

Mary supports the Evolve Foundation for International Legal Assistance, assisting with submissions for clients on death row in Uganda.

PRACTICE AREAS

Clinical negligence
Personal Injury
Healthcare
Human Rights Fatal Accidents
Professional Discipline

CASELOAD

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. Mary has particular interest in and experience of claims arising out of brain injury.

Mary undertakes 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. She is currently involved in Article 2 Inquests arising out of Covid-19.

Mary was involved in the Kenyan Emergency Group Litigation from 2012. She represented 20,000 victims of torture at trial in the High Court between May 2016 and October 2018. She was the First Junior in a team involving three leading counsel, including specialist leading counsel on international law. She managed a team of juniors with responsibility for pleadings and submissions in relation to 27 Test Claimants.

She undertook cross examination of medical witnesses and made oral submissions to the Court in interlocutory and final hearings. She undertook the drafting of legal arguments, including submissions in relation to interlocutory hearings on domestic and international law, the drafting of petition to the Supreme Court and submissions for the Court of Appeal.

Mary represented the Claimant parents in Khan -v- UK from first instance to its eventual successful resolution in Strasbourg, with significant developments in domestic law at the Court of Appeal concerning the duty of care owed to children. Her argument at first instance regarding the rights of parents was successful in the ECHR.

IMPORTANT CASES

Re CM [2021]: successful resolution at trial, where Defendant arguing statutory funding sufficient in a catastrophic injury where client is subject to a section 41 restriction order; pending resolution of a separate argument on the recoverability of personal injury trust costs. The case required consideration of cross-border funding and care arrangements with the Republic of Ireland for patients under restriction pre- and post-Brexit.

Kimathi & Ors -v- Foreign and Commonwealth Office [2018] 605 QB, concerning trial judge's finding on limitation.

Kimathi & Ors -v- Foreign & Commonwealth Office [2015] - [2018]: multiple interlocutory decisions.

RK and AK -v- Oldham NHS Trust and Dr B Lloyd's Law Report Medical [2003]1
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- United Kingdom (Application No 38000/05): use of the Human Rights Act 1998 to argue for a duty of care to children and parents in medical misdiagnosis of non-accidental injury, leading to care proceedings

Anderson -v- Blackpool Wyre and Fylde Community Health Services NHS Trust (2003) (unreported); split trials on liability and quantum; lead by Andrew Moran QC. Eventual award of over £2 million for Claimant needing

Abbey Archway v Cooper. Construction of an option agreement for the sale of land in which there were 2 such options, both of which the Claimant purported to exercise and in respect of which the Defendant alleged undue influence.

Flowrite v Masternaut. £1,000,000 claim for breach of contract resulting from a failure to pay for goods supplied, the Defendant claiming that the goods were unfit for purpose.

Garforth Residential v Leeds City Council. Claim against local authority for failure to pay block grant involving construction of the National Assistance Act 1948.

TNT v Somerfield Stores Claim for loss of profits where extension of contract was conditional upon minimum sales figure being reached. Issue of whether figure was reached and whether, if not, the failure was manipulated by the Defendant.

Sample current cases

€30m claim for damages and conversion in connection with 4 yachts.

Defending Commercial Court claim for breach of contract in relation to the contract's termination for non-performance.

Defending £6m claim for company accused of deliberately misinforming insurers about financial information. Representing company directors in Tax Tribunal where HMRC seek penalties in respect of a declared tax avoidance scheme, which failed.

Employment

Simon has long experience in employment work, especially relating to improper use of confidential information and breach of restrictive covenants, but including advisory work on the implementation of new rules and regulations.

Concluded cases

Menage v Nuffield. Claim by doctors wishing to decamp to new private hospital to be released from their contract of services with the existing provider.

Re F. Claim by a taxi company to restrain passing off relating to their name and the recruitment of existing employees by competing business set up by ex-employees.

Re Nuffield. Advice on application and requirements of new nursing homes regulations to large private supplier.

Re X: Advised serving police officer on whether disclosure of adverse judicial finding is compulsory or whether, in the circumstances, the Chief Officer is breaching the agreement for service. Officer reinstated in investigative capacity with disclosure accompanied by explanation of circumstances of finding.

CCC: Super-Injunction against employee, restraining disclosure of confidential information.

Sample current cases

Advising partner dismissed by partnership in claim including sex, religious and age discrimination.

Representing respondent charity in claim by alleged employee whose contract for services expired and was not renewed.

Personal Injury

Simon has long experience in employment work, especially relating to improper use of confidential information and breach of restrictive covenants, but including advisory work on the implementation of new rules and

regulations.

Concluded cases

Barnsley Footwear v Masters. Claim by company against former employee for account of profits arising from employee's new business. Issue as to precise status of Defendant, confidentiality of information and whether information legitimately acquired.

Menage v Nuffield. Claim by doctors wishing to decamp to new private hospital to be released from their contract of services with the existing provider.

Re F. Claim by a taxi company to restrain passing off relating to their name and the recruitment of existing employees by competing business set up by ex-employees.

Re Nuffield. Advice on application and requirements of new nursing homes regulations to large private supplier.

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Sample current cases

Advising ex director on whether co-director's actions amount to repudiation of contract where key financial decisions made in absence of director and where financial information deliberately withheld.

Clinical Negligence

Simon has regularly acted for Hospital Trusts and doctors.

Concluded cases

M v Calderdale and Kirklees Health Authority (formerly West Yorkshire Health Authority) [1998] Lloyd's Rep Med 157. Health Authority's delegation of care of patient under S1 NHS Act 1977.

Bancroft v Harrogate Health Authority [1997] 8 Med LR 398. Causation in cervical cancer.

Burke v Leeds HA [2001] EWCA Civ 51. What constitutes negligent advice in clinical care.

Sample current cases

Acting for Claimant in claim against hospital for cerebral palsy said to be caused by negligent treatment.

Professional Liability

Simon mainly deals with cases involving solicitors, barristers and accountants, often when professionals acts together to administer an estate or as part of a tax planning exercise. He has also acted in cases involving architects and surveyors.

Concluded cases

Del Grosso v Payne & Payne [2007] EWCA Civ 340. Claim against solicitors for negligent advice regarding the purchase of a club.

Singer v James Hay. Claim by beneficiary of pension fund against pension trustees, solicitor and accountants regarding pension planning and purchase of annuity.

Seddon v Egan. Acted for solicitor in a claim by client alleging failure to adequately advise on £3m deal to sell commercial site subject to conditions.

Sample current cases

- Acting for charitable trustees regarding potential misuse of charitable funds by employees as sanctioned by professional advisers who were also trustees.
- Right to Buy. Lead counsel for 11,000+ Claimants in negligence claim against solicitors acting for purchasers of council houses.

Professional Discipline

Simon acts regularly for firms of solicitors being investigated by the SRA. He has advised other professions as diverse as accountants and probation officers, and has advised on the wording of professional rules and guidance, and the setting up of disciplinary proceedings. He has represented numerous police officers via the Police Federation. In December 2010 he completed a 6 year stint on the BSB Conduct Committee and resumed taking instructions for Barristers.

Concluded cases

The Law Society v Waddingham & Ors [2012] EWHC 1519 (Admin): successfully defended solicitors the subject of SRA appeal that SDT's decision that clients not dishonest should be overturned.

Re T: Successfully argued that case against barrister should be dropped and recovered costs for Bar Mutual.

Re H & L. Representing firm of solicitors appearing before SDT in relation to charges brought arising from the COPD (Miners' Compensation) scheme.

Richard Inquiry. Acted for the Humberside Police Federation in the Inquiry into the Soham murders and made successful representations regarding comments in the Report.

Alder Inquiry. Represented police officers in the IPCC inquiry into the death of Christopher Alder.

Cross Border. Represented 3 officers charged with various offences arising from the Cross-Border investigation.

Re H Probation Service. Advised Probation Service as to disciplinary routes open regarding officer who had failed to complete an adequate OASYS assessment with catastrophic results.

Sample current cases

Representing firm of solicitors appearing before SDT in relation to charges brought arising from the COPD (Miners' Compensation) scheme.

Advising Customs Officers regarding disciplinary proceedings brought after criminal charges were dismissed.

Partnership

Simon regularly deals with partnership matters, usually involving the dissolution of professional firms, or misfeasance on the part of partners. He also has experience of franchise litigation.

Concluded cases

Scargill v Crank. Claim for an account turning on issue of when the Partnership was dissolved involving close construction of Partnership Agreement.

Re Cheshire. Claim for breach of Franchise Agreement by local franchise holders of national firm, based on deliberate default of franchisor.

Thompson v Shackleton. Breach of Partnership in food business including claims of theft and fraud.

Re C. Claim by one partner against others for conspiring against him to force his retirement, including holding secret partnership meetings and refusing to provide proper access to information.

Sample current cases

Acting for partners in claim against ex-partner alleged to have breached accounting rules and procured resignation rather than expulsion by covering up those breaches.

Acting for partner in claim that ex-partners falsified accounting position of firm in attempt to expel him from partnership and obtain existing assets when partnership dissolved.

Advising solicitor on restrictive covenants and construction of contract as he attempts to extricate himself from his former partners.

Advising solicitor on construction of interrelated Partnership/LLP/LMC Deeds and his entitlement as regards basic share and points.

Health and Safety

Simon deals with criminal cases, advises on the effect of accidents, and deals with civil claims involving damage to property.

Concluded cases

R v Butters. Acted for employee directly responsible for fatal accident at Lightwater Valley in both the Inquest and the criminal proceedings.

R v Next. Prosecuted Next Plc for fatal accident in which employee abseiled from fork-lift truck with inadequate equipment and died when the rope paid out without stopping, causing a fall of about 30m.

Re E MAPPA. Advice on departmental enquiry after offender committed suicide when the subject of supervision.

R v Next plc. Prosecuted Next for fatal accident when lift inadequately specified and maintained.

Sample current cases

Representing 2,000 Claimants in claim against chemical company for allowing fire causing escape of toxic gas from its premises.

Defamation

Simon has accepted defamation instructions since taking silk.

Concluded cases

X v Y. Acted for Claimant in a case where Defendant making accusations of criminality and theft from friends. Settled for damages and costs.

Re Solicitors. Acted for 2 firms of solicitors accused in a script of an investigative BBC Radio programme of assisting an offender. Script altered.

Levi v Bates ([2009] EWHC 1495. Acted for successful Claimant in action for libel against Ken Bates regarding the takeover and subsequent management of Leeds United.

Weston v Bates & Anor [2012] EWHC 590. Successfully represented Claimant before Master and Judge in

constant care due to severe PTSD; one of the largest known awards at the time for psychiatric injury; included representation (without silk) in front of the Court of Appeal regarding trial judge's decision on evidence.

Wardlaw -v- Farrar [2003] EWCA Civ 1719: represented on appeal to the Court of Appeal. Concerning causation of/contribution to death from pulmonary embolism (pre - cursor to Bailey); concerning service of experts' literature

Ziemniak -v- EPTM Deep Sea Limited [2003] EWCA Civ 636; concerning trial judge's finding on duty of care for catastrophically injured dockworker; right of civil action under the Merchant Shipping (Life Saving Appliances) Regulations 1980, SI 1980/538.

SAMPLE CURRENT CASES

LH: birth brain injury; against Angus Moon QC; approval of settlement before Turner J in February 2021; now proceeds on quantum

CM: catastrophic injury arising from sepsis; quantum resolved at trial in May 2021; pending hearing on recoverability of personal injury trust costs for vulnerable claimant

DLS: delayed diagnosis of retinopathy of prematurity; proceeds on quantum with issues of overlap/double recovery

SC: PTSD arising out of workplace bullying

JS: catastrophic injury from RTA of young claimant; liability resolved, proceeding on quantum

Fatals cases: deaths from Covid; negligent discharge from psychiatric care leading to suicide; negligent mismanagement of post-partum care.

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).

Directory Comments

Mary Ruck is a hugely popular choice for highly complex fatal delayed diagnosis, spinal injury and gynaecology cases. She has notable experience in birth-related brain injury cases.

