

Robert Mills
Barrister



YEAR OF CALL: 2014

INN: LINCOLN'S INN

“ Robert is committed to quick turnaround times for work and understands the pressures solicitors are under. His advice is comprehensive and demonstrates excellent attention to detail.”

CHAMBERS UK, 2020
CLINICAL NEGLIGENCE

Practice Overview

Robert is a clinical negligence specialist, acting for both claimants and defendants. He has experience of litigation across a wide range of areas of medicine and also conducts clinical negligence inquest work. He is experienced in valuing complex care, loss of earnings and pension loss claims. He is regularly instructed by solicitors across the county, including Birmingham, Manchester and London, as well as a strong practice in the South West.

Robert has a particular interest in orthopaedic, oncological and dental negligence claims, which represents core components of his practice. His caseload includes of a range of high value cases worth over £1,000,000.00.

Robert is one of the leading barristers in the country in the field of dental negligence. In June 2018, he represented the claimant at the Royal Courts of Justice and obtained the highest ever reported damages award in a dental negligence case.

In the personal injury field, Robert regularly conducts fast-track and multi-track trials. He has experience across the spectrum of personal injury litigation, including employer's liability, occupier's liability, Highways Act 1980 and road traffic cases. He regularly attends applications relating to issues such as pre-action disclosure, default judgment, amendments to statements of case and strike out.

Robert is a member of the Action Versus Medical Accidents (AVMA) Charity, is on their pro bono inquest panel. He further undertakes clinical negligence cases for clients of the Bar Pro Bono Unit.

Robert enjoys both writing papers and presenting them at solicitors' firms and AVMA events. He particularly enjoys speaking on the topics of dental negligence litigation, causation in clinical negligence, secondary victim claims and fatal accident claims in clinical negligence.

Areas of Expertise

Clinical Negligence

Clinical negligence is the focus of Robert's practice. He undertakes a wide range of clinical negligence work, with a particular interest in orthopaedic and oncological cases. He is experienced in handling high value clinical negligence litigation involving life-changing injuries. He regularly conducts fatal accident litigation. He provides specialist advice on high value claims for care, loss of earnings and pension loss.

Robert also has a particular interest in dental negligence and is instructed on around 50 dental cases which are litigating currently. His work covers a wide range of high value cases involving failure to treat periodontal disease, misdiagnosis of caries, negligent loss of an evulsed teeth, negligent orthodontic treatment, occlusal problems, as well as negligently performed root canal treatments and crowning of teeth. He is also experienced in advising on issues of consent and also contributory negligence in dental claims. In June 2018, Robert represented the claimant at the Royal Courts of Justice and obtained the highest ever reported damages award in a dental negligence case.

Recent notable clinical negligence cases include:

▶ **Case 1 [2020]**

- Robert acts for the claimant, as Junior Counsel to Matthew Phillips QC. This is a claim for undiagnosed fractures of both shoulder blades. The shoulders healed in a sub-optimal position, leading to severe restrictions in range of movement and significant care needs. The claimant had pre-existing schizophrenia and there is an argument concerning whether the new care required is qualitatively or quantitatively different to that which he previously required. The index negligence is further said to have exacerbated the pre-existing schizophrenia. The pleaded value of the case is in excess of £3,000,000.00.

▶ **Case 2 [2020]**

- Robert acts for the claimant in this case concerning alleged negligence in performing bowel surgery. It is alleged that the development of a post-operative fistula was as a result of intra-operative negligence. The claimant's case is that she underwent multiple unnecessary procedures under general anaesthetic to treat this fistula. She has been left with permanent chronic pain and a requirement for extensive plastic surgery. She has also sustained psychological injury. Damages are pleaded in excess of £1,000,000.00.

▶ **Case 3 [2019]**

- Robert acted for the defendant in a claim concerning negligently performed hip replacement surgery. High value care and accommodation claims took the special damages claim to over £650,000.00. Psychiatric and orthopaedic damage claims were advanced. 4 experts were instructed on each side. Liability was admitted but fundamental dishonesty arguments were raised in relation to the quantum case. The claim settled for a sum significantly below that pleaded.

▶ **Case 4 [2019]**

- Robert acts for the claimant in this case concerning an alleged negligent failure to diagnose a scaphoid fracture. The delay in treatment has resulted in significantly reduced movement and strength in the claimant's wrist. As a result she will no longer be able to pursue her career as a nurse and a high value loss of earnings and pension claim are advanced. The claimant further says that she has suffered a loss of congenial employment. A provisional damages claim is made for the risk of future surgeries and their complications. The pleaded value of the case in excess of £1,000,000.00. Settlement was reached at mediation.

▶ **Case 5 [2019]**

- Robert acted for the claimant in this case with two distinct episodes of negligence. The first episode concerned the alleged negligent discharge of the Claimant from hospital when she was suffering from a post-operative bleed. She suffered a traumatic period at home before returning for a vaginal packing procedure which was negligently performed without pain relief. The Claimant developed PTSD and her pre-existing somatoform pain disorder was exacerbated. In the second episode of negligence, the Defendant also failed to diagnose the Claimant's breast cancer and the knowledge of this delay, combined with invasive treatment, further exacerbated the somatoform symptoms. As a result of negligence, the Claimant's cancer prognosis was terminal. There were complex considerations for the Claimant to whether

to complete her clinical negligence claim or allow her children to bring a Fatal Accidents claim on behalf of her Estate after her death. She decided to seek an end to the litigation in her lifetime. The primary arguments in this case concerned causation and the doctrine of material contribution vs apportionment. The case settled at mediation.

▶ **Case 6 [2018]**

- Robert acted for the defendant in this claim for neurological injury arising out of hip replacement surgery. Liability and quantum were in dispute. The experts disagreed as to whether the sciatic nerve would have been exposed during the index procedure, risking injury. The defendant's case was that the neurological symptoms which the claimant now reports are unrelated to the index surgery. The claimant's DWP records also revealed extensive co-morbidities and associated care needs which had not been accounted for in a Schedule of Loss worth over £600,000.00. A fundamental dishonesty case was advanced. Settlement was reached significantly below the pleaded value.

▶ **Case 7 [2017]**

- Robert acted for the claimant in this case where a below knee amputation was required as a result of clinical negligence in failing to diagnose a vascular condition. Damages consisted of a notable future care claim and future provision for prostheses. Expert evidence on life expectancy had a material influence on the value of the future losses. There was a claim for psychiatric injury and also disadvantage on the labour market. Settlement was reached in the sum of £200,000.00

▶ **Case 8 [2016]**

- Robert acted for the defendant in this claim arising out of an alleged failure to diagnose and treat sepsis, which was said to have led to the deceased's death. Although a delay in treatment of around 6 hours was admitted, it was denied that the dose of antibiotics provided was incorrect. It was further the defendant's case that the deceased was in such a weakened state that she would have died at the same time in any event. The claim was pleaded at over £150,000 in value. There was a complex argument as to the service dependency claim and when the deceased would have become incapacitated in any event. Settlement was eventually reached after service of Robert's Counter-Schedule of Loss.

Recent notable dental cases include:

▶ **Case 1**

- Robert represented the claimant at the Royal Courts of Justice in London. The claimant was awarded the highest general damages award ever reported in a dental negligence case in the sum of £65,000.00. The total damages award was in excess of £160,000.00 which was also the highest ever reported in a dental claim. This was a claim for extensive restorative treatment arising out of a wide range of negligently performed dental treatment.

▶ **Case 2**

- Robert represents the claimant in this case where it is alleged that a failure to promptly place implants following tooth extraction has prevented the claimant from being able to undergo restorative treatment at all. The claimant is now prevented from eating hard foods which are required to treat her pre-existing bowel condition. A significant pain, suffering and loss of amenity claim including psychological injury is advanced.

▶ **Case 3**

- Robert represented the claimant in this claim for negligence arising out of a failure to diagnose periodontal disease. The claimant lost multiple teeth and required implant treatment. There were significant complexities arising out of the multiple defendants in this case, but the claimant was able to obtain a good settlement.

▶ **Case 4**

- Robert represents the claimant in this case where it is alleged that a failure to promptly place implants following tooth extraction has prevented the claimant from being able to undergo restorative treatment at all. The claimant is now prevented from eating hard foods which are required to treat her pre-existing bowel condition. A significant pain, suffering and loss of amenity claim including psychological injury is advanced.

▶ Case 5

- Robert represented the claimant in this claim for negligence arising out of a failure to diagnose periodontal disease. The claimant lost multiple teeth and required implant treatment. There were significant complexities arising out of the multiple defendants in this case, but the claimant was able to obtain a good settlement.

▶ Case 6

- Robert represents the defendant in this claim. It is alleged that the defendant dentist's failure to extract retained roots in the claimant's mouth has led to significant pain and suffering as well as psychological injury. The defendant will say that the decision to leave the roots in situ was an entirely reasonable one, which the claimant consented to.

▶ Case 7

- Robert represented the claimant in this claim for negligence arising out of a failure to treat periodontal disease. Again there was a high value future implant claim, but with the added complexity of dealing with an uninsured defendant. The claimant advanced a causation case placing the bulk of liability on the insured defendant and was able to obtain a good settlement.

▶ Case 8

- Robert represented the claimant in this dental negligence claim which led to a significant loss of earnings claim. The defendant had failed to treat a chronically infected tooth root before undertaking a bone graft procedure. The claimant went on to suffer a serious post-operative infection and was prevented from undertaking a media role. The claimant was able to settle the case for over £30,000.00.

Robert is also experienced in representing interested parties at clinical negligence inquests. He is pleased to accept instructions to represent families at inquests on a conditional fee basis.

Personal Injury

Robert has gained experience across the spectrum of personal injury litigation including product liability employer's liability, occupier's liability, Highways Act 1980 and road traffic cases. He advises on liability, quantum and the tactical progression of cases. He regularly represents both claimants and defendants at fast-track and multi-track trials.

Robert also has a particular interest in industrial disease work and has worked with other barristers on cases in this context, involving hand arm vibration syndrome, asbestosis, mesothelioma, carbon monoxide poisoning and tinnitus.

Recommendations

"Provides reliable, considered, and thoughtful advice."

LEGAL 500, 2020

CLINICAL NEGLIGENCE

Professional memberships:

- ▶ AvMA
- ▶ APIL
- ▶ Bristol Medico-Legal Society

Qualifications & awards:

- ▶ Bar Professional Training Course, Kaplan Law School London
- ▶ Graduate Diploma in Law, Kaplan Law School London
- ▶ Graduate LLB, Kaplan Law School London
- ▶ MA (Cantab) Philosophy, Selwyn College, University of Cambridge

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