

Michelle Marnham

Year of Call: 1994

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Overview

Michelle Marnham is a Leading Junior Barrister with over 20 years experience, specialising in Personal Injury and Clinical Negligence.

Michelle has particular interest in catastrophic injury claims involving CRPS, traumatic brain injury and fatal accident claims. She is regularly instructed in cases with technical aspects on liability and in a wide variety of employers' liability, Highways Act Claims and Road Traffic Accident claims.

Her Clinical Negligence practice includes expertise dealing with brain; neo-natal and birth defect claims; orthopaedics; product liability and cosmetic surgery.

She has expertise in dealing with allegations of fundamental dishonesty against a background of complicated factual and medical evidence. She is regularly instructed to appear against silks.

Michelle is recommended in the Legal 500 as 'a persuasive and effective advocate who is particularly skilled in dealing with claims involving complex issues.'

Michelle's clients say she has a "charming personality" and a "sharp mind". Her empathy and rapport with clients provides reassurance and confidence that their dispute will be resolved in a timely and cost effective way. Michelle regularly contributes articles for Chamber's newsletter.

Michelle is Head of 3PB's Personal Injury and Clinical Negligence team.

Michelle Marnham is an employee of Michelle Marnham Limited, a private limited company authorised by the Bar Standards Board to provide legal services (BSB entity number 186920). Michelle Marnham Limited has a contractual arrangement with 3PB Barristers to provide clerking and administrative services including billing and complaints handling.

Recommendations

'Michelle is pragmatic and provides sensible, realistic advice for clients.'

Legal 500 2024/Personal Injury, Industrial Disease and Insurance Fraud/ London Bar/ Leading Juniors

'a leader in her field'

'Michelle is knowledgeable both practically and technically, thorough, sympathetic and empathetic.'

Legal 500 2024/Personal Injury/Western Circuit/Leading Juniors

Practice head Michelle Marnham is 'very skilled at building a rapport with clients' and has particular expertise in fatal

accident claims, catastrophic injury cases and issues surrounding liability.

'Michelle is a good communicator with clients and provides practical advice. She is knowledgeable, approachable and responsive.'

Legal 500 2023/Personal Injury/Western Circuit

'Michelle is always thorough and well-prepared.'

Legal 500 2023/Personal Injury/Leading Juniors/London Bar

'She is proactive, extremely personable and quickly gets to the nub of the issue. She delivers advice clearly and concisely, in a way that is very easily digested by the lay client.'

Legal 500 2022/Personal Injury/Western Circuit

'Michelle provides excellent advice and is alive to the strengths and weaknesses of a case.'

Legal 500 2022/Personal Injury/Leading Juniors/London Bar

'A persuasive and effective advocate who is particularly skilled in dealing with claims involving complex issues.'

Legal 500 2021/Personal injury/Leading juniors/London Bar

'Michelle is very good at identifying the key issues in personal injury claims and providing helpful and practical advice. She is a robust performer in court with a firm grasp of the key issues in a case and a realistic pragmatic approach to those issues.'

"Michelle Marnham is another key member of the team and has a particular interest in CRPS cases."

Legal 500 2021/ Personal injury/Leading juniors/Regional Bar/Western Circuit

'She is diligent, personable and very thorough.'

Legal 500 2020/Personal injury/Leading juniors/London Bar

'Performs excellently in court and in negotiations.'

Legal 500 2020/Personal injury/Leading juniors/Regional Bar/Western Circuit

'She is terrific with clients and has a clear forensic understanding of legal and medical issues.'

Legal 500 2018/19/Personal injury/Leading juniors/London Bar

'She is diligent and personable, with huge legal knowledge.'

Legal 500 2017/Personal injury/Leading juniors/London Bar

"Michelle is superb with clients and always quickly grasps the salient legal and procedural issues on any instruction. She is diligent and personable with huge legal knowledge and skill in applying the law. Her skeleton arguments are something to behold".

Jeremy Hugo (Instructing Solicitor)

Academic qualifications

LLB Hons (University of Essex)

Professional bodies

Personal Injury Bar Association (PIBA)

Expertise

Personal Injury

Michelle specialises in personal injury with associated professional negligence and fatal accident claims. Michelle is regularly instructed in cases with technical aspects on liability and in a wide variety of employers' liability, Highways Act Claims and Road Traffic Accident claims.

Michelle has extensive experience in cases concerning staged accidents/RTA fraud and high value 'malingering' PI cases.

Michelle is Head of 3PB's Personal Injury group.

Personal Injury Areas of Expertise

- Abuse Claim
- Asbestos
- Catastrophic Injury
- Construction Site Accidents
- Employers Liability
- Fatal Accident Claims
- Foreign Jurisdiction Claims
- Highways Act Claim
- Occupational Disease
- Occupiers Liability
- Professional Negligence
- Product Liability
- Psychological Injury
- Public Liability
- Road Traffic Accidents
- Travel Claims
- WRULD

Recent cases

- G v. F. Instructed on behalf of Claimant who suffered life changing severe neck injury with the potential to make him tetraplegic: disruption of supraspinous and interspinous ligaments from C2 to C6, disc protrusions at C3-4 and C5-6. Liability agreed 50/50. Quantum in dispute, in particular Ogden Disability and future work capacity. Case settled at JSM in the excess of £2 million, prior to the 50% deduction.
- G. Instructed on behalf of the Claimant, who suffered significant head injury at the age of 17 months, now aged 17. Requiring expert evidence from experts in the fields of Neurosurgery, Neurology, Neuro-radiologist, Neuro-psychology, Neuro-psychiatry, Educational Psychology and Care and Occupational Therapy. Experts instructed on behalf of Claimant have identified long term symptoms and that the Claimant lacks capacity. Extent of injury in dispute with Defendant

denying the extent of injury, capacity and restriction on earning capacity. Settlement approved in excess of 1 million pounds.

- Yv.C. Representing the Claimant who sustained significant injuries in a road traffic accident, including fibromyalgia, injury to her cervical and lumbar spine with chronic pain, and severe bilateral tinnitus. Injury and causation in dispute. Case proceeding in the High Court of Justice.
- B v. M. Instructed on behalf of Claimant who suffered a head injury, hearing loss, tinnitus and Post Traumatic Stress Disorder after being assaulted during the course of her employment. Liability and injury in dispute.
- E v D. Instructed on behalf of the Claimant who suffered significant injuries as a result of the road traffic accident, including a moderate/severe traumatic brain injury. Claimant also suffered significant psychological injuries. The Claimant required significant rehabilitation and was medically retired from her previous career as a solicitor. The Claimant was left with permanent neuropsychological difficulties. Injury and quantum in dispute. Case settled at JSM in excess of 1 million pounds.
- Instructed on behalf of the Claimant who suffered a traumatic brain injury and other significant injuries and now lacks capacity as a result of being run over by her ex-partner, who was subsequently convicted. Liability disputed. Defence pleaded Ex Turpi Causa, Volenti and Contributory Negligence. Liability subsequently agreed and approved, shortly before trial, apportioned 67%/33% in the Claimant's favour. Case proceeding to trial on quantum. High value claim.
- Instructed on behalf of the Claimant in respect of a fatal accident claim arising from a Road Traffic Accident. Liability is in dispute. Awaiting approval of settlement.
- C. Instructed on behalf of Claimant who suffered a traumatic brain injury with psychiatric overlay as a result of a Road Traffic Accident. Complex issues on causation and impact that it has had on Claimant's ability to return to work. Value of claim in excess of £300,000.
- F v S, Claimant suffered significant injuries including a left talar neck fracture and dislocation of the peroneal tendons and would require a fusion, a significant injury to his abdomen, that involved the loss of 2 inches of ileum from perforations and the removal of the sigmoid colon and an adjustment Disorder with Mixed Anxiety and Depressed Mood. Quantum in dispute, including whether the Claimant was 'Ogden Disabled', the appropriate reduction factor and the Claimant's likely career path 'but for the accident'. Case settled at a JSM, heard via video link, in excess of £725,000.
- T v T and Aviva Insurance. Instructed on behalf of Second Defendant defending significant claim in respect of credit hire, claimed in the sum of £116,000. Judge accepted Michelle's argument that the Claimant, whilst impecunious at date hire commenced, became pecunious during the hire period and failed to mitigate her loss. As a result the hire claim was reduced to 41% of the amount claimed.
- C v. Y. Instructed on behalf of Claimant, aged 18, who sustained significant and life threatening injuries when he was rendered quadriplegic at scene and underwent a C5 corpectomy. The Claimant has been left with permanent residual symptoms and career path altered, resulting in a catastrophic injury claim.
- F v. D. Instructed on behalf of Claimant who suffered a left hand crushing injury and developed CRPS requiring amputation of the limb. Catastrophic injury claim. Liability and quantum in dispute.
- T v. S. Instructed on behalf of Claimant suffered significant limb-threatening and life changing injuries as a result of the road traffic accident, resulting in a catastrophic injury claim. Liability and quantum in dispute.
- W v. Bam Nuttall Ltd. Instructed on behalf of Claimant who sustained significant injuries during the course of his employment. The Claimant's injuries included left knee multiple ligament injury with PCL reconstruction, soft tissue injury to the left shoulder and Psychological injury – Adjustment Disorder, prolonged depressive reaction. Case complicated by reason that the Claimant suffered a previous severe traumatic brain injury and a mild organic personality disorder.
- M v. Ager and M. Instructed on behalf of Claimant who sustained life changing injuries as a result of a road traffic accident, including traumatic brain injury with permanent cognitive difficulties, personality change impaired balance and mobility. Claimant also suffered vertical squint and orthopaedic injuries. As a result of his injuries the Claimant lacks capacity.
- G v. C. Instructed on behalf of Claimant who developed mesothelioma based upon exposure during manufacturing employment.
- Ahmed v. Richards. Successful defending a claim with the Claim being dismissed for fundamental dishonesty and the

consequent removal of QOCS protection.

- *D v. Boots UK Limited*. Michelle was instructed to represent the Claimant at a 2 day quantum only trial in which the Defendant had belatedly raised fundamental dishonesty. Whilst FD was dropped at the doors of the Court the Defendant was still alleging exaggeration of symptoms. HHJ Berkeley found in favour of the Claimant on all aspects of Claim as advanced at trial and awarded Claimant damages in the region of £148,000. Claimant substantially beat a Part 36 offer that had been made on Michelle's Advice and received benefits pursuant to CPR 36 but Michelle also obtained indemnity costs from the earlier date when the Defendant had raised the issue of Fundamentally Dishonest.
- *S v. Gooch and Zenith Insurance*. Instructed on behalf of the claimant, a professional musician, who suffered injuries in RTA, including a dystonic tremor of the upper limb, orthopaedic injuries and PTSD/Adjustment Disorder. Complex issues on causation and impact on occupation.
- *B v. Selleck -Emery*. Instructed on behalf of Claimant who was involved in a RTA whilst jogging. Liability in dispute. Claimant suffered significant injuries including fracture of the right tibia bone, requiring a skin graft, facial injuries – including dental injuries and scarring, head injury, discoid dermatitis and Post Traumatic Stress Disorder.
- *Akande Nike v. Orsula*. Instructed on behalf of the Claimant, a French National, in respect of her own personal injury claim and Fatal Accident Claim arising out of the death of her husband and two children in a road accident which occurred in England on M26. Claim raises complex jurisdictional issues as Defendant is Slovakian. Case settled at joint settlement meeting.
- *Brown v. East Cheshire NHS Trust*. Instructed on behalf of Claimant in respect of her claim for complex shoulder injuries, including Neurological thoracic outlet syndrome, sustained as a result of an injury at work. Causation and injury in dispute.
- *R (a minor)*. Instructed on behalf of minor in relation to serious and complex injuries arising out of a road traffic accident. Complex causation issues in respect of brain injury, psychiatric injury and behavioural problems.
- *B v. C*. Instructed on behalf of Claimant who developed asbestosis. Case concerned issue of date of knowledge and limitation.
- *Janjua v Lane*. Instructed on behalf of Claimant in respect of complex ankle injury and psychological injury as a result of a road traffic accident whilst Claimant was riding a motor cycle. Liability in dispute. Case settled in excess of £300,000.
- *Hudson v Wise*. Case involved the complex issue on causation in relation to the Claimant's Cervical Dystonia. Successfully negotiated.
- *Davis v. X9*. Instructed on behalf of the Claimant who suffered traumatic brain injury and trauma-induce blepharospasm in accident. Liability, causation and quantum in dispute.
- *Brooker v. Akkeron Hotels Group Limited*. Instructed at the last hour to represent the Claimant at a 2-day damages only trial involving dispute between orthopaedic and psychiatric experts as to the injuries sustained. Successfully recovered damages on all aspects of the claim.
- *Robertson v. Gregory*. Instructed on behalf of Claimant in respect of serious ankle injuries. Successfully negotiated.
- *Hubbard v. Tissiman and Royal Sun Alliance*, Instructed on behalf of the Claimant who suffered injuries at the age of 16 in a road accident. Injuries include: open comminuted fracture of the right femur; complex Grade III A fracture, with delayed union; open fracture of the right tibia; multi-fragment injury to the right knee; and Post Traumatic Stress Disorder. C required a tibial osteotomy. Claimant will require a knee replacement at the age of 28-31 and revision at the age of 48-56. Damages awarded in the sum of £716,000 at Joint Settlement Meeting.
- *J v. Thomas, M v Thomas*. Instructed on behalf of two Claimants in respect of claims in damages for personal injuries and other losses they suffered as a consequence of historical sexual abuse perpetrated against them by their maternal grandfather when they were 3 –8 years of age. Both Claimants were diagnosed as suffering Specified Trauma-and stressor-Related Disorder (DSM-V 309.89) during childhood and continuing, Major Depressive Disorder (DSM-V 296.2); and Panic Disorder (DSM-V 300.01). It was successfully argued at the Assessment of Damages hearing that both Claimants had significantly underachieved at school and suffered a reduced earning capacity as a result. The claim raised issues including whether aggravated damages was appropriate, the correct discount to be applied to the multiplier and the Claimants' future capacity for work. Both Claimants were awarded in excess of £200,000.
- *Atkins v. MIB*. Instructed on behalf of the Claimant who suffered significant injuries when aged 18, namely closed head

injury, open fracture of the right humerus, multi ligament injury with fracture of the right knee [second fracture] and fracture neck of fibula, Depression of Moderate Severity, Acrophobia with panic attacks. A liability admitted claim with complex issues in relation to quantum and earning capacity. Damages awarded in the sum of £244,000.

- Cockayne. Acting for the Claimant in respect of his claim in damages arising out of the catastrophic failure of a hip implant manufactured by leading manufacturer. Claim brought under the Consumer Protection Act 1987. Liability denied. The central issue was whether there a 'defect' of the implant within the meaning of the Consumer Protection Act 1987. The claim was successfully compromised.
- B v. Thomas Cook and Unlu. Acted for Part 20 Defendant, Turkish Hotelier, in respect of fatal accident claim brought by B in respect of the death of his wife whilst on holiday. The Claim was successfully defended by the Part 20 Defendant.
- B v. J Sainsbury PLC. Acting for the Claimant in respect of her claim in damages for personal injuries suffered as result of an armed robbery. All aspects of the claim in dispute. The claim was successfully compromised.
- Whitmore v. Sunrise Senior Living Limited. Acting for the Claimant who sustained personal injuries as a result of an assault by a resident which occurred during the course of her employment with the Defendant. Liability for the assault was denied. Issues of contributory negligence and causation were also raised. The claim was successfully compromised.
- X v. The Royal Parks Agency. Acting for the Claimant who suffered significant injury when he collided with unlit dark coloured bollard in a Royal Park. All aspects of the claim were disputed. There were issues of liability, contributory negligence, causation and quantum. Liability was finally agreed 80/20 in favour of the Claimant and the claim was successfully compromised for an award of damages in excess of £100,000.
- Chambers v. The Steel People. Acting for the Claimant who suffered significant injuries to his leg. Successfully opposed Defendant's application to resile from admission and claim was successfully compromised in excess of £350,000.
- Sampson v. Robore Cuts Limited. Acting for a 37 year old diamond driller who suffered a crushing injury to his left [dominant] hand leading to Complex Regional Pain Syndrome Type II; Depressive Disorder; and an Adjustment Disorder with Anxiety. Despite significant treatment to the left hand including neurolysis of the digital nerve and local flap to cover the nerve and also further surgery to bury the neuroma the Claimant continued to suffer pain in the hand with reduced grip and pinch strength. The Claimant underwent full implant of spinal cord stimulation which helped to reduce the pain. The need the spinal chord implant Claimant was permanent and the Claimant suffered permanent neuropathic pain of the most severe form. The claim was successfully compromised at a joint settlement meeting for a figure in excess of ½ million pounds.
- Reddin v. May. Acted for Claimant, a minor, in a personal injury claim in respect of multiple injuries including head injury, personality change, fractured pelvis and psychological injuries.
- Draycott v. Drury. Acted for Claimant in respect of catastrophic injuries sustained in a road traffic accident. Injuries included a traumatic below-knee amputation through the right leg, a traumatic amputation of the right arm, a significant brachial plexus injury and Post Traumatic Stress Disorder of moderate to severe type. Damages awarded in excess of 1 million pounds.
- M v. C. Acted on behalf of Claimant who developed asbestos related disease as a result of husband's exposure to asbestos in factory.
- Junior Counsel to Colin Edelman QC in which they successfully acted for a large corporation (quoted on AIM) against a leading worldwide insurance group in respect of a dispute concerning a Public Liability Insurance Policy in the context of asbestos related disease. Involved detailed understanding of the cause of asbestos related disease and development of the disease.

Clinical Negligence

Michelle's clinical negligence practice, perfectly complements her personal injury and professional negligence practice. Her reassuring, tactile and empathetic approach with clients in conference builds a strong rapport and confidence. Michelle is an excellent advocate and excels in litigation and mediation and is highly praised for her written work.

Clinical Negligence Areas of Expertise

- Dental Negligence
- Brain
- Neo-Natal and Birth Defect Claims
- Orthopaedic
- Product Liability
- Cosmetic Surgery

Cases of interest include:

- A claim arising out of the negligent treatment of a pathological fracture of T2 causing compression of the spinal cord with evidence of metastatic cancer and also a traumatic fracture across the T9/10 disc space. As a consequence, the Claimant suffered significant harm, including paralysis, mechanical unstable spine leading to persistent pain, cord compression and incontinence of both bladder and bowel incontinence.
- A claim concerning the failure to act upon the pathological diagnosis of gallbladder cancer following an laparoscopic cholecystectomy, with a resultant 8 month period delay in the management and treatment of the cancer, from which the Claimant subsequently died.
- A claim arising out of the delay by GP in referring Claimant to a gastroenterologist for an urgent OGD leading to a delay in diagnoses in respect of oesophageal cancer and the development of advanced esophageal cancer.
- A claim relating to the negligent treatment of left foot and leg pain with a non-healing foot ulcer, which led to the Claimant requiring a left above knee amputation.
- A claim arising out of the failure to recognise that the Claimant was suffering from infection following circumcision and bilateral vasectomy, leading to the Claimant developing Fournier's gangrene requiring repeated debridement and skin grafting. The claim was also advanced upon the basis of lack of informed consent.
- A claim arising out of the failure to obtain the Claimant's informed consent in respect of an open inguinal hernia repair. As a consequence, the Claimant developed ilioinguinal neuralgia, increased pain, discomfort and erectile dysfunction.
- A claim arising out of the delay in diagnosis of Claimant's aortic dissection. Breach of duty not in dispute, causation denied.
- A claim arising out of a failure to detect stones within the gallbladder and the common bile duct, causing the Claimant to suffer prolonged pain, vomiting and distress.
- A claim in the delay in diagnosis, management, and treatment of cervical cancer.
- A claim concerning whether the Claimant was properly consented in respect of splenectomy, in circumstances that the Claimant subsequently developed sepsis and an untimely death.
- A claim concerning failure to correctly diagnose the Claimant as suffering from Diffuse B-Cell Lymphoma leading to the development of advanced cancer.
- A claim concerning the failure to investigate and treat a lung lesion, resulting in a delay in diagnosis of the Claimant's lung cancer from which the Claimant subsequently died.
- A claim arising out of the failure to monitor the Claimant on admission in respect of hypoglycaemic episode leading to an overdose of insulin causing a further hypoglycaemic episode and seizure.
- A claim relating to the diagnosis and treatment of a sessile polyp following a sigmoidoscopy. As a result of the delay an abdominoperineal resection became necessary, and the Claimant lost a large part of his bowel.
- A claim in the delay in diagnosing and treating the Claimant's cauda equina syndrome.
- A claim arising out of the failure by an optometrist to investigate abnormality of vision following a sight test that would have revealed the presence of a partial detached retina. As a consequence, the Claimant subsequently suffered a detached retina.

Articles

Michelle Marnham and future 3PB Pupil Jeremy Warner analyse *MXV v A Secondary School* [2023] EWCA Civ 996, a case concerned with the grooming of a minor, in which the Court of Appeal clarified that work experience can be a relationship akin to employment for the purpose of vicarious liability. The Court confirmed the difficulty to satisfy the “close connection” test, which requires for the tort and the employment of the tortfeasor to be “inextricably woven”.

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[Michelle Marnham](#) considers the case *CNZ v Royal United Bath Hospitals NHS Foundation Trust*. A must-read case for those practising in clinical negligence and especially for those practising in birth injury cases. The case also provides useful guidance on material contribution and apportionment.

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[Michelle Marnham](#) analyses the case of *Barry v Ministry of Defence* [2023] EWHC 49 (KB) in which Judge Johnson handed down judgment in relation to former marine Mr Barry’s claim that the Ministry of Defence (MoD) caused his noise-induced hearing loss. It is the first time judicial guidance has been expressly given on the reduction factors (other than mortality) since the revised guidance in the 8th edition of the Ogden tables were published in July 2020.

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3PB's Michelle Marnham reviews the Eighth Edition of the Ogden Tables.

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3PB's Personal Injury team provides legal update on Disclosure, Fraud, Fundamental Dishonesty and Contempt Proceedings

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Michelle Marnham analyses the recent Supreme Court decision in *Knauer v Ministry of Defence*, [2016] UKSC 9

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3PB's Michelle Marnham considers the question of when a claim is brought for the purpose of limitation following on from the recent decision of *Dixon v Radley House Partnership*.

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Articles

[Michelle Marnham](#), 3PB's Head of Personal Injury and Clinical Negligence, alongside future 3PB pupil Jeremy Warner have written on the Supreme Court Judgement in *Paul v Royal Wolverhampton NHS Trust*.

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3PB's Head of Personal Injury and Clinical Negligence Michelle Marham, along with future 3PB pupil Jeremy Warner, has written about the recent case of *Bilal and Malik v St George's University Hospital NHS Trust*. Michelle and Jeremy explore the insight it provides into a post-*Montgomery* landscape and the clarification it offers on informed consent.

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Michelle Marnham analyses the case of *Jenkinson v Hertfordshire CC* [2023] EWHC 872 (KB), a case which presents us with an intriguing change in clinical negligence law, with Baker J challenging the long-standing notion of the ‘specific rule’ in medical negligence cases.

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