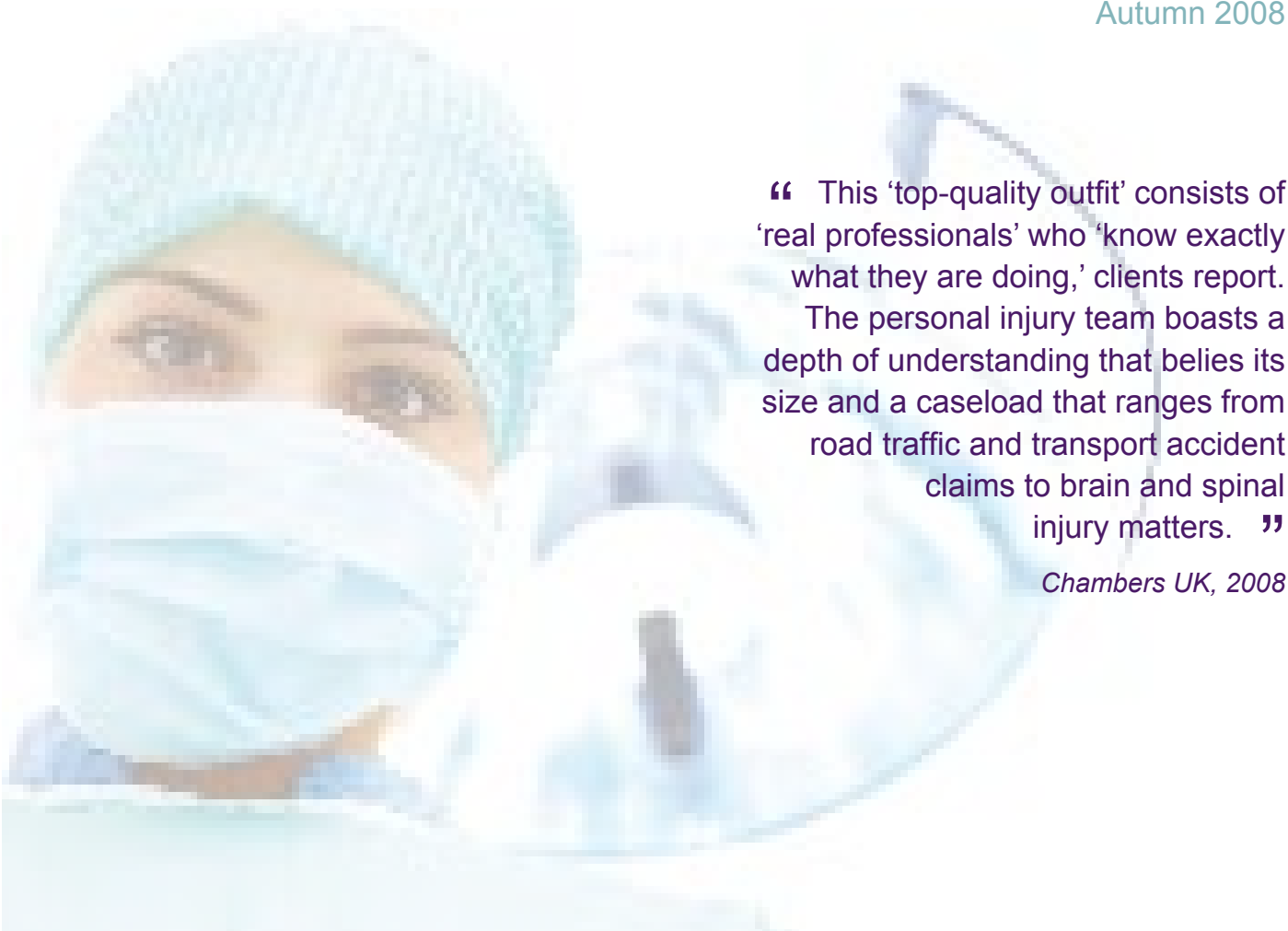


Personal Injury News

Autumn 2008



“ This ‘top-quality outfit’ consists of ‘real professionals’ who ‘know exactly what they are doing,’ clients report. The personal injury team boasts a depth of understanding that belies its size and a caseload that ranges from road traffic and transport accident claims to brain and spinal injury matters. ”

Chambers UK, 2008

Highlights:

- Japanese road traffic victim wins £5million
- Field Fisher Waterhouse recovers millions of pounds of damages for brain-damaged youth
- Damages recovered for husband whose wife washed his overalls
- Field Fisher Waterhouse wins damages for the family killed in the fatal traffic accident



Welcome to the latest issue of Personal Injury News

At Field Fisher Waterhouse, our talented lawyers have a proven track record of handling many different types of personal injury claims, including those which are complex, difficult or high value.

We handle claims involving catastrophic injuries, transport disasters such as rail and aircraft crashes, and cycling and other traffic accidents. We recently won £930,000 for an American couple in a traffic accident claim (see page 4), £5 million for a Japanese road traffic victim (see opposite), and an interim payment of £750,000 for a pedestrian who suffered serious brain injury after being run over by a vehicle (see page 5).

We have obtained substantial amounts of compensation for clients following accidents at work, such as £500,000 for Romanian labourer Nicolai (see page 7), assaults including brain injury and spinal injury and product liability claims, such as defective breast implants (see page 5).

We also have extensive experience in asbestos related claims, settling quickly and in some cases without statements due to the victim being deceased, or for indirect victims such as the wife of a factory worker who was exposed though washing overalls, (see page 11).

We can bring claims for professional negligence against solicitors that have failed, or obtained less than the full value of compensation possible for their clients. We offer a flexible and innovative approach to funding claims, and can deal on a 'no win-no fee' basis. We can also act under a public funding Legal Aid arrangement where it is available.

Please do take the time to read on and find out more about what we have been able to achieve. You will see from some of the cases featured in this issue, that there are many different circumstances in which our clients find themselves and where our specialist lawyers are able to help.

Our clients are very important to us and we work very closely with them to ensure that they are comfortable and confident in our approach and actions. We believe

we are able to make a real difference to their lives. In the case of Nathan for example, he felt that, "...the litigation has opened up many doorways that were closed upon my accident and it has helped me to rebuild a life that is once again very valuable."

As well as working for our clients, we are very active in the industry. In October Jill Greenfield who heads our brain and spinal injury units is co-chairing the BISWG 8th Annual Brain Injury legal Seminar at the City Temple in London. The seminar is aimed at all professionals with an interest in brain injury disability and the law and has a number of high profile speakers.

I also spoke at a RoadPeace conference in April, which was attended by the then Mayor of London, Ken Livingston, and marked 15 years of their campaigning work for and on behalf of road crash victims.

Rodney Nelson-Jones has published Personal Injury Damages Statistics 2007 which provides injury lawyers with all the basic statistical information they need to calculate special damages and future financial loss. The book also includes income tax and national insurance contribution rates for the last ten years, the retail price and average earnings index and much more. For more information please go to www.personalinjury.ffw.com.

If you would like further details about our services or free initial advice we would be happy to speak to you. Please call for free on 0800 358 3848 for a chat without obligation.

I hope you enjoy the newsletter.

Paul McNeil
Partner



Japanese road traffic victim wins £5million

Rodney Nelson-Jones conducted the claim of a 19 year old Japanese girl who sustained serious brain and spinal injuries in a road crash in England.

After nearly four months in-patient treatment in an English hospital, she was transported by air ambulance back to Japan where after another six months in hospital she returned to her parents' home. Three interim payments totalling £1 million helped to pay for the air ambulance, a new house which was built around her needs and a team of professional carers.

Her claim was eventually settled for £5 million, with the balance of £4 million paid into a Japanese trust.

"...Rodney Nelson-Jones is 'one of the finest personal injury solicitors in the country' who possesses a 'fearsome legal brain.'..."

Chambers UK, 2007

American couple win £930,000 in a traffic accident claim

Paul McNeil was instructed by American citizens, DM a retired Judge of the Superior Court Bench in California and BM, his long serving and loving wife in connection with a claim for personal injury, loss and damage arising out of an accident on the 30 May 2003. They had come to London on a “trip of a lifetime” and were intending to visit Kew Gardens. They had travelled by underground to Kew.

Both Claimants were descending the stone steps from Kew Underground Station when a vehicle driven by the Defendant left the carriageway and mounted the pavement and collided with Mrs M (and others) as she descended the stairs. Mr M witnessed the accident and saw the devastating injuries suffered by his wife.

Mrs M suffered extensive crushing injuries of both legs and a through knee amputation to the right and debridement and fixation of the left leg were carried out by the Orthopaedic Surgeons in May and June 2003. Mrs M remained as an in patient at the Charing Cross Hospital until the 26 July 2003. She then returned to the US for rehabilitation which included further surgery. Notwithstanding the devastating injuries which Mrs M suffered, she remains determined and as active as it is possible to be. She receives strong support from her husband and friends in Florida. Mr M suffered a significant psychiatric injury including PTSD.

The claim was finally settled on the 15 June 2007 on the last working day before the Trial. The Defendant agreed to pay the sum of £900,000 to the wife and the sum of £30,000 to the husband. The case involved instructing both US and UK expert witnesses.

Field Fisher Waterhouse wins damages for the family killed in the fatal traffic accident

Jill Greenfield and Mark Bowman acted for the family of Medhat Sawires who died, along with his wife and two children, in a road traffic collision on 08 August 2006.

Mr Sawires had collected his wife and children from the airport, and whilst driving home, stopped on the hard shoulder of the M25 in order to replace a tyre.

A lorry, driven by the Defendant, Peter Murray, who was nearly three times over the legal alcohol limit, collided with Mr Sawires’ car, crushing it against the hard shoulder, with the family members inside. Evidence suggested that Mr Sawires and his children died instantaneously, but his wife, survived the initial impact, before perishing once the car set alight.

The Defendant pleaded guilty to four charges of causing death by dangerous driving.

We were able to secure an early admission of liability from the Defendant Insurers, together with a sizeable interim payment to cover the cost of the funeral expenses within a few days of being instructed. Following further negotiations, the claim settled in the sum of £40,000.



Pedestrian wins an initial £750,000 in the High Court

A pedestrian who suffered a serious brain injury when run over by a vehicle won an interim award of £750,000 at the High Court this week before Mr N Wilkinson QC sitting as a Deputy High Court Judge.

The defendants had offered just £100,000. The Claimant, who now requires 24 hour care, will be able to use the money to purchase alternative accommodation and allow carers to be with her 24 hours a day. It is expected that the Claimant will

ultimately recover several million pounds when the case ultimately settles.

Jill Greenfield, the Claimant’s solicitor said, “It will be some time before my client’s claim can be fully quantified. This does not however mean that my client should have to wait for her damages. Her rehabilitation is key and it was felt that money was needed now to implement rehabilitation properly and to give her the best possible chance of living a fulfilling life. I was pleased that the High Court agreed that such a high figure was required at such an early stage in the case.”

Defective breast implants lead to product liability claim

A v Poly Implants Prostheses

Samantha Critchley acted in the claim for personal injury, loss and expense incurred arising out of defective breast implants that were implanted in the Claimant during an operation on 11th January 2000. The implants which were manufactured by the Defendant, was subsequently found to have ruptured at the end of August 2002 and were removed. Considerable trauma was caused. The Claimant required extensive physiotherapy and has experienced distress at residual scarring. She felt unable to have any further breast augmentation procedures.

The expert concluded that both implants ruptured prematurely at the same point of initiation and that the likely cause was a manufacturers defect in both implants.

In view of the litigation risks, the Claimant decided to accept the sum of £10,000 plus her reasonable legal costs.

FFW recovers highest reported settlement in Erb's Palsy case

Samantha Critchley has recovered £405,750; the highest reported settlement in an Erb's Palsy case of its type. This compensation was awarded to a nine-year-old girl, who was injured during her birth in 1998 whilst under the care of the Royal Berkshire NHS Foundation Trust.

During the claimant's delivery, her head was delivered but there was difficulty in delivering the shoulders, known as shoulder dystocia. It was the claimant's case that the antenatal care was negligently managed, and there was a failure to deliver by caesarean section. There were further negligent acts and omissions in the obstetric management, including inter alia - the application of strong traction to her head.

As a consequence, she suffered a severe traumatic injury to the nerves supplying her right arm, causing paralysis. She underwent four extensive surgeries to attempt to improve function in her arm in the first seven years of her life. Despite this the claimant has been left with a permanent disability and the right limb remains for all practical purposes, functionless. The claimant's mother brought the clinical negligence case against the Royal Berkshire NHS Foundation Trust.

The hospital accepted that there were elements of the management of the labour, which were not appropriate and admitted negligence in the claimant's care and invited proposals for settlement. After a lengthy negotiation the amount of settlement was agreed, in principle, between the parties.

At an Infant Settlement Hearing at the Royal Courts of Justice on 28 July, the terms of settlement were approved. In addition to the substantial damages recovered by Field Fisher Waterhouse for the claimant, the hospital was also ordered to pay the claimant's legal costs.

The claimant's parents said: "...We now know that our daughter will have enough money to help her get through the rest of her life. We would encourage any parent to be very patient in a case like this and not to jump at the first offer they are given."

Samantha Critchley said: "I am delighted to achieve such a significant award on the claimant's behalf. She is a delightful and brave little girl who will be affected by her disability for the rest of her life. I hope that the compensation will allow her to obtain the necessary support, now and in the future, to ensure she reaches her full potential in life."

“ ‘They are my firm of choice for personal injury work,’ one client reviewed this full-service firm. This sentiment is repeated by many sources who praise the team’s “thorough knowledge of both law and medicine. ”

Chambers UK, 2007



After the case, Nicolai said: "I am happy with the services my lawyer, Paul McNeil has provided to me and my family."

Labourer wins £550,000

On the 13 December 2005, a Romanian labourer Nicolai was injured at work. Having been instructed by his foreman to collect waste materials in a large open shed, a large digger with a huge shovel with a sharp blade collided into the Claimant. The shovel hit both legs causing agonising and life changing injuries. Unfortunately, Nicolai had a left below knee amputation.

As a result of excellent treatment at the Charing Cross Hospital he eventually was able to walk using a prosthesis. However, he will not be able to return to his former employment or any other work. Paul McNeil of Field Fisher Waterhouse was instructed in December 2005.

Although the employers quickly accepted that they were primarily responsible for the accident, they strongly argued that Nicolai was partially responsible for the negligence. They alleged that he had gone into the shed against instructions by the Yard Foreman.

We obtained substantial interim payments on behalf of Nicolai to fund medical treatment and rehabilitation. The case on the issue of fault was fixed for Trial in March 2007. A few days before the Trial the Defendants accepted that they were fully liable for the accident and that no verbal or written instructions had been given to Nicolai not to go into the shed.

In the meantime, there was an argument between the employers and their insurers. This resulted in the insurers cancelling the policy and we had to proceed against the employers direct. There was a significant difference in opinion between the employers and FFW's valuation of the claim and the matter was fixed for Trial in December 2007. Eventually after extensive negotiation, the claim was settled in the sum of £550,000.00 plus costs.



The final payment of the damages was made at the end of January 2008. Nicolai received his damages in full as the case was conducted on a "no win, no fee" basis.

Substantial damages recovered for employee in a product liability claim

MacDougall v Pains Wessex Safety Systems Limited



On the 5 April 2006, Duncan MacDougall was demonstrating a hand flare for the purposes of a training video.

The hand flare was a Pains Wessex White Collision Warning Hand Flare used at sea to warn shipping about untoward events. Duncan, armed the flare in accordance with the manufacturer's instructions and at arms length, pushed the firing plunger in. The hand flare ignited and an explosion occurred. Instead of firing into the air and away from Duncan, the hand flare "backfired" into his abdomen. The hand flare canister became embedded in Duncan's abdomen and burned at 3000 degrees centigrade for the advertised 60 seconds. This caused significant damage to Duncan's right hand and abdomen.

Duncan was taken to Wexham Park Hospital where he was treated for very serious injuries. He had immediate surgery and was admitted to the Intensive Care Unit where he remained for 4 months. Duncan lost most of his large bowel, his spleen, some of his pancreas and the tip of the middle finger on his right hand. His right hand was reconstructed thanks to plastic surgery and is partially working. He also has a stoma. Duncan

remained in hospital for a total of 9 months and came home at the end of December 2006.

Sadly Duncan still has significant pain, suffers from PTSD and is at the moment still not able to return to his previous work as a voiceover artist for radio and television commercials or as a course leader for training sailors.

" After the case, Duncan said 'Field Fisher Waterhouse did a great job in securing my settlement'. "

The accident was clearly caused by the breach of duty of the manufacturers, Pains Wessex and the Consumer Protection Act 1997 applied. Nevertheless, and surprisingly, the Defendants argued that the accident was caused or contributed to by Duncan's own negligence. The Defendants argued that contrary to its own instructions that Duncan should have held the hand flare parallel to his own body so that if there had been a malfunction the flare would not have struck him. The Defendant's arguments on contributory negligence were not successful and the claim was settled on a full liability basis for a substantial sum.

Field Fisher Waterhouse recovers substantial damages for brain-damaged youth

Richard Earle has recovered a substantial sum in compensation on behalf of Matthew Ellerbeck, who sustained serious brain damage after contracting herpes at the age of six.

In 1997, Matthew suffered a prolonged convulsion, and was taken in an ambulance to the A&E department of the Royal London Hospital. Herpes Simplex Encephalitis (HSE) should have been suspected, and aciclovir (an antiviral drug) should have been administered immediately. However the drug was not given to Matthew until over 30 hours later. As a result of this delay, Matthew sustained serious brain damage. He is now 17, and as a result of the brain damage he suffers daily epileptic attacks and severe learning difficulties, as well as serious attention and behavioural problems.

Matthew's mother, Susan Culling, brought the case against Barts & the London NHS Trust on his

behalf in the High Court. Following this long legal battle, Richard recovered substantial damages. This includes provision for periodical (annual) payments to be made for the rest of Matthew's life to cover his care and accommodation needs.

Matthew's mother said: "I was determined to press on and seek justice for Matthew. I am very pleased at the level of compensation which will make a huge difference to Matthew's life."

Richard Earle said: "I am absolutely delighted that substantial damages have been recovered on Matthew's behalf, in what was an extremely complex case on the medical evidence where both Matthew's lawyers and medical team had worked extremely hard to overcome the Defendant's arguments on causation. This will improve the quality of Matthew's life and provide protection for the future."

LA Fitness admits liability

Steve Shane, an anaesthesiologist from the U.S.A., on vacation in England, was staying at the Waldorf Hilton Hotel in London. He fell over and suffered a serious shoulder injury whilst using the hotel swimming pool, which was run by LA Fitness. He subsequently had treatment for the injury in Switzerland and America. LA Fitness initially denied liability but after securing evidence, admitted liability. We are now in the process of quantifying the claim.

Mark Bowman, Steve's Solicitor says "Now that liability is admitted, I hope to shortly secure a good settlement for Steve. The Defendants have made changes to the swimming area as a result of Steve's fall and I hope similar incidents are avoided in the future."

"... 'superlative' Paul McNeil, who is endorsed by sources as being both 'incredibly tenacious' and 'formidable - he has a good tactical sense of cases and understands the strengths and weaknesses involved. "

Chambers UK, 2008

Quick win for mesothelioma family without statement from deceased victim

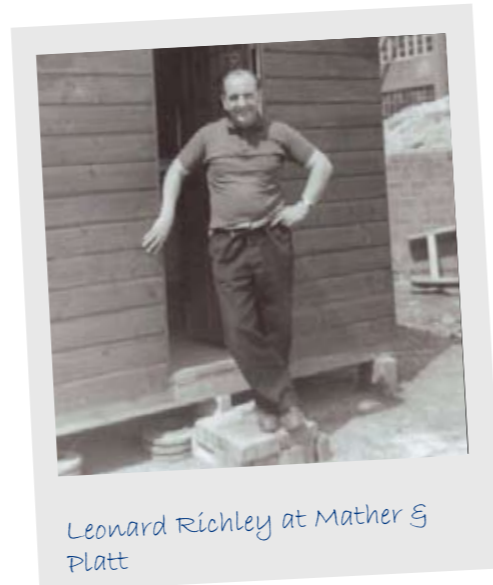
Leonard Richley died from mesothelioma on 27 June 2007.

Mr Richley had been employed by Mather & Platt from approximately 1948 to 1975. His job involved installing fire prevention systems in department stores, factories and similar premises. He also worked for Mather & Platt in at least one power station.

“I would like to thank you for your hard work and for such a quick outcome of the claim. You have made the process nice and easy. It wasn’t as daunting as I thought.”

Unfortunately, Mr Richley did not make any statement before he died and was unaware that he was suffering from an asbestos related condition until the very last few days of his life. His daughter, Mrs Humphrey, instructed Andrew Morgan to pursue a claim on the family’s behalf. Andrew was able to trace another employee of the company who worked alongside Mr Richley and who was able to give a good statement in support of the claim.

Andrew issued Court proceedings in the mesothelioma fast track in the Royal Courts of Justice in London. The Defendants then made an offer of £75,150, the full value of the claim, which Mrs Humphrey was happy to accept. Her claim was settled in less than 10 months.



Leonard Richley at Mather & Platt

£193,000 won for a former Chatham dockworker with mesothelioma

Mr M was exposed to asbestos during his time as a works supervisor at the Chatham Dockyard in the 1960s.

He worked for some of that time in a large hangar where equipment used to strip asbestos from pipe work on the ships and submarines was cleaned. This process took place in and around where Mr M was stationed and he was never given any protective breathing apparatus nor was the work carried out in a positive pressure environment.

Mr M was not warned of the dangers of exposure to asbestos to his health. He died 6 months

after onset of symptomatic disease aged 68 leaving a widow and two non dependent adult children. He suffered considerable mental anguish as a result of the diagnosis of mesothelioma.

We were able to secure a settlement of £193,000 to include a large dependency claim for his surviving widow who was relieved to have concluded the claim with the minimum of fuss and for a satisfactory sum.

“ The firm maintains a niche PI practice that is arguably best known for asbestos work. ”

Chambers UK, 2007

Damages recovered for husband whose wife washed his overalls

“My family has been tragically affected and continues to suffer from the consequences of being poisoned by the asbestos dust produced by the handling of Cape’s asbestos products...I’m absolutely certain that most solicitors would have given up the fight for any compensation for me... You have been extremely sensitive throughout the process... You know your business.”



Don and Jacky Merritt during their happy marriage

Jacky Merritt washed her husband Don’s overalls weekly in the 1960s. Don worked as a lagger for Cape Asbestos. His overalls were caked in asbestos dust. Jacky also shook out the overalls in the kitchen and in her yard, undeniably breathing in the lethal asbestos fibres.

She developed an asbestos cancer - mesothelioma - 40 years later and died of a tragic and painful death.

Don sought justice for her by bringing an action against Cape, who employed him in 1965 and who allowed him to take the fibre laden overalls home. Don comes from a family of ladders. Peter Williams

acted for Don and Jacky and also recovered damages for both his brother and brother-in-law, and is now acting for another brother who has lung cancer.

Cape denied liability arguing it did not know such small amounts of asbestos dust were dangerous. Eventually, damages of £130,000 for Don’s family, including Jacky’s grandchildren, were recovered from Cape.

“ ...Peter Williams, an authority on asbestos and fatal accident suits, ‘excels at unravelling knotty legal problems,’ clients observe. ”

Chambers UK, 2008

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