



ACCREDITED
Clinical
Negligence



Clients comments about Waldrons

“I was extremely happy with the service I received at Waldrons, everybody was very helpful, I feel that I could not have had a better experience and in the future I will refer other people to Waldrons”

Case note summary

The Claimant, a lady aged 68 at the time of the incident, received a total of £160,000 following a hip replacement, during which her sciatic nerve was damaged and drop-foot occurred (difficulty in moving the ankle and toes upward).

Subsequent delayed aftercare resulted in the Defendant losing the chance to conduct explorative surgery.

Date of Settlement: October 2009;
General Damages for pain and suffering £40,000;
Total Award: £160,000

Claimant’s Solicitor : Adam Smith, Waldrons, Brierley Hill
Claimant’s Counsel : David Thomson, 1 Chancery Lane, London

Background

May 2004

The Claimant, then aged 68, underwent a right total hip replacement. The lady had a history of hip arthritis having successfully undergone a left total hip replacement, from which she had recovered in 2001.

Following on from the operation, the Claimant was seen by a physiotherapist on a number of occasions who noted to a Senior House Offices (SHO) that the Claimant was having problems with her right foot, and thought that the signs were indicative of drop-foot.

Despite the note, the Claimant was discharged from hospital, having seen only the physiotherapist.

June 2004

The Claimant attended a 6-week review with the operating surgeon, who identified the development of drop-foot.

Later implications

No significant improvement was experienced by the Claimant, and as a result, the right foot was rendered severely disabled.

The Claimant required a significant amount of past and future care in respect of her injury, as well as substantial adaptation of her home.

The Claimant's Case

Medical experts identified that there were three possible causes of the damage to the sciatic nerve:

- retractor damage
- inclusion of the nerve in sutures
- pressure on the nerve from a post-operative haematoma

The latter two causes are potentially reversible if post-operation explorative surgery is completed. In any event, a noticeable improvement would be expected over the course of several years.

The post-operative care fell below an acceptable and reasonable standard.

- Upon identifying drop-foot, failure to notify the SHO, or the SHO's failure to act upon that notification meant that there was no immediate explorative surgery as to the cause of the drop-foot.
- Two of the three potential causes could have been rectified immediately. The Claimant's drop-foot was not investigated by anyone other than a physiotherapist until the six-week review.
- At that point, nerve conduction studies were scheduled to begin in October 2004, some five months after the operation.

Settlement

April 2007

Court proceedings were issued and served. The Defendant initially asserted that the only possible cause of the damage to the nerve would have been retractor damage, which is irreversible. Both the Claimant and the Defendant continued to gather and finalise their respective expert evidence.

February 2009

An experts' meeting was held, after which a joint statement was issued, in which both the Claimant's and Defendant's experts agreed that:

- either senior or consultant orthopaedic review was required upon the noticing of drop-foot on 6th May 2004,
- that the nerve damage could have been caused by any of the three possibilities identified by the Claimant,
- that two of those three possibilities could have responded well to early intervention.

October 2009

Negotiations were entered into, after which the parties agreed on a settlement figure of £160,000, less any recoverable benefits.

The claim was settled on a global basis, although the Claimant's advisors had it valued as follows:

General damages for pain and suffering	£40,000
Care	£73,512
Aids and equipment	£18,440
Professional services	£10,132
Building work and accommodation	£6,920
DIY/Gardening	£5,244
Travel	£1,040
Interest	£4,712



Adam Smith, Waldrons Solicitors

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Adam specialises in Clinical Negligence dealing exclusively with cases against NHS Trusts, GP's, dentists and private surgeons.

He manages claims covering all aspects of medical care in England and Wales, with a special interest in Orthopaedic cases. Before moving to Waldrons he worked for a national firm dealing with clinical negligence matters.

He has over 6 years experience and has been successful in securing compensation for clients, a number of his cases featuring in local and national press. Adam is also a member of APIL (Association of Personal Injury Lawyers).