

Gerwyn Samuel



Call: 1986

Email: g.samuel@doughtystreet.co.uk

Profile

Gerwyn acts for substantial numbers of Claimants in a wide range of complex multi track clinical negligence and personal injury cases each year. The bulk of his practice consists of cases involving spinal tumours and spinal cord and brain injuries. He also undertakes cases involving brain injury in young neonates arising from birth injuries or meningitis and is frequently instructed in inquests which involve medical or toxicological issues or which raise unusual points of medical law. He is ranked in Chambers and Partners 2023 and described as a *"well-regarded barrister with a far-reaching clinical negligence practice"*.

Much of Gerwyn's personal injury experience relates to catastrophic injuries arising from road traffic accidents and accidents on building sites. He was counsel for the Claimant in the ground breaking case of *Biesheuvel v Birrell* [1999 PIQR Q40], a case involving a Dutch student who was rendered tetraplegic and subsequently recovered an award of £9.2 million.

Gerwyn has particular expertise in:

- persistent vegetative state and locked in syndrome, including the right to die arguments that arising;
- amputee claims including both above and below knee amputations, bilateral amputations and amputation of upper limbs;

- catastrophic claims involving foreign clients where the damages claimed are often different to UK claims;
- cross over claims involving Clinical Negligence and Personal Injury.

Related practice areas

Clinical Negligence, Personal Injury & Product Liability

Inquests and Public Inquiries

Clinical Negligence and Personal Injury

Clinical Negligence cases include:

- Lucy Alexander. Case involving a twin with cerebral palsy settled for over £11m. This was the first ever PPO for loss of earnings in clinical negligence and Gerwyn devised and drafted the model order for earnings PPOs.
- Hursthouse v Chesterfield Royal Hospital NHS Foundation Trust. A young man developed psychiatric injuries and threw himself out of an unguarded hospital window sustaining a spinal injury which in turn exacerbates his on-going psychiatric condition. Case settled for £2m plus PPO's total value £5million
- Peattie v Leeds Teaching Hospitals NHS Trust. A paraplegic was operated on unnecessarily and negligently by a spinal surgeon resulting in more paralysis and infections causing significant upper limb mobility as well as paraplegia, with claimant becoming effectively tetraplegic. The case involved a dispute on all areas of quantum and involved consideration of what the claimant would have needed in any event as he aged. Settled at trial £2million plus PPO's (the equivalent of 3.5 million)
- Jean Cole v Royal Devon & Exeter NHS Trust. Upper limb amputee caused by negligent injection into vein not artery
- AB v Walsall Hospital NHS Trust. Failure to diagnose Downs Syndrome. Settled for £3m, the largest claim ever for a mother with a child suffering from Downs Syndrome
- Re Q x 2. Wrongful birth of twins resulting in both children being possibly disabled. Novel claim for seeking provisional damages for children.
- Chopra v Northampton General Hospital. Failure of ultrasonographer to detect cardiac defects causing considerable disability to the child and resulting in significant PTSD to both parents.
- H v Dr Stephenson. Claim for cerebral palsy caused by the failure of a GP to diagnose suspected Group B Streptococcal meningitis in a child. Worth in excess of £8m

- DP v South Tees Acute Hospitals NHS Trust. Athetoid cerebral palsy for 16 year old who would have been a solicitor or barrister had the negligence not occurred. Worth £4+m
- KM v Spire Cardiff Hospital. Negligent spinal surgery rendering a 68 year old man an incomplete paraplegic. Complex issues involving breach of duty against the treating neurosurgeon, the private hospital staff and other privately funded clinicians
- P v Cwm Taf NHS Trust. Claim against a GP and hospital for failing to diagnose and promptly treat a subdural haematoma resulting in significant brain injury.

Personal Injury cases include:

- Kirby v Soames-Lane. A C5 tetraplegic who was injured as a front seat passenger in a car driven by a friend. Settled for £6.5m lump sum
- Seabrook v Khan. Driver of a car not wearing a seatbelt, rendered paraplegic but with complicating shoulder injuries. Claim settled on 2nd day of trial for a £3.5m lump sum
- Thakur v Mackie. A claim for a 19 year old Indian national who was knocked off his motorbike and rendered a T12 paraplegic. Claim settled for a £6m lump sum (PPO's are not available in India)
- Tsuchikawa v Rix. Paraplegic knocked down by motorbike whilst crossing a road. Settled for £1.5m
- Meluzius v Reardon Transport Ltd. Paraplegic injuries arising from motorcycle accident. Settled pre-issue for £3.35
- GP v Milton Keynes Borough Council. Car driver skidded on ice and crashed into a tree suffering brain injuries due to the failure of the Council to grit a road properly.
- Clarke v Chief Constable of Essex. Trainee police officer was a passenger in a car driven by a police sergeant which collided with a taxi when driven through a red light during an emergency call
- Re JB. A child born with cerebral palsy following a car crash when mother suffered a placental abruption causing hypoxia
- Kaur v Stinger. A 66 year old lady suffered a catastrophic brain injury resulting in personality changes and problems in speaking English after being knocked down on a pedestrian crossing. Claim settled for £317,000 plus index linked PPO's of £60,000 for life
- Stephen v Poole. Physiotherapy treatment following a whiplash caused a brain stem stroke
- S v Longhope Welding. A claim by an employee who fell through a roof when not wearing a harness and subsequently emerged from PVS but continued to be severely disabled. Settled for £850,000 plus £92,000 PPO's for life (equivalent to £3m lump sum)

on a 50% basis)

Inquiries and Inquests

Gerwyn is frequently instructed in inquests which involve medical or toxicological issues or which raise unusual points of medical law. He represented the family of Ronald Maddison and other veterans who claimed that they were duped into being guinea pigs for Sarin and other nerve gas tests at Porton Down during the 1950's and 1960's at the re-opened inquest. He has considerable knowledge of Coronial law and instigated a number of judicial reviews of the decisions of coroners.

Solicitors' Negligence and Professional Liability

Gerwyn has substantial experience of Professional Negligence, particularly legal negligence arising from personal injury and clinical negligence cases.

Mental Health and Court of Protection

Gerwyn's has experience of and particular interest in best interest litigation related to medical treatment and his extensive experience of working with catastrophically injured Claimants, a number suffering with 'Locked-in Syndrome', has given him an important insight into this complex and difficult area. In addition to capacity related cases, Gerwyn's specialist clinical negligence and personal injury practice has allowed him to develop considerable expertise of financial cases before the Court of Protection.

Administrative and Public Law

Although not confined to this, most of Gerwyn's Public Law work has arisen from his substantive practice areas. His background in medical and personal injury litigation has placed him particularly well to deal with judicial reviews arising from health care as well as challenges to the decisions of Coroners, the Criminal Injuries Compensation Authority and the professional regulators of the medical profession such as the General Medical Council and Nursing Midwifery Council.