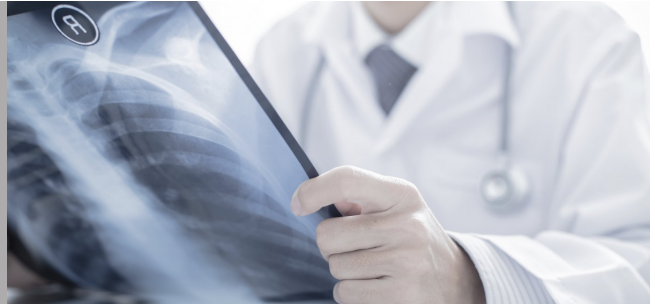


## Clinical Negligence



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

Posted on 26 July, 2023 by | Robert Glancy | Stephen Killalea | Robert Weir | Colin Mendoza | Christopher Walker | Peter Edwards | Stephen Cottrell | Rob Hunter | John Platts-Mills

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 Glancy KC, Stephen Killalea KC, Rob Weir KC, Colin Mendoza, Chris Walker, Peter Edwards, Stephen Cottrell, Rob Hunter and John Platts-Mills.

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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#### Robert Glancy KC

##### ABC v XYZ

The claim was for a serious hand injury to a 30-year-old tunnel miner whose hand was caught in a fan. He suffered psychiatric injury as well.

The case was settled at a JSM for a seven-figure sum.

Mr Glancy's opponent was Neil Block KC.

##### *Marshall v Tannock & Liverpool Victoria Insurance Company*

This was a claim by a child of 10 who was run over by a car driven by the First Defendant when the Claimant emerged on a scooter from the First Defendant's nearside.

Primary liability and contributory negligence were both in issue. There were numerous issues regarding the speed of the car, the location of the accident and the Claimant's responsibility for riding his scooter out from the nearside without looking.

The Court approved a settlement at the door of the Court for approximately 50% of the claim.

Mr Glancy's opponent was Patrick Vincent KC.

### ***Felix v Autoxotica***

This was a claim by a professional racing driver who suffered severe injury to his arm when riding a Can-Am buggy for a promotional film.

The claim was brought on the basis that the Defendant as promoter of the event and owner of the buggy should have supplied side netting to the open windows and wrist restraints in case the buggy turned over.

The case was settled at a JSM for a substantial sum.

Mr Glancy's opponent was Peter Freeman.

### **Stephen Killalea KC**

#### ***ACI (By her Litigation Friend CCI) v Williams & Esure***

Steve Killalea KC settled this catastrophic brain injury case for £9 million. (Net of liability deduction of 30%. Full liability value £12.87 million.)

The Claimant was a 37-year-old active independent career woman when she was struck whilst riding her bicycle in June 2020. Residual physical disabilities relatively mild but profound continuing cognitive impairments including memory attention and executive function. Intolerant of noise or routine changes. Fatigue a major issue. Agreed that the Claimant requires 24/7 care, is a Protected Party and will never be able to work. Compromised on the Claimant's full Schedule multiplier (despite dispute) and on a full and final settlement basis.

Steve was instructed by Angela Batchelor and Peter Lorence of Irwin Mitchell.

Stephen Killalea KC and Stephen Cottrell settled a case at a JSM for a below-knee amputee for £2.425M on 3 July 2023. This was an accident at work case, with the Claimant having his foot pulled into a woodchipper when he was working in a garden. He had not been trained in the use of woodchippers and was not properly supervised. There were strong allegations of contributory negligence.

Steve was instructed by Victoria Hubbert of CL Medilaw.

### **Rob Weir KC**

Rob Weir KC acted for a 40-year-old man, who was knocked down whilst a pedestrian in London. Liability was resolved

on the basis of 60% recovery. He suffered a profound traumatic brain injury as a result of which he remained an inpatient for over 4 years. He was eventually discharged to his own accommodation after a successful contested interim payment application. A care regime of 2:1 care to manage his significant behavioural difficulties was established. His care was partly funded by the NHS and partly by interim payment. His case was settled on the basis that the Claimant was at liberty to continue to receive state funding in addition to the £8.5m (over £14m on full liability) he received by way of settlement.

Rob was instructed by Stephanie Clarke of Stewarts Law LLP.

Rob Weir KC acted for a 20-year-old who suffered a traumatic brain injury in an accident in 2015 from which she made a good, but incomplete, recovery. The Claimant had returned to college, worked for a period and was able to drive. Her case was settled for £3.25m, as approved by the court.

Rob was instructed by Chani Dhaliwal of Irwin Mitchell LLP.

### **Colin Mendoza**

Colin Mendoza acted for a doctor who had been injured whilst walking on a pavement in London, after a car driven by a motorist mounted the kerb and struck him.

There was extensive medical expert evidence from neurologists and neuropsychologists on both sides. Each side also had employment experts. There were very different views held about the long-term effects of the injury. The case settled at a JSM for £2,130,000 gross of past interims but net of any CRU that the Defendants also agreed to pay on top of costs.

Colin was instructed by Alison Eddy of Irwin Mitchell Solicitors, London. Leading Counsel was instructed for the Defendant at the JSM.

Colin Mendoza acted for Miss L who suffered multiple fractures and serious life-changing injuries following a road traffic incident in which Miss L was a pedestrian.

While attempting to cross a road, Miss L was hit with great force by the Defendant's vehicle when it came at speed from her right side along the carriageway. Miss L underwent extensive surgery to save one of her legs. There were substantial private medical costs. She had managed to return to work. There was substantial disagreement over the future loss of earnings claim. Following extensive negotiations and following proceedings being issued in the High Court, the claim was eventually settled at a JSM at Devereux Chambers with the Defendant's representatives on 4<sup>th</sup> May 2023. Miss L agreed to receive £791,530.00 in damages plus legal costs, allowing her to fund her ongoing care requirements.

Colin was instructed by Greg Almond of Rotheras LLP, Nottingham.

Colin Mendoza acted since 2016 for AB, a young man who had suffered a severe traumatic brain injury after an accident. After tripping over a defective surface in a playground at a state school, he was taken to hospital where a left parietal extradural haematoma was evacuated. He had some enduring neuropsychological deficits in sequencing and word retrieval that amounted to a severe Acquired Dyslexia (Visual) Dyslexia, greatly affecting his educational progress in reading and spelling. The expert neuropsychologists agreed in an early joint statement that he had sustained

a diffuse axonal injury involving extensive bleeding in the left temporal parietal region, and his reading comprehension skills were statistically significantly below the level predicted as he remained in the lowest 25% of the population at his age. They agreed that without immediate significant additional support, it was more likely than not that he would fail to achieve his potential ability at GCSE.

Colin then assisted in the recovery of an interim payment. By the time of the JSM in July 2023, the Defendants had already made three Part 36 offers, the last one for £120,000 gross of interim payments including the £54,712 spent on private school fees. The case settled for £426,473.21 gross of interim payments.

Colin was instructed by Abraham Kallis of Chris Kallis Solicitors.

### **Chris Walker**

Chris Walker acted on behalf of the Defendant in a claim for multiple catastrophic injuries sustained in a road traffic accident said to have led to a requirement for a 24-hour care regime. Damages were claimed to a value of over £17 million on a provisional basis. Settled for £3.5 million on a full and final basis.

Chris was instructed by Bryn Hesketh of MOH Solicitors.

Chris Walker acted on behalf of a Claimant electrician who suffered electrocution when working on electrical services, fell from a step ladder and sustained a brain injury. Contributory negligence alleged. A settlement of £1.492 million was approved by the High Court.

Chris was instructed by Claire Howard of Irwin Mitchell.

Chris Walker acted on behalf of the Claimant who suffered a grievous leg injury in a road traffic accident while riding pillion on a motorbike. She required an above knee amputation. Liability having previously been determined in her favour at trial, the claim was settled for damages of £2.544 million.

Chris was instructed by Mike Shiers of Nash & Co.

### **Peter Edwards**

Peter Edwards, acting unled for the Claimant, secured a settlement of £3.4 million, at a JSM, in respect of an accident during the course of the Claimant's service with the 7th Horse Royal Artillery Parachute Regiment of the British Army. The Ministry of Defence was represented by Niazi Fetto KC.

The accident happened during a training exercise in which the Claimant's parachute failed to properly open, resulting in him hitting the ground at an excessive speed. The Claimant suffered an incomplete spinal cord injury (in the form of an L2 burst fracture with peripheral nerve damage to his lower limb, spinal instrumentation L1 to L3, conus medullaris/cauda equina level injury and chronic pain, including neuropathic pain) and Post Traumatic Stress Disorder.

The settlement included, unusually, a sum for loss of congenial employment, the Claimant having been medically discharged from the Armed Forces, and a substantial sum for future loss of earnings that he would have earned both

with the Army and in lucrative, foreign security work that would have been available to the Claimant after he left the service. The settlement also included a sum in excess of £1 million for the Claimant to purchase and adapt a suitable property and a sum in excess of £1.25 million for future care.

Peter was instructed by Mark McGhee of R. James Hutcheon Solicitors.

Peter Edwards, acting unled for the Claimant, secured a settlement in excess of £2 million for a Claimant who suffered severe orthopaedic injuries in a road traffic accident. The ongoing pain suffered by the Claimant led to him electing to have an above-knee amputation.

The settlement included sums for the purchase and adaptation of a suitable property and for the prosthetics required by the Claimant.

Peter was instructed by Victoria Hubbert of CL Medilaw Solicitors.

Peter Edwards, acting unled for the Claimant, secured a settlement in excess of £1.5 million for a pedestrian who suffered serious orthopaedic injuries when she was run over by the Defendant.

The case was complicated by the fact that it was discovered, during the course of the proceedings, that the Claimant had a serious, unrelated kidney condition that impacted on her life expectancy. Expert nephrology evidence was required in order to address this issue.

Peter was instructed by Kim Chamberlain of CL Medilaw Solicitors.

## **Stephen Cottrell**

Stephen Killalea KC and Stephen Cottrell settled a case at a JSM for a below-knee amputee for £2.425M on 3 July 2023. This was an accident at work case, with the Claimant having his foot pulled into a woodchipper when he was working in a garden. He had not been trained in the use of woodchippers and was not properly supervised. There were strong allegations of contributory negligence.

Stephen was instructed by Victoria Hubbert of CL Medilaw.

Stephen Cottrell had a settlement approved for £775,000 for a serious leg injury for a young man with severe learning difficulties (akin to Down's Syndrome). He was injured when he was cycling alongside a lorry that was turning left. He was already disabled and unemployed and living in the family home, but there were significant claims for future care and specialist footwear. The approval was in Spring 2023 following a JSM in December 2022.

Stephen was instructed by Jenny Keith of Slater & Gordon.

## **Rob Hunter**

Rob Hunter represented the Claimant in a long running clinical negligence case involving very serious colorectal complications. The Claimant suffered from underlying rheumatoid arthritis, which made it more difficult for her to cope with stoma care, but also gave rise to care needs that were independent of the negligence. The claim settled at a JSM for £2.5m.

Rob was instructed by Matt Dixon and Peter Eckersley of Serious Law LLP.

Rob also continued his busy fatal accident practice, settling three six figure claims arising from avoidable deaths, including one proposed settlement that remains subject to approval.

In the first claim, Rob acted for the bereaved family of a motorcyclist. The main issues were the Deceased's life expectancy and the chance that he would have reduced his working hours.

Rob was instructed by Rachel Matthews of Minster Law.

In the second claim, the main issue was how to quantify the claim for dependency on income from a growing business. The question was how much loss had arisen because the Deceased was no longer alive and able to contribute to the success of the business. Contributory negligence was also alleged for the failure to wear a cycle helmet with overlapping neurosurgical and accident reconstruction evidence.

Rob was instructed by Laura Murphy of Leigh Day.

## **John Platts-Mills.**

John secured c.£1m settlement for a client who suffered life threatening injuries in a road traffic accident. In addition to numerous complex orthopaedic issues, the client suffered a moderately-severe traumatic brain injury and was placed in an induced coma for three weeks.

John was instructed by Jan Boulter of Pickering and Butters.

John achieved a six-figure settlement for a client that had been involved in a head-on collision.

John was instructed by Declan French of Irwin Mitchell Bristol.

John achieved a six-figure settlement for a client that had been involved in a road traffic accident as a front-seat passenger.

John was instructed by Charlotte Werner of Irwin Mitchell Bristol.

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