David Haines

Year of Call: 2005
Direct Access: No

david.haines@outertemple.com

+44 (0)20 7353 6381

David Haines qualified in medicine in 1998 and practised as a junior doctor in both medicine and surgery prior to joining the Bar in 2005. He has since built a broad ranging, complex, Clinical and Dental Negligence and Personal Injury practice. David also undertakes in Sports and Inquest Work. He has considerable experience in advisory work, settling pleadings including schedules of special damages and counter schedules.

He accepts instructions in multi track cases and undertakes work at all stages of the litigation process from pre-issue advisory work, drafting and applications, through to post-judgment costs assessments and appeals. He acts for both Claimants and Defendants.

Within the sporting world, he has acted in sports disciplinary hearings and contract disputes.

David is ranked as a leading barrister in clinical negligence by Chambers and Partners, being described as "clear, fastidious and bright." with a "great understanding of medical issues." He is also noted as "excellent at getting to grips with the details of a case quickly. Given his medical background he has an impressive knowledge of medicine, which is really helpful." He is also described as "a very thorough and committed barrister" who "will fight tenaciously in court" for his personal injury clients.

David has contributed to the Munkman 16th and 17th Editions as well as a past edition of Butterworth's Personal Injury Litigation Service.

Areas of Expertise

Clinical Negligence

David has advised in cases encompassing a range of specialisations including: Accident and Emergency Medicine, Cosmetic, Plastic and Reconstructive Surgery, Dentistry, General Practice, General Medicine and the Specialties, General Surgery, Gynaecology and Obstetrics (giving rise to birth injuries including cerebral palsy and profound neurological damage), Intensive Care and High Dependency Unit Medicine, Orthopaedic Surgery, Neurosurgery and Spinal Surgery, Nursing (Private and NHS), Oncology, Paediatrics, Paediatric Surgery and Psychiatry.

London (Main Office)
The Outer Temple, 222 Strand
London WC2R 1BA

T: +44 (0)20 7353 6381
F: +44 (0)20 7583 1786
E: clerks@outertemple.com
DX: LDE 351 (Chancery Lane)

Abu Dhabi
24th Floor, Al Sila Tower
Abu Dhabi Global Market Square
Al Maryah Island
Abu Dhabi, UAE

T: +971 2694 8596
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He regularly advises in conference and in writing on all aspects of clinical negligence claims. He is adept at handling expert witnesses in conference and at Trial.

David has gained considerable experience of acting at inquests in the Coroner's Court for the families of people believed to have died as a result of clinical negligence.

Notable Clinical Negligence cases

VM v Dr S & Others

Acted for a Claimant who suffered a fracture of the spine in the 1980s and subsequently developed myelomalacia that went untreated, rendering him profoundly disabled as a result of alleged breach of duty by his GPs.

AG v Lincolnshire Community Health Services NHS Trust

Acted for a previously self-caring paraplegic Claimant who lost all independence as a result of the Defendant's admitted breach of duty.

GM v Abertawe Bro Morgannwg UHB

Acted for a Claimant who required urgent vascular surgery as a result of negligent laparoscopic surgery. The Claimant bled out and suffered a cardiac arrest but was successfully resuscitated. She developed a large midline abdominal scar and an incisional hernia, complications of intra abdominal adhesions, chronic PTSD and deficits of executive function impact on her ability to work and pursue hobbies.

DP v Cwm Taf University Local Health Board

Acted for a Claimant who faces the prospect of amputation as a result of defective knee surgery. He now walks with an antalgic gait, cannot return to work and will need to move to more suitable accommodation.

SH v University Hospitals Of Derby And Burton NHS Foundation Trust

Acted for a Claimant who was admitted with suspected cholecystitis and underwent an attempted cholecystectomy plus on-table cholangiogram and common bile duct exploration. Surgery was performed by a Consultant Surgeon with special restrictions placed upon his practice which he ignored and damage was caused to the right aspect of the common hepatic duct involving 50% of the circumference. The Claimant required further major surgery and developed a chronic pain disorder and psychiatric injury. She also developed unusual neurological symptoms in her lower limb, and incidental spinal tumours were found on MRI, both of which were relevant to quantum. The Claimant has required additional care and assistance and her work has been severely impacted. A claim for provisional damages was advanced.

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TN v North Bristol NHS Trust

Acted for a Claimant who suffered from Ankylosing Spondylitis with a severe kyphotic spine when he developed further pain in his cervical spine. He was also dependent on opiates. He could not fit in the scanners at his local hospital, so he was sent to another hospital for imaging. He was anaesthetised without consent and squashed into the MRI causing fractures and burns. His acute fractures and burns were then ignored as being historic. The Claimant required multi-level spinal fusion which attracted a high mortality and morbidity risk. He developed extensive DVTs and pulmonary embolisms and required an IV filter fitted. He suffered cardiac arrest, requiring resuscitation, and suffered PTSD and obstructive sleep apnoea. His level of performance of activities of daily living, his hobbies and work capacity have been significantly adversely affected. The Defendant changed its defence completely at the service of expert evidence stage.

RH v Hywel Dda University Local Health Board

Acted for a Claimant who developed an enormous disc prolapse with cauda equine syndrome and dense motor weakness. The Claim concerned the failure to appropriately counsel the Claimant in respect of "red flag" signs and to appropriately assess the Claimant, which caused a delay in the diagnosis and treatment of the Claimant's cauda equine condition and resulted in permanent debilitating symptoms. The Claimant now has persistent urological and bowel symptoms and persistent weakness and nerve pain in his limbs. He will never likely work, and requires care, assistance and adaptations to his home and car.

SJG v PD

Acted for a Claimant who underwent unnecessary privately paid lumbar spine surgery which led to complications of severe bilateral leg pain, chronic low back pain, sensory disturbance with variable numbness and paraesthesiae. He also developed a large DVT with a post thrombotic limb. He required venoplasty, stenting, re-stenting & thrombolysis, which were complicated by significant re-thrombosis and stent occlusion on more than one occasion. Causation of extensive injury and quantum were disputed.

PR v (1) Hampshire Hospitals NHS Foundation Trust (2) Dr RR

Acted for a Claimant who suffered a spinal arteriovenous fistula that went undiagnosed and caused progressive spinal cord damage and profound neurological disability from the waist down. Breach of duty was admitted by D2, a Radiologist, but causation and quantum remain firmly in dispute. D1 disputes liability and quantum.

RK v Royal Free London NHS Foundation Trust

The claim arises out of the failure to identify a fetal anomaly during routine ultrasound imaging. It is agreed by the parties that the child has a congenital abnormality that was present from initial development of the limbs. Liability and quantum is disputed. The child will likely require lifelong care and assistance and prostheses.

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MP v Drs P and G

Acting for Claimant whose deceased wife suffered colitis with symptoms of sickness and diarrhoea that went misdiagnosed by the Defendant GPs and led to severe dehydration, sepsis and death at age 34 years. Liability and quantum remain firmly in dispute.

DLT v Williams Harvey Hospitals University NHS Foundation Trust

This claim concerns the failure to provide suitable safety netting advice in A&E leading to a delay in representing to hospital and then a failure to correctly interpret CT images resulting in a delay in the diagnosis and treatment of ischaemic and then incarcerated bowel and resulting in large segments of bowel requiring resection. As a result, the Claimant now has short bowel syndrome. In the event that she requires further abdominal surgery, there is a considerable increase in further bowel injury and a considerable risk that the Claimant will then require life-long TPN.

DC v Ramsey Healthcare UK Operations Limited

Acted for a Claimant who developed a post-operative haematoma following a right cementless total hip replacement that went missed resulting in permanent sciatic nerve injury, with foot drop and pain.

Personal Injury

David has a substantial personal injury practice acting for both Claimants and Defendants in employers' liability, industrial disease, public liability, occupiers' liability, product liability, Animals Act, highway tripping and road traffic claims (including LVC). He also has considerable experience of acting at inquests in the Coroners Court for Claimants and Defendants in road traffic fatality cases.

Notable Personal Injury cases

MC v The Ministry of Justice

Acted for a Claimant prisoner at HMP who was unlawfully and inappropriately restrained on the floor. A prison officer stamped on his neck and pushed his head into the floor, causing a vertebral artery dissection. He subsequently suffered a stroke secondary to the dissection which rendered him profoundly disabled prior to his premature death. The treatment received in prison was poor but not causative of his injuries.

AW v Aneurin Bevan Health Board

Acted for a Claimant that was working as an auxiliary nurse when she was assaulted by a patient and suffered severe facial

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injuries and psychiatric injury, and required multiple restorative dental procedures. The Claimant eventually decided she no longer wished to pursue her career in nursing.

MV v Citi Group

The Claimant was employed by the Defendant to install their IT systems. He fell from height, suffering a back injury, which caused a regional pain syndrome. Despite a multi-facetted approach to medical treatment he was unable to return to work and suffered a substantial loss of earnings. Causation and quantum were in dispute.

RZ v The Website (Leeds) Ltd

The Claimant suffered an accident at work performing a task that he had not been trained to do. He required multiple reconstructive surgeries and was rendered disabled by his injuries. He is likely to suffer degeneration of the area.

Multiple Claimants v Pembrokeshire County Council ("The Time Out Rooms Cases")

Ten Claimants were pupils at a school in Pembrokeshire. For prolonged periods they were individually forced into solitary confinement and now suffer an extreme anxiety reaction whilst confined and a specific phobia and an irrational fear of dark and confined spaces. Their future ability to work has been severely compromised.

Multiple Claimants v Corin Ltd

Instructed by Corries Solicitors to act for all of their Claimants and to advise on all legal and quantum issues. Conferences undertaken with liability experts and represented some 40 claimants at the GLO hearing.

JE v Monmouthshire County Council

The Claimant was on playground duty at the school and was unexpectedly hit to the side of the head by a full-sized heavy football. The impact caused the Claimant to fall to the ground, to lose consciousness and to suffer personal injury. With psychotherapy the Claimant's head injury symptoms largely resolved.

MS v Murrils Construction Ltd

The Claim arises out of the Claimant's employment which involved working in a hazardous environment. The Claimant started to develop a rash and allergy type consistent with perennial rhinitis, urticaria, discoid eczema, cholinergic urticaria, chronic spontaneous urticaria angioedema and photosensitivity. The Claimant's treating clinicians initially suggested that it may be due to sun exposure. Subsequently, upon further direct questioning, the treating clinicians linked his problems to his working environment. The Claimant's skin condition is now chronic and he is no longer employed by the Defendant.

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CP v Telecom Service Centres T/A Webhelp UK

Acted for the Claimant in relation to his claim arising from his employment at the Defendant's call centre as a call centre operative. Significant changes were made to the Claimant's workplace that resulted in abnormal posturing and he developed back pain. Further, the medication that he required for his back pain, namely Naproxen, caused him to subsequently develop gastric issues and he also suffered a psychiatric disorder. Limitation, breach of duty, causation, and quantum were in dispute between the parties.

DWP deceased v (1) Marstons Plc (2) Swansea Bay University Health Board

Acting for a Claimant on behalf of the deceased. A morbidly obese person suffered a trip at work and suffered multiple soft tissue injuries. He attended A&E and was discharged with advice. His condition deteriorated with signs of systemic sepsis. He was readmitted to hospital 5 days later and diagnosed with sepsis. He was transferred to HDU and ventilated. A foreign body was incorrectly left in his trachea. Subsequent to its removal, the dose of low molecular weight heparin was reduced, despite there being recent evidence of a clot in a neck vein. Whilst already septic, the deceased then suffered a massive pulmonary embolism and died.

Inquests

David has appeared throughout England and Wales undertaking complex inquests representing the families of the deceased in cases of purported and actual medical negligence, road traffic fatality cases, and custody deaths particularly those arising out of the failure to administer medical treatment.

Notable Inquests cases

Re TC deceased

Mr C suffered with syringomyelia (with central hypoventilation) and psychosis. He was treated with antipsychotic medication, including Clozepine. Following a period of extended leave from the ward, he returned through A&E, having taken an overdose. Mr C's mother notified the nursing staff that he had not taken his Clozapine. The nurse failed to reduce the prescribed dose as required and Mr C suffered an overdose, leading to vomiting, inhalation of vomitus, choking and cardiac arrest. The Civil Claim (including a dependency claim by partner and son) arising from this has settled.

Re RD deceased

Mr D suffered with a chronic cardiac condition. He was imprisoned for life and deteriorated through poor nutritional provision and limited health care investigation. Whilst in prison, Mr D was not allocated to the appropriate cell and as such did not receive the necessary attention required for his condition. He suffered a cardiac arrest, following which the prison staff failed to respond appropriately by delaying entering the cell to commence CPR and by delaying the ambulance crew's

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access to the prison.

Re JB deceased

Mrs B suffered an alleged fentanyl overdose, leading to respiratory depression and resultant bronchopneumonia (against a background of COPD). The alleged mechanism of collapse was inconsistent with that expected following acute fentanyl toxicity. There was competing opinion from the expert witnesses concerning the interpretation of fentanyl levels recorded in the serum and the liver samples taken at post mortem.

Re AP deceased

A was a teenager who suffered with severe congenital abnormalities and moderate learning difficulties. A underwent a repeat repair of the coarctation of his aorta. Shortly after this he began coughing up blood. This was misinterpreted as vomiting blood and he was inappropriately discharged home without any follow up. Shortly thereafter he suffered massive haemoptysis whilst at school, then suffered a cardiac arrest and died. If A had been investigated, his bronchopulmonary fistula would have been identified and treated endoscopically. The civil claim arising from this has settled.

Re KS

Mrs S was an elderly resident of a care home that suffered schizophrenia. The owner had turned the heating off in the care home despite the outside air temperature being below 0° Mrs S fell from her bed resulting in a distal radius fracture and severe hypothermia. She developed bronchopneumonia and died. The Care Home owner had been sacked from her last role as a manager of a care home prior to purchasing the index care home. The inquest has been adjourned following completion of evidence for the matter to be referred to the CPS for consideration of prosecuting the owner for gross negligence manslaughter.

Re MH deceased

Mrs H underwent heart valve replacement surgery, when during the course of the procedure a pacing wire perforated the right ventricle of the heart. During urgent surgery to repair the ventricle: (i) the aorta was further damaged, leading to loss of blood to an arm, and (ii) whilst on her back, Mrs H inhaled vomit, leading to pneumonia. She shortly thereafter developed endocarditis, renal failure and bowel obstruction. Whilst extremely unwell she underwent urgent bowel surgery and had a colostomy. She could not recover from surgery, her condition deteriorated and the life support machine was switched off on medical advice. The civil claim arising from this has settled.

Re SG

Mrs G had a history of suicidal ideation. She became addicted to Zopiclone and alcohol. She consulted a Consultant Psychiatrist who prescribed a treatment plan. She subsequently consulted a nurse practitioner at her GP Surgery, who

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agreed for Mrs G to discontinue one of the prescribed medications and to withdraw from the other medication, without consulting either a GP or her treating Psychiatrist and without understanding the treatment rationale. Following discontinuing the medication, Mrs G's condition deteriorated, she took a potentially fatal dose of Zopiclone and alcohol and hung herself in a public park.

Re ST deceased

Mr T was penicillin allergic. During surgery to remove a portion of bowel affected by cancer there was failure to provide adequate antibiotic prophylaxis for surgery. Following surgery Mr T developed E-Coli sepsis. A Surgical Registrar ordered two types of antibiotics for Mr T, but the Consultant Surgeon countermanded these based on the penicillin allergy. The Trust's policy did not provide guidance to assist the Consultant. The Registrar requested review by the on call Critical Care Consultant, but their interventions were too late to save Mr T. Mr T died from a gross failure to provide appropriate antibiotic cover and treatment. His death was directly contributed to by neglect. The civil claim arising from this has settled.

Sports Law

David's sporting background stretches back as far as his sports career which saw him compete internationally in triathlon events in the late 1990s and early 2000s. His experience competing in these events means that he can fully appreciate the significance of rules and regulation and the need to be compliant. His experience as a competitor and now a legal representative gives him a unique position to advise from.

David often works on cases with a sporting background. Within the sporting world he has acted in sports disciplinary hearings, challenging the procedure and findings of drug testing and personal injuries. He has also been involved on matters for governing bodies advising on points of governance.

Recently David has been advising a high-profile athletics coach on his disciplinary proceedings against UK Athletics and this work is ongoing.

Notable Sports Law cases

Re RS

A Policeman who was a highly proficient competitive cyclist died whilst competing in a cycling event on a track at Portsmouth due to the dangerous state of the track perimeter fence. Other interested parties included the race organisers, Portsmouth City Council, Parkwood Leisure and the British Cycling Federation. The civil claim arising from this has settled.

Minichiello case

Athletics coach Toni Minichiello was taken to court over several allegations of 'gross breach of trust'.

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Disciplinary & Regulatory

David's work regularly involves regulatory and disciplinary law, particularly involving medical practitioners.

Recommendations

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