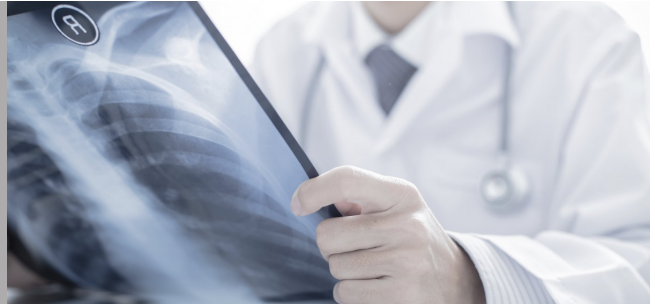


## Clinical Negligence



## Devereux Personal Injury & Clinical Negligence Settlement Update: Autumn 2023

Posted on 13 December 2023 by [Robert Weir](#) | [Stephen Killalea](#) | [Stephen Cottrell](#) | [Jonathan Butters](#) | [Harry Sheehan](#) | [Christopher Walker](#) | [Richard Cartwright](#)

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 Stephen Killalea KC, Rob Weir KC, Stephen Cottrell, Rob Hunter and Jonathan Butters.

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

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### Rob Weir KC

Rob Weir KC settled a claim for a child who was 3 years old when injured in a road traffic accident and 6 years old at the date of settlement. She suffered a severe traumatic brain injury but made an impressive recovery such that she was in mainstream schooling and performing broadly at an average level. She also had growth hormone deficiency and central precocity because of her brain injury, both of which were treatable. Her claim was settled for £13.8 million.

Rob was instructed by Steph Clarke of Stewarts Law LLP.

Rob Weir KC acted for Ageas insurers in a claim brought by a young man who sustained a severe traumatic brain injury. His case was that he was entitled to 24/7 care long term at a cost of over £250k p.a. The claim was not settled at a JSM but was following a mediation at which Frank Burton KC provided a neutral evaluation. The claim was settled on a lump sum only basis for £11.7m.

Rob was instructed by Paul Stephens of Keoghs LLP.

Rob Weir KC acted for a claimant who was 23 years old when he was injured in a road accident. He had not been wearing a seatbelt. The claimant had a substantial pre-accident history, including forensic. He sustained a severe traumatic brain injury and recovered to the point where he was able to live on his own with 40 hours of care a week. Contributory negligence was settled based on a 20% reduction and, after taking this into account, the claim was settled by way of a payment of £5 million.

Rob was instructed by Charlotte Tan of Stewarts Law LLP.

## **Stephen Killalea KC**

AB (by XY) v Hutchinson:

Quantum settlement following a contested liability trial. The claimant made a 100% recovery. A 21-year-old male was severely brain damaged when the car he was driving collided with a tree.

The claim settled after a JSM for £4,100,000 and a PPO of £175,000 p.a. Capitalised value £14,500,000. It was approved in the High Court in Manchester in October 2023.

Stephen Killalea KC was instructed by Nina Ramsden of Jefferies Solicitors.

Wilson v Gibbs & Skyfire:

The Claimant, now aged 35 years, sustained spinal injuries on the 5th of January 2019 when he was knocked down by a car. He was rendered a T4 complete paraplegic. The spinal experts agreed that the position was complex with differing prognoses depending upon whether the Claimant loses a significant amount of weight. The Claimant failed to complete a period of specialist inpatient rehabilitation. The claim settled at a JSM in October 2023 on a provisional damage's basis (lifetime syring risk) for a capital sum of £5 million plus a PPO of £125,000 p.a. to the age of fifty; £170,000 p.a. to the age of sixty-two and £200,000 thereafter. (Capitalised value approximately £10.6 million.)

Steve was instructed by Kate Hewson of Irwin Mitchell, Birmingham.

BGP (By Her Mother and Litigation Friend CBP) v Stephenson:

The Claimant, then aged 2 years, sustained catastrophic brain injuries in a road traffic accident in 2008, in which her mother also sustained multiple catastrophic orthopaedic injuries. Steve Killalea KC had settled the mother's claim on a full liability basis in 2014 for a multi-million-pound capital sum and six figure PPO.

On 10th November 2023, the High Court in Sheffield (HHJ Robinson sitting as a High Court Judge) approved the settlement of the child Claimant's claim in the sum of £9 million plus an indexed PPO of £140,000 per annum for life. The settlement, made on a provisional basis with the Claimant able to return to Court should she develop epilepsy in her lifetime, capitalised at approximately £19.5 million.

The Claimant, now aged 17 years, will always require care and support, will never work, and will never have financial capacity.

The case was complicated by arguments over the potential overlap between the care and case management needs (past and future) of the Claimant and her mother.

The case was also unusual in representing a partial "hybrid" approach to apportioning the costs of future care and case management, through the PPO, but also, in part, in the capital sum.

Steve Killalea KC and Stephen Cottrell were instructed by Ben Priestley of Serious Injury Law, Bolton.

## **Christopher Walker**

A 51-year-old woman underwent a mid-thigh level amputation following grievous injuries suffered in a road traffic accident, for which liability was admitted. Damages were claimed at over £5.3 million. Instructed alone on behalf of the Defendant, and acting against a silk, settlement was achieved at £2.75 million.

Chris was instructed by Bryn Hesketh of MOH Solicitors, Cheltenham

A 32-year-old male pedestrian knocked down when crossing a road suffered a severe brain injury, requiring emergency neurosurgery and leading to significant enduring neurocognitive and executive deficits. Instructing alone on behalf of the Claimant, and acting against a silk, settlement was reached, and damages approved by the High Court at over £2.42 million on an 85/15 apportionment.

Chris was instructed by Kate Venn of Irwin Mitchell Solicitors, Sheffield

### **Richard Cartwright**

A child sustained significant brain damage at birth. He achieved his developmental milestones late but at age 9 he was walking, had decent speech, and was able to attend mainstream education. His life expectancy was near normal. His claim settled for a lump sum of £9 million plus periodical payments rising to £275,000.

The notional capital value was just over £17 million.

A teenager with a history of Group B Strep as a baby suffered progressive shunt dysfunction and visual defect which went unattended. Total blindness resulted. Two claims were investigated on his behalf, the first for shunt mismanagement, and the second for delayed diagnosis and treatment as a baby. The first was admitted in full and the second was denied, both in terms of breach and causation. Both claims fell within the responsibility of NHS Resolution and a settlement meeting was arranged to deal with both claims. Settlement was not reached but shortly thereafter a significantly higher offer was made on behalf of both hospital trusts and was accepted.

The sum agreed upon was in excess of £7 million.

A child sustained an obstetric brachial plexus injury. She was left with limited elbow function. At the age of 6 a liability settlement was achieved with substantial discount for litigation risk. At age 9 an assessment of damages was preceded by a settlement meeting. Settlement was not reached but shortly afterwards a significantly higher offer was made and was accepted.

The sum ultimately agreed upon was equivalent to £2.64 million.

On these cases RC was instructed by variously Lauren Hurney, Anne Kavanagh, Richard Kayser and Anna Vroobel of Irwin Mitchell London.

### **Stephen Cottrell**

As detailed above, Stephen Cottrell, alongside Stephen Killalea KC, secured a settlement of £19.5 million for a severely brain-damaged client.

LH v SJ:

A settlement was reached at mediation for a young Claimant with a severe degloving injury, chronic pain, and

psychiatric injuries after he was run down. The case was settled for £3 million in October 2023

Stephen was instructed by Fiona Dodgson of CL Medilaw.

GT v CA:

Stephen acted for a Claimant with devastating orthopaedic injuries to his leg following a motorcycle accident. It was decided that single-storey accommodation would be needed. A settlement of £2.1 million was reached in September 2023.

Stephen was instructed by Mark Gayler and Candice Watson of Minster Law.

### **Jonathan Butters**

Jonathan Butters had a settlement of £2 million approved by the court following a JSM for a 40-year-old man who suffered a traumatic brain injury when the agricultural vehicle he was driving was hit by a train at a level crossing. Issues on causation arose by reason of the claimant's excessive use of cannabis.

Jonathan was instructed by CFG Solicitors

Jonathan Butters acted for a 38-year-old woman who sustained serious lower limb injuries in a head-on road traffic accident. The claim settled for £3.5m at JSM. The claimant was unlikely to work in remunerative employment again, needed single level adapted accommodation, and had life-long care needs.

Jonathan was instructed by Katie Pendower of CFG solicitors.

Jonathan Butters acted for a 64-year-old diabetic man who suffered a partial forefoot amputation. He worked as a road cleaner and developed wet gangrene because of inappropriate footwear provided by his employer. The amputation would nevertheless have been avoided but for negligent treatment he received at hospital. The claimant's case was that he had lifelong mobility and care needs and needed single level accommodation. He was at increased risk of future amputations. Breach of duty was admitted by both defendants, but the expert evidence was contentious on causation and future prognosis. The case was settled for £500,000 at JSM.

Jonathan was instructed by Caroline Phelan at Pattinson and Brewer Solicitors

### **Harry Sheehan**

Harry acted on behalf of a Claimant HGV driver who was struck by a falling oak barrel which fell from the back of another driver's vehicle and landed on his ankle, causing a crushing injury to the end of the fibula, and a break to the outer fibula. Primary liability was admitted but contributory negligence was alleged.

The case settled for £110,000.

Harry was instructed by Laura Bailey of Irwin Mitchell Bristol

Harry acted for the Claimant who was a captain on a seafaring vessel. The accident took place when he slipped and fell. liability was denied, the Claimant averred that the fall was caused by a failure to maintain the stairway, on which he fell,

in a safe condition, alleging that it was covered in oil and water at the time. The Defendant argued that the Claimant had failed to follow the correct disembarking procedures, was carrying a heavy load which caused the fall, and was himself responsible for the cleanliness of the vessel.

The case settled on a full liability value of £55,000, subject to a 60% deduction for contributory negligence.

Harry was instructed by Kathryn Hudson of Bridge MacFarland.

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