

Pickering v Cambridge University Hospitals NHS Foundation Trust

[2022] EWHC 1171 (QB)

Catherine Ewins and Ashtons Legal have succeeded in establishing liability at trial for a woman who had suffered a stroke aged 52.

Case background

The Claimant had attended the Accident and Emergency Department at Addenbrookes Hospital, Cambridge, on the evening of 24th September 2015 with symptoms of pain, coldness, numbness and pallor in one leg. She had a history of muscular dystrophy and atrial fibrillation (and she had a pacemaker). The diagnosis was of a possible resolved ischaemic event in the right leg and she was sent home with the advice that she re-start her normal dose of aspirin (which she had forgotten to take for a few days). She had previously been advised that she should take warfarin as an anticoagulant given her atrial fibrillation, but she had preferred to remain on aspirin.

On the evening of 27th September 2015 the Claimant suffered a stroke (a blockage of the left middle cerebral artery and left internal carotid artery). In spite of thrombolysis performed later that night, the damage in the brain extended and the Claimant suffered extensive injuries.

The Claimant alleged that she ought (on the evening of 24th September or in the early hours of 25th September 2015) to have been advised that she had probably suffered an embolus in her leg and that she was at a real risk of suffering a further embolus which could cause very significant damage, and that she needed immediate heparin. If she had had the heparin, she alleged, the stroke would have been avoided.

The Trial

By the end of the first day of the trial, the Defendant had admitted that it had been negligent in failing to treat the Claimant with immediate heparin by injection in A&E at, or before, her discharge from A&E at 01:44hrs on 25th September 2015. That left causation.

It had been agreed that the acute intermittent right limb ischaemia on 24th September 2015 had been caused by an arterial occlusion due to an embolism which had originated in the left atrium (as a result of the atrial fibrillation). It had also been agreed that the stroke on 27th September 2015 was caused by embolic fragments being fired off from the same cardiac source as the embolus which had caused the limb ischaemia.

The main issue in the case was thus whether or not if heparin had been given in the early hours of 25th September 2015, that would have prevented the stroke some 67 hours later.

The expert haematologists could not point to any definitive study which would determine that specific question and thus other literature dealing with related matters (such as the NICE guidelines, studies in the use of heparin in DVT, studies in the use of heparin in situations of atrial fibrillation peri-operatively, etc) were relied upon.

The Judgment

Mr Justice Ritchie examined the literature and analysed the expert evidence in detail. He determined upon all the evidence that if heparin had been given, it would have started working within 1-3 hours. He found that its effect would have been to start the body's natural processes of dissolving the unstable clot in the atrium and working towards stabilising it and adhering it to the atrial wall. Further, if treatment with heparin had been given over the 67 hours in question, the clot would have reduced in size considerably and probably by over 50% in size. As such, it was found, with heparin, no embolus would have been fired off on 27th September 2015 and the Claimant would have avoided the very disabling stroke that occurred.

Implications

The case is an illustration of the critical importance of well-prepared expert evidence and a detailed analysis and deployment of medical literature in a case turning largely on causation, where there is scope for expert disagreement and the medical literature does not contain any study precisely directed at the precise causation issue.

Catherine Ewins
Hailsham Chambers
Catherine.ewins@hailshamchambers.com
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Disclaimer: this article is not to be relied on as legal advice. The circumstances of each case differ and legal advice specific to the individual case should always be sought.