

Dr Kevin Naylor

Call 1992



Clerks' Details

Joshua Finn
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Appointments

- Accredited Mediator

Memberships

- Personal Injuries Bar Association
- Founder member Society of Doctors in Law (SODIL)

Education

- MB.Ch.B. MRCP LL.B. (Hons) LL.M.
- 1985: Qualified in Medicine.
- 1985-1989: Practised in University Teaching Hospitals in the following disciplines: General Medicine, General Surgery, Accident & Emergency, Obstetrics, Paediatrics, Medicine for the Elderly, General Practice and Psychiatry.
- 1989-1991: LL.B. (Hons.). Studied law whilst working full time as GP Deputy.
- 1991-1992: Inns of Court School of Law. (Very Competent)
- 1992-1993: LL.M. (International and Commercial Law)
- 1993 to date: Barrister practising on the Northern Circuit.

Clinical Negligence CV

Overview

Kevin originally qualified as a doctor and practised medicine for 7 years. He is one of a small number of dual qualification barristers practising in the UK. He has held University Teaching Hospital posts in the following disciplines:

General Medicine, General Surgery, Accident & Emergency, Obstetrics, Paediatrics, Medicine for the Elderly, General Practice and Psychiatry.

Kevin practises almost exclusively in the field of clinical negligence acting for both claimants and defendants. His broad based medical knowledge is an enormous asset. His practice also includes coroner's inquests and solicitors' negligence claims arising out of the conduct of clinical negligence and personal injury claims. Kevin is also an accredited Mediator.

Kevin is regularly instructed by both claimants and defendants. The following is a description of some recent cases, by reference to subject:

Obstetric and neo-natal management: wrongful birth; IUGR; failure to diagnose foetal hydronephrosis; inadequate CTG monitoring; cord prolapse; excessive use of Syntocinon; shoulder dystocia; depressed skull fracture; inadequate resuscitation; retinopathy of prematurity; failure to diagnose Wilson's disease; maternal injury including failure to manage pre-eclampsia appropriately, perineal injury resulting in urinary incontinence, PPH resulting from negligent management of 3rd stage, requiring hysterectomy; inadequate consent (following Montgomery) eg. where a Jehovah's witness was inadequately counselled about mode of delivery.

Gynaecology: vaginal mesh claims (TVT TVTO/TOT); failure to diagnose endometriosis; negligent pre-operative and operative treatment of endometriosis including issues of consent (following Montgomery); failed sterilisation, intra-abdominal injury requiring permanent colostomy.

Minimally invasive (keyhole) surgery: sepsis, organ damage and bowel

perforation during laparoscopic cholecystectomy; negligent hernia repair.

Anaesthesia: inadequate anaesthesia, anaesthetic awareness, cervical cord injury.

Neurology: failure to diagnose prolapse of C5/6; negligent delay in diagnosis and treatment of tuberculous meningitis; negligent treatment of extra-dural haematoma.

ENT: negligent mastoidectomy resulting in brain herniation.

Cosmetic surgery: laser eye surgery, face lift, brow lift, blepharoplasty, rhinoplasty, facial fillers, mastopexy, breast augmentation, buttock augmentation, abdominoplasty, Plasmalite (laser hair removal), liposuction.

Dental Negligence: negligent periodontal screening and management; failure to diagnose and manage malocclusion; failure to diagnose and promptly treat caries; failure to diagnose peri-apical and peri-odontal infection; failure to diagnose retained root; inadequate assessment prior to provision of bridge; failure to obtain consent for treatment; negligent root canal treatment; negligent execution of post crown.

Oncology: delay in diagnosis and treatment of carcinoma (breast, colon, pharynx, lung, skin) with complex issues of causation including statistical basis of impaired prognosis, reduced life expectation and material contribution.

Orthopaedics: failure to diagnose cauda equina syndrome; negligent joint replacement (total knee, uni-compartmental knee, hip, shoulder); failure to diagnose developmental dysplasia of the hip; failure to diagnose shoulder dislocation; severe brachial plexus injury as a result of negligent re-location of dislocated shoulder; failure to diagnose spinal infection; negligent micro-discectomy resulting in perforation of iliac artery causing massive haemorrhage; negligent treatment of various fractures (wrist, ankle, hip); failure to diagnose scaphoid fracture.

Cardiology: negligent angioplasty; failure to diagnose acute myocardial infarction; negligent treatment of cardiac arrhythmia.

Gastroenterology: failure to diagnose Crohn's disease; negligent treatment of ulcerative colitis; negligent gastroscopy resulting in cerebral hypoxia and brain damage; negligent colonoscopy causing colonic perforation requiring colostomy.

Nephrology: failure to diagnose PUJ obstruction.

General surgery: small/large bowel perforation during surgery; failure to diagnose anastomotic leak; failure to treat intra-abdominal sepsis; failure to diagnose acute colitis; failure to properly manage fistulae.

Vascular Surgery: inadequate consent (following Montgomery) where claimant was not warned of the material risks associated with fem-pop bypass, as compared to alternative surgical or non-surgical treatment.

General Practice: failure to treat/manage various conditions in accordance with NICE Guidelines resulting in delay in diagnosis eg carcinoma of the colon, brain tumour, renal failure, melanoma, cauda equina; failure to diagnose and treat various conditions including myocardial ischaemia, transient ischaemic attack, CVA, temporal arteritis, renal vasculitis, acute lower limb ischaemia,

DVT, abdominal pain, developmental delay, developmental dysplasia of the hip; negligent prescribing resulting in lithium toxicity and renal impairment, negligent over-prescription of topical steroids resulting in Cushing's syndrome; negligent joint injection causing acute arterial injury with loss of a digit; negligent ear- syringing causing tympanic membrane perforation.

Psychiatry: wrongful prescription of addictive drugs; failure to diagnose and appropriately treat acute psychotic episode resulting in the homicide of the patient's 5 year old daughter.

Recommendations

“Supportive and a team player - as he is a medical practitioner he can address the experts at their level. He also has an exceptional and calming bedside manner.”

“Very relaxed and accommodating, with great medical knowledge.”

Chambers and Partners 2022

“Kevin is an excellent analyst and gets to the crucial details of a case, using his background in medicine to bring added value. He is a strong tactician, and a composed advocate.”

The Legal 500 2022

“He is very knowledgeable and his medical background is extremely useful when dealing with negligence claims.” “Extremely thorough and very detailed.”

Chambers and Partners 2021

“Kevin has a sound knowledge of medicine previously working as a doctor and therefore is able to carefully analyse complex medical negligence issues. He is very capable in dealing with complex, high value matters and is strong tactically and in settlement meetings.”

The Legal 500 2021

“He provides a very good analysis of the strengths and weaknesses in a case, and is tactically astute and very commercially aware.”

Chambers and Partners 2020

“Excellent insight in GP negligence and multiple defendant cases.”

“He was very robust with a difficult expert and incredibly analytical in his approach.”

Chambers and Partners 2019

“He has a very analytical approach to cases.”

The Legal 500 2018/19

“He is very robust and is incredibly analytical in his approach.”

“Given his medical background he is particularly strong at assessing the strength and weaknesses of expert evidence.”

Chambers and Partners 2018

“His medical expertise gives him the edge when examining medical evidence.”

The Legal 500 2017

“He was formerly a GP, which gives him some really good insight into clinical

negligence cases.”

“He’s very accommodating via email and always gets back to me quickly.”

Chambers and Partners 2017

“A master tactician who can immediately identify the key issues in a complex case. He is one of only a handful of UK barristers who is also a qualified doctor and his input in a case is invaluable. A silk in all but name.”

Sarah Barclay, Partner, Sarah Barclay and Co.

“A very persuasive advocate with great courtroom skills. He prepares cases meticulously and fights very hard for his clients. His medical knowledge gives him a tremendous advantage dealing with expert witnesses”

Michael Saul, Partner, TJL Solicitors

“A very sound counsel who has a calm, measured and empathetic manner with clients. Engagingly unpretentious. Helpful and approachable to those instructing him, always personable; a good eye for detail and excellent on analysis of complex issues.”

Elaine Meehan, Head of Clinical Negligence, Ralli Solicitors

“Kevin is the leader in his field. He brings a calm and measured approach to cases and has an outstanding track record. His medical background puts clients at ease as they quickly realise that they are dealing with an exceptionally knowledgeable barrister”

Pam Roberts, Head of Clinical Negligence, WHN Solicitors

“Kevin Naylor is an excellent barrister and advocate. I have always found him most efficient and reliable and I have never experienced any delay in my cases when Kevin is involved. His practical and sensible approach to his work is refreshing and I find him an absolute pleasure to work with. I cannot recommend him highly enough and I am delighted that I came across Kevin when I did because his work makes my life a little easier and it keeps my clients very happy”

Carol Sinnott, Principal, Sinnott Solicitors

“Kevin is easy to work with and provides a very personal service. He is very knowledgeable and his advice is always thorough. As a personal injury and clinical negligence specialist his medical knowledge is of considerable benefit”

Caroline Marchbank-Counce, Partner, Simon A Holt & Co.

Cases

CLINICAL NEGLIGENCE

Daniel Snee and Kirsty May Speakman, Luke Musson, Lucy Musson-Snee -and- Blackpool Teaching Hospitals Nhs Foundation Trust

Claim arising out of death of patient who died from septicaemic shock 8 ½ hours after delivery of her second child. Liability denied. Complex expert evidence in obstetrics and microbiology. The claim settled for £296,000.

Mrs SD And Dr Gupta And Others (Confidential)

Claim arising from treatment received over a 20-year period from GPs, practice nurses, podiatrists and vascular surgeons. As a result of negligent treatment over a 20-year period, the Claimant underwent bilateral above knee amputations.

H.L. (Adminstrator Of The Estate Of E.L. Deceased) - And - Liverpool Women's University Hospital Nhs Foundation Trust (Ongoing) (Confidential)

The claim concerns serious brain injury suffered 90 minutes after birth following a failure to diagnose a congenital abnormality (micrognathia and glossoptosis secondary to Robin sequence). Liability and quantum disputed.

Mrs LF -and Ramsay Health Care Uk Operations Limited (Confidential)

The Claimant is one of a large number of patients who has been left with life-changing chronic symptoms arising out one of over 50 cases of pelvic implant surgery in which Kevin is currently instructed.

Master Jsa (By His Mother and Litigation Friend Mrs S.A.) -and- St Helens And Knowlsey Hospitals Nhs Trust.

The claim arises out of brain injury suffered at birth resulting in very severe disability. Liability and quantum are disputed. The claim is likely to have a value in excess of £20M.

C v Blackpool Teaching Hospitals NHS Foundation Trust and others

"Wrongful birth" claim concerning the birth of twins both of whom suffer from hereditary spastic paraplegia. The alleged negligent treatment took place in the 1980s and the claim proceeds against 7 defendants – hospital clinicians, GPs and practice nurses. Liability recently compromised the Claimant agreeing to accept 65% of the value of the claim. Quantum valued in excess of £15M.

France v West Sussex Hospitals NHS Trust

The Claimant, a 35 year old lady underwent radical pelvic surgery as treatment of endometriosis. The surgery was carried out by an internationally renowned specialist.

The Claimant suffered bowel injury and she required a permanent colostomy. The allegations of negligence focussed on the issue of consent and the failure to undertake a risk/benefit analysis of the various potential treatment options. The claim was vigorously defended. The claim settled for £675,000.

McDaid v Pennine Acute NHS Trust

The Claimant, a fit and active 82 year old lady underwent lobectomy as treatment for carcinoma of the lung. The histology reporting and clinical management was negligent. In fact the tumour was benign. The claim settled for £200,000.

Roberts v University of Morecambe Bay NHS Trust

The Claimant, a 20 year old lady suffered from dental mal-occlusion. She underwent 2 attempts at bi-maxillary osteotomy with a poor result. The claim was concerned with the issues of consent and the technical performance of the procedures. The claim settled for £55,000.

Hartley v Blackpool Fylde & Wyre Teaching Hospitals NHS Foundation Trust

The 35 year old female Claimant suffered life-threatening intra-abdominal sepsis as a result of anastomotic leakage following an elective anterior resection. She required multiple further operations and suffered a recto-vaginal fistula, para-colostomy and incisional herniae and she has a permanent colostomy. Breach of duty and causation were robustly denied. Causation was complex, the Claimant arguing that her main injury (the inability to restore gastro-intestinal continuity) was materially contributed to by the negligent delay in diagnosing the anastomotic leak. The claim settled at a JSM for £250,000.

Daniels v Dr Hadoke The 22 year old Claimant suffered injury 12 years ago whilst working as an aircraft engineer in the RAF. He suffered avascular necrosis of the right (dominant) scaphoid and ultimately required a wrist fusion, as a result of failure to diagnose a scaphoid fracture. The Defendant was working as a GP sub-contracted to the MOD. The Claimant had to overcome significant limitation difficulties, the index treatment having taken place over 12 years ago. The Claimant succeeded at the trial of the preliminary issue of limitation. After detailed quantum investigations, the claim settled at a JSM in the sum £310,000.

Fahey v (1) Bolton Salford & Trafford Mental Health NHS Trust (2) Trafford Borough Council. The case concerned a 5 year old girl who was stabbed to death in a ritualistic killing, by her mentally ill mother. Kevin represented the victim's father in the civil claim, having earlier represented the family throughout the statutory Inquiry which heard evidence over several months. The civil claim was settled for a substantial (confidential) sum, shortly before trial.

Bravo v Royal Brompton and Harefield NHS Foundation Trust The 79 year old male Claimant underwent elective coronary artery bypass grafting [CABG] followed by a revision operation. He suffered an adverse reaction to the sternal wires and clips used

in the operation, both of which are standard components used throughout the NHS. The case concerned issues of informed consent and the technical performance of the 2 operations. Liability and causation were denied. After lengthy negotiations, the claim settled, the Claimant accepting £75,000 in damages.

Rafferty v Dr Weis Negligent delay in diagnosing and treating the deceased's malignant melanoma. Liability and causation admitted following service of proceedings. Quantum is yet to be determined. Claim settled for £750,000.

COSMETIC SURGERY

Kevin has been instructed in over 100 cosmetic surgery cases in the past 2 years. The cases cover the entire spectrum of cosmetic surgery including laser eye surgery, face lift, brow lift, blepharoplasty, rhinoplasty, facial fillers, mastopexy, breast augmentation, buttock augmentation, abdominoplasty, Plasmalite (laser hair removal), liposuction etc. Examples:

S v (1) Dr Kramer (2) Dr Alexandrides (3) 111 Harley Street Clinic Ltd (4) American Cosmetic Surgery Clinic Ltd. A novel and complex cosmetic surgery claim. The 39 year old female claimant underwent buttock augmentation with insertion of implants. The claim proceeded against 4 defendants: the operating surgeon; a different surgeon who treated the Claimant post-operatively and the 2 companies responsible for the clinic where the Claimant received treatment. The claim required expert evidence in cosmetic surgery, microbiology and clinical psychology. The issues included the technical performance of the original operation and the failure to offer adequate post-operative treatment together with complex causation issues. The treatment in question took place over a 2 year period, encompassing over 40 consultations. Liability and causation were robustly denied by each defendant. The claim settled, the Claimant accepting an offer of £70,000 in damages.

Raper v (1) Dr Almeida (2) The Hospital Medical Group Limited The 25 year old female Claimant underwent breast augmentation. The issues in the claim against the operating surgeon included pre-operative consent and the performance of the index operation. The claim against the Second Defendant alleged breach of contract, both in relation to the definition of "Surgeon" within the Second Defendant's standard terms and conditions and breach of section 13 of the Supply of Goods and Services Act. The claim had wide implications for the Second Defendant, a national provider of cosmetic surgery, since it was alleged that the surgeon selected by the Second Defendant and advertised on its website was not adequately trained and qualified. The claim was robustly defended by both Defendants. The claim settled on the first day of the trial, the Claimant accepting an offer of £100,000.

Pennington v Dr Paul McArthur The 56 year old female Claimant underwent a facelift operation performed by the Defendant. The claim concerned issues of informed consent relating to the positioning of the operation scar and the technical performance of the

operation. The claim was robustly defended, the Defendant being anxious to protect his professional reputation. The trial took place over 3 days. The claim succeeded and the Claimant was awarded damages in the sum of £30,000.

Simpson v (1) Dr Khalid Khan (2) Optical Express Limited The 36 year old male Claimant underwent laser eye treatment [LASIK (Laser Intrastromal Keratomileusis)] performed by the first Defendant on behalf of the Second Defendant. He was left with a significant visual defect. The underside of the corneal flap had been negligently lasered by the First Defendant before being replaced, producing a contour deformity which was the cause of the visual defect. Liability was denied by both Defendants. Following exchange of expert evidence the case settled, the Claimant accepting £100,000 in damages.

REPORTED CASES

Carr v Stockport Health Authority CA (Civ Div) 23/03/1999 Severe birth injury.

(1) Ann Enright (2) John Enright v (1) Dr Kwun (2) Blackpool Victoria Hospital NHS Trust [2003] EWHC 1000 (QBD) Wrongful birth. Birth of child with Down's Syndrome following failure to provide appropriate antenatal screening.

Casey v East Lancs HA [2004] EWHC 289 Causation. Delay in diagnosing ganglioblastoma. **Glass v Surrendran** [2006] EWCA Civ 20 Extension of time for service of Claim Form.

Hullock v East Riding of Yorkshire County Council [2009] EWCA Civ 1039 Costs.

The Shipman Inquiry Kevin was involved in the Shipman Inquiry over a period of 4 months, representing Dr Alan Banks, an employee of West Pennine Health Authority who assisted the Police in their initial investigation into Shipman, 6 months before his eventual arrest.

Inquiry into the death of Chloe Fahey Kevin represented the father of Chloe Fahey, a 5 year old girl who was stabbed to death in a ritualistic killing, by her mentally ill mother. The wide ranging Inquiry heard evidence over several months and in the Inquiry Report, widespread criticisms were made against the police, mental health personnel and social workers who missed crucial warning signs of her deteriorating mental health.

Publications

Co-author of the 2016 British Society of Gastroenterology Guidelines (publication awaited) “Guidance for Obtaining Valid Consent for Gastrointestinal Endoscopy Procedures”

Beyond the Bar

Kevin enjoys skiing. He is very enthusiastic but essentially unskilled despite over 400 hours of personal instruction. His other interests include fishing, topiary and walking to the village pub with his family and trusted labradors, Malt and Harry.