



Henry Vanderpump

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Year of Call: 2007

Henry Vanderpump is noted for his expert handling of complex medical negligence matters. He is regularly instructed in claims relating to obstetrics and gynaecology, and has experience acting for both claimants and defendants.

Strengths: "Very well organised and efficient, with a good manner with clients. He is also a very good advocate." "Hard-working, keen and conscientious." **Chambers UK Bar 2022**

"Henry is a good advocate with a detailed forensic mind and displays practical application of the law." **Legal 500 2022 (Clinical Negligence)**

Henry specialises in Personal Injury and undertakes work in three distinct areas – disease, clinical negligence and catastrophic injury claims. He acts on behalf of Claimants and Defendants in equal measure and has also been involved in providing strategic advice to a large national firm of solicitors in relation to noise induced hearing loss claims. Henry has also worked as a Consultant in house for a large national firm of solicitors specialising in asbestos litigation.

Appointments

- Deputy District Judge
- Fee-paid Judge of the First-tier Tribunal

Legal Directory Recommendations

Strengths: “An extremely efficient barrister who is always very well prepared.” “A pleasure to work with; he’s approachable, responsive and has a clear grasp of complex issues across all of his cases. He is able to communicate very well with lay clients and experts alike, and provides clear, strong, succinct advice. A fantastic advocate both inside and outside court.” **Chambers UK Bar 2021**

“Henry is an extremely efficient individual who is always very well prepared. He has a very calming approach which enables him to liaise with clients in the most effective manner and gain their respect and trust.” **Legal 500 2021**

“Specialises in cases concerning complex procedural arguments.” **Legal 500 2020**

“He has a balanced approach to cases.” **Legal 500 2019**

EXPERTISE

Personal Injury

For the last 10 years Henry has focused his practice on personal injury claims. He regularly deals with claims for sums in excess of £500,000 and has acted in claims in excess of £1 million. Henry has a particular interest in occupational illness litigation, clinical negligence and serious injury claims.

CASES

Nadan v Read Garage Limited

The Claimant was 54 years old and a partner at a garage in Lancashire. During work he alleged he struck his neck on a car jack causing a traumatic stroke and serious disability. The Defendant alleged that the stroke was caused by obesity and clogged arteries. Contested evidence was required from neurologists and neuroradiologists. The Claimant was unable to return to work.

Ali & Goulding v Greater Manchester Police

The Claimants attended a routine call when they were attacked by a man welding a knife. Intelligence was available from the Home Office and Berkshire Police Force which indicated the attacker thought all police officers were terrorists and had a history of assaulting police officers and threatening to kill them. The Defendants argued at trial that they had an immunity because the attack was carried out by a third party and was not foreseeable.

Rana (Deceased) v Dr Caldwell

Deceased Claimant attended Defendant GP with allegedly unstable angina in April 2013. The GP sent the Deceased home with medication. The Deceased subsequently suffered a cardiac arrest in April and brain damage dying in July. The Defendant GP made an admission in February 2017 but sought to resile from the admission on the basis of new evidence in the form of supportive expert evidence arguing the angina was not in fact unstable. The Defendant also argues the Deceased would have died

anyway even if admitted to hospital. HHJ Bird refused permission to resile from the admission and listed the matter for a trial on causation.

Madison Kennedy v Alder Hey Children's Hospital

Failure to undertake childhood hearing test led to misdiagnosis of profound deafness and the need to learn sign language. Missed opportunity to undertake cochlear implant surgery. Experimental research was necessary to investigate whether it would have made a difference for Madison. The Health Trust made an offer of settlement years before the research was complete. Madison is now attempting to accept the offer out of time. The question for the Court is whether in the unusual circumstances of this case it would be appropriate to make Madison liable for the costs of the Health Trust potentially consuming her damages via qualified one way cost shifting.

Deaville (Deceased) v East Lancashire Hospitals NHS Trust

Successfully claiming bereavement damages pursuant to the Fatal Accidents Act from the Hospital Trust for a common law wife. Technically only legal spouses meet the requisite definition but the Fatal Accidents Act has been found to be in breach of the Human Rights Act in the recent case of Jakki Smith v Lancashire Teaching Hospitals [2017]. A large section of society previously excluded from bereavement award should now be able to claim compensation.

Disease

Henry has a particular interest in asbestos and mesothelioma claims. He has represented a number of former coal miners who are only now developing conditions relating to their rock and coal dust exposure in the mines decades before. He has been working in house with Irwin Mitchell Asbestos Team in Leeds for part of the year, gaining the opportunity to work on ground-breaking claims including with Ian Toft and his team.

Asbestos related diseases

Henry has expertise in asbestos litigation having worked in house for a national firm of solicitors in their asbestos team. He regularly appears at show cause hearings acting in mesothelioma claims before the Masters in the Royal Courts of Justice. He has recent experience of advising on Keytruda treatment which is set to revolutionise the marketplace for mesothelioma claims and allows claimants in appropriate cases to claim PPOs.

Noise induced hearing loss

Henry has expertise in noise induced hearing loss claims and has acted in a number of the leading recent cases on the issue of *de minimis* over the last few years. He acted in and was successful in both the cases of *Briggs* and *Childs* (see below). Henry's expertise in deafness claims was recognised when he was asked to chair the Manchester Law Society conference on deafness claims in October 2016 where Professor Lutman was a guest speaker on his updated CLB Guidelines. Over the last few years Henry has gained a particular following from Defendant solicitors in this area after achieving much success at limitation trials.

COSH

Henry deals with a significant number of COSH asthma and dermatitis claims every year. Henry has an in depth knowledge of the appropriate experts to instruct and the points that tend to succeed at trial. Over these years Henry has gained an in-depth understanding of the medical, engineering and factual evidence required to support these claims. He has a particular interest in the Enterprise and Regulatory Reform Act 2013 and the likely effect it will have on occupational illness litigation and he has hosted a number of seminars on this topic.

HAVS/Vibration Induced CTS

Henry has an in-depth understanding of vibration induced injury claims. He has recently been to trial on the issue of apportionment in haves claims and when no Holtby reduction should be made.

Cases

Hawkins v SOS for Business & Industrial Strategy

Claimant, like many former miners, developed late onset diffuse fibrosis many years after retiring from the mines. The Defendant argues this is late onset constitutional unexplained lung scarring, the Claimant argues he suffers from late onset silicosis caused by rock dust. The Claimant relies on a recent scientific paper. Other litigants with different firms wait in the wings depending on the outcome of this case. The Defendant argued that the case must be dealt with the British Coal Respiratory Disease Litigation Claims Handling Agreement. The Claimant fought successfully to keep the case in Derby CC. The Defendant has contested many such claims with the claims handling agreement prior to recent scientific developments.

Clarke v Delta Steeplejacks Ltd

The Claimant developed mesothelioma following exposure to asbestos fibres working as a steeplejack. The Claimant took the novel approach of applying for disclosure of the Court file from another concluded Court case against the same Defendant relying on the recent case of [Dring v Cape Distributions Ltd \[2017\]](#). The Defendant solicitors in the connected case refused to provide their evidence voluntarily so we applied for third party disclosure. This is an approach that could be used in other asbestos cases which often have similarities.

Blakeborough v Vinters Engineering

The matter proceeded to a contested hearing before Master Davison as to the percentage of costs payment on account for the Claimant. This is a vital issue for Claimants because mesothelioma cases are so expensive to run. Recent cases has indicated sums in excess of 50% but the Defendant was only prepared to offer 30%. Following a fully contested hearing the Master awarded 60% of costs.

Hadley v Argent Fabrications Ltd

The Claimant alleged that excessive manual handling over decades working in the Defendants steel fabrication factory had accelerated a serious back condition causing significant financial losses through early retirement. The matter proceeded to trial on breach, causation and limitation. Fundamental

dishonesty was alleged.

Bolt v Ministry of Justice

The Claimant sought damages against the prison service following the development of asthma caused by passive smoking. Second hand smoke is a serious issue amongst the prison population. The prison service argued that it was not reasonable to entirely restrict the exposure of the Claimant. The Claimant argued that following a change in the law smoking in public places should be controlled including prisons.

Beckett v Hunslet Holdings Limited Master Davison, 4 November 2017 RCT

Pursuing a claim for pleural thickening in the Masters list. After contested submissions the Master has listed the matter for a full show cause hearing.

Blakeborough Deceased v Vinters Engineering Plc Master Davison, 4 October 2017 RCJ

The Deceased was exposed to asbestos whilst working in a munitions factory in the 1970s. The Claimant developed mesothelioma. The Claimant successfully secured judgment at this show cause hearing by presenting a prima facie case which could not be realistically challenged.

Zipfel Deceased v TH Holroyd Limited District Judge Pema, 6 June 2017 Leeds High Court

The Claimant developed mesothelioma. Appearing in this contested first appointment for the Claimant and persuading the Judge that a full show cause hearing was appropriate despite the Defendant Counsel presenting arguments as to the strength of the evidence. At a full show cause hearing judgment was entered.

Hawkins v Secretary of State For Business Energy and Industrial Strategy Ongoing Claim

The Claimant is seeking to bring a claim for silicosis from historic coal/rock dust exposure outside of the British Coal Respiratory Disease Litigation Scheme. The Defendant argues that this case must be dealt with within the scheme in the High Court and there is no discretion. The Claimant argues that silicosis does not fall within the wording of the Scheme. The case could have significance for other miners who have developed silicosis as a result of dust exposure but can currently only bring their claims within the confines of the Scheme.

Jenkins v Arriva Trains Wales Recorder Thom QC, 11 October 2017 Cardiff County Court

Successfully arguing that apportionment of damages was appropriate in a HAVS claim where only the final Defendant was sued in a chain of potential Defendants. The Claimant decided only to sue Arriva, the last employer to expose their client to vibration relying on a number of recent authorities. If Claimants were able to take this approach in other claims it would remove the need for multiple Defendant claims and reductions for uninsured losses. Defendants on the other hand would face larger claims for damages. Considering when it was appropriate to apply *Brookes v South Yorkshire Passenger Transport Executive* [2005] EWCA 452.

Magill v Panel Systems (DB) Limited [2017] EWHC 1517

Mr Magill had developed mesothelioma. He died from a cardiac arrest but the Claimant sought to argue that he would have been able to undergo an artery bypass graft if it had not been for his mesothelioma. There were also disputes as to the method to calculate life expectancy. The Claimant argued that bespoke evidence from medical experts should be accepted whereas the Defendant sought to rely on statistical averages. Henry advised the Claimant.

Singleton v Smith & Partners Ltd Ongoing Claim

Mr Singleton suffers from lung scarring but there are multiple causes. He was a miner for years experiencing exposure to coal and rock dust but his claim against the Coal Board is out of time. He also worked for the Defendant with asbestos for a short period. The Claimant is seeking to recover full damages for the scarring on his lungs on the basis that it is scientifically impossible to apportion the role of rock/coal dust from asbestos fibres. If the Claimant is successful it could benefit many miners whose respiratory claims are often reduced for competing causes of symptoms.

Clinical Negligence

Much of Henry's clinical negligence work is based in the North West region and Lancashire in particular. He mainly works for Claimants although in the past two years he has joined the panel for Welsh Health Authorities and MPS and NHS Resolution, so he has a growing Defendant practice. Henry has a particular interest in claims involving Obstetrics and Gynaecology and has gained expertise in that area following the case of Harkin (below).

Cases

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Braithwaite v Leeds Teaching Hospital NHS Trust

Claimant attended cardiology appointment in 1995 where a leaking heart valve was identified. Annual review of the claimant was required but no appointment arranged. The Hospital Trust blame the Claimant and put responsibility on a patient to chase up appointments. The Claimant is seeking to argue

an adverse inference against the Hospital Trust that no appointment was arranged on the basis that the records have been lost and in any event the responsibility to arrange the appointment falls on the clinician.

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Khan (Disabled Patient by LF) v East Lancashire Hospitals NHS Trust

Claimant, who suffers from severe learning disabilities, attended hospital with an eye infection and generally feeling unwell. An inner ear infection was not suspected, subsequently the Claimant developed a brain abscess and suffered a significant deterioration in function. The Hospital Trust allege because of the communication difficulties of the Claimant it was a challenging case and therefore reasonable to misdiagnose. The Claimant argues further efforts should have been made because of the disability of the Claimant and that a higher standard applies.

Quine v Warrington & Halton Hospitals NHS Foundation Trust, 24 October 2017 DJ Coffey Liverpool County Court

The Claimant alleged that the Defendant failed to diagnose an Achilles tendon rupture causing chronic symptoms. The case hinged on radiology evidence. The Claimant sought to rely on radiology evidence served late. The Defendant successfully stopped the Claimant relying on any radiology evidence. This case was important because the Court emphasised that the general purpose of radiology evidence in clinical negligence claims was to solely comment on the scans and x-rays not to look at all the circumstances surrounding the scans such as medical examinations to support a particular interpretation of the radiology evidence.

SB (Executor of the Estate of KH) v East Lancashire Hospitals Trust, 5 September 2017 DJ Clarke Burnley County Court

The Defendant's Hospital failed to inform the Deceased of concerning blood test results before she left accident and emergency having been kept waiting for many hours. The Deceased went home and two days later died of a perforated gastric ulcer. Henry advised the Estate and Dependents. The Deceased left an infant son who required additional care from his Father and was also on benefits. The case was of interest because we established a dependency claim based on benefit payments and also additional childcare when the law was previously unclear as to whether a claim could be advanced in these circumstances.

Harkin v Lancashire Teaching Hospitals NHS Foundation Trust Trial, 23 – 25 November 2016 HHJ Beech Lancaster County Court

The case was a clinical negligence claim where it was alleged diathermy had been inappropriately used

during surgery causing necrotic damage to a ureter and subsequent infection. The case was advanced on the basis that a diathermy injury can only be caused by negligence, essentially *res ipsa loquitur*. Such a finding by the Judge would have been significant for other claims involving use of diathermy and for doctors working in Obstetrics and Gynaecology (International Journal of Obstetrics and Gynaecology <http://onlinelibrary.wiley.com/doi/10.1111/1471-0528.14710/pdf>). The Judge accepted that the injury had been caused by diathermy but found this can have a non negligent cause.

Catastrophic Injury

Henry is experienced in dealing with cases involving the most serious injuries and greatest losses. He believes a relaxed and caring bedside manner is crucial in cases involving serious injury. He frequently travels to see Claimants at home or close to their home if travel is an issue and a telephone conference would be inappropriate.

When acting for Defendants Henry prides himself on providing realistic advice from an early stage. He is regularly instructed to attend Joint Settlement Meetings and regularly appears in CCMCs across the country. Henry is comfortable with cost budgets in excess of £500,000 and budgeting hearings involving in excess of five parties.

McMurray v Padiham Cotton Holding Company Limited (Liverpool High Court)

Appearing as Junior on a serious brain injury case listed for two weeks in the High Court where judgment was eventually entered for £2 million.

Weston v Ardmore Construction Limited (Northampton County Court)

Successfully argued for significant insurance payments to be ignored following the Gaca v Pirelli General Plc case in achieving a compensation award of £375,000.

Rook v Ministry of Defence (Newcastle County Court)

Henry is acting for an injured army veteran who has been discharged from the army on account of his injuries. The claim raises an interesting point in that the MOD deny that the Claimant was discharged from the army on account of his accident related injuries but seek to offset an AFCS payment.

Ironmonger v Persimmon Homes Essex (Preston County Court)

Acting for a construction site manager in a claim for serious head injuries following the collapse of a steel brace.

Davies v Nicholson (Birkenhead County Court)

Appearing for the Defendant in a claim involving alleged exacerbation of pre-existing brain injury and personality disorder. Using neuro-psychological and neurological evidence to challenge the lay witness evidence.

Paul Barker v Karl Dalely (Manchester County Court)

Acted as Junior Counsel for the Defendant in a claim pleaded at in excess of £1.5 million. Liability was admitted for a road traffic accident but the Claimant suffered significant injuries including compartment syndrome and required a spinal cord stimulator. Each party had experts in six different disciplines.

Rudd v Ministry of Defence (Manchester County Court)

Henry acted on behalf of an injured army veteran discharged from the army on account of his injuries and achieved a significant settlement following JSM applying a full Ogden 7 calculation.

Court of Protection

Henry has a developing Court of Protection practice in all fields of Court of Protection work, including property and affairs, health and welfare, serious medical treatment, and associated human rights matters. Henry regularly advises and appears on behalf of Local Authorities, Professional Deputies, and individuals and their families.

With his background in personal injury and clinical negligence, Henry has a particular interest in claims advanced and contested under the Human Rights Act for damages against health trusts and Local Authorities within COP proceedings or in parallel to COP proceedings. Henry has an in-depth understanding of the Civil Procedure Rules which assists in understanding these claims.

With a background in civil claims, Henry is also well placed to advise on the increasing trend for costs arguments in COP cases made on behalf of respondents and applicants. Henry also has experience of large personal injury trusts and financial deputyship.

Due to the nature of the issues involved, Henry is happy to advise on an urgent basis and to undertake advisory and drafting work to short timescales.