

David Heaton QC

Called: 1983

Silk Date: 2008



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David.Heaton@byromstreet.com



Practice Overview

Legal 500

A dynamic and charming silk

Chambers & Partners 2019 (PI)

He has great attention to detail and is a commercially astute negotiator in cases of maximum severity. He has a very sharp and technical mind.

Chambers & Partners 2019 (Clin Neg)

He has superb knowledge of birth injury cases and, combined with a keen eye for detail, he has to be ranked as one of the best silks outside London for clinical negligence work.

PRACTICE AREAS

Personal Injury

Clinical Negligence

Professional Liability

Criminal Injuries

APPOINTMENTS

Recorder of the County Court

ASSOCIATIONS

PIBA

PNBA

Northern Circuit Medical Law Association

PERSONAL INFORMATION

Born: 26 October 1960

Educated at Corpus Christi College, Cambridge and the Inns of Court School of Law

Enjoys walking, reading and cooking

Clinical Negligence

David has extensive experience of all types of clinical negligence litigation both for claimants and defendants including:

- Midwifery/obstetric mismanagement involving IUGR, inadequate CTG monitoring, excessive use of syntocinon, twin deliveries and mismanagement during labour of cord prolapse, maternal pre-eclampsia, previous Caesarean section and shoulder dystocia
- Neonatal mismanagement involving an erroneous injection of potassium sulphate, hypoglycaemia, persistent pulmonary hypertension, GBS infection and retinopathy of prematurity
- Failures to diagnose and treat meningitis, sub-arachnoid haemorrhage, a brain tumour, other cancers, pyloric stenosis, ectopic pregnancy, acute pancreatitis, cauda equina syndrome, cardiac disease and stroke

Representative concluded cases:

AB v Central Manchester University Hospitals NHS Foundation Trust- Instructed by the claimant in a claim for damages for cerebral palsy where the approved settlement comprised a contingency sum and substantial ASHE-Linked periodical payments for future care and case management which, on a conventional basis, was valued at over £4.8 million.

Tameside & Glossop Acute Services NHS Trust v Thompstone[2008] EWCA Civ 5- The Court of Appeal upheld the decisions of judges in three cases at first instance that periodical payments for future care and case management should be indexed to ASHE 6115 at the relevant percentile rather than to the RPI.

Smart v East Cheshire NHS Trust [2003] EWHC 2806 (QB) - Gage J. gave guidance on the proper approach to a cost capping application made by a defendant in a single claimant clinical negligence action.

Personal Injury

David has practised in personal injury litigation throughout his career. He now specialises predominantly in high value and complex claims usually involving brain damage resulting in motor, cognitive, personality and behavioural changes and spinal injury resulting in tetraplegia and paraplegia. He has wide experience of the investigation and presentation of issues arising from care and case management, local authority provision and deputyship.

Representative concluded cases

Grainger v Cooper [2015] EWHC 1132 (QB) - Instructed by the Defendant in a successfully defended application for a further interim payment to purchase and adapt a property where the trial date was less than one year away and where there was no immediate need for such accommodation.

Loughlin v Pama [2013] EWHC 1641 - Instructed by Defendant in a claim where there were concerns about the appropriateness, effectiveness and costs of a case management and care regime in the years preceding the trial and the adequacy of information provided to the Court of Protection when an application was made to appoint a financial deputy. Kenneth Parker J. reduced the past case manager and care costs by 20% and provided guidance as to the information with which the Court of Protection should in future be provided when applying to appoint a deputy.

ES v CICA- Instructed by applicant in a criminal injuries compensation claim where the then infant applicant had sustained a severe brain injury at the hands of his father resulting in asymmetric cerebral palsy manifesting itself in severe mobility, intellectual impairment, significant communication problems and visual difficulties. The applicant had epilepsy and behavioural problems. He lacked capacity to manage financial matters of any sort. He

required 24 hour care and special schooling. The CIC panel made an award of £5.7million on a 100% basis but reduced this by the uprated value of an approved clinical negligence settlement on a partial recovery basis arising from the same facts where the hospital had failed to recognise that the applicant had suffered some non accidental injuries and discharged him home to the care of his father who then caused the brain injury. The net value of the award was £2.7million.

Wright v Sullivan [2005] EWCA Civ 656 - Instructed by the claimant in an appeal in which the Court of Appeal held that a case manager appointed by a severely injured person to assist her owed duties to the patient alone and had to make decisions in the best interest of the patient. Her role would be that of a witness of fact and not an expert and she should not be appointed by the parties jointly.

White v Fell(1987 unreported) - Instructed by the defendant in the first case in which the test for mental capacity was expounded by Boreham J. which decision which was later followed in Masterman Lister v Jewell & Home Counties Dairy

Directory Comments

Chambers & Partners (Personal Injury)

Known for his prodigious practice in catastrophic spinal and brain injury cases, Heaton is eminently capable of representing both claimants and defendants on highly challenging claims. He has recently dealt with several claims relating to RTAs. "He has great attention to detail and is a commercially astute negotiator in cases of maximum severity." "He brings people together and is able to find a pathway to settling a claim where many others would fail. He has a very sharp and technical mind." Recent work: Represented the defendant's insurers in a claim in which two car passengers had been grievously injured. Issues alleged included contributory negligence and long-term care needs.

Chambers & Partners (Clinical Negligence)

Advices on both the claimant and defendant side of cerebral palsy and other brain injury cases affecting babies as a result of negligent obstetric care. He also handles cases in which mismanaged childbirth leads to gynaecological and psychiatric injuries to the mother. Additional areas of practice include complex spinal injury claims. "Loved by clients. He has superb knowledge of birth injury cases and, combined with a keen eye for detail, he has to be ranked as one of the best silks outside London for clinical negligence work." "David is very personable and approachable; he gets to grip with the heart of the issue and is an excellent advocate." "He makes full use of his wealth of experience in clinical negligence and applies a thoughtful approach to complex claims."

David Heaton has been consistently recognised as a leading practitioner in high value and complex catastrophic brain and spinal injury claims over many years, both those resulting from actionable clinical negligence and from other personal injury claims. He has a broad practice and acts on behalf of both claimants and defendants.

His most recent entries include:

- Known for his prodigious practice in catastrophic spinal and brain injury cases, Heaton is eminently capable of representing both claimants and defendants on highly challenging claims. He has recently dealt with several claims relating to RTAs.(Chambers and Partners 2018 - Personal Injury)

- Regularly advises on the claimant side of cerebral palsy and other brain injury cases affecting babies as a result of negligent midwifery care. Handles cases in which mismanaged childbirth leads to gynaecological and

psychiatric injuries to the mother. Also advises on complex spinal claims.(Chambers and Partners 2018 - Clinical Negligence)

- *"He has a fabulous demeanour with clients, they warm to him and feel comfortable with him." "He knows the papers inside-out, knows the issues that can arise and takes those on in conference in a way that clients can understand."* (Chambers and Partners 2017 - Clinical Negligence)

- *"He demonstrates superb attention to detail and commerciality in catastrophic cases." "He provides clear, unequivocal advice, and he is both very easy to contact and client friendly."* (Chambers and Partners 2017 - Personal Injury)

- *"Tenacious and very approachable"* (Legal 500 2016)

- and he is also acclaimed as *"a superb silk on birth injury work."* Commentators say that *"he combines intellectual brilliance with invaluable expertise and is at the very top of his game."* He also draws plaudits from instructing solicitors, who note that *"he is open, personable and extremely client-friendly."* (Chambers and Partners - Clinical Negligence 2013)

Lectures, Seminars and Publications

Regularly provides lectures and seminars to PIBA, solicitors and healthcare professionals.