



# Gerard McDermott KC

**Year of Call:** 1978  
**Year of Silk:** 1999  
**Direct Access:** Yes

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|-----------------------------------------------------------------------------------|------------------------------------|
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Gerard McDermott KC practises from England and is based in London and Manchester.

His main areas of practice are **Personal Injury**, **Medical Malpractice** and **Employment Law** at all levels, although he maintains a diverse practice across the Common Law and **Commercial** fields. Gerard acts for both Claimants and Defendants.

He represents clients with a vast range of injuries arising from negligence, including medical malpractice and road traffic accidents. The majority of his caseload involves catastrophic personal injury such as spinal cord injury and brain injury, and he has over thirty years' experience of the same.

He was ranked as a Star Individual in Chambers and Partners 2021, described as a "pre-eminent silk who is one of the finest personal injury barristers on the circuit."

He has a very busy trial practice across the United Kingdom, generally in the High Court, as well as reaching impressive out of court settlements through negotiation, and in mediations. An increasing number of his cases have a cross border element to them, with particular emphasis on US issues, but also with cases that have involved Europe and the Middle East.

He has a real understanding of the legal systems of a number of different countries, reflecting his interest and experience in numerous cross border cases. It also reflects his long-standing interest in and knowledge of comparative as well as private international and European law. In Legal 500 2022, he is noted for his travel law expertise and described as "the go-to silk in serious travel claims." Gerard was involved in one of the first cases relating to the implementation of Rome II (EC) No 864/2007 (**Bacon v Nacional Suiza [2010] EWHC 2017 (QB)**). He also has significant expertise in the implementation of the insurance directive to domestic case law.

Gerard has significant experience in Inquests and Inquiries. Gerard was Lead Counsel for the Health Authority in the high profile Inquiry into the deaths of patients under the care of Dr Harold Shipman. He also represented an RAF Pilot during the Inquest of a Puma helicopter crash. He has experience of a number of aviation claims, both fixed-wing and helicopters.

Gerard sits as a Deputy High Court Judge in the King's Bench Division. He is also a former President of the **American Counsel Association** and former Leader of the European Circuit of the Bar.

In addition, and in recognition of his long time involvement with the **American Bar Association**, Gerard was the first

## London (Main Office)

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## Abu Dhabi

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recipient of a Presidential Citation in 2015 and currently co-chairs the International Litigation Committee of the same.

He has an unrivalled network of legal contacts in states across America.

Gerard has frequently travelled overseas to provide talks and training including presentations on Civil Litigation Costs in the UK, Rome II, managing catastrophic personal injury cases and most recently on Brexit Negotiations.

## Areas of Expertise

### Personal Injury

Gerard has experience of a wide range of personal injury cases, acting on behalf of both Claimants and Defendants and their insurers.

#### Notable Personal Injury cases

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##### Noble v Owens

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The Defendant appealed against the award of damages, seeking an order for a retrial, on the grounds that surveillance evidence demonstrated that the judgment had been obtained by fraud. The Defendant failed to prove the allegation of fraud. The expert views were accepted that improvement was multi-factorial and it was held that the Claimant did not dishonestly conceal from the court or the expert witnesses his then true state of disability or dishonestly emphasise his disability. Landmark case in insurance fraud for Claimants.

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##### Tafa v Matsim Properties

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The Claimant was rendered paraplegic when he fell through a suspended ceiling whilst working as a general labourer. Issues as to whether the Defendants were aware of his presence as a worker and whether there were instructions to carry out the work in the ceiling. Judgment entered against the second Defendant, the director personally, and the third Defendant, the clinic. They were liable for negligence and breach of statutory duty under the Construction (Health, Safety and Welfare) Regulations 1996 and the Work at Height Regulations 2005. Quantum to be determined.

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##### G v MIB

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Tetraplegic Claimant badly injured in cycling accident. Liability compromised at 90% Quantum settled including periodical payment at £ 270,000pa (reduced from £ 300k by contributory negligence).

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##### FG

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The Claimant was born in August 2004. As a result of the admitted negligence of staff at hospital, he suffered very severe brain damage which has led to cerebral palsy. The Claimant is a severely handicapped young man who will require a high degree of lifelong care and support. Case settled with a Capitalised value of over £6m.

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SB

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This was a claim for personal injury arising out of a road traffic accident. The Claimant was injured when the Defendant collided with his motorcycle. He suffered multiple injuries, the most severe of which was a fracture of C5 which required surgical fixation at C4-5, as a result of which he was rendered tetraplegic at that level. His care needs were complex and substantial and resulted in 24 hour care – C's valuation conceded at £8m days before trial.

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The Shipman Inquiry Farraj v King's Healthcare Trust [2008] EWHC 1228 (QB)

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Wrongful birth, economic loss, third party laboratory's liability for DNA sample.

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Allen v Burne [2007] EWCH 1639 (QB)

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Application of Bolitho rider to Bolam test.

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R v Pennine Acute NHS Trust [2003] EWCA Crim 3436

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Health and safety, transfer of criminal liability.

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Bacon v Nacional Suiza Seguros (2010)

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Claimant spinally injured in Spain, application of Rome II Liability trial, judgment awaited.

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James Pankhurst v MIB [2009] EWHC 1117 (QB)

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Quantum trial following trial on liability – cyclist on country lane hit by driver travelling round blind bend. 100% successful – client with grievous spinal injuries £6.2 million.

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Eyres v Atkinson Kitchens [2007] EWCA Civ 365

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Quantum settlement following liability trial and successful appeal – company in breach of working time regulations – employee falling asleep at wheel. Paraplegia. Lost trial at first instance – Appeal successful £3.7 million.

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Farraj v Kings College Hospital & CSL [2008] EWHC 2468 (QB)

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Wrongful birth claim – Jordanian clients. Issues included conflict of laws, Sharia Law, Jordanian Law, Causation and Wrongful Birth. Successful on liability; quantum recently settled.

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A v B [2007] EWHC 1639 (QB)

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Court of Appeal (Settled 2008) Alleged Negligence of GP in failure to diagnose blocked shunt in child – leading to brain damage. Retrial ordered where Judge applied “Bolitho” rider to the “Bolam” test without consulting parties. Retrial ordered settled at £1.4million.

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Noble v Owens [2008] EWHC 359 (QB)

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Serious pelvic injuries £3.4 million (subject to Appeal).

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Davies v Bradshaw [2008] EWHC 740 (QB)

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Allegations of exaggeration defeated. Award for incomplete tetraplegia, with Brown Sequard Syndrome £1.7 million Settlements.

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Mr Mohammed v Muminial Islam (2010)

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Serious spinal injury in young man £11 million.

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Gregory v MoD

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Settlement for Doctor in Armed Forces rendered tetraplegic in Helicopter Crash £6.2 million.

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LK

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Settlement at confidential figure (significant 7 figure sum) for client with stroke following accident in pub and thereafter treatment by osteopath.

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Garcia v Serfilco

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Advised on cross border and EU aspects product liability claim brought in Spain by injured party.

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Sedyakin

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Trial on liability for Russian Sailor injured at sea when fell through hatch – Liability settled at 66% part way through trial (June 2005) Quantum settled 2 weeks before trial – Jan 2007 £1.7 million. Lovell Serious brain damage – settlement £3.1 million.

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CRE

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Serious brain damage – settlement.£9.3 million.

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Fox

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Paraplegia £3.1 million.

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S v Portsmouth Area Health Authority

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Quantum trial in Cerebal Palsy case £4.3 million.

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Hosking

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Paraplegia with brachial plexus injury £3.1 million.

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CC

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Quantum in Cerebal Palsy case £5.4 million.

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CI

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Settlement for a young man following a serious head injury £4.75 million.

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JP

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November 2009 Serious brain injury – settlement £2.55 million.

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Hunt

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Settlement – £2.55 million.

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Taylor

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Settlement – £1.8 million.

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## Travel Law

### Notable Travel Law cases

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Johnson v Berentzen

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Serious accident in Scotland – left client an incomplete tetraplegic. Subject to Scottish Law under Rome II. An issue arose about Limitation and whether Scottish Law should be applied to "commencement of proceedings". Preliminary trial before Mrs Justice Stacey in March 2021 found that it did, and the claim was out of time but used the discretion available to her to extend time so action could proceed.

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BB v Municipality of Amsterdam

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UK citizen suffered complete SCI (T4) as a result of an RTA in the Netherlands. Case pursued in England under Dutch law. Complexities include quantification of accommodation claim and applicable discount rates under Dutch law and availability of PPs – security of funding (Defendant is the Municipality of Amsterdam) and Brexit issues. Settled for in excess of £5m shortly before trial in January 2021.

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## Memberships

- [American Bar Association](#)
- [American Counsel Association](#)
- [Bar European Group](#)
- [European Circuit of the Bar](#)
- [Personal Injuries Bar Association](#)
- [International Association of Defense Counsel](#)
- [Recorder](#)

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## Awards

- Recommended in Legal 500 for Personal Injury and Travel Law.
- Recommended in Chambers & Partners for Personal Injury and Travel Law (International Personal Injury).

## Recommendations



# Outer Temple Chambers

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