



Richard Wheeler

Year of Call: 2004

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Overview

Richard Wheeler has a broad civil practice focussed on personal injury, clinical negligence, public and coronial law. Richard has been a member of the Attorney General's Panel of Junior Counsel since 2012. In September 2015 he was appointed to the Attorney General's London B Panel.

As a member of the Attorney General's Panels for 6 years, Richard has advised and represented a range of other Government Departments and Agencies from the Ministry of Justice, the Ministry of Defence, the Home Office, the Prison Service, the Crown Prosecution Service, and the UK Border Agency.

During the last two and a half years Richard has been acting for the Foreign and Commonwealth Office in the multi-million pound Kenyan Emergency Group Litigation in which more than 40,000 individuals have brought claims arising from their experiences during the Mau Mau Emergency in Kenya in the 1950s. In this case there are multiple allegations of torture, beatings, rape, breach of international conventions including ECHR and the Forced Labour Convention 1930. The litigation involves wide ranging issues of law including personal injury, negligence, vicarious liability, common design, false imprisonment, breach of human rights, trespass to the person. Richard is led by Guy Mansfield QC and Neil Block QC.

Richard also has extensive experience in personal injury claims acting for claimants and defendants in all areas, including clinical negligence, with particular emphasis upon employer's liability for accidents, stress at work, military injury claims and inquests, industrial injuries and illness litigation. Many claims have been valued in excess of £1m. He sits as a Deputy District Judge (civil and family) in Central London County Court and across the South Eastern Circuit.

Examples of recent cases:

- MOD (Royal Navy) – Inquest into sinking of French fishing vessel the Bugaled Breizh. The families and boat owner allege involvement of HM naval submarine in the sinking, denied by MOD.
- MOD (Army) – Deepcut Inquest (Sean Benton) – acted for three former employees of the Army accused of bullying Sean Benton prior to his death in 1995.
- MOD (Army) – workplace stress claim for lifetime loss of earnings, loss of pension etc. £1m claim arising out of allegedly being forced to share washing facilities with male colleagues. Settled for c. £100,000.
- MOJ (CPS) – High Court workplace stress claim for lifetime loss of earnings, loss of pension etc arising out of PTSD caused by exposure to evidence in sexual offence cases.
- Acting for MOJ in various human rights claims brought by prisoners including allegations of breach of Art 2, Art 3, Art 8, Art 14.
- Acting for MOJ in claims for misfeasance in public office against two prominent MPs.
- Various inquests arising from deaths in prison, and related civil claims for negligence and/or breach of human rights.

- Richard has acted for vulnerable litigants and witnesses, including appearing as junior alone in the Kenyan Emergency Group Litigation in relation to the oral evidence of 6 of the lay witnesses called by the Defendant, all in their 80s and 90s.

Reported cases:

- Kimathi & Ors v Foreign & Commonwealth Office [2018] EWHC 2066 (QB)
- Kimathi & Ors v Foreign & Commonwealth [2018] EWHC 1169 (QB)
- Derrick Offei Agyemang Yirenyi v MOD (QBD Jacobs J) LTL 6/11/2018 EXTEMPORE : [2018] 11 WLUK 53

Richard has undertaken the following training courses in recent years:

- Equality Act training – Inner Temple
- The Business of Judging – Judicial College (2 days)
- Civil and Family Law – Judicial College (2 days)
- Civil Costs – Judicial College (1 day)

Richard has given the following training and talks in recent years:

- Civil Applications day – Inner Temple
- PASS scholarship advocacy training – Inner Temple
- Civil mock trial at the RCJ – Inner Temple
- New Practitioners' Advocacy Training – Inner Temple at Wootton House
- Speaker to Schools programme – Bar Council

Academic qualifications

- Warwick University Philosophy and Literature First Class, 2000
- CPE, Merit, 2003
- BVC, Very competent, 2004
- Inner Temple Horace Avory scholar 2004

Professional qualifications & appointments

- Accredited Mediation Advocate
- Appointed Western Circuit Representative to the Inner Temple Bar Liaison Committee 2013
- Appointed by Attorney General to Treasury Council Regional Panel 2012
- Appointed Legal Assessor to the General Council of Osteopaths 2014
- Appointed Deputy District Judge (Civil) South Eastern Circuit 2015
- Junior Counsel to the Crown (B panel) from September 2015
- New practitioner advocacy trainer, Inner Temple

Professional bodies

Personal Injury Bar Association

Direct Access

Richard Wheeler is qualified to accept instructions directly from members of the public and professional clients under the Direct Public Access scheme.

Expertise

Personal Injury

Richard has extensive experience in substantial claims in all areas, with particular emphasis upon employer's liability for accidents and stress at work and industrial injury and illness litigation. Instructions have included claims valued in excess of £1m.

Recent cases

- Kenyan Emergency Group Litigation (multi-million pound group action by 40,000 "Mau Mau" and related claimants alleging UK Government responsibility for alleged mistreatment during the Kenyan Emergency in the 1950s). Multiple allegations of torture, beatings, rape, breach of international conventions. The litigation involves wide ranging issues of law including personal injury, negligence, vicarious liability, common design, false imprisonment, breach of human rights, trespass to the person.
- Acted for Claimant in £2.2m High Court catastrophic injuries claim arising out of road traffic accident. Experts: orthopaedic, general surgery, psychology, psychiatry, neurosurgery, neurology, care. Claimant confined to wheelchair and in need of 24 hour care.
- Acted for child Claimant in £2m brain injury claim arising out of knocked down by a car in London. Experts: educational psychology, neurology, care. Issue: causation of the injuries, whether non-negligent speed would have led to same injuries. Led by Stuart Brown QC but conducted successful JSM as junior alone against leading counsel.
- Acting for lady knocked down by a van and crushed against a wall. Experts: neurology, psychology, neuropsychology, care. Issues: capacity, care requirements, loss of earnings, loss of pension.

Government Defence Work

- Acted for Ministry of Defence defending claim by female officer for workplace stress. Claim brought for loss of lifetime earnings in the army, loss of pension etc c. £500,000. Experts: psychiatric. Issue: breach of duty, causation, quantum. Ongoing.
- Acted for Ministry of Justice in High Court defence of claim brought by convicted murderer and his family claiming damages for breach of Art. 8 Human Rights Act 1998. Trial heard by Mr Justice Blake. Submissions on quantum drawing on European Court of Human Rights case law. Amount awarded for general damages was exactly the sum Richard had advised would likely be awarded.
- Acted for Ministry of Justice in claim brought by prisoner for alleged negligent use of force by officers. Issues: correct application of control and restraint procedures, de-escalation techniques, causation, quantum.
- Acted for Ministry of Justice in claim brought by a Muslim prisoner alleging endemic racism in a particular prison. Issues: breach of Art 3, Art 8, Art 14 HRA 1998; application for specific disclosure, lifting of redactions; issues of data protection, relevance, proportionality.
- Acted for Ministry of Justice in claim brought by life sentence prisoner seeking damages for alleged unlawful restrictions on his licence. He alleged he was unable to visit his relatives or tend wife's grave due to restrictions. Claim pleaded breach of Art 8 and Art 14 of the Human Rights Act 1998.
- Acted for Ministry of Justice in claim brought by prisoner for alleged inhuman treatment (Art 3) and breach of Art 8 arising out of alleged failure by prison to provide access to medical care.

- Acted for the Ministry of Justice striking out a claim by witness in criminal proceedings who alleged her personal details had been wrongly disclosed. Issues: breach of confidence, breach of the Data Protection Act, immunity from suit.
- Acted for Ministry of Justice striking out claims for misfeasance in public office brought by prisoner against two prominent MPs.

Asbestos

- Acted for Claimant husband in fatal accident claim arising out of his wife's mesothelioma contracted while washing husband's overalls in the 1960s. Experts: respiratory surgeon, workplace hygienist evidence. Issue: whether exposure was de minimis / in excess of acceptable levels in the 1960s. Settled eve of trial for £150,000.
- Several other asbestos cases with issues surrounding exposure levels, multiple defendants, causation and quantum.

Employers Liability

- Acted for Claimant in High Court claim. Claimant suffered life changing injuries when knocked down by a forklift truck. Suffered de-gloving injury to lower limb. Issues: Workplace Regulations, contributory negligence, withdrawal of admissions. Experts: orthopaedic, plastic surgery, prosthetics, care. Settled for £700,000.
- Many other cases involving workplace accidents, scaffolding, construction, docks, ladders, machinery, etc.

Inquests

Richard has broad experience of coronial law. He has appeared on behalf of bereaved families and has acted many times for Government Departments in inquests. Richard has appeared in several inquests where the Coroner has appointed Counsel to the inquiry and has frequently appeared alone where other interested parties having instructing Queen's Counsel.

Most recently Richard was instructed by the MOD in the Deepcut inquest (Sean Benton) arising from a death from gunshot wounds in alleged mysterious circumstances at Deepcut Barracks over 20 years ago. Richard was instructed to represent three former soldiers accused of bullying Sean Benton prior to his death. The case involved applications for special measures, reporting restrictions and cross-examination of a vulnerable witness.

Several inquests have raised issues such as to whether Article 2 is engaged, whether a jury should be summoned. Richard has frequently dealt with submissions involving allegations of unlawful killing, neglect, and Reg. 28 type issues. Richard has attended many PIRs on behalf of interested parties and bereaved relatives and secured the necessary evidence and directions for an effective inquest. In one ongoing matter cross-jurisdictional issues arise involving disclosure from French, Dutch and German military authorities.

Recent notable cases include:

- Acting for MOD in inquest into sinking of French fishing vessel the Bugaled Breizh. The families and boat owner allege involvement of HM naval submarine in the sinking, denied by MOD.
- Acting for family in inquest arising from alleged negligent care in a hospital resulting in hypoxic brain injury. Acted for three former soldiers in Deepcut inquest (Sean Benton). The three were accused of bullying Sean Benton prior to his death from gunshot wounds, in 1995.
- 14 day Article 2 inquest into death of prisoner at Winchester prison. Neglect, breach of human rights, negligence, ACCT process.
- Acted for motorist in 8 day jury inquest into death of undercover policeman in Southampton. Public interest immunity regarding the operation the police were conducting at the time of the fatal accident. Article 2 jury inquest involving a prisoner suicide in Exeter prison. Alleged early closure of ACCT, safeguarding, and mental health issues.
- Article 2 inquest following prisoner suicide in Chelmsford prison.
- Acted for family in 3 days, jury inquest. Window fitter killed working at height.

- Inquest following death of prisoner, inquiry into use of prisoner restraints.

Clinical Negligence

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He sits as a Deputy District Judge (civil and family) in Central London County Court and across the South Eastern Circuit.

Recent notable cases include:

- Acting for man diagnosed with terminal lung cancer, alleged missed diagnosis on several chest images. Breach causation in dispute. C. £100k claim.
- Acting for family of deceased lady who suffered hypoxic brain injury following surgery. C. £100k claim
Acting for MOD (Army) in alleged late diagnosis, and incorrect treatment for shin splints. C. £200k claim.
Acted for young girl who suffered facial paralysis following maxillofacial surgery. Causation in dispute. C. £200k claim.
- Acted for Claimant who suffered delayed diagnosis and avoidable continuing pain arising from negligent wrist surgery.
- Acted for Ministry of Justice in claim brought by prisoner who allegedly contracted HIV in a prisoner on prisoner assault. Alleged negligence in failing to screen for HIV after the fight and failing to prescribe prophylactic medicine. Issues: causation, prognosis, quantum.

Public and Regulatory

- Civil penalties under Immigration and Asylum Act 1999
- Health care regulation, particularly care homes
- Prisoner Human Rights claims
- Data Protection Act claims
- Breach of confidence
- Immunity from suit
- Art 2 Inquests

Recent cases

- W v HCC & Ors - instructed in breach of human rights claim brought by estate of deceased prisoner. Alleged breaches of

Art 2 (right to life), Art 3 (torture) and Art 8 (private life) European Convention on Human Rights.

- Inquest into sinking of Bugaled Breizh – instructed by the Ministry of Defence in this long running inquest into the sinking of a French fishing vessel in 2004. Multiple evidential and legal issues arising from lengthy proceedings in France. Art 2 inquest. Families allege involvement of HM naval submarine in sinking, denied by MOD.
- A v CQC – Care home facing closure by the regulator. Appeal to Care Standards Tribunal. Health and Social Care Act 2008 and Care Quality Commission (Registration) Regulations 2009.
- H v B – Advising to director level national care home provider. Claims for breach of contract, negligence brought by family of service user.
- M v CQC – Advising care home as to appealing closure notice from Regulator.
- S v SoS – Appearing for Secretary of State. Immigration and Asylum Act 1999. Defeating appeal of fines imposed for carrying illegal immigrants across UK border.
- K v Ministry of Justice – High Court trial, human rights claim by convicted murder. Acting for Secretary of State.
- T v SoS – for Justice Life sentence prisoner, restrictions on licence; Art 8, Art 14 European Convention on Human Rights
- M v MOJ – Human Rights Art 3 (inhumane treatment), Art 8 (right to life), Art 14 (discrimination) – alleged failure by prison to provide access to medical care.
- G v MOJ – Striking out claim, breach of confidence, breach of Data Protection Act, immunity from suit.
- F v MOJ – Strike out claims for misfeasance in public office against two prominent MPs.

Mediation

Richard is an Accredited Mediation Advocate.