

12

King's Bench Walk

Isaac Hogarth

Call: 2011

ihogarth@12kbw.co.uk



AREAS OF EXPERTISE

Clinical Negligence, Personal Injury, Insurance, Fraud, Inquests, Credit Hire, Product Liability, Professional Negligence, Costs

Isaac has a specialist clinical negligence and personal injury practice. A large number of Isaac's instructions relate to cases involving life-changing spinal and brain injuries, chronic pain and fatalities. Isaac is often instructed by defendants in cases involving allegations of fraud.

Isaac is an experienced advocate with an excellent track record at trials, joint settlement meetings and mediations.

He also provides written advice on liability, quantum, evidence and procedure, drafts statements of case and advises in conference.

In addition to his civil practice, Isaac is often instructed to provide representation at inquests, particularly those arising from deaths in hospitals and road traffic accidents.

Clinical Negligence

Isaac has a busy and varied clinical negligence practice, and has acted or advised in cases including:

- spinal cord injuries,
- sepsis,
- strokes,
- negligent surgeries,
- sub-arachnoid haemorrhage,
- delayed diagnoses (including cancer),
- substandard dental care,
- failure to obtain informed consent,
- injury at birth, including stillbirth cases,
- claims by secondary victims following negligent medical treatment

Isaac acts predominantly on behalf of claimants in his clinical negligence practice.

Whilst Isaac's clinical negligence experience is very broad, he is particularly interested in cases involving sepsis or spinal cord injury.

Isaac's clinical negligence work includes drafting pleadings, drafting agendas for expert meetings, advising on paper and in conference, and providing representation at JSMs, mediations and at court.

In addition to working on cases against hospitals and GPs, Isaac has been involved in cases involving claims against cosmetic practitioners and pharmacists.

Recent examples of Isaac's clinical negligence work are:

- L v An NHS Trust – acting for a claimant rendered paraplegic (T8 Frankel B) due to a delay in imaging and then decompressing spinal epidural haematoma. Led by William Audland QC. Settled at a JSM several weeks prior to the start of the liability trial for £4.5 million.
- X v An NHS Trust – acting for a claimant rendered permanently blind due to a failure to treat raised intra-cranial pressure secondary to cerebral venous thrombosis, as junior to William Audland QC. Settled at mediation for sum in excess of £4m. See link to case summary [here](#)
- The Estate of LH v An NHS Trust – the deceased had been rendered tetraplegic due to a failure to immobilise his spine and perform a decompression following a fracture. He died 18 months later due to complications secondary to his injury. Causation was disputed. Settled at a mediation.
- H v Prof M – acted for the claimant who had undergone post-mastectomy breast reconstruction with implants. She had not been warned of the risks of capsular contracture following radiotherapy, which then occurred. Liability was disputed. Settled.
- Z v An NHS Trust – acted for a claimant who suffered CRPS following the negligent excision of a lipoma from her palm. Settled.
- K v An NHS Trust – acted for a claimant who suffered severe osteoarthritis in her foot following surgery to correct a hallux valgus deformity. There was a failure to obtain informed consent. Settled.
- C v An NHS Trust – acted for a claimant who suffered a permanent injury to his wrist following a delayed diagnosis of a scaphoid fracture. Settled at a mediation.
- B v An NHS Trust – acted for a claimant who suffered a 'drop foot' following failure to evacuate a post-operative haematoma. The case was advanced on the basis of consent arguments. Settled at a JSM. Read case report [here](#)
- Re Z (Deceased) – acted for the estate of a man who died due to mismanaged diabetes. Settled.
- Re HC (Deceased) – acted for the estate in a delayed diagnosis of lung cancer case. Settled.
- Ali v Carr (2017) – acted for the successful claimant in a cosmetic negligence case where damages were assessed in the High Court at £52,744.45, including PSLA of £18,000. Read case report [here](#)
- X v An NHS Trust – acted for the successful claimant in a fatal case involving failure to treat sepsis.
- Y v An NHS Trust – acted for the successful claimant in a case involving delayed diagnosis of lung cancer.

Isaac is also instructed in inquests where clinical negligence is suspected.

Before coming to the Bar, Isaac worked in the clinical negligence department at Stewarts Law LLP. He gained extensive experience working on injury at birth cases, spinal injury cases (including cauda equina), and fatality cases.

Isaac is the author of A Practical Guide to Sepsis and Meningitis Claims, available at <http://www.lawbriefpublishing.com/product/sepsisandmeningitisclaims/>

Personal Injury

Isaac acts for claimants and defendants in all aspects of personal injury including road traffic accidents, employer's liability, occupier's liability, product liability, public liability, cases under the Highways Act and cases under the Animals Act.

A significant portion of Isaac's personal injury instructions arise from road traffic accidents.

Isaac is generally instructed in serious and catastrophic injury cases, including cases involving chronic pain, brain injuries, spinal injuries and fatalities.

Many of Isaac's instructions for defendants involve allegations of fraud, or indemnity issues (see below).

Examples of Isaac's work include:

- M v L (2020) – instructed for the defendant in chronic pain claim. There was a dispute as to whether the condition was organic or functional. Pledged to £1.5m. Settled shortly after JSM for less than 30% of its pleaded value.
- C v Y (2020) – instructed for defendant in a severe traumatic brain injury claim. Claim arose from quad biking on a dual carriageway. Liability and quantum were disputed. The claim was settled by a Calderbank offer on terms favourable to the defendant.
- Re GA (2020) – instructed for claimant in a motorcycle accident claim causing significant orthopaedic and psychological injuries in which quantum was complex due to the claimant only having recently embarked on a career which he would now have to abandon, and due to pre-existing medical issues. The claim settled pre-issue for a substantial sum.
- Newell v Lily Communications – finding of fundamental dishonesty in an EL liability trial against a telephone salesman who claimed to have suffered a significant injury to his back at work. Before HHJ George.
- Nicholson v Thomas – finding of fundamental dishonesty against a former prison guard who exaggerated his injuries following a serious road traffic collision. Decision of HHJ Owen QC.
- M v X Local Borough Council and Other – represented a third party in a serious injury claim arising from a slipping accident at a party. Settled at a JSM, at which Isaac appeared unled against a QC.
- A v C – acted for the Claimant in a case brought under the Animals Act after she was injured by a neighbour's dog. Settled following a settlement meeting for £50,000.
- Khalid v AXA – successfully had claim struck out for fraud upon conclusion of the Claimant's evidence in a liability disputed road traffic accident. QOCS disapplied and costs ordered.
- English v Burnt Mill Academy Trust – instructed for Defendant where the Claimant was a schoolboy who fell over a bollard which served no purpose and was removed after the accident. Claim dismissed. Decision of HHJ Moloney QC. Reported on Westlaw and Lawtel.

Insurance

Isaac has a growing practice in advising insurers on policy and coverage disputes, particularly in the context of road traffic accidents. He is often instructed to draft defences or to advise in cases where indemnity disputes arise between insurers and their policyholders. He is also frequently instructed to advise insurers on their status as against other insurers.

He has recently advised in cases involving the following issues:

- Whether various types of use fell within the terms of a policy, including:
 - use of a vehicle as a weapon;
 - racing;
 - fast food delivery;
- Whether the correct insurer to conduct a defence was an EL or motor insurer, and how to resolve the issues between those insurers;
- Whether an uninsured defendant who conducted her own defence and satisfied her own judgment could be liable to the MIB in costs.

He frequently delivers training on insurance indemnity and cases involving the Motor Insurers' Bureau ('the MIB'). He has recently written a case comment on the important decision of *Advantage Insurance v (1) Stoodley (2) Trinity Lane*, which was concerned with the liability of insurers providing cover under a DOC extension. [Click here](#) to read the article.

He also acts for claimants in cases against the MIB.

Fraud

A significant proportion of Isaac's personal injury practice involves cases containing allegations of fraud including LVI, induced accidents, and fraudulent exaggeration.

Isaac is regularly instructed to advise in writing and in conference on behalf of defendants in cases where fraud is

suspected.

He is familiar with the application of section 57 of the CJCA 2015, and has frequently had QOCS disapplied on the basis of findings of fundamental dishonesty.

In *Nicholson v Thomas* (2018), Isaac was instructed for the Defendant in a claim arising from a serious road traffic accident, in which the Claimant was knocked off his motorbike, and suffered spinal fractures. The Defendant's investigations included obtaining surveillance evidence which suggested exaggeration. Isaac successfully obtained a finding of fundamental dishonesty before HHJ Owen QC.

In the case of *Khalid v AXA* (2017), Isaac successfully applied to strike out the claim upon the conclusion of the Claimant's evidence. QOCS were disapplied. A report on the case can be found [here](#).

In another case, (1) *Howell* (2) *Walker v Brindley Asphalt Ltd* (2017), Isaac represented the Defendant; following a two-day trial, C1's claim was dismissed upon an application under section 57 CJCA 2015 for a finding of fundamental dishonesty, with an order for indemnity costs – a case summary can be found [here](#).

Inquests

Isaac has experience of acting in inquests, especially those involving hospitals.

Isaac has been instructed both by families, and by other interested persons, including retirement homes. He has also been instructed by the insurers in cases with a personal injury background, particularly in deaths arising from road traffic accidents.

In addition to representation at inquest hearings, Isaac advises interested persons in preparation for inquests, and is happy to attend pre-inquest reviews.

Isaac has recently acted in the following inquests of note:

- Re B – hospital inquest where the deceased, who was suffering from terminal cancer but was not on an end-of-life pathway, was administered a toxic dose of morphine and died due to overdose. The Coroner made critical findings, recorded in a narrative conclusion.
- Re Whittow and Stokes – road traffic accident inquest, where Isaac acted for the insurer of an elderly driver with Alzheimer's Disease involved in a fatal road traffic accident. The inquest was reported in the national press, including the [BBC](#) and [The Times](#).
- Re P – hospital inquest where the deceased had died from sepsis following a post-surgical infection. Isaac was instructed by the family.
- Re W – hospital inquest where the deceased had died following a failure to prescribe and administer anticoagulants. Isaac was instructed by the family. The Coroner made a finding of neglect.
- Re G – the deceased suffered smoke inhalation injuries after her Hotpoint dishwasher caught fire. Isaac was instructed by the family. Hotpoint instructed a silk.
- Re J – hospital inquest where a child had died from sepsis. The Coroner made a finding of neglect. A full case note is available on the [12KBW website](#). The case has also been reported in the [The Sunday Times](#).

Credit Hire

Isaac has considerable experience and expertise in representing defendants in credit hire matters. He is extremely familiar with all the leading decisions and is frequently asked to advise on behalf of insurers, both in respect of individual cases and in respect of general tactics and strategy.

He has written a number of articles and case comments on credit hire, including a comment on *Stevens v Equity* [2015] EWCA Civ 93 published in the PI Brief Update Law Journal.

Product Liability

Isaac has acted in numerous cases involving product liability disputes. Recent examples include:

- Acting for a car manufacturer where it was alleged that the airbag of a vehicle was defective, and caused injury.
- A fatal case where a woman died in a fire caused by a faulty dishwasher,
- Several cases in which consumers were injured by faulty cooking equipment,
- A case in which it was alleged that a consumer was injured when riding a faulty quad bike.

Professional Negligence

Isaac has experience in a range of professional negligence work. He has recently advised in a negligence case against solicitors for under-settlement of a personal injury claim.

He has also acted in numerous claims regarding the allegedly negligent installation and maintenance of boilers and security systems.

Isaac is particularly experienced in advising in complex multi-party contribution and indemnity proceedings arising out of injury or property damage.

Costs

Isaac is well-versed in all matters of costs relating to his areas of practice and is regularly instructed to appear in CCMCs and costs applications.

Isaac has experience of successfully arguing that third party costs orders should be made against credit hire companies.

Qualifications & Awards

LLM (Commendation), City University

BPTC (Very Competent), City University

GDL (Commendation), City University

MA (Oxon), English Language and Literature, Corpus Christi College, Oxford

GDL Scholarship, Gray's Inn

Bedingfield Scholarship, Gray's Inn

Arden Scholarship, Gray's Inn

Memberships

Personal Injury Bar Association (PIBA)

Professional Negligence Bar Association (PNBA)

Action Against Medical Accidents (AvMA)

Publications and Case Reports

A Practical Guide to Sepsis and Meningitis Claims, November 2019, Law Brief Publishing Limited. Available at <http://www.lawbriefpublishing.com/product/sepsisandmeningitisclaims/>

Article: 'Standard of care in a clinical setting during the Covid-19 crisis', which can be read [here](#)

Article: 'Clinical Approach: Isaac Hogarth reviews some key decisions on sepsis and meningococcal disease', PI Focus, March 2020

Article: 'Policy Issue', an article on *Advantage v Stoodley*, PI Focus, October 2018

Case note: *Advantage Insurance v (1) Stoodley (2) Trinity Lane Insurance* [2018] EWHC 2135 (QB)

Case note: finding of neglect following prescription error

Case note: Hotpoint dishwasher inquest

Ali v Carr – facial fillers claim in the High Court

Khalid v AXA Insurance UK Plc

Isaac Hogarth helps secure rider of neglect for bereaved family in paediatric sepsis hospital inquest

A New Approach to Basic Hire Rates: *Karl Stevens v Equity Syndicate Management Ltd* [2015] EWCA Civ 93