

Mary Ruck

Called: 1993



0161 829 2100



Mary.Ruck@byromstreet.com



Practice Overview

Chambers & Partners 2019 (Clin Neg)

Hugely popular choice for highly complex fatal delayed diagnosis, spinal injury and gynaecology cases.

PRACTICE AREAS

Clinical negligence and Healthcare

Group litigation

Human Rights

Fatal Accidents

Professional Discipline

Mary has a long-held interest in medical law, stemming from post graduate academic study in Medical Law and Ethics with Professor Ian Kennedy at King's College, London.

She practised at the London Bar for 6 years in general common law, personal injury and clinical negligence before moving to Manchester. In 2008 Mary moved to Byrom Street Chambers, a leading barristers chambers, as a senior junior. She is established as a specialist in clinical negligence, serious personal injury and fatal injury cases. She has a particular interest in the human rights aspects of medical law and has litigated claims in the ECHR resulting in both awards of damages and friendly settlement. She has experience of medical regulatory work. She acts routinely as a senior junior alone against Silk.

She undertakes cases nationwide with clients largely in the North West, London and the South West.

Caseload

In clinical negligence, having acted for both Claimant and Defendant in the past, in recent years she has acted primarily for Claimants. Claims are of high value and are usually complex in terms of law or medicine or both. Less valuable claims will involve a particular issue of legal importance or novelty. She is particularly interested in claims arising out of brain injury.

Mary has been involved in the Kenyan Emergency Group Litigation since 2012. The trial started in May 2016 with the Test Claimant evidence and the case is ongoing. She is first junior with responsibility for pleadings in relation to 27 Test Claimants, cross examination of the medical witnesses, the drafting, with leading counsel, of all legal argument and submissions, and managing a team of juniors.

In cases involving human rights and ECHR arguments, Mary represented the Claimant parents in Khan -v- UK (see below) from first instance to its eventual successful resolution in Strasbourg, with significant developments in the law at the Court of Appeal in the domestic jurisdiction. Her innovative argument in relation to third party rights, novel at the time of argument at first instance, was eventually successful in the ECHR.

Mary represented the family of a soldier JB killed in a Puma helicopter crash in Iraq in 2007 in a case involving Article 2 and Article 8 breaches with issues of pre - deployment training, over - tasking while on active service, failures in maintenance resulting in breaches of Article 2 and Article 8. The case was settled on the pleadings.

Mary has undertaken Article 2 inquests with and without a jury in cases involving deaths in custody, care homes and psychiatric hospitals and numerous cases under the Fatal Accidents legislation with particular emphasis on cases involving vulnerable clients and systemic failings.

Recent and/or important cases

Re AL: cerebellar syndrome as a result of hyperpyrexia during private gastric band surgery complicated by further negligence under NHS case; against 4 defendants; liability agreed at 100%; quantum pending; with Christopher Melton QC

Re CB; Re CM; Re CF; Re CE: recent or ongoing birth brain injury cases

Re VM: negligent transmission of HIV infection to a baby

RK and AK -v- United Kingdom (Application No 38000/05); JD, MAK & RK & Anor -v- East Berkshire Community Health NHS Trust & Ors [2005] UKHL 23; JD, MAK & RK & Anor -v- East Berkshire Community Health NHS Trust and Ors [2005] EWCA Civ 1151; RK and AK -v- Oldham NHS Trust and Dr B Lloyd's Law Report Medical [2003]1

An important case regarding scope of the duty of care and third party rights. The cause of action arose prior to the Human Rights Act 1998 coming into law. Parents were accused, wrongly and wrongfully, of injuring their baby daughter resulting in the baby being taken into care. The claim was pleaded in tort and that the failure to give the family a mechanism by which the alleged breach of their human rights under Article 8 could be litigated in the domestic courts offended Article 13 of the ECHR. The case was struck out at first instance because parents are not owed a duty of care in tort and the judge considered that the claim under Article 13 could only be brought in Strasbourg. The Court of Appeal held that the established House of Lords precedent, X -v- Bedfordshire, could not withstand the passing of the Human Rights Act 1998 so as to operate as a blanket policy denying the child a right of action in decisions involving non - accidental injury. The 3rd party parental claim was dismissed because of apparent "conflict" between a parent accused of abuse and the rights of the abused child, a conflict which had to be resolved in favour of the child. The House of Lords upheld the Court of Appeal decision by a 4:1 majority (Lord Bingham of Cornhill giving the dissenting opinion in favour of the argument that a direct duty of care should be owed to parents. The ECHR found that Article 8 was engaged but there was in fact no breach because the child had been accommodated within her extended family. There was, however, a breach of Article 13 in the State's failure to accord the parents a means by which they could litigate their action within the domestic jurisdiction. The parents were awarded 10,000 Euros each and costs for the breach of their human rights.

Sample cases undertaken without a silk:

Re NL: 7 figure PPO settlement; cerebral palsy as a result of birth brain injury (2016)

Re TL: 7 figure PPO settlement; cerebral palsy as a result of birth brain injury for client with capacity but executive dysfunction; Sarah Vaughn Jones QC (2016)

Re H: slipped epiphysis; 7 figure settlement (2016)

Re S: pre-existing amputee rendered paraplegic by negligence; 7-figure settlement

Re L: negligent surgery in someone who had suffered childhood polio and who had a constrained life expectation; 6-figure settlement

Re M: chronic pain following negligent nerve division; 6-figure settlement

Re B: fatals case involving failure to administer a complete course of clexane to post-partum mother

Wardlaw -v- Farrar[2003] EWCA Civ 1719: represented on appeal to the Court of Appeal. Concerning negligent failure to diagnose a pulmonary embolism and causation of/contribution to death.

APPOINTMENTS

First Tier Tribunal Judge, Health and Social Care Tribunal (formerly MHRT) (2007)

Assistant editor of the Fatal Accidents section of Butterworths Personal Injury Litigation Service.

Human Rights Commission Preferred Counsel Panel (2011)

Legal Adviser to the Republic of South Africa for National Summit on Asbestos in Johannesburg (1998)

ASSOCIATIONS

Professional Negligence Bar Association

AvMA

Northern Circuit Medical Law Association

PERSONAL INFORMATION

Mary is originally from the South West of England. She attended university in Wales and London, practised at the Bar in London for 6 years and then moved to the Northwest where she married a Lancastrian and settled in Cheshire (an honourable compromise).

Clinical Negligence

Mary has a long-held interest in medical law, stemming from post graduate academic study in Medical Law and Ethics with Professor Ian Kennedy at King's College, London.

She practised at the London Bar for 6 years in general common law, personal injury and clinical negligence before moving to Manchester where she specialises in clinical negligence claims and cases involving medical issues and serious injury.

Mary is particularly interested in claims arising out of brain injury. She acts for both Claimant and Defendant.

Concluded cases

PJ -v- Northwest Strategic health Authority (2010): brain injury resulting in frontal lobe damage and spastic quadriparesis, settlement on basis of periodical payments order (gross settlement close to £6m)(with Andrew Moran QC).

JC -v- Northwest Strategic Health Authority (2010): interesting case due to fact that severely birth - injured claimant had already exceeded life expectation indicated by Strauss data; Settlement of lump sum £2.65 million with periodical payments order of £160,000 per year (with Andrew Moran QC).

JB -v- Wroughtington Wigan & Leigh NHS Trust (2009): Birth injury; lump sum of £2.1 million with periodical payments order variable over C's lifetime (with Simon Taylor QC).

AL -v- North & East Yorkshire & Northern Lincolnshire Strategic Health Authority (2009): settlement of lump sum £1.6 million with periodical payments order of £161, 614..49 per year (with Robin Oppenheim QC).

AP -v- Greater Manchester Strategic Health Authority (LTLPI 6/11/2009; 2007): settlement of £500,000 for failure to close ventricular septal defect before Claimant's 2nd birthday, resulting in Eisenmenger's syndrome

CD -v- Sefton Health Authority (October 2005 PICL): birth injury with preserved intellect; £5 million settlement lump sum (with Andrew Moran QC).

Anderson -v- Blackpool Wyre and Fylde Community Health Services NHS Trust (2003) (unreported); split trials on liability and quantum; eventual award of over £2 million for Claimant needing constant care due to severe PTSD; one of the largest known awards at the time for injury (with Andrew Moran QC for split trial on liability and quantum).

Wardlaw -v- Farrar [2003] EWCA Civ 1719: represented on appeal to the Court of Appeal. Concerning negligent failure to diagnose a pulmonary embolism and contribution to death.

Sample current cases

Claims are usually (though not exclusively) of high value and are usually complex in terms of law or medicine or both, for example:

Wrongful birth; liability settlement achieved at 90%; quantum pending
Brain injury through management of birth and neonatal period, failure to identify meningitis etc. resulting in severe cognitive and physical deficit
Delayed diagnosis of cancer
Delayed diagnosis of vascular disease resulting in unnecessary amputation
Failure to manage haemorrhage during surgery
Failure to identify and manage post - partum haemorrhage during spinal surgery resulting in death
Failure to diagnose detached retina resulting in loss of sight
Delayed diagnosis of sub - arachnoid haemorrhage
Negligence resulting in compromised fertility
Claims arising out of failure to diagnose cauda equina syndrome

Personal Injury

As a keen equestrian and Committee Member of the Spinal Injuries Association Cornflower Ball, Mary has a particular interest in personal injury cases involving brain injury and spinal injury.

Her interest in industrial disease arises from working as Legal Adviser to the Republic of South Africa in 1998, when she was the author of a position paper presented to the first - ever National Summit on Asbestos in Johannesburg.

Sample cases

Ziemniak -v- EPTM Ltd CA (Civ Div) LTL 7/5/2003, Times May 15, 2003: Claimant suffered maxillofacial and brain injury when a suspension chain holding a lifeboat failed; right of civil action under the Merchant Shipping (Life Saving Appliances) Regulations 1980, SI 1980/538

Traumatic brain injury including frontal lobe dysexecutive syndrome

Traumatic upper and lower limb amputation

Spinal injury

Traumatic brain injury resulting in personality change and offending behaviour (consideration of **Gray -v- Thames Trains** [2008] EWCA Civ 713; now see [2009] UKHL 33)

Professional Discipline

Mary is regularly instructed to represent the General Medical Council in front of the Fitness to Practise Panel and

in Registration appeals. She has represented the GMC in cases of significant length involving the cross - examination of medical experts and the handling of medical and lay witnesses.

She has experience of representing in front of the Solicitors Regulation Authority and advises on judicial review.

Concluded cases

GMC:

Deficient professional performance/misconduct in the context of

- slimming clinics
- cosmetic surgery
- obesity surgery (not cosmetic)
- anaesthesia (involving detailed understanding and analysis of anaesthetic medicine)
- medication overdose (arising out of systems failures)
- Failures in management of Care Homes (involving detailed analysis of the relevant legislation)
- Failures in the provision of psychiatric care for those suffering substance misuse addiction
- Failures in management of terminal cancer (including consent issues and advice for surgery over palliative care)
- Fitness to practice of doctor from Sweden operating in the UK private sector on an NHS waiting list initiative

SRA:

Appeal against SRA refusal of re - accreditation of solicitor on clinical negligence specialist panel.

Sample current cases

Advising a North West firm in relation to an Appeal against the refusal of an LSC contract during a competitive tendering process

Inquests

Mary has undertaken Article 2 inquests with and without a jury in cases involving deaths in custody, care homes and psychiatric hospitals and numerous cases under the Fatal Accidents legislation.

She edits the Fatal Accidents section of Butterworths Personal Injury Litigation Service.

Sample cases

Deaths arising out of failures to manage post - partum haemorrhage; to identify heart attack; to manage surgical haemorrhage.

Deaths arising out of fatal road accidents (pedestrians, motor cyclists etc).

Deaths in custody: failures in management of psychiatric illness leading to suicide.

Deaths in care homes: failures in care of the elderly and vulnerable adults.

Human Rights

Mary represented the Claimant parents in Khan -v- UK (see below) from first instance to its eventual successful resolution in Strasbourg, with significant developments in the law at the Court of Appeal in the domestic jurisdiction. Her innovative arguments, novel at the time they were being argued at first instance, were eventually successful in the ECHR.

Mary currently represents the family of a soldier killed in a Puma helicopter crash in Iraq in 2007 in a case involving Article 2 and Article 8 breaches.

Concluded cases

RK and AK -v- Oldham NHS Trust and Dr B Lloyd's Law Report Medical [2003]1: in a case where the cause of action arose prior to the Human Rights Act 1998 coming into law, parents were accused, allegedly wrongfully, of injuring their baby daughter resulting in the baby being taken into care. The claim was pleaded in tort and on the basis that the failure to give the family a mechanism by which the alleged breach of their human rights under Article 8 could be litigated in the domestic courts offended Article 13 of the ECHR. The case was struck out at first instance because parents are not owed a duty of care in tort and the judge considered that the claim under Article 13 could only be brought in Strasbourg.

JD, MAK & RK & Anor -v- East Berkshire Community Health NHS Trust and Ors [2005] EWCA Civ 1151: the Court of Appeal held that the blanket policy preventing children bringing claims in tort as per the House of Lords decision of *X -v- Bedfordshire* could not withstand the bringing into force of the Human Rights Act 1998. However, the parents' similar claim to a right of action failed because of apparent "conflict" between a parent accused of abuse and the rights of the abused child, a conflict which had to be resolved in favour of the child (with the late Allan Levy QC).

JD, MAK & RK & Anor -v- East Berkshire Community Health NHS Trust & Ors [2005] UKHL 23: the House of Lords upheld the Court of Appeal decision by a 4:1 majority (Lord Bingham of Cornhill giving the dissenting opinion in favour of the argument that a direct duty of care should be owed to parents; with Brian Langstaff QC, now Mr Justice Langstaff).

RK and AK -v- United Kingdom (Application No 38000/05): the ECHR found that Article 8 was engaged but there was in fact no breach because the child had been accommodated within her extended family. There was, however, a breach of Article 13 in the State's failure to accord the parents a means by which they could litigate their action within the domestic jurisdiction. The parents were awarded 10,000 Euros each and costs for the breach of their human rights.

Sample current cases

- Cases arising out of the UK government's continuing failure to give parents a domestic remedy where alleged clinical negligence results in the removal of their children from their care.
- Representing the family of Soldier JB, killed in a helicopter crash in Iraq in 2007; issues of pre - deployment training, over - tasking while on active service, failures in maintenance resulting in breaches of Article 2 and Article 8. The MoD have indicated they will settle the claim on the basis of the pleaded case.

Directory Comments

Chambers & Partners 2019 (Clinical Negligence)

Hugely popular choice for highly complex fatal delayed diagnosis, spinal injury and gynaecology cases. She has notable experience in infant brain injury cases. *"A thorough and forensic tactician who inspires confidence in clients. Great on her feet, with first-class technical skills."* *"Very experienced in the field. Very hard-working, thorough and meticulous. A tough negotiator, who adheres to deadlines and is good with clients and experts alike."* *"She offers a no-nonsense approach to litigation. She has a brilliant understanding of the law and tactics in clinical negligence."*

Mary's expertise has received consistently positive remarks from her peers in directories since 2007. Chambers and Partners places her as a Leading Junior in Band 1 for Clinical Negligence.

Comments include:

2018

Hugely popular choice for highly complex fatal delayed diagnosis, spinal injury and gynaecology cases. Has further experience in child brain injury cases and niche claims relating to the negligent transmission of viruses.

Strengths: "She's very experienced in the field and is very hard-working, thorough and meticulous." "She is very good with clients and adopts a no-nonsense approach to settlement negotiations."

2017

Hugely popular choice for highly complex fatal delayed diagnosis, spinal injury and gynaecology cases. Has further experience in child brain injury cases and niche claims relating to the negligent transmission of viruses. Mary Ruck attracts particular attention for her recent work on high-profile group litigation that raises major human rights issues. Strengths: *"She's bright and thorough but brings some warmth to everything she does."* *"She is very approachable from a solicitor point of view; we can very often have conversations about a case off the cuff."* (Chambers & Partners)

2016

Noted for her substantial experience in complex claims, where sources value her in-depth knowledge. She frequently undertakes cases involving human rights issues of medical law. Strengths: *"Her knowledge is beyond belief. She's very friendly and very approachable. The clients loved her and she fought and fought on their behalf."* *"She's exceptionally tenacious, with fantastic attention to detail. She's particularly good in dealing with difficult experts."* (Chambers & Partners)

She has an exceptional ability to deal with difficult clients (Legal 500)

2015

"Maintains a broad clinical negligence practice, and is frequently instructed on behalf of both defendants and claimants. She is noted for her expertise in brain injury claims. Expertise: "She really empathises with the client and becomes involved in the whole journey from an early stage." (Chambers and Partners)

A clever and effective tactician. (Legal 500)

2014

Has a particular focus on brain injury cases. She primarily acts for claimants. Expertise: *"She has a good way with lay clients and manages to pitch things in the right way; she is clear in her explanations and makes people feel involved."* *"Her knowledge of the law is excellent and she really thinks outside the box."* (Chambers and Partners)

'Hardworking and diligent.' (Legal 500)

2013

Highly regarded for her expertise in complex, high-value claims relating to severe brain injuries. (Chambers and Partners)

Recommended within Personal Injury and Clinical Negligence (Legal 500)

2012

Mary Ruck is frequently sought after to act on behalf of clients in high-value cases, notably brain injury and wrongful birth claims, and is further distinguished by her experience in medical regulatory matters. Peers describe her as *"a formidable opponent who is tenacious, robust and dynamic."* Clients appreciate *"the clarity of her advice and her straight-talking, no-nonsense approach."* (Chambers & Partners)

"completely reliable, tenacious and pragmatic counsel" (Legal 500)

2011

Mary Ruck's "straight talking style" goes down well with solicitors. She gives clear, direct advice on a range of medical negligence issues, often with a human rights slant. Clients admire her ability to lead negotiations to a

sensible conclusion, and the way she "combines practical experience with an academic approach" (Chambers and Partners)

"Mary Ruck is 'compassionate, yet strong', and is an 'exceptional barrister with both the intellect to deal with the complex issues arising in clinical negligence cases and the interpersonal skills to deal with clients in very stressful circumstances'." (Legal 500)