

# Petar Starcevic

Year of Call: 1983

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## Introduction

Petar has long experience in personal injury cases and clinical disputes. Most of his work is multi-track claimant work. He also undertakes employment work, which overlaps well in cases of injury arising out of work.

### Memberships:

- ELA
- PIBA
- AvMA
- Birmingham Medico Legal Society

## Employment

The major part of his work is employment, both in the tribunal and service agreements in relation to senior staff and directors including restrictive covenants.

He has delivered employment seminars both as part of St Philips seminar programme and externally.

Petar regularly represents both employers (both private companies and public bodies) and employees in difficult and sometimes high profile multi-day cases including cases involving collective redundancies, TUPE, discrimination and Equal Pay Act claims. He also undertakes related personal injury work including claims of work related stress and psychiatric injury. Petar is licensed to undertake direct access work

### Reported Cases:

- *Brown v G4 Security (Cheltenham) No.UKEATPA/1392/09/RN* – one of the very few cases to come before the EAT on the Information and Consultation of Employees Regulations 2004. Reported and discussed in IDS Briefs no.906 and 916
- *Savage v SITA (UK) No.UKEAT/0169/10/CEA* – concerning the obligations to consult in collective redundancies
- *Rudge v Port Vale Football Club* – wrongful dismissal and the first ever case heard by the football league panel reported in sports press.
- *Sutton v Flintshire CC* – high profile whistle-blowing case receiving publicity from Radio 4's "File on Four" programme
- *Smith v West Midlands Fire Service* – unfair dismissal claims by service personnel who arranged an initiation ceremony for a new recruit, attracting national publicity including national BBC radio news
- *Gumbley v Exel Europe & Bost Logistics* – concerning the meaning of a TUPE service provision change reported and discussed in IDS Brief no.913
- Recent experience
- *Abrahams v New College Nottingham* – whistleblowing, numerous allegations of detriment heard over 2 weeks.
- *Bolwell v West Midlands Fire Service* – another case of numerous allegations of detriment arising from a disciplinary process heard over 2 weeks.

- *Wells v MRGB* – a recent example of unfair dismissal of a senior director following sale of part of a business in administration with consideration of assignment, the reasons for the dismissal and availability of the ETO exception. Related wrongful dismissal claim pursued in the High Court.
- *Symes v Furniture Origins* – a further example of unfair dismissal of a senior director during administration with sale soon after.
- *Lock v Marling School* – unfair dismissal of a headmaster for alleged bullying, high profile not only locally but also having been raised in questions in the House of Commons and publicity in Private Eye, proceeded to appeal in EAT on the issue of the Board of School Governors' statutory powers and impact of acting ultra vires.
- *Recruitment Solutions v Weston* – Representing a recruitment company upon the final trial of a claim against former employees who set up a rival business in breach of implied covenants, restrictive covenants and miss-using confidential information. After a week's trial on liability the claim was successful and followed by a contested hearing on quantum over 2 days obtaining a judgment better than the claimant's own part 36 offer.

## Discrimination

Petar is very experienced in underaking serious discrimination cases both for claimants and respondents in the Employment Tribunal and also unusually a trial in the County Court for discrimination outside the employment field. His experience in personal injury work assists in cases where discrimination has led to psychiatric injury and career long loss.

### Reported Cases:

- *Child Support Agency v Truman [2009] IRLR 277* – the first case in the EAT considering the impact of *Lewisham LBC v Malcolm* in disability related discrimination
- *Passmore v Young Womens' Christian Association* – claim of sexual discrimination and harassment by a male employee against a predominantly female organisation heard over 3 weeks.
- *Kelly v Probation Service* – racial discrimination claim heard over 2 weeks, remedies hearing and ongoing related personal injury claim for stress at work.
- *Butler v West Midlands Fire Service* – recent example of disability discrimination including large number of alleged breaches of duty to make reasonable adjustments.
- *Mallabar v Worcester College* – equal pay claim and complex claim of sex discrimination and unfair dismissal. Equal pay claim involved hearing on issues of "like work" and "work of equal value" as well as "material difference" defence in the context of appointment to a progression through pay grades and calculation of award at remedy hearing.
- *Choudhury v Forum Law* – historic pre-transfer equal pay claim determined with PHR on issues of limitation.

## Clinical Negligence

Petar has been dealing with claimant work in clinical disputes for over 10 years and is very experienced in many different aspects of clinical disputes, including the following:

- Optician – failure to diagnose glaucoma leading to blindness;
- Dentists – administering anaesthetic, fitting of onlays, TMJD consequent on negligent dental surgery
- Cardiology – failure to diagnose aortic dissection;
- Oncology – failure to diagnose cancer leading to death;
- Orthopaedics – failures to diagnose and treat fractures correctly;
- Obstetrics and neonatal – cerebral palsy, failure to repair episiotomy.

Petar has dealt with many serious cases including assisting clients in difficult cases involving serious adverse outcomes and death.

### Reported Cases:

- *P-S v NHS* – failure to diagnose and treat aortic dissection promptly leading to fatality and claim by dependants;
- *A v NHS* – failure in the treatment of sub-glottic stenosis consequent upon intubation leading to fatality and claim by dependants, settlement approved by the court;

- *K v NHS* – failure to diagnose and treat toxic epidermal necrolysis leading to fatality;
- *O v NHS* – failure to diagnose and treat compartment syndrome in a young sportsman leading to lower limb amputation with claims for special accommodation and prosthetics, settled after JSM;
- *W v NHS* – unusual case of hysterectomy being performed without patient consent in a woman of child-bearing age;
- *C v Malik* – failure by GP to diagnose or refer patient suffering from cancer leading to fatality;
- *D v NHS* – failure to diagnose pelvic cancer in an elderly claimant;
- *TD v A* – decision to perform ERCP and failure to manage post-ERCP pancreatitis resulting in death, case settled on the eve of High Court trial;
- *A v NHS* – interesting FAA claim arising out of suicide in hospital.
- *H v NHS* – very high value claim of cerebral palsy requiring life long care

## Personal Injury

Petar's personal injury practice is mainly claimant and multi-track including:

- fatal accident claims;
- Roberts v Johnstone claims;
- Brain injuries;
- Claims involving service personnel and loss of pension;
- Stress and psychiatric illness arising out of work (Petar's substantial employment law practice provides an overlap in this area).

Petar also has particular experience in claims involving related insurance issues and has acted in cases involving the following insurance related issues:

- claims made directly against insurers under the European directive;
- MIB claims;
- claims against companies whose insurance has been repudiated including personal claims against directors and employees where the company is in liquidation;
- claims for professional negligence against insurance brokers for failing to arrange appropriate insurance or act carefully once notified of claims;
- s.151 RTA claims involving Churchill Insurance v Wilkinson.

### Reported Cases:

- *T v C* – severe brain injury following RTA;
- *P v WPS Ltd* – severe crush injuries in accident at work leading to damage to lungs and reduced life expectancy.
- *A v AG Ltd* – accident at work leading to severe brain injury, legal incapacity and requiring life long care.
- *W v J plc* – severe brain injury, unusual in that it was in respect of an already brain injured claimant.
- *T v C* – high value accident at work claim against employing company and directors personally with related contested claims against insurers and insurance brokers.
- *W v MoD* – injury to serviceman on exercise including claims for career loss and loss of pension.
- *S v Police* – claim by serving police officer injured whilst engaged in firearms training.
- *K v PS* – claim for stress at work from multiple breaches of duty leading to loss of career.
- Fatal Accidents Act claims include:
  - *PS v NHS* – death of father and main provider, settled with approval from the court;
  - *OB v T* – fatal accident of professional man with his own business, claims on behalf of dependants.
  - *TD v A* – death of wife, settled just before final trial;
  - *A v NHS* – death of father with dependant children, settled with court approval;
  - *OB v H* – fatal accident of professional man with his own business, claims on behalf of dependants, settled after JSM;
  - *A v NHS* – interesting FAA claim arising out of suicide

# Catastrophic injuries

Catastrophic injuries:

- Cerebral palsy following peri-natal negligence. Severe disability, life long care and accommodation requirements for claimant and family, settled at JSM.
- Severe brain injury following accident at work, capacity in issue, difficult client care, life long loss of earnings and care.
- Severe brain injury following RTA, unusual because it involved an already brain injured claimant.
- RTA leading to the loss of both lower limbs, claim for single storey and ongoing care, difficult issues over life expectancy.

# Fatal Accidents

Fatal Accidents:

- Suicide by mentally ill in-patient whilst on adventure activity, consideration of claims against the hospital, including a claim under the Human Rights Act and against the activity provider.
- Numerous claims of death following medical negligence e.g. failure to diagnose and treat aortic dissection; pulmonary embolism; and pancreatitis following ERCP.
- RTA resulting initially in two fatalities and one severe brain injury in the same family, complicated by claim by local authority for reimbursement of accommodation and care costs.

# Industrial Disease

Industrial disease and workplace accident:

- Stress at work claims, including issues of abuse of process and issue estoppel in claims following tribunal claims.
- Claims against directors personally where no EL insurance in place, including related professional negligence claims against insurance brokers for failing to arrange suitable insurance.
- Mesothelioma claims.
- NIHL claims.
- Claims by service personnel following injuries resulting in loss of military career, e.g. non-freezing cold injury, but also cases of third party negligence resulting in loss of military career.

# Travel and Holiday Claims

Travel & Holiday claims:

- Claim to trial against package tour operator (Kuoni) and add on tour booked in resort during which injury was caused negligently.