

## Martin Spencer QC

**Call year: 1979, Silk Year: 2003**

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Martin Spencer QC specialises in professional negligence (particularly clinical negligence and claims against solicitors), personal injury and disciplinary hearings, particularly in respect of nurses (in the NMC) and doctors (in the GMC). He has a long association with the Royal College of Nursing.



## Practice Profile

### Clinical Negligence

Martin has a wide and varied practice involving all aspects of clinical negligence including disciplinary matters. In 2000, he chaired a Disciplinary hearing on behalf of an NHS Trust into allegations of professional misconduct by a Consultant. He represents both Claimants and Defendants and has a particular interest in high quantum claims, where complex calculations are involved. He represented the Defendant in *Chester v Afshar* in the House of Lords, the Claimant in *Thompson v Bradford* in the Court of Appeal and the Defendant in *Iqbal v Whipp's Cross NHS Trust* in the Court of Appeal.

### Personal Injury

He has been instructed in personal injury claims since he started at the Bar, and in particular he has a close association with the Royal College of Nursing, representing their members over many years in back injury claims and disciplinary hearings before the NMC (formerly UKCC). He is also regularly instructed on behalf of Insurers, having a particular association with Norwich Union.

### Professional Negligence

Before their demise, he was on the SIF approved panel and was instructed on behalf of Solicitors in professional negligence claims. He has a particular interest in professional negligence claims arising out of failed litigation involving clinical negligence or personal injury, these being cases where he can combine his expertise and experience in both fields.

### Regulatory & Disciplinary

He has represented nurses in disciplinary hearings before the UKCC, and then the NMC, since about 1990 and he has appeared on behalf of doctors in the GMC. In 1993, he appeared in *Dennis v UKCC* [1993] 4 Med LR 252 which concerned the relevance of road traffic offences to a nurse's professional conduct and in 2003, he represented the Appellant before the Privy Council in *Gangar v The General Medical Council* (Privy Council Appeal no 15 of 2002). He successfully represented a doctor in challenging a decision of the GMC to proceed against a doctor in *Peacock v GMC* [2007] LS Law Med 284. He successfully challenged the Government by having the Care Standards Act declared incompatible with the European Convention on Human Rights on behalf of four Claimants (all members of the Royal College of Nursing) in the House of Lords in January 2009.

## Further Information

**Year of call:** 1979

**Year of silk:** 2003

**Specialist areas:** Clinical negligence, personal injury, professional negligence, regulatory and disciplinary.

**Education:** Hertford College, Oxford University: MA (jurisprudence) and Bachelor of Civil Law

**Appointments:** Recorder (2001)

## Recent cases

*Wright v Secretary of State for Health* [2009] 2 WLR 267. HL. Care Standards Act 2000 declared incompatible with the European Convention on Human Rights.

*Chester v Afshar* [2005] 1 AC 134. HL. Leading case on causation and the duty to warn in clinical negligence. His argument was described by Lord Steyn as follows: "This was a powerful argument and persuasively presented".

*Farley v Skinner* [2002] 2 AC 732 HL. Surveyor's negligence and the award of general damages.

*Thompson v Bradford* [2006] Lloyd's Rep Med 95. CA. Scope of the duty of care in claim for clinical negligence.

*Whipps Cross University Hospital NHS Trust v Iqbal* [2008] LS Law Med 22 CA. Recoverability of damages in the Lost years

*Kaberry v Freeth Cartwright and another* [2002] EWCA Civ 1272 (CA: Solicitors' negligence case arising out of lost chance to sue a GP for alleged negligent prescription of a Benzodiazepine drug. Martin Spencer QC represented the successful First Defendants, Freeth Cartwright)

*Forbes v Wandsworth Health Authority* [1997] QB 402 (CA: authority on actual and constructive knowledge in under section 14 of the Limitation Act 1980)

*Daniels v Walker* [2000] 1 WLR 1382 (CA: use of joint experts under the CPR)

*Swain v London Ambulance Service* (1999) EWCA Civ 966 (CA: pension loss calculations in personal injury)

*Dennis v UKCC* [1993] 4 Med LR 252 (Divisional Court: relevance of road traffic offences to professional conduct)

*R (Peacock) v General Medical Council* [2007] LS Law Med 284 Gibbs J in QBD Administrative Court: whether facts of allegation amounted to exceptional circumstances for purposes of General Medical Council (Fitness to Practice) Rules 2004

*Purver v Winchester and Eastleigh Healthcare NHS Trust* [2007] LS Law Med 193 QBD (David Foskett QC): Standard of care in trial of forceps - time taken to convert to Caesarean section

*Large v Waldron* [2008] EWHC 1937 QBD (Cox J): GP negligence arising out of failure to refer to hospital a child suffering from meningitis.

## Publications and lectures

### Publications

Kemp & Kemp (Editorial Board and chapter contributions)

McGregor on Damages 17th Edition: chapter on Damages under the Human Rights Act

Risk Management and Litigation in Obstetrics and Gynaecology (chapter contribution)

The Civil Procedure Rules in Action (2000): with Ian Grainger and Michael Feeley

The Danish Criminal Code (1999) with Gitte Hoyer and Vagn Greve

The Danish System of Criminal Justice with Vagn Greve and others

### Recent Lectures and Papers (since 2004)

Drafting Schedule of Loss for Withy King (solicitors) (2009)

Legal Update for Burnetts (solicitors) (2009)

Iqbal and Claims for Damages in the Lost Years (20008)

Consent: Where are we now? (2008)

Claims for Cerebral Palsy and Trial of Operative Delivery (2008)

Commentary on *Sarwar v Ali* (2007)

Human Rights Update: Actions and Remedies (2007)

Expert Immunity Following *Meadow* (2007)

Claims For The Cost Of Care: Local Authority Provision (2007)

Calculating Loss Of Earnings (2006)

Medico-Legal Aspects Of Delay In Breast Cancer Diagnosis (2006)

Causation in Personal Injury Claims (2006)

Legal Update for Professional Negligence Lawyers Association (2005)

Recent Developments in Limitation for Professional Negligence Lawyers Association (2005)

## What others say

"Researchers were overwhelmed with positive feedback for Martin Spencer QC. 'His technical skills are undoubtedly impressive and he maintains an accessibility and approachability that makes him a user-friendly silk for solicitors,' explained one satisfied lawyer. Spencer is consistently successful when handling high-value quantum cases and liability matters, and is endorsed as 'combining the gravitas required in the courtroom with the sensitivity that makes him popular with clients.'" *Chambers UK 2010*

"Martin Spencer QC is 'absolutely excellent'; Spencer appeared in the *Wright v Secretary of State for Health* - the care standards and human rights litigation." *Legal 500 2009*

"Martin Spencer QC is a 'fantastic leader' who 'combines a user-friendly, approachable manner with impressive technical abilities.'" *Chambers UK 2009*

"Martin Spencer QC is 'a tremendous asset to any team' and 'the sort of counsel you can really rely on' say solicitors. He is a recognised expert in spinal injury and brain damage cases, and as one interviewee confirmed 'there is no better person to have in a settlement meeting'." *Chambers UK 2008*

"Martin Spencer QC is praised for his 'tenacious approach' and providing a 'different perspective' to intricate cases." *Legal 500 2008*

"Among silks driving [Hailsham Chambers] forward is Martin Spencer QC who is 'really coming to the fore in clinical negligence,' and 'works hard to make life easy for the solicitors; a pleasure to deal with'." *The Legal 500 2007*

"He is credited as being 'robust in trial'." *Chambers UK 2007*

"With his 'talent for understanding the bigger picture' he remains a popular choice." *Chambers UK 2007*

"[His] attractively understated approach goes down well with peers, his 'calm' demeanour belying the fact that he is 'one of the bar's most formidable opponents'. Solicitors claimed 'he has a good feel for a case' and 'goes straight to the main issues'." *Chambers UK 2006*

## Personal info

Martin Spencer was educated at Ampleforth College and Oxford University. He also spent 1 year at the Institute of Criminal Science, University of Copenhagen. He is married, with 3 children, and has active interests in sport, music and bridge. He plays the cello in a small orchestra and sings with the St Albans Bach Choir and other local singing groups. He plays cricket for Monken Hadley Cricket Club and is a member of the Andrew Robson bridge club.

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