

Personal Injury



Devereux Personal Injury and Clinical Negligence Settlement Update: Summer 2022

Posted on 13 July 2022 by | [Stephen Killalea](#) | [Robert Weir](#) | [Colin Mendoza](#) | [Christopher Walker](#) | [Peter Edwards](#) | [Stephen Cottrell](#) | [Rob Hunter](#) | [John Platts-Mills](#) | [Harry Sheehan](#) | [Sam Way](#)

Members of the Devereux Personal Injury and Clinical Negligence Group regularly act in high-value and high-profile claims, with a long-established reputation for dealing with all types of accident and disease cases. Set out below are the details of some of the recent settlements reached by Robert Weir QC, Colin Mendoza, Christopher Walker, Peter Edwards, Stephen Cottrell, Rob Hunter, John Platts-Mills, Harry Sheehan, and Sam Way.

The settlements achieved by Devereux members help the injured parties and their families with access to ongoing care, support and accommodation, improving their quality of life.

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Stephen Killalea QC

Steve acted for the claimant in *Redfern v Vortex*, in which a man suffered an incomplete tetraplegia with significantly preserved motor function in all limbs following a farm accident. Contributory evidence was a live issue. Case settled for £5 million at JSM a month prior to trial on liability and quantum. Steve was instructed by Damian Horan and Anna West of Aspire.

In *Seagroatt v Jones*, Steve acted for the claimant who suffered severe TBI sustained in a RTA. The Claimant (aged mid-fifties) now lives in a care home, but has the intention to move into their own adapted bungalow with a care team. Dispute about level of night care. Settled for £10 million, approved in the High Court in July 2022. Steve, leading Stephen Cottrell, was instructed by Jonathan Clement of CL Medilaw.

In *Isaac Tesfay V Laidlaw and Aviva*, Steve acted for the claimant, a university undergraduate who was struck by the defendant's car on a crossing outside of a London tube station. Apportionment in issue. The claimant sustained a severe TBI but subsequently developed a severe post-traumatic psychiatric disorder which led to secure inpatient stays and suicide attempts. Issue whether Claimant will ever recover from psychiatric illness sufficiently to be released into community living. Claim settled at £5 million and approved by High Court in June 2022. Steve was instructed by Sofie Toft of Irwin Mitchell, London.

Robert Weir QC

Rob acted for the claimant, Mr M, who was 41 years old when he sustained a C6 AIS A spinal cord injury, as a result of which he had a much reduced life expectancy. His claim was settled for £12.1m as the claimant sought a lump sum settlement. Rob was instructed by Amanda Brown and Damian Horan of Aspire Law.

Rob acted for the defence insurer in the case of a child who was 2 years old when she sustained a T3 AIS A spinal cord injury. The case settled when she was 12 years old for £13.25m on a full and final basis. The principal dispute related to

the ageing profile of the claimant and how her care needs were expected to progress. Rob was instructed by Jane Hall of Horwich Farrelly, acting for Tony Stanger of Ageas.

Rob acted for Mr T in his claim for damages arising out of a road accident which rendered him T5 AIS D. His claim was settled at a JSM for £6.535m. There was a live issue over the claim for a hydrotherapy pool, which was supported by the claimant's physiotherapy expert, Mr Graham, and spinal expert, Dr Gawronski. Rob was instructed by Siobhan Thacker and Hannah Clarke of CFG Law.

Rob acted for the defence insurer in a claim brought by a 28 year old who sustained a traumatic brain injury in a road accident. By the time of settlement, the claimant, then aged 30, had regained capacity to litigate. The claim settled for £2m.

Colin Mendoza

Colin settled a claim brought by a consultant orthopaedic surgeon who sustained a life-changing stroke 16 days after a minor rear-end shunt on the motorway. The Claimant contended that on the balance of probabilities he had suffered an arterial dissection at the time of the road traffic accident, albeit that this could not be seen on various radiological examinations undertaken at the time. The case settled at a mediation on confidential terms. Colin was instructed by Sandra De Souza of Irwin Mitchell.

Colin settled a claim brought by a young trainee orthopaedic surgeon who had sustained a serious knee injury after being struck by the Defendant driver whilst walking on the pavement. He had made an excellent recovery and had been able to complete his medical degree and qualify. He had returned to running marathons and competing in Iron Man competitions. He had however been deprived of a career in the military as a medical officer and qualified as a doctor one year later than he otherwise would have done. There was a dispute concerning how this one year loss of earnings should be quantified and what period should be used. There was also an issue about the potential earnings as an orthopaedic surgeon in private practice. The case settled at a JSM on confidential terms. Colin was instructed by Alison Eddy and Lauren Hurney of Irwin Mitchell.

Colin acted for a motorcycle rider who sustained a wrist injury after attempting to overtake a line of slower moving cars at speed. One car pulled out from the queue, causing a collision. Liability was in dispute. The case settled for £200,000. Colin was instructed by Gavin Marsh of Fletchers.

Colin acted for a Greek national in his action against Toll Perishables. The case settled on confidential terms 2 days before 4-day High Court trial was due to commence. The Claimant was a HGV driver that was delivering a large consignment of fruit to a transport depot. He was allowed (on his case, forced) to use one of the depot's hand operated pallet trucks to move the fruit to the rear of his trailer. He contended he had slipped off the rear of the HGV as a result of rainwater that had entered the rear of the HGV. The Defendant maintained the pallet truck was not in use at the time of the accident. Liability was heavily disputed. There were further substantial issues on medical causation. Colin was instructed by Matthew Dixon of Serious Law.

Christopher Walker

Christopher acted alone for a 51 year old male cyclist who suffered a severe brain injury and multiple orthopaedic injuries. Although the Claimant made a considerable recovery from both, continued fatigue and a degree of cerebral inefficiency precluded his involvement with and development of, an engineering consultancy business specializing in offshore wind farms. Settlement was reached for £4.1 million. Christopher was instructed by Jonathan Peacock of Augustines Injuries Law.

Christopher acted for a 45 year old male cyclist who suffered an incomplete spinal cord injury, confirmed as C5 AIS D, together with multiple orthopaedic injuries. Following significant rehabilitation, the Claimant remained troubled by right sided weakness, neuropathic pain in one limb and sundry lesser complications. A settlement of £2.85 million, by way of provisional damages, was agreed. Christopher was instructed alone by Shaun Walker of Minster Law.

A 44 year old male motorcyclist suffered a complex fracture and degloving injury to the left arm (his dominant arm),

resulting in an above elbow amputation. Settlement was achieved prior to the issue of proceedings for £2.5 million. Christopher was instructed alone on behalf of the Defendant by Justin Harris of Dolmans.

Christopher acted alone on behalf of a 39 year old motorcyclist who suffered significant fractures to his left leg. The Claimant developed infection following limb salvage surgery and proceeded to an elective below knee amputation. Settlement was reached at £2 million net of an 85/15% liability apportionment. Christopher was instructed by David Sears of Minster Law.

Peter Edwards

Pete achieved a settlement of £2.05 million for a 32 year old Claimant who sustained a serious left lower limb injury and a mild Traumatic Brain Injury (TBI) in a road traffic accident. The Claimant subsequently developed Chronic Regional Pain Syndrome (CRPS) and urological issues, resulting in a permanent suprapubic catheter. The settlement included a sum of around £500,000 for the Claimant to acquire and adapt suitable accommodation, given his mobility issues and need to mobility aids and a similar figure for the cost of prosthetics given the prospect of the Claimant later deciding to undergo a voluntary below-knee amputation to attempt to alleviate his chronic lower limb pain. The Defendant was represented by Richard Whitehall QC. Pete was instructed by Robert Rea of Samuels Law.

The High Court (The Hon. Mr Justice Turner) approved a financial settlement and Human Rights Act Declarations negotiated on behalf of a Claimant mother and her 2 children whose protected data (including their address) had been disclosed by the local Council to the Claimant's former partner, and the children's father, who had previously been violent towards her. The mother and both of her children suffered psychiatric injury as a result of the fear created by the disclosure of their address. The High Court endorsed the approach to be followed when a Claimant is entitled both to damages for distress/just satisfaction damages in respect of a data protection breach/breach of Article 8 of the HRA and damages for consequent psychiatric injury. In this case, no set-off was made between the 2 categories of damages. Pete was instructed by Rebecca Burgess of Lexent Partners.

The High Court (The Hon. Mr Justice Fordham) approved Human Rights Act Declarations negotiated, together with a financial settlement of £2.3 million, on behalf of a vulnerable Claimant who was groomed and emotionally and sexually abused by an employee of an NHS Trust who was her care co-ordinator for the purposes of the Mental Health Act, 1983. Further details of the case and a link to the Judgment can be found in the News Item. Pete, led by Marc Willems QC, was instructed by Mark McGhee of Lexent Partners.

Pete successfully negotiated a settlement in excess of £400,000 at a Mediation on behalf of the Claimant, a city trader who had developed a serious psychiatric condition, alleged to have been as a result of excessive workload and stress. Liability had, as usual for cases of this nature, been strenuously denied, particularly on reasonable foreseeability grounds. Importantly, the Claimant remained an employee of the Defendant bank and had an ongoing entitlement to PHI benefits. The Defendant was represented by Laura Johnson QC. Pete was instructed by Gareth Brahams of BDBF Law.

The High Court approved a settlement of £390,000 for a teenage Claimant who had sustained orthopaedic injuries and a mild TBI as a result of a road traffic accident in which the Defendant driver was killed. The Claimant had been able to get back to work, in similar employment to that which she had pre-accident but continued to suffer subtle, but debilitating, symptoms from her mild TBI that were likely to continue. The Defendant was represented by James Arney QC. Pete was instructed by Victoria Hubbert of CL Medilaw.

Stephen Cottrell

Stephen acted on behalf of a young motorcyclist who sustained a below-knee amputation following an RTC. The claim settled for a confidential sum. Stephen was instructed by Steven Baylis of Slater & Gordon.

Rob Hunter

In *K v L*, Rob acted for a dedicated and experienced GP who had sustained a spinal cord injury as a result of clinical negligence. The Claimant stood her ground at a joint settlement meeting and rejected several substantial offers before her claim was settled for £3m shortly before trial. Rob was instructed by Marcos Eleftheriou of Irwin Mitchell, London.

In *J v XXX NHS Trust*, Rob was instructed in a high value claim for perforation of the sigmoid colon during spinal surgery. The claim had previously been turned down by a different legal team who did not believe there were reasonable prospects of success. Liability was denied in pre-action correspondence but conceded after the service of proceedings.

The negligence resulted in faecal peritonitis and required emergency surgery involving formation of a colostomy. The injuries were life-changing and expert evidence was required from numerous experts and raised complex issues of causation. The claim settled in the spring after the exchange of expert evidence on quantum for £2m. Rob was instructed by James Cahan of Thomson, Snell & Passmore.

In *W v X Insurance Company*, Rob was instructed in a claim for a woman who sustained very severe injuries including loss of sight, psychiatric and orthopaedic injuries in a road traffic accident and who also suffered a loss of dependency from the death of her husband who was killed in the same incident. The defence of automatism was raised but the case was settled on a full liability basis at a joint settlement meeting. Rob was instructed by Rhys Dando of Irwin Mitchell, Bristol.

John Platts-Mills

John succeeded in obtaining a settlement in the region of £100,000 for a client with a number of serious orthopaedic injuries. The client had been riding his motorcycle when another road user performed a u-turn in his path.

John succeeded in obtaining a settlement in the region of £100,000 for a client who, when aged 14, had been involved in a serious RTA. The client's presentation was complex and the neurologist's diagnosis included a finding of FND.

Harry Sheehan

Harry acted for a 46 year old Claimant who was struck on the head by a plank of wood falling from a boarded up store. The Claimant suffered a number of injuries, including orthopaedic injuries to the shoulder, elbow, leg and lower back, a mild traumatic brain injury, ophthalmological injuries to the right eye, and post-traumatic stress disorder. Liability was admitted, and the claim was compromised in the sum of £60,000. Harry was instructed by Jon Wilson of Dawson Hart.

Sam Way

Sam acted for the claimant in *Russell v Kent County Council*. Mr Russell suffered a comminuted fracture of the left hip and a torn liver after his bicycle struck a pothole on London Road, Larkfield. Judgment was entered for the claimant by HHJ Simpkins without any reduction for contributory negligence following a contested liability trial in April 2021. Mr Russell claimed substantial sums for loss of income and pension loss following the loss of a lucrative five-year contract as a CFO. The claim was settled in June 2022 for a confidential sum. Sam was instructed by Oliver Brumby of Dunne & Co.

Sam acted for both the defendant/counter-claimant and his insurer in a complex multi-party claim and counterclaim arising out of an RTA. The claim was settled on confidential terms shortly before trial. Sam was instructed by Jayne Orme of Fletchers and Stephen Hardman of DAC Beachcroft.