

## Eleanor Wheeler

Call 2014

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Eleanor undertook pupillage at 42BR Barristers and has been a tenant since 2016. She has a broad civil practice and accepts instructions in the following areas:

### Clinical Negligence

Eleanor provides robust advocacy and advice on a range of clinical negligence matters, including those involving children. She represents both claimants and defendants in County Court and High Court actions, and has experience working with vulnerable witnesses and interpreters.

Her wide-ranging clinical negligence practice includes:

- Delay in diagnosis claims;
- Complex cases involving children, including negligent births and psychiatric damage;
- Claims for negligent dental work; and
- Claims for orthopaedic injury, including spinal damage.

### Recent cases

- *W v D* - acted for the executor in a fatal claim involving delayed diagnosis of cancer. The matter settled at JSM for over £200,000 (completed 2024).
- *E v S* - acted for the claimant against three defendants in a claim arising from negligent orthopaedic surgery and podiatric care. The matter was settled via offer in 2024.
- *L v A* - acting for the executor and dependants of the deceased in a fatal claim involving negligent care provided by a care home and a local authority (ongoing).

## Employment Law

Eleanor undertakes a significant amount of employment law work. She is regularly instructed on multi-day trials involving:

- Complex discrimination;
- Whistleblowing;
- Breach of contract;
- Redundancy;
- Unfair dismissal, including constructive unfair dismissal;
- Unlawful deduction from wages;
- Complex remedy issues; and
- Costs awards.

She represents both claimants and respondents and undertakes work for a variety of clients, from previously unrepresented individual claimants to large, institutional respondents. Her employer client base includes banks, supermarkets, transport sector organisations, and manufacturers.

Eleanor provides straightforward and practical advice on settlement and litigation tactics, including advice in group actions and claims involving multiple respondents.

As well as extensive experience in Employment Tribunals across the country, Eleanor has experience of actions in the Employment Appeal Tribunal and currently has three ongoing EAT matters. She regularly accepts instructions in matters involving reconsideration.

Eleanor is a member of the ELA.

### Recent cases

- *Hearn v Wm Morrison Supermarkets Ltd* - represented the respondent in an unfair dismissal claim relating to breach of policies relating to restraining shoplifters. The tribunal dismissed the claim in its entirety (completed 2024).
- *Maindola v Tesco Stores Ltd* - acted for the respondent in a discrimination claim, persuading the tribunal to strike out the claim (despite this being very rare in discrimination proceedings) by identifying and pursuing a technical argument that the claimant's case didn't fall within any of the permissible categories of estoppel (completed 2023).
- *Lukasik and ors v (1) Norweigan Air Resources UK (2) OSM Aviation Ltd (3) The Secretary of State for Business, Energy and Industrial Strategy* - successfully represented 55 claimants in a group action for holiday pay against their former employer (completed 2022).
- *Brennan v Bouygues E&S Solutions Ltd* - represented the respondent and persuaded the tribunal that the claim should be dismissed as the resignation was pre-emptive, giving rise to an invalid argument of constructive dismissal (completed 2022).