

## **“A very curious state of affairs” : success for Daniel Sokol in rare clinical negligence case**

Daniel Sokol acted for the Claimant in a remarkable case which eventually settled for £700,000. He was instructed by Daniel Thomas, of New Law.

In 1968, the Claimant was 13 when he underwent an operation for undescended testicles. After the operation, the surgeon wrote to the GP about a “very curious state of affairs”. The Claimant who, to quote the medical records, “looked a bit odd”, was diagnosed with suspected Klinefelter’s syndrome, a condition caused by an extra X chromosome.

In 1968, as now, the treatment for symptoms of Klinefelter’s was testosterone replacement therapy.

Neither the hospital doctors, nor the GP, informed the Claimant or his parents of the Klinefelter’s. No testosterone therapy was initiated.

Over the next few decades, several GPs and psychiatrists noted the Klinefelter’s but none disclosed this to the Claimant, who was unaware of his condition.

The Claimant had a micro penis, no body hair, major depression, panic attacks, behavioural problems and low self-esteem. He left school at 14 and, due to anxiety and social phobias, he was unable to hold down a job for very long. He had little social interaction and experienced periods of homelessness.

In the early 1980s, he entered into a short-lived relationship. During the relationship, his partner gave birth to a child. Unaware that he was infertile as a result of the Klinefelter’s, the Claimant wrongly believed he was the child’s biological father.

The Claimant found out about his condition, accidentally, in December 2016.

He had endured nearly 50 years of untreated testosterone deficiency, with a reduction in life expectancy of 4-5 years. He turned down an invitation to appear on ITV’s *Jeremy Kyle Show*.

The Claimant sued the Secretary of State for Health and Social Care, two GPs and a hospital trust for non-disclosure of the diagnosis and failure to refer him to an endocrinologist or geneticist.

The case presented numerous challenges in relation to both liability and quantum, including the selection of appropriate medical experts (familiar with clinical practice in 1968), the application of *Bolam* and *Montgomery* to historic cases of non-disclosure of a diagnosis, and the calculation of damages, in particular PSLA, loss of earnings and pension.

The Defendants made some admissions of liability at the pre-issue stage and the case was settled for £700,000.