude of both myself and my wife for Mr McDevitt's endeavours on our behalf. I am indebted to Mr McDevitt for the way he was able to put my wife at ease before she gave her evidence and would be

grateful if you would pass my sincere thanks to him." Mr Moroney

- "We thank Mr McDevitt for his efforts on our client's behalf and confirm that Mr [H] was extremely pleased with the result." Pinto Potts Solicitors
- "The Client was very impressed with you." Huggins & Lewis Foskett Solicitors
- "We were delighted to receive the news yesterday that the case was judged in our favour. ...We have many things to thank [our solicitor] for [m]ost of all, we have to thank him for his inspired choice of barrister. Initially extremely apprehensive on the day of the hearing, Dr [S] and Dr [B] were given great encouragement by your style and approach. ...They were equally impressed by your closing submission which left me thinking we were home and dry. This of course did not lessen the sense of delight (and relief) around the Practice yesterday as the news broke. I would like to thank you on behalf of all the Partners for the excellent job you did for us and for the result you achieved." Doctors' Surgery on the south coast
- "I just wanted to drop you a line to say thank you for your assistance and support in this matter. I know what a pain it can be when professional clients approach you direct. You did, however, manage to keep us under control and supply all of the support and guidance that was necessary. You did guide us to a satisfactory conclusion. To have kept the Tribunal in line to obtain such a strong judgment is not just a matter of happenstance - I know that it has to be worked for and directed from an early stage." Mr C, CK Solicitors
- "Thank you for your support and hard work that you have done for me" Steve Brewer, client
- "Just a short note to express my gratitude for all your hard work on my behalf and your kindness and understanding during my ordeal. Thanks to you my faith in the human race has been restored. ... Many thanks." Mr Abercrombie, client
- "Thank you for your able assistance with this case - which was by no means straightforward! Well done!" Moorhead James Solicitors
- "I am pleased to say the court found in favour of Mr [H] in all respects and I believe Mr [H] is very pleased with the Court's decision.
- [T]hank you for your efforts." McDonald Oates Solicitors
- "Really enjoyed working with Colin and looking forward to the next battle." Eric Robinson Solicitors
- "Ms [C] is very pleased with this result and I would like to thank you for your help in preparing this claim." Davies and Partners Solicitors
- "Mr [M] has been on the phone singing your praises. ...I said I would pass on his thanks (and mine) to you." Lyons Wilson Solicitors
- "A quick and heartfelt message to say thank you ever so much for all your hard work, excellent support and cheery manner that succeeded in bringing my case to an end. ...I am delighted with the outcome. ...With the very best of wishes to you and all of the team, including Colin who was so instrumental in getting the best outcome possible." Client's email to instructing solicitor

Academic qualifications

- BSc (Hons), University of Reading, 1990
- Diploma in Law, City University, 1994

Professional qualifications & appointments

- Accredited Mediation Advocate

Professional bodies

- Employment Law Bar Association (ELBA)
- Personal Injury Bar Association (PIBA)

- Professional Negligence Bar Association (PNBA)