

## Richard Gregory

Call 2000

Telephone [020 7831 0222](tel:02078310222)

Email [clerks@42br.com](mailto:clerks@42br.com)



### Introduction

Richard Gregory is an established personal injury and clinical negligence practitioner, with particular experience in claims involving catastrophic injuries.

Richard has been recommended for his work in the field of personal injury in both Chambers & Partners UK and the Legal 500 for a number of years.

Most recently he has been described in those directories as being “*very bright and thorough in all written advice, excellent in relation to quantum issues and calm under pressure*” (Chambers UK: 2018) and “*Excellent on quantum issues and more obscure points of law*” (Legal 500: 2017).

Please click on the individual Personal Injury CV or Clinical Negligence CV for further information.

In addition to the most recent entries in the legal directories referred to above, Richard has been described in earlier editions as:

Being ‘*recognised for his abilities in catastrophic injury*’ litigation and having ‘*fantastic attention to detail*’. It was also commented that he is ‘*well prepared, confident and capable*’ and ‘*you can always rely on his technical expertise*’ (Chambers UK: 2017)

‘*He is charming and makes clients feel at ease*’ (Legal 500: 2016)

‘*He is always available and turns papers around so quickly. He is a very sharp barrister*’ (Chambers UK: 2016)

‘*Highly regarded by Solicitors*’ (Legal 500: 2015)

‘*A very proficient high-value accident practitioner who shows great dexterity when handling difficult spinal damage and fatality claims*’ and ‘*He’s an almost perfect junior, who is very good on paper, extremely thorough and highly conscientious. He is carving out a niche in MIB and difficult RTA claims*’ (Chambers UK: 2015)

‘*Excellent attention to detail*’ (Legal 500: 2014)

'He's very smart and very personable, and he doesn't leave any stone unturned' and 'He's a trusted and valued professional, who can be relied upon to bring success' (Chambers UK: 2014)

'Makes his debut in this year's rankings in recognition of the praise bestowed on him by commentators, who particularly admired his 'extremely thorough and detailed written advice' (Chambers UK: 2013)



## Qualifications and Memberships

- BA Jurisprudence, Hertford College, University of Oxford
- BVC, Inns of Court School of Law
- PIBA – Personal Injury Bar Association
- APIL – Association of Personal Injury Lawyers
- AVMA – Action Against Medical Accidents

## Personal Injury

Richard has extensive experience of acting for Claimants and Defendants in the full range of personal injury claims including road traffic accidents (including those which give rise to issues under the MIB uninsured drivers' agreements), employers' liability claims, public liability claims and fatal accidents.

Richard accepts instructions on behalf of Claimants and Defendants, but his case load predominantly comprises claims brought on behalf of Claimants who have sustained serious life changing injuries such as traumatic brain injuries, spinal cord injuries at various levels, brachial plexus injuries and lower limb amputations. In addition, he is also instructed as Junior Counsel on numerous multi-million pound claims where the Claimant's injuries have been of the utmost severity, some of which are listed for trials in the High Court in London in 2018.

Richard has built up a large amount of experience in the type of issues which are frequently encountered in catastrophic injury claims such as life expectancy issues, capacity issues, disputes about the appropriate placement and / or care regime, the use of specialist prosthetics or other equipment in order to try and maximise a Claimant's independence, claims for hydrotherapy pools at home, issues in connection with the discount rate (including the impact of the current negative discount rate on accommodation claims), the use of periodical payment orders (including the use of reverse indemnities) and provisional damages.

Richard has successfully obtained large interim payments in accordance with the guidelines in *Eeles v Cobham*. He regularly conducts conferences with liability and medical experts, drafts Schedules of Loss,

attends joint settlement meetings and has experience of claims where damages have been recovered which are equivalent to more than £12m on a lump sum basis.

## Personal Injury: Notable Cases

A sample of Richard's concluded and ongoing personal injury cases are set out below:

- **IG v AN:** (2017–ongoing): Instructed on behalf of a Claimant pedestrian who was struck by a motor vehicle as he was crossing the road, sustaining multiple injuries, including a spinal cord injury.
- **JH v EP:** (2017–ongoing): Instructed on behalf of a Claimant cyclist who sustained a severe brain injury, as well as maxillofacial, dental and orthopaedic injuries in a road traffic accident.
- **BA (a child) v (1) NH (2) Mulsanne Insurance (3) CIS:** (2017–ongoing): Instructed as Junior Counsel on behalf of a Claimant who sustained serious life changing injuries in a road traffic accident, including a diffuse axonal brain injury, a spinal injury (dislocation of the atlanto-occipital joint requiring surgical fixation), spinal cord compression and other orthopaedic injuries.
- **DP v GHL:** (2017–ongoing): Instructed on behalf of the estate of the Deceased and his dependents under the Fatal Accidents Act 1976 to pursue claims arising out of a fatal road traffic accident. The Deceased was a company executive and the claim includes a large claim for loss of financial dependency on earnings, bonuses and pension income.
- **WL v MM** (2017–ongoing): Instructed on behalf of a Claimant cyclist who sustained a severely comminuted fracture of the talus which has already required multiple bouts of reconstructive surgery.
- **CB v SH (UK) Ltd** (2017–ongoing): Instructed on behalf of a Claimant who has suffered serious lower limb injuries in an accident at work, which has necessitated extensive reconstructive surgery.
- **DM v RR** (2016–ongoing): Instructed as Junior Counsel for a Claimant cyclist who sustained a spinal cord injury in a road traffic accident. Liability was admitted. The Claimant has a C2 motor and sensory AIS / Frankel D Tetraparesis. The Claimant is wheelchair dependent and now has significant lifelong needs including care, case management, adapted accommodation, specialist aids and equipment (including an adapted vehicle), therapies and medical input. Case management directions have been given which culminate in an Assessment of Damages Hearing in Autumn 2018.
- **ET v RH** (2016–ongoing): Instructed as Junior Counsel for a Claimant who sustained a spinal cord injury in an accident at work. Liability was compromised at 2/3 of the full value of the claim. As a result of the accident the Claimant sustained a fracture dislocation of T12 on L1 and an injury to his spinal cord at the conus level. The Claimant has paraplegia that is motor and sensory complete at the L2 level. Quantum investigations are currently ongoing.
- **(1) VM (2) VM v (1) DM (2) MIB** [2014–ongoing]: Instructed as Junior Counsel for two Claimants who both sustained serious injuries, when they were ejected from a motorised trike which had mounted the kerb and then collided with a parked vehicle. There were issues in relation to clause 6(1)(e)(ii) of the uninsured drivers' agreement 1999 and allegations of contributory negligence (not wearing a seat belt (none were installed) and knowing that the driver was intoxicated (*Owens v Brimmell*)). Liability was compromised at 72.5% on the second day of trial. The First Claimant sustained life threatening injuries including an above knee amputation, multiple pelvic fractures, internal injuries and also developed a cerebral brain hypoxia subsequently. The Second Claimant sustained a closed head injury, skull fractures, a scalp laceration and a fracture of the right talus. Assessment of Damages Hearings for both claims are scheduled to take place in April 2018.
- **AH v MTL** (2014–ongoing): Instructed as Junior Counsel for a Claimant pedestrian who was struck by a double decker bus as he attempted to run across the road. The bus had been exceeding the speed limit. Shortly before a split trial on primary liability, an apportionment of 40% of the full value of the

claim was agreed, which was subsequently approved. Quantum investigations are ongoing.

- LP v (1) SML (2) PF (3) MK: (2014-ongoing): Instructed as Junior Counsel on behalf of the Claimant who sustained bilateral above knee amputations in an accident at work. Liability and quantum investigations are ongoing and there are also issues in relation to the insurance position.
- AR v (1) AOS (2) AIG (3) MW (4) NFU (2013-ongoing): Instructed as Junior Counsel for a Claimant cyclist who sustained a very severe brain injury in a road traffic accident, when he was struck by an oncoming vehicle. A limitation defence is no longer being pursued due to the Claimant's lack of capacity following the accident. An allegation of contributory negligence for failing to wear a cycle helmet is no longer being pursued. The trial of the remaining preliminary issues (primary liability and contributory negligence) is scheduled to take place in March 2018.
- OS (a child) v TFL (2013-ongoing): Instructed as Junior Counsel for a Claimant who moved onto a tram crossing at a tram stop in Croydon and was struck by a tram. The issue of liability required accident reconstruction evidence and detailed analysis of the CCTV footage and the 'On Tram Data Recorder'. An agreed compromise of liability at 90% was approved in November 2014. The Claimant sustained life changing injuries to both lower limbs, including a below knee amputation. Quantum investigations are ongoing.
- AM (a child) v (1) MA (2) Zurich (3) UK Insurance (2011-ongoing): Instructed as Junior Counsel on behalf of a Claimant who was being pushed in a pram across the road, when after passing between and then beyond a stationary line of traffic, the pram was struck by a motor vehicle. Liability was compromised with the Claimant accepting 95% of the full value of the claim and this was approved in July 2012. Quantum investigations are ongoing. In 2015 Richard was instructed in connection with an application for a substantial interim payment of £700,000.
- ABC (a child) v MCHL: (2011-ongoing): Instructed as Junior Counsel on behalf of the child pedestrian who was struck by a large goods vehicle and sustained multiple catastrophic injuries. A left hemipelvectomy was necessitated by serious injuries to the left pelvis and lower limb. The Claimant also sustained urological injuries, damage to the rectum and has a right foot drop due to nerve damage. In 2016 Richard was instructed in connection with an application for a substantial interim payment of £1m.
- AW v (1) JS (2) Direct Line: (2015-2017): Instructed on behalf of a Claimant who sustained a traumatic brain injury in a road traffic accident, leaving him with residual neurocognitive deficits and psychiatric symptoms. Causation was complex due to pre-existing conditions and difficulties. An agreed settlement of the claim at £860,000 was approved by HHJ Simon Oliver in October 2017.
- TE v GPL: (2017): Instructed on behalf of the Claimant in connection with an accident at work. The Claimant suffered a mild traumatic brain injury, but also developed other symptoms due to vestibular dysfunction, migraine associated disorder, post traumatic endolymphatic hydrops and psychological symptoms. There were significant issues between the experts, including issues in relation to causation, future treatment requirements and capacity for work. At a Joint Settlement Meeting in September 2017, the claim was compromised at £462,300.
- JF v (1) MD (2) Qudos Insurance (2013-2017): Instructed as Counsel for a Claimant who was a pillion passenger on a motorcycle who sustained serious injuries in a road traffic accident. The injuries included a serious left knee injury. Deterioration leading to the need for a knee replacement and later revision surgery, with increasingly reduced function was expected. The orthopaedic experts disagreed about the timescale for the predicted deterioration and its functional effect. The neuropsychologists disagreed about whether there were any ongoing effects from a mild traumatic brain injury. The Claimant accepted the Defendant's part 36 offer of £475,000.
- ND v (1) DB (2) Aviva: (2016): Instructed on behalf of a Fatal Accidents Act 1976 claim brought on behalf of the deceased's wife and children. There were issues between the medical experts about the

effect of pre-existing conditions on the Deceased's ability to work, provide domestic services and his life expectancy but for his untimely death. In December 2016 the claim was compromised at a Joint Settlement Meeting for £181,800 net of a previously agreed reduction of 20% for contributory negligence.

- **ABC v (1) A (2) MIB: (2012-2016):** Instructed as Junior Counsel for the Claimant passenger who sustained a very serious brain injury in a road traffic accident, resulting in a Prolonged Disorder of Consciousness (Minimally Conscious State). In relation to liability there were issues in relation to clause 6(1)(e)(ii) of the Uninsured Drivers' Agreement 1999 and contributory negligence. Liability was compromised at 90%. There were issues about whether the Claimant should remain in a residential unit or would be best placed in the community in adapted accommodation with a package of 24-hour care and a multi-disciplinary therapy team. At a later Joint Settlement Meeting the claim was compromised on the basis of a lump sum of £2.65m and periodical payments of £328,000 per annum (with reverse indemnities depending on the Claimant's placement).
- **MB v PA: (2012-2015):** Instructed as Junior Counsel for the claimant motorcyclist who sustained multiple injuries in a road traffic accident, including a serious brain injury which left him with ongoing cognitive, neuropsychiatric and physical complications. The Claimant's needs included 24-hour care, specially adapted accommodation, therapies and aids and equipment. During the course of the litigation Richard conducted the hearing in connection with the extent to which part 36 offers could be disclosed and costs orders made following a split trial under the CPR as they were then (see [2013] 1 WLR 762). He also obtained interim payments of £400,000 and then £500,000 at contested hearings. At a Joint Settlement Meeting the claim concluded for £4.27m + periodical payments of £175,000 per annum.
- **WT v Ageas: (2013–2014):** Instructed for the Claimant pedestrian who sustained a serious de-gloving injury to her right foot after it was run over by a car. The injuries included a partial amputation of the great toe, soft tissue injuries to her ankle and an osteocondral injury to the dome of the talus. There were future loss claims for loss of earnings / earning capacity, aids and equipment, care and assistance and orthotic costs. The claim was compromised at £275,000.
- **RW v KB (2012-2013):** Instructed for the Claimant motorcyclist who sustained a below knee amputation in a road traffic accident. The future loss claims included claims for future loss of earnings, care, prosthetics, accommodation and transport. The claim was compromised in the sum of £1m.
- **AS v (1) JS (2) MIB: (2011-2012):** Instructed as Junior Counsel for the Claimant passenger who was rendered tetraplegic in a road traffic accident in which he was travelling as a passenger. There were issues in relation to ex turpi causa, contributory negligence (failure to wear a seat belt) and clause 6 of the Uninsured Drivers' Agreement 1999. The claim was settled at a Joint Settlement Meeting for £3.5m on a lump sum basis.
- **RB v RM (2011-2012):** Instructed as Junior Counsel on a claim brought on behalf of a Claimant in her 60s who was struck on a pedestrian crossing and sustained a severe traumatic brain injury. The claim was settled at a Joint Settlement Meeting on the basis of a lump sum of £1.2m and periodical payments of £177,000 per annum.

## Clinical Negligence

Richard undertakes work in the field of clinical negligence. This is an increasingly active part of his practice and dovetails neatly with his personal injury practice. He regularly accepts instructions in relation to a wide

range of clinical negligence claims, including those relating to accident and emergency medicine, orthopaedic surgery, general and colorectal surgery, oncology, general practice, psychiatry, obstetrics and gynaecology.

Richard also has experience of attending inquests arising out of deaths which have occurred in a care home or hospital setting.

## Clinical Negligence: Notable Cases

A sample of Richard's concluded and ongoing clinical negligence cases are set out below:

- **SD (a child) v Chesterfield Royal Hospital NHS Foundation Trust: (2016 – ongoing):** Instructed on behalf of the Claimant in relation to a claim arising out of a misdiagnosis of right sided hemi-hypertrophy and the delayed diagnosis of left hip dislocation caused by developmental dysplasia.
- **MM v Oxford University Hospitals NHS Trust: (2016 – ongoing):** Instructed on behalf of the estate of the deceased and her dependants under the Fatal Accidents Act 1976 in connection with a claim arising out of the delayed diagnosis of recurrent sidewall cervical cancer.
- **JS (a child) v Derby Hospitals NHS Foundation Trust: (2015 – ongoing):** Instructed on behalf of a Claimant in connection with a failure to either aspirate or remove a haemorrhagic ovarian cyst with the result that she experienced further episodes of acute abdominal pain and later required the removal of her right ovary and fallopian tube.
- **RV v Surrey & Sussex Healthcare NHS Trust: (2013 – 2015):** Instructed on behalf of the estate and the dependent husband and children under the Fatal Accidents Act 1976. The Deceased was admitted for an induced labour and despite exhibiting flu like symptoms at a time of heightened H1N1 swine flu activity, the Trust failed to prescribe anti-viral medication contrary to the clinical guidelines which were in force at the time. It was later established that the Deceased had contracted swine flu and tragically she passed away 4 weeks after giving birth to a healthy girl. Following the exchange of witness statements, expert evidence and joint statements and shortly before an Assessment of Damages Hearing was due to commence, the claim settled at a Joint Settlement Meeting for £400,000.
- **In the matter of EN: (2013):** Represented the family of a man who was admitted to hospital for a fractured hip, who developed pneumonia and later died. The Coroner returned a narrative verdict in which he found that the cause of death was hospital acquired pneumonia contributed to by pulmonary oedema, ischaemic heart disease and multiple scleroses. The Coroner identified a failure to monitor, review and investigate the deceased's condition appropriately and concluded that these 'gross failings' had contributed to the deceased's death.
- **RL v Ashford & St Peters NHS Trust: (2012-2013):** Instructed on behalf of the Claimant. An endoscopic retrograde cholangio-pancreatography (ERCP) was inappropriately undertaken as a diagnostic test and with a view to biliary sphincterotomy, despite the resolution of previously reported abdominal pain and normal ultrasound and liver function tests. During the procedure, the Claimant's biliary tree was damaged causing peritonitis and pancreatitis, leading to acute sepsis and subsequently renal failure requiring regular haemodialysis. The Claimant was subsequently compromised for £300,000.
- **CAT v Epsom & St Helier University NHS Trust: (2011):** Instructed as Junior Counsel in relation to the quantum of a claim brought on behalf of a Claimant who suffered from cerebral palsy as a result of negligence in the management of his mother's labour. One of the issues in the case was the means of valuing the accommodation claim, given the Claimant's shortened but very uncertain life expectancy

and in particular whether there were more satisfactory alternatives to the Roberts v Johnstone formula. After a contested hearing against Leading Counsel, Richard secured permission to obtain expert evidence with a view to challenging the assumptions underlying the Roberts v Johnstone formula. The claim was subsequently compromised at a Joint Settlement Meeting on the basis that the Claimant would receive a lump sum award of £2.8m and periodical payments ranging from £68,600 to £220,000 per annum.

- IBA v Oxford Radcliffe Hospitals NHS Trust: (2010-2011): Instructed as Junior Counsel for the Claimant who developed severe cerebral palsy as a result of the mismanagement of his mother's labour. The means of valuing the accommodation claim was again in issue, as the Claimant's life expectancy was adversely affected but uncertain. Following a contested hearing, Richard obtained permission to acquire expert evidence from a financial expert with a view to challenging the assumptions underlying the Roberts v Johnstone formula. The claim was subsequently compromised at a Joint Settlement Meeting on the basis of a lump sum award of £2.2m and periodical payments ranging from £235,000 to £260,000 per annum.