

Simon Hilton

Year of call 1987

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Simon Hilton is vastly experienced Counsel whose practice encompasses high value **Personal Injury** and **Clinical Negligence** cases, professional negligence, regulatory, Professional disciplinary and **Inquests**. Simon has been junior regional panel A counsel to the Crown since 2000.

Simon has appeared in many leading cases within these fields and his known for his skill in negotiation and advocacy. Simon acts for many leading insurance companies as well as NHS Trusts and many departments of government.

Expertise

Clinical Negligence and Healthcare

Simon's principal areas of specialisation are Clinical Negligence and Personal Injury. He acts for both Claimants and Defendants, often in cases of high value or technical complexity. In his capacity as AG Panel Counsel he is widely experienced in litigation involving Government departments (eg military accidents, prison assaults, historic sexual abuse) as well as inquests (death in custody, military fatality).

His personal injury practice embraces industrial and occupational disease, road traffic, rail and general EL work. He has a particular interest in related insurance disputes, including claims arising out of permanent health policies and contested indemnity cases. He also specialises in health and safety related work, cases involving product liability, and claims for psychiatric injury arising from workplace stress and bullying.

In clinical negligence, the breadth and diversity of his caseload in the last two years has included litigation arising from:

- Fatal pulmonary embolus following routine hip replacement surgery;
- Death following obstetric complications and refusal to accept blood transfusion;
- Mismanagement at birth leading to Cerebral Palsy;
- Vascular complications during critical limb ischemia surgery;
- Mismanagement of medication for ulcerative colitis;
- Failure to diagnose Mueller-Weiss Syndrome;
- Fatal complications arising from bariatric surgery;
- Contraction of Clostridium Difficile Infection on hospital ward;
- Gynaecological mismanagement (sterilisation surgery);
- Failure to diagnose cholesteatoma in the middle ear;
- Negligent treatment during psychotherapy;
- Delay in diagnosis of cancers;
- Instrumentation injuries (including diathermy injury);

- Montgomery – founded claims centering on consent;
- Delay in treatment of stroke.

Regulatory and Enforcement

Simon has very extensive experience in health and safety, trading and consumer law enforcement – including data protection. Simon has acted in over 100 HSE, local authority and Environmental Agency prosecutions, generally for the defence, especially in cases arising from construction fatalities, agriculture and fire accidents. He has appeared in the Magistrates and Crown Courts, and the Court of Appeal. He has advised and represented commercial clients across the range of consumer protection legislation, including cases under the Trade Descriptions Act 1968, Trademarks Act 1994, Consumer Credit Acts, CQC Regulations, and the Consumer Protection from Unfair Trading Regulations.

Disciplinary

Simon's work in this area is complemented by his expertise in the fields of personal injury and clinical negligence. Much of his disciplinary practice is medical based. He has both prosecuted and defended doctors in the General Medical Council (and on appeal to the Administrative Court ~ *Jasinarachichi v GMC* 2014 EWHC 3570 Admin.) in cases involving professional misconduct and registration. He has represented clients in disciplinary proceedings before the British Psychological Council, and has acted as Legal Assessor to the British Hearing Aid Council.

In 2012 he represented the Liverpool and North Yorkshire Primary Care Trusts in a disciplinary appeal under the NHS Drug Tariffs Regulations concerning alleged overpayments to a contractor in a sum in excess of £1M.

Inquests

Simon has extensive experience of the Coroners' Courts, appearing in cases involving industrial and mining accidents, deaths in custody and the Armed Forces, medical mishap/mismanagement, and deaths in social (and private) care. He recently represented the Home Office on the death of a detainee at an Immigration Detention Centre, and Sheffield City Council following the death of a child in care who fell from the roof of the Manchester Arndale centre.

His practise at the Bar incorporates clinical negligence, personal injury, regulatory and disciplinary work. He sits as a Recorder and is a longstanding member of the AG's Treasury Panel for the Regions.

Serious Injury

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Occupational Disease

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Significant Cases

McDonnell and McGeown v. Walker [2009] EWCA 1257

Limitation appeal – commencement of second action post Horton v. Sadler.

Silcock v. HMRC [2009] EWHC 3025

Mesothelioma – appeal under CPR Show Cause procedure.

Ibbotson v. Highways Authority and various [2013] QBD (Unrep)

Instructed by HA in £1.5M claim following trunk road accident.

Storm v. Secretary of State for Justice [2009] EWHC 2168

Judicial review – re-categorisation decision on life prisoner.

Bennett v. MOD [2009] QBD (Unrep)

Military helicopter crash; double fatality; £1M claim with complex aeronautical evidence.

Marritt v. Heaney [2008] QBD (Unrep)

Motorcycle accident; amputation of both legs.

McAvoy v. Railtrack [2015] QBD (Unrep)

Railway accident; electrocution; brain damage.

Nicholls v. MOD [2008] QBD (Unrep)

Overtaken combat vehicle in Bosnia; severe arm injury.

Essomba v. Secretary of State for Home Department [2009] EWHC 2300

Judicial review; fresh claim in asylum proceedings; Article 8 ECHR.

H v. Norwich Union [2016] QBD (Unrep)

Action to enforce payment under PHI policy; fibromyalgia

Bullen Stomacare v. Liverpool & N Yorks PCTs [2009] NHS Appeal Tribunal

Pharmaceutical regulations (drug tariffs); overpayments exceeding £1M to drug contractor; instructed by NHS.

Inquest into the death of Andrew Borketas [2008]

Instructed by MOD; infantry recruit drowned during training exercise at Catterick.

AB v Ministry of Justice 2014 EWHC 3934

Compensation for contravention of the Data Protection legislation

R v Sue Ryder Care

Prosecution under Section 3 HSWA following death in nursing home (positional asphyxia)

HSE v. British Nuclear Fuels Ltd

Prosecution under Section 2 HSWA – oil rig diver trapped underwater.

R v ESB Hotels Ltd. (2005) EWCA Crim 132

Double fatality following fire at Moat House Hotel;

HSE v British Polythene plc

Prosecutions under Ss 3&4 HSWA; production worker dragged into pallet-wrapping machine

HSE v Rainbow Waste Management Ltd

Management & PUWER regulatory prosecutions; fatal accident to Bobcat driver

HSE v Metal Innovations plc

Prosecution under HSWA & Management Regulations following mining fatality during construction work at National Mining Museum.

Care Quality Commission v Mother Redcaps Care Homes Ltd

Management of Medicines & Registered Manager charges brought under Health & Social Care Act 2008

HSE v Worsley Dry Dock Ltd

Prosecution under S2 HSWA following fatality during boat repairs at dry dock.

HSE v. George Wimpey (NE) Ltd

Prosecution under Section 2 HSWA following fatal accident caused by reversing lorry.

Greater Manchester Fire & Civil Defence Authority v. ESB Hotels Ltd [2005] EWCA Crim 132

Prosecution under Section 7 Fire Precautions Act following fatal fire at Moat House Hotel in Bolton

R v. T H Clements Ltd

Carbon monoxide poisoning of farm workers.

HSE v. Realty Estates Ltd

Sprayed limpet asbestos insulation in a slaughter house.

GM Fire & Civil Defence Authority v. Salford MBC

Fire in primary school; prosecution under Fire Precautions Act

HSE v. PTE plc

Criminal prosecution following collapse of steel beam during construction of gymnasium.

HSE v. GMI Construction plc

Prosecution under Section 2; overturned dumper truck; catastrophic injury.

HSE v. Grinne (UK) Ltd

Prosecution under Section 3 HSWA and PUWER 1998; severe injury to farm worker – arm drawn into unguarded rotavator.

HSE v. Foster Farms

Prosecution under Section 2; catastrophic injury to farm worker falling through skylight.

HSE v. Grays Construction

Prosecution under Section 3; fall from scaffolding resulting in brain injury.

HSE v. Longslow Food Group Ltd

Prosecution under Section 3 following accident caused by failure to implement traffic management measures.

Environment Agency v. Realty Estates

Section 33 EPA prosecution; dumping controlled waste.

Environment Agency v. Haven plc

Section 33 EPA prosecution; contamination of river.

Macclesfield MBC v. S

Control of Asbestos Regulations; dutyholder offences (successfully defended on an abuse of process argument).

Gloucester BC v. Log Book Loans

Misleading advertising; prosecution under 2004 Advertisement Regulations.

North Lincolnshire BC v. HPAS Ltd

Unfair commercial practices; door-stepping by sales canvassers; prosecution under 2008 Regulations.

HSE v. Haven plc

Food Safety Act prosecutions (sell by dates).

Crorie v. Secretary of State for Home Department

Police Regulations 2003; construction of pay provisions for temporary.

Qualifications

- Oxford University, MA (English) 1981-84
- Appointed Attorney General's Junior Counsel to the Crown (Regional A Panel) – 2000 to date
- Appointed Recorder – 2003 (Civil & Criminal jurisdictions)