

Graeme Middleton

Year called: 2003
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Qualifications: LL.B (Hons) – University of Aberdeen (1992)
Dip.LP – University of Aberdeen (1993)



Practice

Graeme is experienced in a wide range of civil litigation. He came to the Bar as a respected solicitor having specialised for nine years in Personal Injury and Health and Safety litigation.

His principal fields of practice include:-

- Personal Injury
- Clinical and Professional Negligence
- Insurance Litigation
- Commercial and Contract Litigation
- Health and Safety and Road Traffic Prosecutions

Since calling, Graeme has developed a busy reparation practice, acting for both Pursuers and Defenders (including insurers and local authorities) in accident, property damage, industrial disease and professional negligence claims, including medical, dental, surveyor's, insurance and solicitor's negligence. Disease claims include asbestos lung disease, silicosis, industrial deafness, hand-arm vibration syndrome, plantar fasciitis, legionnaires disease, RADS and food and organo-phosphate poisoning.

Graeme also acts in health and safety and road traffic criminal prosecutions and is currently instructed in somewhat unusual claims for damages and for the owners of a tug boat that capsized with the loss of three lives, giving rise to personal injuries claims and the possibility of a criminal prosecution and/or fatal accident inquiry.

Representative cases

Reparation

Douglas Dickson v Stuart Kinsman & Centrica plc [2013] CSOH 111 - Graeme acted for a cyclist who had to carry out an emergency stop on the approach to a junction with a minor road, when it appeared to him that a works van driver had not seen him and was not going to stop at the give way lines. The Pursuer was successful because the manner in which the van was being driven reasonably caused him to believe that there would be a collision if he did not brake sharply. He was himself exculpated by operation of the "agony rule".

John Cowan v The Hopetoun House Preservation Trust [2013] CSOH 9; 2013 GWD 4-125 - successfully pursuing the claim of a visitor to a stately home, who was taking part in a night-time guided walk through the grounds, looking for bats and who fell over an unmarked, man-made aesthetic feature of the grounds – known as a “Ha Ha” – having been given insufficient instructions and directions by the Defenders’ Ranger for returning safely to the car park in the dark. The claim was made under the Occupiers’ Liability (Scotland) Act 1960.

Peter Brown v First Glasgow Ltd [2012] CSOH 192; 2013 GWD 2-83 - successfully pursuing the common law claim of a driver of a parked and stationary van, when a bus driver, who had negligently executed his manoeuvre away from a bus stop, crossed the centre line of the road and collided with the Pursuer’s van door. The case involved the detailed examination and cross of road traffic experts for both Parties.

William Reid v EWS Railways Ltd 2010 GWD 28-592; 2012 GWD 11-216 – defending a Proof and Appeals to both the Sheriff Principal and the Court of Session (where the Pursuer failed to beat a Tender), regarding “material contribution” to injury and the Manual Handling Operations Regulations 1992, in relation to what is believed to be the first reported case involving plantar fasciitis (a degenerate foot disorder) in Scotland.

Martin Brand v Transocean North Sea Ltd 2011 GWD 14-336 - successfully arguing for a lump sum “loss of employability” award instead of an Ogden “multiplier x multiplicand” award for future wage loss, the Pursuer having been injured offshore, but retained by the same employer in an onshore position with at least comparable, but probably better, earnings and promotion prospects.

Heather Hodgkinson v Renfrewshire Council [2011] CSOH 142 - successfully defending, after Proof, a claim brought under the Provision and Use of Work Equipment Regulations 1998 and the Workplace (Health, Safety and Welfare) Regulations 1992 by a local authority gardener, regarding the “suitability” of a park gate which struck her face when she opened it. The Pursuer failed to prove that the construction of the gate gave rise to more than a mere possibility of injury if opened carelessly.

David Patterson v Grattan plc 2011 SLT (Sh Ct) 2 - obtaining decree of absolvitor in a Sale of Goods Act case, on the basis

of the “best evidence” rule, the goods which had been purchased by mail order and which were said to have been defective, causing injury, having been disposed of due to the Pursuer’s fault.

Liam Blair v Axa Insurance UK Plc & Anor [2009] - successfully defending what is believed to be the first case in Scotland concerning the construction of a policy of travel insurance in the context of a claim by a paralysed Pursuer claiming policy benefits for a ‘permanent total disability’.

Paul McKnight v Corus Construction [2006] CSOH 116 - an industrial accident claim involving the application of the requirements of the Provision and Use of Work Equipment Regulations 1998, and a consideration of expert ergonomic and metallurgical evidence.

John Duff v East Dunbartonshire Council & Anor [2005] - a member of public fell down a steep slope into a ravine - duties of an occupier of land under Occupiers’ Liability (Scotland) Act 1960 - complex conveyancing and surveying issues relating to boundary dispute between the two Defenders. The case was eventually abandoned by the Pursuer’s executor after many years of litigation.

McWilliams v Caledonian Wild Foods Ltd 2004 SLT 1027 - a road traffic accident, where the Pursuer sustained a serious whiplash injury. The case also dealt with the wage loss claim where the Pursuer was in a partnership.

Regulatory and Road Traffic Crime

HMA v Abernethy Trust & Ors - not guilty plea accepted on behalf of outdoor activities instructor involved in a gorge-jumping activity in Dumfriesshire, when a 15-year old girl was killed.

HMA v Sanctuary Housing Association & Anor - a prosecution following the death of a resident in a quasi-care home, having been put into a scalding hot bath.

HMA v William Faulds (September 2012) – a successful submission of “no case to answer” on behalf of a bus driver, charged on Indictment with causing death by careless driving, who knocked down and killed a pedestrian when blinded by low sunlight.

Lectures and seminars

Part-time lecturer in Court of Session Procedure on the University of Glasgow Diploma in Legal Practice (2011-2012).