
Phil Stuart

Advocate
Year Of Call: 1996



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Practice Areas

Administrative & Public Law
Alternative Dispute Resolution
Clinical Liability
Personal Injury
Product Liability
Professional Liability
Public Inquiries, FAI's and Tribunals

Practice Profile

Phil Stuart has extensive experience in a wide range of areas of civil litigation. His main areas of practice are:

- clinical negligence
- personal injury
- product liability
- Fatal Accident Inquiries
- professional discipline
- medical regulation

Court and Tribunal Experience

In addition to the Court of Session, (including the Inner House and commercial actions) and Sheriff Courts across Scotland, Phil has appeared in the United Kingdom Supreme Court, the National Health Service Tribunal, the Lands Tribunal, the Criminal Injuries Compensation Appeals panel and the Mental Health Tribunal. Prior to calling to the Bar he appeared in the Supreme Court of Hong Kong and the District Court of South Australia.

In clinical negligence, Phil is experienced in complex and high value cases, including those involving birth injuries, delayed diagnosis and fatal claims.

In personal injury, Phil is experienced in catastrophic injury claims, including brain injury and tetraplegia claims.

In product liability, Phil is instructed in ongoing actions in the Court of Session relating to medical devices.

In Fatal Accident Inquiries, Phil has experience of lengthy and complex inquiries concerning deaths in prison and hospital.

In professional discipline, Phil is particularly experienced in NHS work and has appeared extensively in the NHS Tribunal.

Qualifications/Education

LL.B., University of Aberdeen
Dip L.P., University of Aberdeen
Phil is a trained and certified mediator.

In medical regulation, Phil regularly advises on issues arising out of contracts and arrangements relating to the administration of the NHS, including in relation to general practitioners and dental practitioners.

Phil is also regularly instructed in other areas of practice, for example in cases relating to:

- legal professional negligence
- reparation for damage to property
- judicial review
- mental health law

Publications/Articles

'Medical Law: Consent' Westlaw UK Insight article



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Has extensive
experience in
medical law matters.

Chambers & Partners UK Bar Guide 2015

Medical/Clinical Negligence Law

Jill Clark v Greater Glasgow Health Board [2017] CSIH 17 (Inner House); [2016] CSOH 24 (Outer House)

1. Proof - high value medical negligence action, relating to damage sustained by a child at birth. For Health Board. Negligence not established.

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=ebbc06a7-8980-69d2-b500-ff0000d74aa7>

2. Reclaiming motion by pursuer, concerning attempt to amend in a new consent case after proof.

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=7c262ba7-8980-69d2-b500-ff0000d74aa7>

McKenzie v Fife Acute Hospitals NHS Trust [2006] CSOH 63

Proof - high value medical negligence action, relating to damage sustained by a child at birth

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=877e86a6-8980-69d2-b500-ff0000d74aa7>

Personal Injury Law

Wallace v Glasgow City Council [2011] Rep. L.R. 96 (Inner House); 2010 Rep. L.R. 101 (Outer House)

Proof & reclaiming motion - teacher's accident at work

Cameron v Gellatly 2009 SC 639

Issue as to the construction of the Rules of Court relating to interim damages

Skinner v Scottish Ambulance Service 2004 SC 790

Procedure roll debate and reclaiming motion - needlestick injury - construction of the Provision and Use of Work Equipment Regulations 1998

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=7fe186a6-8980-69d2-b500-ff0000d74aa7>

Gallagher v Kleinwort Benson (Trustees) Ltd 2003 SCLR 384

Debate as to relevancy of averments under Occupiers' Liability (Scotland) Act 1960 etc.

Lewis v Richardson 2002 SLT 272

Proof - quantum of damages - back injury

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=38878aa6-8980-69d2-b500-ff0000d74aa7>



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McLaughlin v East & Midlothian NHS Trust 2001 SLT 387
Debate as to relevancy of averments of res ipsa loquitur etc.
<http://www.scotcourts.gov.uk/search-judgments/judgment?id=0a7a8aa6-8980-69d2-b500-ff0000d74aa7>

McNulty v Marshalls Food Group Ltd 1999 SC 195
The action which established that in Scotland it was appropriate to use the Ogden Tables as the starting point for selecting a multiplier for loss of earnings
<http://www.scotcourts.gov.uk/search-judgments/judgment?id=7e5587a6-8980-69d2-b500-ff0000d74aa7>

Administrative Law (including judicial review)

C v Advocate General for Scotland 2012 SLT 103
Petition for judicial review of the decision of an agency of the MOD to release the remains of a soldier to his mother

Kelly v Shetland Health Board [2012] CSIH 101
Optometrist's appeal to Court of Session against his disqualification by the NHS Tribunal on the ground of his fraud
<http://www.scotcourts.gov.uk/search-judgments/judgment?id=baa186a6-8980-69d2-b500-ff0000d74aa7>

United Co-operative Ltd v National Appeal Panel [2007] SLT 831
Petition for judicial review of a decision of the National Appeal Panel relating to a proposed new pharmacy

Reparation

Morrison Sports Ltd and Others v Scottish Power plc 2011 SC (UKSC) 1, (Supreme Court); 2010 SC 285 (Inner House); 2007 SLT 1103 (Outer House)
Action relating to fire damage to buildings – issue of whether the Electricity Supply Regulations 1998 conferred a civil right of action for damages in the event of their breach.