

HAND SURGERY

Professor David Warwick - Consultant Hand Surgeon

Kicking off our brand new Expert Witness section is Professor David Warwick, a Consultant Hand Surgeon at University Hospital Southampton and Director of Hand Clinic Medicolegal Ltd, a specialised company in Hampshire.

Here David talks to Lawyer Monthly about his experience in the medico-legal realm, about his role as an expert witness, and about the challenges of investigating complex Hand Surgery cases.

I have been acting as an Expert Witness for over 19 years and have prepared over 4,000 Reports specialising in injuries and conditions of the hand and wrist. My medico-legal work provides me with a fascinating and challenging facet to my professional life, which is otherwise spent either seeing and operating upon patients with hand and wrist problems or academic activities such as research, teaching, book writing and leadership.

Apart from our eyes, the hand is the most important organ

with which we interact with our surroundings. Our personal independence, livelihoods and leisure all require competent pain-free hand function. The hand can be affected by personal injury, medical negligence or the workplace, thus inevitably becoming an object of legal as well as clinical attention.

The hand and wrist are the most commonly injured parts of the body; these injuries may be due to the fault of another party and may have either trivial or life-changing consequences. So, personal injury litigation frequently follows. Also, there is undoubtedly a tide of medical negligence claims against the NHS. Some cases reveal clinical practice which falls well short of an acceptable standard; it is a good discipline for doctors to always be aware that their decisions and actions can be forensically scrutinised; this must be good for patient care and patient safety. Some cases, although on face value appear negligent, in fact just represent the poor or unpredictable outcome that can beset any injury or treatment. The recent Montgomery ruling has raised another aspect of consent

which the medical profession must accommodate.

The anatomy and function of the hand and wrist are so complex that medico-legal reporting in this field must be meticulous. A one centimetre laceration dividing

fracture will stop a goalkeeper playing ever again; a striker will carry on regardless. So, with every Report I meet an individual; matching the effect of the injury to their individual work, hobbies, and domestic circumstances gives me a privileged insight into the huge

their description? A sympathetic understanding of human frailty, yet a pragmatic matching of clinical reality with alleged outcome, is needed when preparing a Report. Why do some respond bravely, yet others find their lives implode and others choose to elaborate? The challenge when providing a Report to the Court is to paint a non-judgemental, fair and realistic picture of the Claimant, balancing that unique person's idiosyncratic response to injury with the outcome one expects in usual clinical practice despite the confounding influences of a medico-legal claim. Having a practice in which Reports are prepared for both Claimant and Defendant, and always bearing in mind that the Report is for the Court rather than the instructing solicitor, keep me focused on impartiality. In a difficult case, I find that provision of a range of opinion which categorises the favourable and conflicting points clarifies my view, or at least supplies opinions and facts which

the Court is better able to balance than me. Discussing, anonymously of course, complicated or controversial medicolegal cases with like-minded colleagues can be essential before a reasoned Report can be produced.

Finally, one has to consider the Claimant's own medical history. Idiosyncratic hand problems are not at all uncommon- carpal tunnel syndrome, arthritis, tendinopathy; the hand or wrist may not have been perfect prior to the injury. Similarly, the Claimant may have another general medical condition such as asthma or heart disease which itself restricts work or domestic independence. It is essential to use one's current clinical experience to provide the Court with a reasonable subtraction on which to base a fair assessment of the additional losses caused by the injury or medical negligence.

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the ulnar nerve at the wrist will finish the career of a pianist, yet a telephonist will return within two weeks. A displaced fracture of the distal radius fixed with a modern plate will keep an office worker away from light duties for just two weeks, yet a road-digger may need a wrist fusion before they can withstand the demands of their job. An un-united scaphoid

variety in human life. It is humbling to see how stoics cope with the most devastating of injuries, determined to adapt and accept the consequences. Equally, I have to sometimes consider why others portray the most profound effects from an apparently trivial injury. Has the injury overwhelmed their ability to cope, or has the potential lure of financial reward coloured



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