

Number 42

## Compensation for Psychiatric Errors – The Latest Cases

The compensation paid in psychiatric claims does often not receive wide publicity. However recent cases have provided guidance in this difficult area.

### Misdiagnosis of Schizophrenia

In the first case, the patient alleged misdiagnosis of depression and, as a result, the wrong treatment.<sup>1</sup>

The patient was treated for schizophrenia for 4 years and claimed she had suffered severe side effects from the drugs prescribed. She had been admitted to hospital seven times and given anti-psychotic medication. She had attempted suicide three times. Only after the patient was admitted for the seventh time and examined by a different psychiatrist was the diagnosis of depression rather than schizophrenia made, her medication changed and her condition improved.

The case was settled out of Court for £57,919.

### Mis-Diagnosis of Post-natal Depression

In the second case<sup>2</sup> the Claimant was involved in a road traffic accident. The Police were called and she was taken by ambulance to hospital where she was unable to communicate except to say “no.” She dropped her child and the staff interpreted this as aggression. The casualty officer on duty felt she was suffering from post-natal depression but did not carry out any neurological or physical examination.

A few days later the patient was admitted to a psychiatric hospital under Section 2 Mental Health Act. She was kept there for four and a half days before being transferred to another psychiatric hospital. At the second psychiatric hospital she was re-examined and diagnosed as having suffered a left middle cerebral artery stroke. She brought a claim against the original hospital for negligence.

Liability was admitted and the case was settled for £40,000.

### Over-prescription of Benzodiazepines<sup>3</sup>

The patient had a long history of addiction to Benzodiazepines. She had been prescribed a number of different Benzodiazepines over a period of 18 years during which time she had had a number of hospital admissions for drug and alcohol detoxification and episodes of self-harm. However, it was only after she had been taking them for a considerable time that attempts were made to reduce the amount of Benzodiazepines.

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<sup>1</sup> Sheldon -v- East Norfolk Health Authority

<sup>2</sup> Charley -v- Royal Surrey County Hospital and Heathlands NHS Trust

<sup>3</sup> Aplin -v- Dr Orpen & Partners

Later that year she was seen by a colleague of her GP who restarted her on Benzodiazepines. The dosage was subsequently significantly increased but was never reviewed. Five years later she was taking 175 tablets weekly each of Lorazepam 2.5 mgs and Diazepam 5 mgs.

The Claimant alleged that the level of medication prescribed was far too high leading to a severe deterioration in her quality of life. The long-term drug therapy had led to stomach problems and a swollen face. She suffered panic attacks, rebound insomnia and memory loss. It was alleged that properly managed she would have been weaned off the Benzodiazepines but now this was unlikely ever to be achievable. She had lost her job, found social interaction difficult and felt depressed.

The claim was initially defended on the basis that the patient's long history of drug and alcohol abuse and personality problems had not been exacerbated by the Benzodiazepines.

For personal reasons the claimant was at the time keen to settle and the claim was ultimately settled for £5,000 although the Claimant had contended for £17,500 plus loss of earnings and the cost of private detoxification treatment.

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For more information on Mental Health Law contact Andrew Parsons at RadcliffesLeBrasseur on 020 7227 7282, or email: [andrew.parsons@rlb-law.com](mailto:andrew.parsons@rlb-law.com).

Out of office emergency advice available 24hrs on 07802 506 306.

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