



“His style of ease and confidence let the parties resolve the issues without the usual volatile situations that can arise”

Client Feedback

Richard Schaverien

Overview

Richard has been an active mediator for more than 20 years and is a fellow of the Civil Mediation Council. In addition to Clinical Negligence and Personal Injury mediations, Richard has used his skills and experience in an extensive range of sectors to assist parties in the resolution of their disputes.

As a member of the CEDR specialist clinical negligence panel, Richard has a wide-ranging mediation practice in assisting parties successfully finding resolution in this sector. Most recent mediations have included claims of clinical negligence where liability and/or causation and/or quantum has been in dispute.

In addition to being the managing partner, Richard was the Head of Personal Injury and Civil Litigation in a large, high-street firm of solicitors until 2010.

Expertise

- Clinical Negligence
- Personal Injury
- Professional Negligence
- Commercial
- Civil Litigation

Professional Background

Richard has been a full-time mediator for some years and brings a wealth of experience having previously practiced as a solicitor. Over the course of his legal career, Richard practiced in the fields of injury and professional negligence, civil & commercial litigation, assisting with both corporate and private clients. In his legal practice, Richard attended and represented numerous clients in mediations.

Personal Style

Richard has been described by clients as an attentive listener, receptive, able to grasp issues quickly, supportive throughout the process, equitable between Claimants and Defendants and able to keep them focused. Richard describes his style as persistent, calm, facilitative and creative.



Dispute Experience

Clinical Negligence including:

- As a result of admitted failings arising from in-hospital care developed severe pressure ulcers with the development of osteomyelitis. This caused, in the short-term, a period of delirium and immobility and, in the longer-term, an advancement of Parkinsonian symptoms.
- Admitted unlawful deprivation of liberty of several days in relation to in-hospital admissions on two separate occasions together with an alleged assault.
- Negligent diagnosis by a psychiatrist of Alzheimer's in a claimant only aged 42 and for which wrongly medicated for five years until correct diagnosis of sleep apnoea. Resulting consequences included ongoing severe generalised anxiety; Heightened obsessional thoughts and behaviours; Heightened somatoform symptoms and Traumatic stress reaction, with prominent dissociative symptoms.
- Failing to undertake or report correctly upon mammogram by consultant radiologist and failing by consultant specialising in breast cancer to follow recommendations for biopsy resulting in claim against both and alleging breast cancer once discovered was now incurable and inoperable. Breach of duty, causation, and quantum all fiercely disputed.
- Failing to detect and treat the Claimant's optic tumour, an 'optic pathway glioma' and as to the extent of that delay, and its causative effect both being disputed fully.
- Failing to diagnose terminal lung cancer for which negligence admitted, with substantial causation issues remaining upon second-line treatment and life expectancy.
- Following a cycling accident Claimant sustained a Weber B fracture of the fibula, the treating surgeon allegedly failing to diagnose and treat the injury to the syndesmosis intraoperatively, despite persisting significant symptomology. Liability denied upon the basis that the syndesmosis had been caused by a high velocity impact and were post- traumatic degenerative consequences.
- Failure by GP to carry out examination to take account of age and to recognise fully pre-existing morbidities, resulting in PE not being treated in time and followed by cardiac arrest and premature death.
- Compensation for failing to prevent the death of an infant during labour and by the mother as primary victim and father as secondary victim.
- Failing to treat or diagnose cerebral vasculitis resulting in a six-day delay in appropriate treatment and issues as to causation upon the subsequent PTSD suffered.
- Alleged failure to give informed consent thereby exceeding authority for arthroscopy and debridement in undertaking micro-fracturing of the ankle and/or performing the same negligently.
- Claim for an alleged failure to recognise and institute appropriate management for Ogilvie's syndrome following a birth by Caesarean section, resulting in a perforated colon which was repaired by laparotomy; the repair was then complicated by an ileo-cutaneous fistula leading to sepsis and further laparotomy.
- Following on from a hysterectomy whereby Claimant's bladder suffered ischaemic necrosis, resulting in a fistula and need for further surgery.



- Claimant experienced surgery before being given a general anaesthetic following failure to test and record spinal block after epidural during childbirth and in consequence suffered with PTSD.
- Failure throughout the Claimant's admission to hospital to take account of or recognise her autism or Asperger's, resulting in unnecessary distress and inability to communicate and an allegation of unlawful detention by the hospital/Trust.
- The Claimant suffered a DVT and pulmonary embolism following failure to prescribe anticoagulant medication on discharge from surgery for a hysterectomy. In consequence the Claimant has been left requiring daily medication for the rest of her life and of being at risk of further P.E./Stroke.
- Unexpected stillbirth at almost full term, followed by errors in relation to identification and release to funeral directors, with baby given to the wrong parents, resulting in burial and without the knowledge or consent of the correct parents. Disputed claim for psychological consequences and losses/therapy costs.
- Alleged failure to diagnose and/or treat a rare and aggressive cancer for a period of 16 months after initial investigation/x-rays, CT and PET scans. The widow Claimant alleged her late husband would have been in remission if not entirely cured. Breach of duty admitted but causation denied upon the basis that the life expectancy would have been no more than a further 4 months.
- Claim that the failure to send complete pathology for expert analysis resulted in the re-occurrence of a sarcoma for which breach of duty admitted but causation denied.
- Following the failure to carry out a follow-up x-ray, there was an eight months delay in lung cancer being identified in time resulting in the claimant's premature death and a substantial claim for PSLA and related damages in particular both past and future dependency claims in relation to the deceased's family.
- Failure to advise upon the results of an x-ray, taken before treatment commenced by chiropractor, which recommended orthopaedic referral and MRI scan.
- Claim against both NHS trust and GP for delay and failings in treating and diagnosing myeloma, resulting in irreversible kidney damage.
- Claim by litigant in person where the claim had been repudiated by the NHS Trust. The purpose of mediation was to explain its reasoning and to address breach; causation; expert evidence; and limitation.
- Claim for failing to diagnose and treat ulnar collateral ligament of the thumb, resulting in sub-optimal surgery and now need for further elective fusion surgery.
- Failure by two GPs two days apart from each other to diagnose correctly obstruction to small bowel or to refer as an emergency to hospital. Breach and causation denied by both defendants.
- A claim for damages for breaching the Claimant's data protection and consequential psychiatric harm, distress and inconvenience arising out of an admission to A&E, admission overnight and discharge.
- Claim arose from alleged negligent medical treatment the Claimant received whereby the Defendant failed to diagnose and act on a diagnostic radiologist's report of CT abdomen scan which highlighted a suspicion of cancer, delaying subsequent investigations, treatment and successful remedial surgery, resulting in subsequent malignancy and reducing life expectancy.



- Claim arose from negligent surgery, resulting in the amputation of the second toe, but not before considerable number of years endured of infection with consequential impact upon the Claimant's gait. The extent of the breach of duty of care and causation was in dispute with the Claimant having been born with cerebral palsy.
- Claim proceeding to trial upon split liability where liability and causation fiercely disputed in relation to the claimant's fall from a hospital bed during the course of postsurgical recovery, and whereby he alleged serious head injuries arose in consequence.
- Claim for failing to maintain quarterly reviews of the Claimant's deteriorating sight, with consequential failure to treat and undergo surgery sooner to prevent and arrest such deterioration.
- Claim failing to diagnose or treat pyoderma gangrenosum, allegedly resulting in several years of PSLA and continuing.
- Claim by an estate for the failure to diagnose, treat or undertake surgery for cancer of the colon, resulting in its metastasis to the liver, brain and lungs, with alleged premature death in consequence. Despite breach of duty admitted, dispute as to causation both as to the metastasis and life expectancy. Quantum in issue. All matters resolved fully in mediation.
- Claim in clinical negligence on behalf of a claimant now close to the age of majority who at the age of one failed to receive the correct diagnosis and treatment for TB of the elbow, resulting in a deformed and not fully grown arm, with lack of function together with impact upon the spine. Despite liability being admitted, and with the parties' respective expert care evidence being so disparate, quantum, especially for past and future care, employed care for future children, and future loss of earnings/capacity, was completely in issue. Claim settled in the mediation, including the claimant waiving the claim for provisional damages.
- Claim in clinical negligence arising from an angioplasty and stenting, resulting in a permanent incisional hernia, residual scarring and related complications for which liability was admitted, but complicated by a subsequent fall for which dispute as to whether caused by consequences of the negligence or an intervening event. Quantum for general and special damages in any event considerably an issue. Resolved fully during the mediation.
- Claim against emergency services resulting in fatality, where not only liability but, even if responsible, causation and quantum disputed fully.
- Claim by mother as against NHS Trust for neo-natal death of daughter with liability but causation and quantum in issue. Second Claimant, father, sought to make a claim as secondary victim which was disputed and would remain as such for public policy reasons. The parties were apart on approach to general damages (interpretation and reliance upon JSB Guidelines) and as to special damages.
- Claim for failing to diagnose and treat cerebellitis following elective surgery.
- Claim in negligence alleging incorrect positioning of MOM hip resurfacing.

Personal Injury including:

- Claim for damages for psychiatric harm allegedly caused by employer.
- Claim for damages for serious injuries sustained as a rear (seat-belted) passenger in an RTA where after 5 years, substantial difference between the parties as to state of recovery and interpretation of video/surveillance evidence, with consequences as to general damages and especially as to loss of earnings, earning capacity in relation to whether

the claimant could return to pre-accident employment as air crew and/or would have gained promotions, consequential differences then as to potential loss of future earnings, pension and care. Resolved upon all aspects in the course of the mediation both as to compensation and liability as to costs.

- Claim for damages for personal injuries and consequential losses arising as a result of unlawful arrest and/or false imprisonment. Resolved by letter of regret and compensation being agreed together with costs.
- Claim for personal injuries arising out of an accident at work where a 2½ ton sheet of glass fell on to the Claimant's knee causing serious and permanent disability. Whilst liability admitted, causation of subsequent PTSD denied and quantum upon all aspects including therefore, loss of earnings, earning capacity and *Smith –v- Manchester* award all in issue. Claim settled in mediation both as to quantum for all aspects and as to costs.
- Claim for damages for personal injuries sustained as a result of defective equipment on holiday out of jurisdiction as against package tour company where liability refuted, together with issues both as to causation and quantum. Parties moved considerably closer in the course of the mediation process, including an apology; agreement as to the overall levels for General and Special Damages; and costs; but yet to actually agree a final figure for settlement, notwithstanding progress achieved.
- Claim for Permanent Health Payments under insurance arising as a result of accident at work and in consequence of injuries and inability to return to gainful employment. Issues and quantum narrowed and by which parties were able to proceed to constructive Part 36 negotiations and subsequently settled.
- Claim for damages for personal injury sustained in the course of employment where although primary liability admitted and apportioned between defendants, issues as to causation and contributory negligence maintained forcefully.

Feedback

- “Richard was scrupulously fair had an excellent grasp of the issues, a real will to work with the parties to reach a mediated settlement and a gentle nice friendly manner”
- “Richard’s handling of the case was instrumental in the parties reaching a mutual settlement in a very tricky case. I doubt a trial (which would not have benefitted either party) could have been avoided without his involvement”
- “Richard did a fantastic job during the mediation. We managed to draw up heads of agreement during a half day mediation!”
- “Richard knew what he was doing, took the correct approach and did what he could to break the deadlock where he was finally successful”.
- “In terms of style, Richard was very laidback and punctilious about playing an even hand with both sides”.
- “There was a lot at stake, and it was good to have someone in the room that understood that. Richard did well and had a good grasp of the issues”.
- “He was the right character as the subject matter of the dispute was very emotive. Richard showed empathy and was patient throughout”.
- “He did an excellent job. He did what a mediator should do: he listened and got us to reach an agreement”.



Consumer conciliations

Richard has conducted a number of telephone conciliations with consumers raising claims against/through the Federation of Master Builders; the Funeral Arbitration Scheme; and the Association of British Travel Agents.

General Commercial Disputes including:

- Disability discrimination claim arising from the intended sale of a flat to a charity intending to grant a lease to a housing association wanting to house permanently a disabled person with constant care.
- Claim for substantial money transferred to recipient alleging the same was by way of a loan but disputed upon the basis of it having been an absolute gift. Allegations of undue influence, and/or fraudulent misrepresentation and/or breach of fiduciary duty.
- Substantial contractual dispute between parties in relation to the provision of technological, communications and entertainment systems, and in particular as to the duration of the contract, interpretation and as to alleged breaches, causation, quantum and/or mitigation of loss and resolved in relation to all such matters, the future and continuation of the parties commercial relationship.
- Dispute by Claimant as against an IFA for compensation and other remedies in relation to an investment of life savings into unregulated investments by which the Claimant claimed in negligence, misrepresentation, breach of statutory and breach of fiduciary duty. The claim resolved both as to compensation and costs.
- Claim by a number of residents against national property developer for damages alleging negligence/nuisance in relation to a flooding of homes, proceeding to trial and involving issues as to collective ATE premium under Conditional Fee Agreement, leading ultimately to a settlement.
- Breach of fixed term consultancy agreement giving rise to claims for unpaid fees; notice period and expenses disputed upon the basis of fundamental breach and consequential counter-claim.
- TOLATA proceedings resolved in mediation both as to quantum and costs.
- Contractual claim by lead backing vocalist of tribute band as against both the band and its manager/agent for performance fees, DVD and CD performance rights including claims for exemplary and other damages. Resolved fully both as to quantum and costs.
- Claim for recompense for miss-selling of PPI, conducted entirely by telephone and resolved both as to quantum and costs (immediately pre-trial).
- Concurrent proceedings between the same parties over a joint venture, loans and consequential claims arising, settled both as to issues and costs.
- Claim for breach of contract (pre-litigation) against County Council relating to supporting people funding, dispute involving substantial damages; property; “mistake”; resolved by way of settlement as to quantum; mediation fees; agreed communication with service users; and implementation of balance of contract (save for disputed aspects).



- Claim between manufacture of goods and retailer for substantial compensation for breach of contract resolved by compromise being reached both as to quantum and costs.
- Claim by professional as government department for failing over a number of years to remunerate fees in accordance with statute/statutory regulation, whereby issues narrowed and alternative to trial identified and agreed upon as to further disclosure/documentation and basis for terms of settlement.

Professional Negligence including:

- Dispute between solicitors for outstanding fees with Defence and Counter-claim in professional negligence relating to representation in Court of Protection proceedings and subsequent involvement of the Deputy and compromise reached in those proceedings, with resolution being achieved in mediation both as to quantum and costs.
- Claim in professional negligence as against solicitors resolved by way of contrite apology, explanation from the solicitors upon the Order giving rise to the claim, contribution towards further legal fees to enable implementation and otherwise resolved.

Property/Landlord and Tenant including:

- Sales of property held on trust
- Dispute between housing associations and tenants
- Boundary and Party Wall disputes
- Claim between institutional landlord and tenant relating to substantial arrears of rent which were disputed. Substantial progress made in the mediation towards agreeing quantum.
- Claims for negligence for failings of faulty installations, defective/inadequate workmanship

Partnership including:

- Claim by partner against former partners for entitlement/share in business where no partnership agreement with proceedings having progressed substantially and joint valuation and accountancy expert evidence obtained by the parties with substantial issues in addition as to costs.
- Professional partnership in relation to High Court Chancery injunctive proceedings over the expulsion and subsequent re-instatement of the Claimant; the remuneration that was consequential upon that order and under the terms of the partnership agreement; and similarly under the determination of arbitration proceedings which subsequently resolved the validity of the expulsion of the partner; and as to costs.

Costs including

- Dispute as to costs liabilities of the parties following judicial review of professional regulators own disciplinary tribunal proceedings disputed by member of that profession and pending Appeal to Court of Appeal.
- Court of Appeal mediation upon whether the trial judge failed properly to take into account Calderbank offers and or/Part 36 in relation to substantial counter-claim judgment complicated by partial CFA funding.



Professional Skills

- Admitted as a Solicitor 1982 (retired 2017).
- Served as a member of the Civil Justice Committee of the Law Society for 8 years.
- Registered Mediator and Fellow of the Civil Mediation Council;
- Member of the Law Society's Personal Injury Panel for 20+ years;
- CEDR Commercial Panel Mediator
- Emeritus Fellow of CPIL (College of Personal Injury Lawyers);
- Former Vice-Chair and former member of the Corporation of Brighton, Hove & Sussex Sixth Form College and having previously been Chair of the HR Committee

ADR Training Provided

- To CEDR faculty in presenting mediation training and seminars.
- To the undergraduates and postgraduates of University of Brighton Law Faculty.
- To the Sussex Sole Practitioners Group of solicitors.
- To the legal department of a local authority.

Social Interests

When not mediating Richard enjoys playing jazz alto saxophone, music, theatre and reading.

