hailshamchambers

Clerks: **020 7643 5000**

Eva Ferguson

Call: 1999



Overview

Eva is a determined and meticulous advocate and believes her clients deserve nothing but her best endeavours. She is a leading junior in clinical negligence, and also specialises in professional negligence claims arising out of mishandled clinical negligence and personal injury litigation. Eva is presently instructed as lead Counsel for one of the Welsh Health Organisations in the UK Covid-19 Inquiry, and previously represented (together with David Pittaway KC) the solicitor for the SYP force at the Hillsborough Inquest. Eva is currently head of the Hailsham Medical Law Group. She is sought after by both claimants and defendants and if the Directories are to be believed “her incisive intellect means that she is the obvious choice to navigate complex claims”. Eva acts on CFAs where appropriate and usually does not charge a success fee recoverable from the client’s damages.

Eva’s guiding principles:

For each client, their own case is the most important case. Most lay clients will never have had the misfortune to require the services of a barrister before. The majority will feel stressed, apprehensive and uncertain. For claimants, life-changing amounts of compensation may be at stake, whilst defendants may feel their professional reputation is under attack. To be entrusted with their litigation is both a privilege and responsibility. Consequently, Eva’s most important case is the case she is working on at any one moment in time.

Winning means different things to different clients. Eva’s aim at all times is to identify what the client wants, how best to achieve it, and to give a comprehensive and realistic assessment of the case.

The client is paying for an opinion, not doubts. Litigation and the law can be complex, but it should never appear so to the client. Eva’s role is to analyse the law, evaluate the evidence, explain the situation to the client, and to persuade (sometimes the client, but more usually the other side or judge). Explanation and persuasion require simplicity and clarity.

The devil is in the detail. As a barrister, Eva's specialist legal expertise is a given. However, to obtain mastery of the expert evidence or factual context of the specific case there is no substitute for sheer hard-work, trawling through the documents, and asking questions.

Two heads are better than one. Eva is lucky to be instructed by many highly experienced and specialist solicitors and understands well the pressures and deadlines imposed on professional clients. She believes that effective teamwork and being proactive provides clients with the best service and value for money.

Trial is the last recourse. Unless there is a real point of principle or fraud is involved, cases usually end up in court when one party has failed to understand the important issues and relative merits/value of the case. Clients instruct Eva because her finely crafted pleadings/schedules, robust approach to strike-out applications, and negotiation skills at RTMs/mediations are invaluable in assisting the other side achieve such understanding.

Medical law

Eva specialises in clinical negligence and is currently head of Hailsham's Medical Law Group. She is instructed across a broad range of medical specialisms and regularly deals with cases of complexity and/or high value (most recently a £15 million settlement), either by herself or with a leader. In the Directories, Eva is praised as "*a forensic analyst when it comes to the medicine, an astute tactician, and brilliant at getting the most out of expert witnesses*". She is expert in using Excel for drafting Schedules and Counter-Schedules. Eva acts on CFAs where appropriate and usually does not charge a success fee recoverable from the claimant's damages.

Eva is sensitive to the stress and upset that litigation causes clients. She understands the disbelief and frustration experienced by claimants when breach of duty can be established but causation cannot, and the financial and emotional pressures that many claimants and their carers experience. She is also acutely aware of the impact on a clinician's confidence of being subject to a claim, as well as their distress at the thought of having unintentionally caused harm, and their upset when an allegation is totally unfounded. Consequently she aims at all times to be rigorous in her approach to the expert and factual evidence whilst sympathetic to the client. Eva acts equally for claimants and defendants including GPs, hospital doctors/consultants and nurses. She has some dental negligence experience.

Successful conduct of a clinical negligence case requires a thorough understanding of the underlying medicine. Due to her recent workload, Eva thinks she would have a fair chance of identifying CES red flags or an acutely ischaemic limb, of consenting a patient for almost any operation, or performing a hip or knee replacement, and of lecturing on kidney function and end stage renal failure! She is fully familiar with fundamental dishonesty arguments, both pre and post s.57, and in the context of disapplying QUOCs. Eva also enjoys tricky causation cases.

Most of Eva's work concerns failure to obtain informed consent, delay by GPs in diagnosis or referral, hospital delay or failure in treatment/diagnosis and/or negligently performed surgery, birth related injuries (both baby and mother), and FAA claims. More niche cases have involved applications for non-party costs orders against experts, pleading plene adminstravit, striking out a claim alleging failure to diagnose a psychiatric disorder prior to performing cosmetic surgery and acting for an expert ophthalmologist suing for his fees which was met with a counterclaim by the solicitor for alleged negligence in the giving of advice and evidence.

Professional liability

Throughout her years in Chambers, Eva has specialised in all sorts of solicitors' negligence claims and one of the most interesting cases in the past few years was representing together with David Pittaway KC at the Hillsborough Inquest the solicitor who acted for the SYP force.

Her focus now is on claims arising from (allegedly) mishandled clinical negligence and personal injury litigation for which she is ideally suited due to her medical law specialism. She acts for defendants and claimants equally. In lost and/or mishandled litigation claims Eva is fully familiar with arguments concerning breach of duty and causation and the defence of reliance on Counsel, and has a sharp eye for reducing quantum (when acting for defendants!) by focusing on loss of chance and mitigation issues.

She is described as "*first rate*", "*her subtle drafting got us where we wanted to be. She is a fantastic pair of hands*" and "*very astute, commercial and user-friendly*".

Recent lost and mishandled clinical negligence/personal injury claims

- defended solicitors in second generation professional negligence claim where solicitors allegedly lost the claimant the chance recover damages in excess of £1.5 million from solicitors who had settled a personal injury claim for £100,000
- defended solicitors alleged to have lost former client a multi-million pound claim against an NHS Trust for allegedly negligent administration of an epidural resulting in arachnoiditis
- defended solicitors alleged to have failed to recognise that their client in a personal injury action should have been treated as lacking capacity to deal with their own financial affairs and of failing to make an emergency application to the Court of Protection
- acting for claimants in numerous cases alleging under-settlement or personal injury claims
- advised solicitors in lost personal injury actions where claim form not issued in time and where claim form issued against wrong party – both cases defended on basis there had been a break in causation/failure to mitigate because new solicitors had failed to apply for extension of time under section 33 and/or for substitution

- acted for an expert ophthalmologist suing for his fees which was met with a counterclaim for alleged negligence in the giving of advice and evidence. Novel issues following the abolition of immunity as to the scope of the expert's duty owed to instructing solicitors.

Background information

In her earlier years in Chambers Eva experienced most forms of incompetent conveyancing and property related disputes ranging from failing to include 'shift and lift clauses' in telecommunication leases to failing to reserve shooting/gaming rights, along with the more mundane failings commonly encountered in residential and commercial conveyancing. She gained detailed knowledge of seeking rectification/indemnity against the Land Registrar. Eva has advised on securitisation issues and breaches of trust, fiduciary duty, and of warrant of authority, and associated equitable remedies.

In wills and trusts disputes, Eva has advised on duties owed, not only by advisors to the testator, but by advisors to the personal representatives and by professional administrators/executors/trustees on the remedies available to the estate and beneficiaries.

She has also advised on claims brought against solicitors due to dissatisfaction following matrimonial settlements, and on claims for breach of solicitors' undertakings.

Personal injury

Eva has acted for and advised both claimants and defendants in all aspects of personal injury claims. In her early years she frequently defended employers in accidents in the workplace claims. She also has experience of occupational disease claims (industrial deafness and asthma).

Costs

Eva has advised on or acted in:

- fees claims
- challenging ATE premiums on grounds of reasonableness or otherwise general points of challenge to costs awards at first instance
- the indemnity principle where third party funders involved
- challenging a fees reduction recommended following complaint to the Legal Complaints Service wasted costs
- part 36 offers detailed assessments

What others say

"Eva has a forensic attention to detail. She is a strong negotiator." *Legal 500, 2026*

"Eva works well with her clients to achieve great results with persistence and clarity." *Chambers UK, 2025*

"Eva is a terrific junior. She is very hard-working and knowledgeable." *Chambers UK, 2025*

"Eva is absolutely fantastic for procedural complexities." *Chambers UK, 2025*

"Eva is a delight to work with and has excellent attention to detail. She is tenacious but pragmatic when necessary." *Chambers UK, 2025*

"A very incisive legal mind and a persuasive advocate." *Legal 500, 2025*

"Eva can synthesise complex issues and combine this with a practical awareness about how best to settle a claim at a sensible level." *Chambers UK, 2024*

"She is an excellent all-rounder with superb judgement and attention to detail." *Chambers UK, 2024*

"She is very formidable in court and gives very good advice." *Chambers UK, 2024*

"Eva has a complete mastery of her brief going beyond the line of duty to secure the best outcome for her clients and is much beloved by them as a consequence." *Legal 500, 2024*

"Eva is a force to be reckoned with. She is incredibly forensic." *Chambers UK, 2023*

"Eva is a very competent and impressive counsel with great attention to detail." *Chambers UK, 2023*

"She is very tenacious." *Chambers UK, 2023*

"Eva is highly impressive, tactical, focused and has an almost encyclopaedic recall of detail in even the most complex of cases. Critically, she has top of the range client care skills. An absolute star." *Legal 500, 2023*

“She is very experienced and her pleadings are always terrific.” *Chambers UK, 2022*

“Thanks to her wider professional negligence experience, Eva is fantastic in cases with procedural complexities.” *Chambers UK, 2022*

“She is a mine of clever ideas; a smart, thoughtful and insightful junior.” *Legal 500, 2022*

“A forensic analyst when it comes to the medicine, an astute tactician, and brilliant at getting the most out of expert witnesses.” *Legal 500, 2021*

“A tremendous cross-examiner, even in the most sensitive situations” *Legal 500, 2020*

“She is particularly experienced in solicitors’ negligence cases” *Legal 500, 2020*

“Her subtle drafting got us where we wanted to be. She is a fantastic pair of hands”. *Chambers UK, 2019*

“Her incisive intellect means that she is the obvious choice to navigate complex claims” *Legal 500, 2019*

“First rate” *Legal 500, 2019*

“She is responsive, bright and comes up with confident, interesting views” “Extremely diligent, and extremely thorough” *Chambers UK, 2018*

“Responsive, bright, comes up with interesting views and then has confidence in her convictions.” *Chambers UK, 2017*

“Fantastic” “A very able barrister, who is good with clients” *Legal 500, 2017*

“She grasps the key issues quickly, is very user-friendly and has an excellent bedside manner with clients.” *Legal 500, 2016*

“A highly intelligent and incisive advocate.” *Legal 500, 2016*

“A first-rate advocate that you can feel confident with.” “Her paperwork is very good and she is a very safe pair of hands – she really knows her stuff.” *Chambers UK, 2016*

“Very easy to deal with and very approachable.” *Legal 500, 2015*

“She provides clear and appropriate advice, and well-drafted documents.” *Legal 500, 2015*

“approachable, user-friendly, very bright and technical” “she has a no-nonsense approach and regularly delivers” *Chambers and Partners, 2015*

“Grasps the key issues quickly, can identify the cases to fight, and is prepared to do so with vigour” *The Legal 500, 2015*

“very astute, commercial and user-friendly” “clients appreciate her ‘thorough and tenacious’ approach”. *Chambers and Partners, 2014*

Notable cases

In the main Eva aims to keep her clients out of court, although that is not always possible, and when she does have to fight she “is prepared to do so with vigour” the *Legal 500 2015*.

XRB v GOSH, HQ17C00564. Settled at RTM 2020

With Alexander Hutton KC. Represented the claimant against Great Ormond Street in a claim for delayed reintubation when 13 months old resulting in brain injury. Eva first became involved in the case in 2010 when the first expert instructed advised there was no negligence on the part of the hospital! In 2020 the claim was settled for about £15 million.

JMX (a child) v Norfolk & Norwich Hospitals NHS Foundation Trust [2018] EWHC 675 (QB) and [2018] EWHC 185 (QB)

With Dominic Nolan KC. Represented claimant successfully at liability only trial. Mum who had a high risk pregnancy negligently advised to return home to labour. Consequential costs arguments as to whether an offer to accept 90% of the value of the claim had been a genuine attempt to settle proceedings (it was).

Estate of Mohammed Mossa v Barbara Wise [2017] EWHC 2609 (QB)

Represented estate of deceased surgeon. Application of s.14 and s.33 in circumstances where clinician had died during period of delay, and central issue in the case turned on consent.

Kara Rayner v (1) Wolferstans (a firm) (2) Medway NHS Foundation Trust [2015] EWHC 2957 (QB) With Michael Pooles KC. Issue as so meaning of 'knowledge' under s.11.

The Hillsborough Inquest. 2015-16.

David Pittaway KC leading. Acting for the solicitor who acted for the South Yorkshire Police on the original Hillsborough Inquiry and original Hillsborough Inquests.

EW (a child) (by his litigation friend and father) v Martin Johnson [2015] EWHC 276 (QB). Martin Spencer KC leading. Acted for the unsuccessful claimant who alleged that the defendant GP had negligently failed to refer him for urgent investigations and was subsequently diagnosed with pneumococcal meningitis

(1) Jumani (2) Tariq v (1) Mortgage Express (2) Walker Singleton [2012] EWCA Civ 1455.

Acted for successful appellant LPA receivers. Case management decision refusing to vacate trial date due to absence of critical witnesses reversed.

Jones v Geldards LLP [2010] EWCA Civ 164.

Acted for solicitors in claim for fees. Client counterclaimed for alleged negligence in failing to prevent his conviction in prosecution brought by DEFRA. Solicitors successful on all issues at first instance following 3-day trial in the Cardiff District Registry. Defendant successful on one issue on appeal as to likely availability of legal aid to defend the criminal prosecution. The prospects of him obtaining legal aid were assessed at 50% and he was therefore obliged to pay only 50% of his solicitors' fees.

Joyce v Bowman Law Ltd [2010] EWHC 251 Ch.

4-day trial before Mr Justice Vos (as he then was). Defended licensed conveyancers where negligence for losing a developer the option to acquire additional land admitted. Issue as to whether consequential losses based on profits which would have been made were recoverable and quantum. Of the claim for £620,000 only £38,000 awarded.

BKR Haines Watts (a firm) v (1) Rollit Farrell & Bladon (a firm) and Ors, RCJ, February 2007

Patrick Lawrence KC leading. Co-defended solicitors with tax counsel in large value contribution claim brought by accountants following a failed tax saving scheme claim. Settled second week of trial.

Further information

Education

After a happy state school education, Eva went to Durham University where she took a First in History. She obtained a Commendation in the Diploma of Law from York College of Law, and a Very Competent in the Postgraduate Diploma in Law from ICSL. She was also awarded a Diplock Scholarship from Middle Temple (1998/9).

Committees: Member of PNBA and LCLCBA. Head of Hailsham's Pupillage Committee from 2009-2014. Head of Hailsham's Medical Negligence Team 2021.

Talks and publications: Eva regularly provides professional negligence and clinical negligence update talks to leading firms of solicitors specialising in those areas.

Personal: Eva has been in Chambers ever since undertaking her pupillage here and has enjoyed building her practice at Hailsham. Outside of work and apart from beating members of Chambers at chess, Eva enjoys relaxing at the bridge table, perfecting (if that's the word) her tee-shot, developing her wildlife photography skills (boom-boom), playing guitar and travelling (having most recently enjoyed the cutest polar bear cubs ever in Svalbard, adventure tourism in the 'Stans', whale-watching in Baja, penguins galore in South Georgia, aspirational roads in Albania, living history in Israel, and salsa-ing across Cuba). She looks forward to one day completing her "To-Do list", achieving her "New Year Resolutions list", winning regularly on the horses, and taking up the trombone again.

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