

Dryden and ors v Johnson Matthey UKSC 2016/0140

On 27th and 28th November 2017 the Supreme Court heard the case of *Dryden and ors v Johnson Matthey Plc*. The case raised important questions of the nature of actionable injury and the recoverability of economic loss in negligence. The three Appellants were represented by Robert Weir QC and Patrick Kerr, instructed by Harminder Bains, a partner at Leigh Day.

The Claimants (Appellants) were negligently exposed to platinum salts by their employer in breach of statutory and common law duty. They developed platinum salt sensitivity and consequently were moved into different, less well-paid jobs or left the company. They appealed to the Supreme Court on the basis that they have suffered an actionable injury, namely platinum salt sensitisation, or, alternatively, that they should be able to directly recover their economic losses in negligence.

The Appellants invited the Supreme Court to depart from the reasoning of the courts below, where they were represented by Harry Steinberg QC and Edward Ramsay, with Frank Burton QC in addition in the Court of Appeal. At that stage, it was held that the mere development of antibodies upon sensitisation could not be an actionable injury and that there was no claim for economic loss in contract. Sales LJ also dispensed with the tortious claim for economic loss, holding that there could be no duty in tort for such losses if there were none in contract.

In the Supreme Court, the Appellants submitted that actionable injury arose at the point that a physical change occurred because at that stage they were materially worse off as they were incapable of continuing to work in the same jobs.

The Appellants contended that if they were wrong on that the claim should succeed on the basis of pure economic loss as was framed in the arguments in the Court of Appeal.

The parties await the Court's judgment.

To see the full case summary please [click here](#).