

Building a successful case

Speakers:



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Pleadings

- ▶ CPR r.16.4(1)(a) (POC)
- ▶ Causation: distinction between stating a case and setting out the (expert) evidence supporting it
- ▶ Part 18 questions
- ▶ Amendment (pleadings matter, see for instance ***Dalchow v St Georges University NHS Foundation Trust* [2022] EWHC 100 (QB)**)

Parties

- ▶ Who to sue?
- ▶ Multiple defendants
- ▶ GP partnerships

Chronologies, bundles and pagination!

- ▶ Chronologies
 - ▶ Keep it neutral
 - ▶ Referenced
 - ▶ Use by experts and judge
- ▶ Bundles and ebundles

Disclosure

- ▶ Leave no stone unturned
- ▶ Disclosure determined by the pleadings
 - ▶ e.g. delayed spinal surgery case. D pleads that timings were reasonable. Disclosure of scanning logs.
- ▶ Absence of records and inferences to be drawn

Witness statements

- ▶ Early assessment
- ▶ When to finalise?
- ▶ Where recollections differ from records:
 - ▶ Will records alone suffice? Ask experts.
 - ▶ If not, confine factual evidence to what is reasonably necessary
 - ▶ Consider other sources: complaints correspondence / SIR / RCA reports / evidence given at inquest
- ▶ Missing witnesses and inferences

Experts

- ▶ Literature review – exhibit and discuss
- ▶ Clinical experience is a powerful tool
- ▶ Conferences: some tips
- ▶ Second opinions

Experts

- ▶ Opinions from other disciplines?
- ▶ Alternative opinions?
- ▶ Provisional opinions?
- ▶ Core quantum evidence (even in split trial cases)
- ▶ Con after exchange and pre-JD/JS

Experts

“If anything, the suggestion that an unsubstantiated ipse dixit carries little weight is understated; in our view such evidence is worthless”

(Kennedy v Cordia [2016] 1 WLR at [§49])

Bolam

- ▶ Experts should address the test directly and explicitly
- ▶ Does ***Bolam*** apply (is it a pure diagnosis case (***Muller v KCH***))?

Tactics

- ▶ Offers: timing, form, content
- ▶ JSM – when?
- ▶ Costs and budgeting

Thank you
Any questions?