

Campaign victory for British victims of terrorism abroad



A new law will ensure that compensation is available for British citizens who are injured in terrorism attacks that take place outside the United Kingdom. The law came into effect earlier this year and will provide financial assistance to victims of terrorist atrocities to pay for treatment, rehabilitation and to compensate for lost earnings. Previously British citizens caught up in terrorism abroad received little or no financial support upon their return to the UK.

British citizens injured in terrorist attacks in the UK are entitled to financial redress under the Criminal Injuries Compensation Scheme. A four year campaign sought compensation for British citizens caught up in bombings and terrorist attacks overseas.

Until this year, no such scheme existed for those injured in terrorist attacks abroad and the new scheme will effectively extend the CICA Scheme to these people. Payments will also be made to victims of previous terrorist atrocities such as those in Mumbai, Turkey, Bali, Egypt and others.

Our personal injury team has been heavily involved in the campaign to secure compensation for British victims of terrorism abroad. Jill Greenfield was part of the campaign, which resulted in the new compensation scheme being introduced as part of the Crime and Security Bill. Jill said:

"This has taken many years, but finally financial support will be available to those injured abroad in terrorist atrocities. This is a massive achievement for the victims and all those involved in the campaign."

"It must be right that whilst the scheme is not retrospective, those involved in past atrocities should receive support on the same basis. We believe that there are over 50 such victims out there and we would urge those that have not been contacted by the government so far to come forward."

in this issue:

- 02 Introduction
- 03 Seriously injured art lecturer wins compensation for tree fall
- 04 Police worker shot during safety demonstration settles claim
- 05 £95,000 for pedestrian in traffic accident
- 06 Romanian builder receives £2m for loss of leg in building collapse
- 07 British victims of terrorism obtain judgement for over £1m
- 08 Group action for children exposed to E Coli 0157
- 10 Cyclist's family win case against HGV driver following fatal collision
- 11 Machine operator wins fight for compensation for head injuries
- 12 £75,000 for couple injured in car crash while on holiday from China
- 13 Patient receives £1.2m for doctor error
- 14 A&E's delay causes unnecessary injuries and trauma
- 15 Compensation for blind widow of asbestos victim
- 16 Contacts

Introduction



Welcome to the latest issue of Personal Injury News

At Field Fisher Waterhouse, we understand the difficulties facing clients who have suffered personal injuries. Our philosophy is to give our clients the confidence that we will do everything to uncover the cause of their injuries and obtain the highest award possible as quickly as proper investigation allows.

I believe that our mission statement encapsulates this philosophy: *“Caring for our clients, Commitment to our cases, Cutting edge expertise”*.

This review is intended to give an insight into the work that we do so that you can see what can be achieved.

Our clients are everyday people who have suffered serious injuries, through no fault of their own, often in circumstances that are difficult to understand.

Many of our clients are motivated by the need to fund rehabilitation and care. Some wish to recover lost earnings or to compensate for a loved one’s financial support.

Our lawyers are renowned for their expertise, their commitment and the care that they take. They are also compassionate and work extremely hard.

You will see from the cases in this issue that our clients encounter many different circumstances over many areas of personal injury. We cater for them all.

We pursue claims very quickly and without fuss. This allows our clients to rebuild their lives with minimal disruption, and with empathy and support from us.

You only have to read the quotes from our clients and from the independent legal directories to know that we have a strong reputation. This coupled with rigour and dedication, enables us to win the best settlements - the very least our clients deserve. In virtually all of our cases this is done at no cost to our clients.

Please take the time to read on and find out what we can achieve for you. If you would like further information, please do not hesitate to call me on 020 7861 4019 or email me at paul.mcneil@ffw.com.

Alternatively, please visit our website, at www.personalinjury.ffw.com.

I hope you enjoy the newsletter.

Paul McNeil
Head of Personal Injury Department

Any questions or queries?
Email us: personalinjury@ffw.com

Call the team on freephone
0800 358 3848

Seriously injured art lecturer wins compensation for tree fall



Mark Bowman recovered £300,000 in compensation for an art lecturer at Southgate College who suffered major injuries when he was hit by a falling tree.

Martin, a 58 year old from Tottenham in North London, was walking in the grounds of the college when a diseased copper beech tree fell, knocking him unconscious.

He suffered major injuries including a fractured skull and three fractures to his spine.

He went on to develop a stammer and a twitch and was diagnosed as suffering from both Post Traumatic Stress Disorder (PTSD) and depression as a result of the accident. Martin had to retire from his job at Southgate College for medical reasons.

Amenity Sports Management Ltd (ASM), the company employed by Southgate College to undertake general grounds maintenance work on the campus, admitted liability and agreed to compensate Martin.

Mark Bowman acted for Martin on this claim. He said:

"It was tricky to determine whether the employer, its contractor or subcontractor was responsible for the accident. I am happy with the outcome of the case and glad that Martin will now receive compensation to cover the costs of his treatments and to make up for the loss of earnings resulting from his early retirement."

Martin said:

"I would like to thank Mark for all his hard work. Throughout the claim he has worked extremely efficiently and has always been approachable, amenable and sympathetic throughout what has been very trying time for me."

Police worker shot during safety demonstration settles claim against Thames Valley Police for six figure sum

Keith Tilbury, a police civilian worker shot by a police officer during a safety demonstration, has recovered a six figure sum following an admission of liability for the incident by Thames Valley Police.

In May 2007, Keith Tilbury, a 56 year old 999 control room operator from Walton on Thames, was attending a lecture given by a police firearms training officer.

The trainer was demonstrating a Dan Wesson .44 Magnum Revolver as part of a talk on the weapons police officers can come up against.

The training officer took ammunition from a sweet tin, believing it to be an inert round. He pointed the revolver at Keith and pulled the trigger. In fact, the ammunition was live and Mr Tilbury suffered life threatening bullet wounds.

Paramedics managed to stabilise Keith at the scene and then rushed him to the John Radcliffe Hospital. He suffered major

internal injuries and massive blood loss and underwent life saving surgery. He was unconscious in intensive care for two weeks and had a series of operations.

Mr Tilbury has been left with physical injuries and psychological trauma and has not been able to return to work since the accident. He instructed Jill Greenfield in a civil claim against Thames Valley Police. The claim was settled out of court and Keith was awarded compensation for his injuries.

After the case, Jill Greenfield said:

"This was an appalling accident. My client was shot at point blank range whilst attending what should have been a routine demonstration. Whilst money in itself cannot compensate for what my client has gone through I would hope that it will help with the financial burden, given his inability to work."

Keith Tilbury said:

"In May 2007, during a training class for 999 call operators, the firearms training officer took a revolver, loaded it and fired it, almost killing me, causing major injuries and certainly putting an end to my career. I am pleased that Thames Valley police have acknowledged that mistakes were made and that I have been awarded compensation that will help me to deal with the injuries I have suffered and pay for any future treatment that I may need."



£95,000 for 84 year old pedestrian in traffic accident

Derek, an 81 year old voluntary guide at the Tate Britain Gallery on Millbank in Westminster, was walking to work in the early evening of Monday 09 June 2008. He was hit by a motorcyclist while crossing the road at Millbank.

Derek had no recollection of the impact, nor indeed his precise actions in the moments leading up to impact. There was no CCTV footage of the accident either.

The defendant motorcyclist had a clear account of what happened, and was supported by the only traceable independent witness to the collision.

They both said that Derek suddenly started to run across the road to get to the safety of the central reservation, running into the path of the defendant motorcyclist and giving the motorcyclist inadequate time to react. He hit Derek about one metre from the central reservation.

Derek was taken by air ambulance to the Royal London Hospital. He suffered life threatening injuries including a head injury, fractures to his second and third cervical vertebrae, further fractures to his first, second, third and fourth lumbar vertebrae, a number of rib fractures, a severe fracture to his right arm and a series of fractures to his pelvis resulting in a two to three centimetre separation of the pubic symphysis.

Further fractures were sustained to the right hip, right knee, and left ankle. Derek also suffered a number of internal injuries, which left him with erectile dysfunction. Derek required a large number of surgical procedures and he remained in hospital until September 2008.

Before the road accident Derek was extremely active, taking part in competitive dinghy racing and sailing.

He is no longer able to take part in these activities. He now has problems walking much further than a mile, something that was never remotely an issue.

Mark Bowman first met with Derek whilst he was in hospital. An immediate needs assessment was organised and paid for by the defendant.

Mark began investigations into liability and the police report obtained following the police decision to take no action against the defendant motorcyclist. The defendant insurance company initially refused to make any form of admission of liability, based on the evidence of their client and the evidence of the independent witness.

Following lengthy correspondence, the defendant insurance company eventually made an offer on liability whereby whilst the motorcyclist would be primarily liable, Derek's damages would be reduced by 74%, to reflect his fault in causing the accident. Mark and Derek decided to reject this offer.

Extensive research was conducted so as to assess the likely findings that a Court would make with regards Derek's actions, on the basis that the account provided by the Defendant and the independent witness were correct. It was felt that a reduction of anywhere between 50 and 75% was possible.

In the meantime, expert evidence was obtained from a Consultant Orthopaedic Surgeon and a Consultant Urologist, in order to assess Derek's condition and his likely future prognosis. Following receipt of the reports, negotiations with the Defendant insurance company commenced, and Derek accepted the sum of £95,000 in compensation, this including a notional 60% deduction to account for his own contributory negligence. Derek will not pay any legal fees from this amount.

After the case, Mark Bowman said:

"The settlement represents a very good outcome in what was a very challenging case. Unfortunately, we were faced with extremely unfavourable evidence on liability and it was clear that Derek would face a significant deduction for his own actions. £95,000 represents a substantial sum of compensation, which I hope helps Derek in the years to come."

Romanian builder receives £2 million for loss of leg in building collapse

Grigore Vraja received damages from a hotel group for injuries he sustained while working for the defendant on a demolition site

Grigore, a Romanian national, was employed to remove partition walls and clear rubble at the hotel demolition site. He was not given any proper training or risk assessments.

Grigore was also not provided with protective clothing, including a hard hat. Whilst demolishing fireplaces on the third floor of the building he noticed that the metal support structure in the ceiling was bowing. He informed his supervisor and was asked to place temporary brackets to offer support.

As Grigore re-entered the third floor with the new supports the ceiling collapsed on top of him. He was trapped in the rubble for more than nine hours.

Grigore suffered serious injuries and was admitted to the Royal London Hospital.

His injuries were so bad that his left leg was amputated above the knee in order to save his life. He was on a ventilator for almost a month and was in hospital for more than three months in total.

Paul McNeil was asked to investigate the personal injury claim against the hotel by the Romanian embassy.



▲ The building where Grigore was working

We pursued a case against the hotel owners alleging that they failed to comply with health and safety regulations and failed to provide proper training for our client.

The defendant did not dispute liability and the claim was settled for £2 million. Grigore paid no legal fees on this amount.



◀ Grigore Vraja who lost his leg following a work accident.

British victims of terrorism obtain judgement for over £1 million from Turkish authorities

A family of six left seriously injured after the bombing of a holiday resort in Turkey has been awarded over £1 million in financial support by the Turkish authorities. This follows a four year campaign, which has seen the UK Government fail to help British citizens injured by terrorist attacks abroad.

On 16th July 2005, the family from Durham were on their way to the beach whilst on holiday in Turkey when they became the targets of a terrorist bomber.

The minibus in which they were travelling had a bomb placed beneath the seats. It is thought that the terrorist had got off the bus, leaving the bomb behind.

The bomb exploded and carnage ensued. Helyn Bennett was killed. Her fiancé, Stephen Stables, together with other members of the family, including Mickey Aspinall, Toni Punshon and two of the family's children were seriously injured.

As the bombs were beneath the seats, many of their injuries affected their legs. They also suffered burns, head injuries, deafness and loss of sight. All surviving members of the family were placed in intensive care and required surgery.

The case was referred to Jill Greenfield by another law firm because of her involvement in a campaign to introduce compensation for British victims of terrorist attacks abroad.

This campaign was successful and the scheme was introduced in April this year.

It was initially difficult to see what, apart from the campaign, could be done to help the family. However, there was then a breakthrough with the discovery of a little known scheme and the possibility of a claim against the Turkish Authorities.

It offered potentially little to the family, but it was felt worthwhile. A long and difficult legal battle ensued with the Turkish Authorities. Initial awards of a few thousand pounds were rejected and an appeal was launched in Turkey. Turkish lawyers were retained and Mark Bowman, assisted Jill with the case.

The family have finally been awarded £1,099,531.94 between them in compensation. The case has received national and international press coverage.

The judgement is currently being appealed by the Turkish Government. Axa Legal Expense Insurers funded the action.

Jill Greenfield comments:

"Pursuing a claim against the Turkish Government was a long shot. We worked with a Turkish law firm and we knew it would be complicated litigation. The UK Government had done little to help this family except offer sympathy. Sympathy doesn't pay the bills."

Group action for children exposed to E Coli 0157 in the largest ever UK outbreak at a petting farm

We are acting for the families of 27 children who were exposed to E Coli 0157 while visiting Godstone farm in Surrey.

The children had been on day trips with their parents and became ill very soon after returning home. Many of the children required dialysis and there are very real concerns about their future health.

The E Coli 0157 was traced back to the farm.

Jill Greenfield was instructed. She had previously acted for a young boy who suffered brain damage through his exposure to E Coli 0157 on a visit to a petting farm 10 years ago. We expect that these cases will have a significant impact on the way such farms are managed in the future. Jill is working on these cases with colleague Richard Earle.



▲ E Coli 0157

The 10 things you need to know about E Coli

1 What is E Coli?

Escherichia Coli is a common bacteria, which we all need in our bodies to help us absorb vitamin K (the blood-clotting vitamin) and break down cellulose (also known as dietary fibre or roughage). It is often found in the gut of both humans and animals. It can live on surfaces such as metal and can be difficult to detect. Most E Coli is harmless, however, there are certain strains, such as E Coli 0157, that are dangerous and can be potentially life threatening for young children (particularly those under the age of five) or the elderly.

2 When was E Coli discovered?

Escherichia coli was discovered by Austrian doctor, Theodor von Escherich in 1885. However, the dangerous 0157 strain was only discovered in 1982.

3 How is the 0157 strain different?

0157 is a mutant form of E Coli, which lives in the intestines of some cattle, sheep and goats but is not found in the intestines of humans. It produces toxins, which can be potentially fatal when ingested in very small amounts. To put this into perspective, it could take up to one million salmonella organisms to be ingested before symptoms could present themselves, whereas it could take as little as 10 E coli 0157 organisms for similar symptoms to arise.

4 How is E Coli 0157 passed on?

E Coli 0157 is transferred through faecal material and needs to be ingested, so good hygiene is essential although hygiene measures may not be enough. The main source is cattle, with water being key vehicle for the organism, if polluted with manure. 0157 can also live on metal, wood or on the ground for many months.

The first 0157 strain was identified in 1982 and the number of cases have risen significantly over the years. Some of the proven carriers include eating uncooked beef burgers and drinking unpasteurised milk or even drinking cider that was made from apples contaminated by cow manure. However, more recently environmental causes have been blamed, including touching infected animals or playing in fields once occupied by cattle or sheep.

5 Is E Coli 0157 contagious?

Yes, E Coli 0157 is very contagious as the number of bacteria that you need to be exposed to is very small. The bacteria can be readily spread from person to person, particularly amongst families, child care/nursery facilities and elderly residential and day care centres.

6 What are the symptoms?

Generally, E Coli 0157 will lead to symptoms similar to salmonella, the food poisoning infection, where vomiting, severe abdominal pain, sickness and diarrhoea (often bloody) will be evident.

In some of the worst seen cases, E Coli 0157 produces toxins, which can lead to Haemolytic Uraemic Syndrome (HUS) which can cause Renal Failure potentially leading to brain damage or death. Some people, particularly the elderly, may develop Thrombotic Thrombocytopenic Purpura (TTP), which can sometimes result in diseases such as encephalitis, psychosis, comas or seizures.

7 What is Haemolytic Uraemic Syndrome?

Haemolytic Uraemic Syndrome (HUS) is a rare kidney disorder that mostly affects children under the age of 10. It destroys red blood cells and the lining of blood vessels and is often caused by E Coli 0157 bacteria. People with HUS may get acute renal failure or lose the ability for blood to clot.

Acute renal failure is when the kidneys suddenly stop working, although it is possible for the kidneys to recover from almost complete loss of function.

8 What should I do if I think my child/relative has E Coli 0157?

Consult your GP/A&E department straight away. Do not use over-the-counter medicines as some have shown to increase the chances of E Coli 0157 developing into HUS. Antibiotics are generally not prescribed either as these also have been

proven to have detrimental effects, however your GP is best placed to prescribe whatever form of treatment is best for the specific level of infection.

9 What is the treatment for E Coli 0157?

The treatment will depend on how severe the symptoms are and whether it is a cystitis or intestine infection. If it is a cystitis infection it would usually clear up by itself after two to four days, although a short course of antibiotics may be given. Antibiotics are generally not prescribed for intestine infections.

Sickness and diarrhoea symptoms dehydrate the body and it is important to drink plenty of fluids. This is especially helpful for children with diarrhoea, as the additional fluids will also replace other important substances lost from the body, including sodium, potassium and glucose.

In serious cases, hospital admissions will be needed and there is a possibility of blood transfusions and dialysis for renal failure.

10 Where can I find more information?

The best sources of information can be found on the following websites:

NHS Choices: Facts about E Coli

www.nhs.uk/news/2009/09september/pages/ecoliqa.aspx

(HUSH) Haemolytic Uraemic Syndrome Help

www.ecoli-uk.com/

Cyclist's family win case against HGV driver following fatal collision

The widow of a cyclist has received compensation for the death of her husband. Stephen Ferguson was killed when he was knocked from his bike by a HGV. The driver of the HGV didn't see Stephen, despite the fact that he was on his bike directly in front of the HGV.

In April 2007, Stephen, a father of three from Dulwich in South East London, was cycling to work when he approached a set of traffic lights on red.

Passing a stationary HGV, he positioned himself in front of it, ready to cycle off when the lights turned green. The driver, whose HGV was missing a nearside mirror, failed to see Mr Ferguson in front of his vehicle and when the lights changed, moved off, driving over Mr Ferguson and his bicycle, killing him instantly.

Stephen's widow, Emma, instructed Jill Greenfield and Mark Bowman to represent her in a claim against Hendricks Lovell Limited, the haulage company which employed the driver of the HGV.

Hendricks denied causing the road traffic accident but during investigations it was established that the driver had his radio on, had an open newspaper on the passenger seat and was missing one of his mirrors.

Hendricks finally agreed to pay substantial financial compensation to Emma Ferguson and her three young children, now aged six, four and one.

The claim was taken on a 'no win, no fee basis' and Emma will not pay any legal costs.



After the case, Mark Bowman said:

"This was a tragic case highlighting the danger that HGVs pose to cyclists on London's roads. Had the HGV been fitted with a mirror, which would have eliminated its frontal blind spot, this tragedy may have been averted. More needs to be done to ensure that cycling is a safe and viable means of travel in London and that accidents such as this are reduced in the future."

Emma Ferguson said:

"Thank you so much for all your amazing work. You have made a real difference to the children's future and I know Stephen would be very, very grateful to you all."

Machine operator wins fight for compensation for head injuries sustained in work accident

The employer of a machine operator who was left with severe brain damage after he was struck by heavy machinery at work has accepted responsibility for the accident.

An interim award of half a million pounds in compensation has been provided to pay for the employee's rehabilitation and accommodation needs. The full value of the claim is yet to be assessed but the claim is thought to be worth several million pounds.

Christopher Kaye, a 55 year old from Barnsley, was working on a construction site in Sheffield for demolition company Euro Dismantling Services Ltd when he was seriously injured in October 2008.

Christopher was changing the grapple attachment on an excavator when the connecting metal bar fixing the grapple to the boom sprang out, hitting him in the face and knocking him to the ground.

Christopher was rushed to Sheffield Hospital where he underwent life saving surgery. He was left with severe brain damage and remained in Keresforth neuro-rehabilitation unit for many months.

He now needs around the clock care and is unable to walk or care for himself without assistance. His ability to communicate is limited and he will not be able to work again.

Christopher's family instructed Jill Greenfield to pursue a claim against Euro Dismantling Services Ltd.

We gathered evidence to suggest that Mr Kaye had received inadequate training on how to change the grapple, that recommendations stating employees should receive more training were ignored and that equipment that could have allowed him to carry out the job more safely was purchased after the accident.

It was discovered that written instructions on changing the grapple were not provided until after the accident occurred.

The defendants denied our allegations and disputed the claim.

Shortly before a settlement meeting, Christopher's employers accepted responsibility for the accident and provided an interim payment of £500,000.

But they maintained they believed Christopher was partially to blame for the accident.

This was not accepted by Christopher's family or his legal team but the parties came to an agreement whereby Mr Kaye will recover 90% of his full damages from the defence rather than litigate the case at trial.

The case was taken on a 'no win, no fee' basis.

Jill Greenfield said:

"This was a terrible accident that could have been avoided had better equipment and training been in place at Mr Kaye's workplace. It has been a difficult fight to secure financial support and whilst money in itself cannot compensate for what my client and his family have gone through, it will ensure that he is able to get the long term treatment and care he needs which is now absolutely essential to him."



£75,000 for couple injured in car crash while on holiday from China

Arthur and Kim are from Shanghai in China and were holidaying in London in December 2005. They were involved in a road traffic accident as back seat passengers in a taxi that pulled out of a minor road at a junction and collided with another car before ploughing into the wall of a building.

Arthur fractured and dislocated a number of his fingers. He also suffered psychologically, developing post traumatic stress disorder (PTSD) and obsessive compulsive disorder (OCD). His wife, Kim, suffered a fracture to one of the bones in her face (right orbital floor) and damage to a nerve in her face. She also developed PTSD, depression and anxiety.

Arthur and Kim instructed Mark Bowman to pursue a claim against the taxi driver. Mark obtained evidence from a number of medical experts in Hong Kong,

The taxi driver admitted negligence but denied that he had caused Arthur and Kim's injuries. His defence also alleged that Arthur and Kim had contributed to their injuries, as they weren't wearing seat belts at the time of the accident.

Following negotiations between the parties, Arthur and Kim accepted £15,000 and £60,000 compensation respectively. The case was funded on a "no win, no fee" basis.

After the case Mark said:

"This was a particularly tricky case given the clients' location and the language barrier that existed. It was not possible to find suitable medical experts in China so our clients were seen by experts in Hong Kong. Lawyers for the taxi driver had originally requested that Arthur and Kim fly to the UK to be examined by their own experts. But after extensive discussions, they agreed the expert evidence that we had obtained and entered into settlement discussions. The end result was excellent given the complexities faced."



Patient receives £1.2 million for doctor error that led to life threatening illness

Paul McNeil acted for a 49 year old solicitor who developed septicaemia, toxic shock syndrome and after his GP failed to diagnose a serious infection on a number of occasions. The claim was settled against the GP for £1.2 million.

In May 2006, David's then partner, Juliet, contacted his GP's receptionist and explained that her partner was very unwell with chest pain, severe vomiting and breathlessness.

Shortly afterwards David's GP visited him at home and diagnosed acute gastritis. He also indicated that David may have peptic ulcer disease. He prescribed painkillers, antacids and indicated that David should call the NHS out of hours service if his condition worsened.

The GP telephoned Juliet at 6pm that evening. He prescribed an anti-sickness drug and said that he would see David again the next day.

David remained at home on his own overnight but his condition deteriorated significantly. Juliet telephoned the surgery at 8.15am and the GP immediately arranged admission to the Southampton General Hospital surgical ward.

By the time he reached hospital David was in a parlous state and he required admission to the Intensive Care Unit.

He suffered multi organ failure and remained in intensive care for nearly three weeks. He was very ill and was unable to practice as a solicitor for more than one year.

Paul McNeil were instructed to pursue a medical negligence claim against David's GP on the grounds that our client should have been referred to hospital by the GP urgently with a differential diagnosis of pneumonia or septicaemia.

Our expert evidence stated that David should have been referred to hospital the day before and should have received a broad spectrum antibiotic which would have resulted in control of the septicaemia which had caused the toxic shock syndrome and the severe illness. The potential diagnosis of peptic ulcer disease was incompatible with his symptoms

Although liability was never admitted the GP's advisers agreed to pay the sum of £1.2 million in compensation.

The majority of the compensation is for loss of earnings as David was unable to work for a year and is no longer able to work at his previous rate.



A&E's delay in diagnosis causes unnecessary injuries and trauma

Richard Earle, senior associate in our medical negligence department, settled a medical negligence claim on behalf of Tina, who suffered physical and psychological injuries as a result of accident and emergency negligence at Kings College Hospital.

Tina, then aged 35, attended the A&E department of Kings College Hospital on 28 September 2006 complaining of severe abdominal pain.

After initial investigations she was sent home with a diagnosis of Irritable Bowel Syndrome (IBS).

But the severe abdominal pain persisted and she attended her GP the following day. Her GP immediately suspected that she had appendicitis and sent her back to Kings College Hospital.

Tina was then admitted through the Accident and Emergency department of the hospital, but there was then a delay of some 30 hours before she underwent surgery. By this time her appendix had perforated causing sepsis and gangrene.

Because of the initial failure to timely diagnose compounded by the delayed surgery, Tina's bowel was damaged requiring re-section by way of an ileostomy (a surgical procedure where waste is removed from the small intestine. The end of the small intestine is brought through the skin and a small pouch is attached to remove waste).

Tina also had to undergo further surgery to reverse the ileostomy and this left abdominal scars. In addition to the physical consequences, these traumatic events caused Post Traumatic Stress Disorder and prevented Tracey from returning to work.

Tina instructed Richard Earle to pursue a case for medical negligence against Kings College Hospital.

Richard obtained a report from an A&E Consultant who criticised the failure of the clinicians within the A&E department (who managed to lose the notes of Tina's attendance) in failing to correctly diagnose an appendicitis.

A report from a Consultant Surgeon was similarly critical of the failure to operate immediately whereby the damage to Tracey's bowel and subsequent surgery probably would have been avoided.

A psychiatric report confirmed these events had caused an adjustment disorder from which, fortunately, Tina made a good recovery even though she was left with permanent abdominal scarring.

Following the service of a Letter of Claim the NHSLA denied liability on behalf of the Defendant Trust suggesting that the clinicians within the A&E department acted appropriately and the subsequent consequences would have occurred in any event.

Proceedings were issued on 15 October 2009. On 21 April 2010 (before service of a Defence and without admission of liability) the Defendant made a Part 36 Offer of £75,000 damages together with payment of Tracey's costs. The offer was accepted and the case compromised on that basis. The case was funded by Legal Aid.



Compensation worth more than half a million for blind widow of mesothelima victim

Caroline was awarded more than half a million pounds following her husband's death from mesothelioma. Her claim included periodical payments for care and is the first time these payments have been awarded in a mesothelioma case.

Caroline's husband was negligently exposed to asbestos while working at Halsen Insulation & Engineering Limited. As a result of the exposure, her husband Charles died from mesothelioma.

Caroline was blind as a result of a detached retina when she was in her twenties. She also had osteoporosis and suffered with back pain.

Before Charles was diagnosed with mesothelioma he would look after his wife's needs. Every morning he laid out her clothes before going to work.

He also ensured that everything was in place for his wife when she came downstairs. He would leave everything out ready for her to make a cup of coffee and prepare meals. He would also make a sandwich for her to eat at lunchtime and set out her medication. In the evenings he would make her an evening meal and tidy away afterwards and set out her medication again.

On his days off, Charles did all the household chores, such as Hoovering, dusting, cleaning, laundry and cooking. He also took Caroline out about twice a week to go shopping or to the hairdressers, or simply for a drive.

Charles also provided companionship for his wife. His presence in the home provided her with a sense of security and a great deal of social care. Without Charles, Caroline was completely confined to her home.

When Charles died, Harminder Bains was instructed to pursue a claim for compensation.

Harminder arranged for Allied Healthcare to provide the practical care and assistance to help Caroline with her day-to-day activities and in running the home.

We also argued that although Caroline's practical needs were important, social isolation for people with sight impairment was a common problem and it would be necessary for Caroline to have some companionship in the evening.

We argued that as prior to her husband's death Caroline had depended on, enjoyed and benefited from her husband's company in the evenings and was reassured by his presence in the house, without this companionship, there was a potential to cause Caroline to become more socially isolated and this could affect her self confidence, possibly lead to complications like anxiety and depression.

In addition to the care from Allied Healthcare, we arranged a Case Manager to be assigned to Caroline to provide a monthly review of her care needs, ensuring that the care agencies involved were responding to her needs. The Case Manager acted as the first port of call for the agency and provided emergency planning.

A few days before trial, the defendants agreed to pay Caroline £145,000 for the loss of her husband under the usual heads of claim in a mesothelioma case made under the Law Reform (Miscellaneous Provisions) Act 1934 and the Fatal Accidents Act 1976.

However, uniquely in addition, Harminder Bains, who acted for Caroline, had made a claim for the loss of companionship and practical care provided by Caroline's husband prior to his death.

Harminder made the claim on a periodical payments basis, i.e. a sum to be paid once a year for the remainder of the Caroline's life to provide for the cost of practical care and companionship. It was agreed that the Defendants would pay the sum of £23,200.

This is the first case in which periodical payments have been awarded in a fatal claim, i.e. to a person who did not actually suffer the injury, but who is a person who has been affected by the consequence of the negligence, i.e. the death of her husband.

This yearly sum will be paid to Caroline for the rest of her life and is worth more than £500,000.

Contacts



Paul McNeil,
Head of Medical Negligence
& Personal Injury

paul.mcneil@ffw.com
020 7861 4019



Rodney Nelson-Jones,
Partner, Asbestos &
Personal Injury

rodney.nelson-jones@ffw.com
020 7861 4022



Peter Williams,
Partner, Asbestos &
Personal Injury

peter.williams@ffw.com
020 7861 4825



Richard Vallance,
Partner, Medical Negligence
& Personal Injury

richard.vallance@ffw.com
020 7861 4141



Jill Greenfield,
Partner, Brain, Spinal &
Catastrophic Injury

jill.greenfield@ffw.com
020 7861 4557



Andrew Morgan,
Partner, Asbestos &
Personal Injury

andrew.morgan@ffw.com
020 7861 4036



Samantha Critchley,
Partner, Medical Negligence

samantha.critchley@ffw.com
020 7861 4263



Harminder Bains,
Partner, Asbestos &
Personal Injury

harminder.bains@ffw.com
020 7861 4274



Edwina Rawson,
Partner, Medical Negligence
& Personal Injury

edwina.Rawson@ffw.com
020 7861 4105



Richard Earle,
Legal Executive, Medical
Negligence

richard.earle@ffw.com
020 7861 4041



Mark Bowman,
Senior Associate, Medical
Negligence & Personal Injury

mark.bowman@ffw.com
020 7861 4043



Chista Kermani,
Senior Associate, Medical
Negligence

chista.kermani@ffw.com
020 7861 6706



Jonathan Zimmern,
Associate, Medical
Negligence & Personal Injury

jonathan.zimmern@ffw.com
020 7861 4218



Dushal Mehta,
Solicitor, Asbestos &
Personal Injury

dushal.mehta@ffw.com
020 7861 4033



Sarah Saldanha
Solicitor, Medical Negligence
& Personal Injury

sarah.saldanha@ffw.com
020 7861 4719



Rose-Anna Lidiard
Solicitor, Medical Negligence
and Personal Injury

rose-anna.lidiard@ffw.com
020 7861 4864

Field Fisher Waterhouse LLP 35 Vine Street London EC3N 2AA

t: +44 (0)20 7861 4000 f: +44 (0)20 7488 0084 personalinjury@ffw.com www.personalinjury.ffw.com

This publication is not a substitute for detailed advice on specific transactions and should not be taken as providing legal advice on any of the topics discussed.

© Copyright Field Fisher Waterhouse LLP 2010. All rights reserved.

Field Fisher Waterhouse LLP is a limited liability partnership registered in England and Wales with registered number OC318472, which is regulated by the Solicitors Regulation Authority. A list of members and their professional qualifications is available for inspection at its registered office, 35 Vine Street London EC3N 2AA. We use the word "partner" to refer to a member of Field Fisher Waterhouse LLP, or an employee or consultant with equivalent standing and qualifications.