

Legal and Risk Services Personal Injury Department

Successful Defences &

Good Results



1 October 2018 to 31 March 2019

ANEURIN BEVAN UNIVERSITY HEALTH BOARD

1. No room for manoeuvre

The Claimant was in a crawl space between Departments in order to carry out inspections. As the Claimant was crawling through the crawl space he had to manoeuvre his body over a set of pipes that were about just off the ground. As the Claimant lifted his right leg over the pipes, at an awkward angle, his knee cap has dislocated. The crawl space was confined with very little room to manoeuvre. We denied based on the argument that the Claimant had a pre-existing knee problem and has accepted his assigned task in full awareness of the risks.

The Claimant then withdrew his claim.

Savings: £13,000 in costs and damages



2. Dynamic assessment



The Claimant was called to a violent patient incident. The patient was making threats and spitting. As the Claimant attempted to assist the patient he was assaulted. We denied liability on the grounds that a dynamic risk assessment was made and that the Claimant was fully trained to deal with violent situations.

The Claimant withdrew the claim.

Savings: £5,500 in costs and damages

3. Box clever

It was alleged that the Claimant's office did not have sufficient storage space and as a result it was cluttered. The Claimant tripped over due to boxes being stored in the work area and hit her left shin on the corner of a hard plastic box causing a laceration. Court proceedings were issued and we defended it on the grounds that the box was not a hazard and the Claimant was aware of its presence. Witness evidence suggested an alternative version of events, namely, that the Claimant's fall was caused by her tripping over her own handbag. The Trial was set for November 2018, but the Claimant discontinued her claim before this date.

Savings: £14,680 in costs and damages



4. Bananas aren't the only slippery food

The Claimant was proceeding in a ward area when her right foot came into contact with a sliced carrot which was on the floor causing her to fall. She landed heavily on her hands and knees sustaining injury as a result. The dinner trolley had recently been in the area but was gone by the time of the incident. The Claimant issued proceedings and then made an offer of £6,500. We made a counter offer of £4,500 which was accepted.

Savings: £2,000 in damages and the future expenses of the prolonging litigation.

5. Autumn Fall



The Claimant was walking along a pavement when he slipped on a build up of leaves which were slippery causing him to fall backwards and land heavily on his back and right shoulder. The Claimant wanted £4,500, but accepted our offer of £3000

Savings: £1,500

6. The art of negotiation

The Claimant went to assist an agency worker who was being attacked by a patient and as she entered the room the patient lashed out, hitting the Claimant on her left eye. We conceded liability to facilitate an out of court settlement. The Claimant wanted £7500 in settlement of her claim. We were able to negotiate a settlement of £5,000. The Claimant's Solicitor wanted £10,198.68 in settlement of their costs. We were able to negotiate a bill of £9,250.

Savings: £3,499

7. Heavy savings

The Claimant was tasked with scanning a bariatric patient without assistance. Whilst doing this, she suffered severe pain in right shoulder. She subsequently suffered chronic low back pain. The Claimant's injury and losses were estimated at £116,153.83. We were able to negotiate settlement for £40,000.

The Claimant's Solicitors wanted £54,347.80 for their bill. We were able to negotiate settlement of their bill for £51,000.

Savings: £79,500.80



8. Pop sensation!

The Claimant was bathing a patient with the assistance of a Bank Nurse. The Claimant went to pull the right hand cot side of the bed into place and felt a popping sensation in her right groin. We denied liability, placing the Claimant to strict proof that the Health Board had done anything wrong. The Claimant withdrew her claim.

Savings: £8,000 in costs and damages

9. Unpredictable action



The Claimant withdrew a needle from a patient and he moved suddenly which caused her to trip over his foot and in doing so she accidentally penetrated her left thumb with the needle. We denied liability on the grounds that the Health Board could not be held responsible for the unpredictable actions of the patient. The Claimant withdrew her claim.

Savings: £9544.55 in costs and damages

10. Time is up

The Claimant, a nurse, observed that a patient was starting to fall so she instinctively went to catch him and in doing so injured her back. The Claimant's actions were contrary to the Health Board's manual handling training. The Claimant failed to issue their claim in court within 3 years of the accident. The claim is now statute barred.



11. Claim binned



The Claimant was tasked with collecting recycling waste from external bin area of the hospital. The Claimant could not access the handles of the bin as located on the side so gripped the underside of the lid and pulled the bin with force. Due to inadequate grip on his gloves, his fingers lost contact with the bin and he fell backwards. The Claimant fell awkwardly and injured his left thumb. We disclosed all relevant documents to the Claimant's Solicitor and were subsequently informed that they were no longer instructed to pursue the claim.

12. Polished defence

The Claimant went to sit at a desk at the nurse's station. It is alleged that the chair suddenly shot out and moved causing the Claimant to fall and injure her right hand. It was alleged that the flooring, polished tiles, were not suitable. We denied liability arguing that there was no defect with the flooring. The Claimant withdrew her claim.

Savings: £35,000 in costs and damages

13. Shine a light



The Claimant tripped whilst descending stairs and fell landing heavily at the bottom on her right ankle. It was alleged that the lighting in the stairwell was dim meaning that the Claimant couldn't properly see the stairs. We denied liability arguing that there was nothing wrong with the lighting or the stairs. The account that the Claimant gave when she reported the accident differed from what she had put in her legal claim. The Claimant withdrew her claim.

Savings: £8,000 in costs and damages

14. A step away from court

The Claimant was descending from a 3 step ladder and as he was climbing down the ladder his right foot made contact with the floor and he slipped. It was alleged that the floor of the room he was in had just recently been cleaned and was wet and slippery. We denied liability on the grounds that the Claimant reported to his manager that he had missed a step on the ladder as opposed to slipping on a wet floor. We also had witness evidence to support the floor being dry and not scheduled for cleaning until after the Claimant had left the room.

The Claimant issued court proceedings but discontinued and withdrew his claim 3 days before the trial was to take place.

Savings: £21,777.85 in costs and damages



BETSI CADWALADR UNIVERSITY HEALTH BOARD

15. Different version of events

The Claimant was assisting with a patient who had a piece of plastic from a wall and began to strangle himself. It was alleged that the patient then punched the wall next to the Claimant's head causing him to lose hearing in his left ear. Liability was denied and the Claimant was put to strict proof as the DATIX for the incident did not corroborate with the Claimant's version of events. The denial was made on the basis that it was not foreseeable that a patient punching a wall next to the Claimant's head would cause any injury at all, let alone hearing loss and tinnitus. The Claimant withdrew his claim following our denial of liability.

16. Saving the reserves

Whilst walking into a hospital, the Claimant tripped on a large piece of plastic sheeting that was resting by a door in the corridor. Liability was admitted. The Claimant sustained a bruise/bump to the head which resolved in 1 week and a fracture to her elbow. The Claimant confirmed that she continues to have nuisance value symptoms nearly 1 year post accident. Our initial reserve for a permanent injury was £9,000. The Claimant made a Part 36 offer in the sum of £5,000. We made a counter offer in the sum of £4,000 which was accepted.

17. Where's the fire?



The Claimant went to assist a patient who was wandering toward the fire escape and attempting to exit the ward. As she attempted to steer him back towards the ward, he suddenly attacked her and landed a flurry of punches on her left arm, elbow and shoulder. Liability was denied on the basis that the incident was not foreseeable. The claim was withdrawn.

18. Re-deploy the truth

The Claimant was employed within the medical records department. As a result of the absence of a colleague, he was re-deployed to deliver medical records to various departments throughout the hospital. Whilst carrying out this task the Claimant alleged that he injured his back. There was no injury mentioned within the DATIX incident report form and the Claimant was put to strict proof in this regard. The Claimant withdrew his claim against the Health Board.



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19. Procedures in place

The Claimant was attacked by a violent patient, following a dispute with another patient. The patient in question ran toward the Claimant, looking to attack. The patient and a staff nurse restrained the patient using a restraint which the Claimant alleged required three members of staff to carry out.

Liability was denied on behalf of the Health Board for the following reasons:

- The patient records and meetings with the staff on the ward revealed that the patient had not exhibited behaviour that would not ordinarily be expected on the ward.
- There were no significant changes to the care given to the patient, nor to his risk assessments.
- The incident occurred on a specialist ward where staff members are trained to deal with difficult patients.
- The patient was regularly risk assessed and was well known on the ward. In addition to the risk assessments, regular reviews of his medication and treatment were undertaken.
- Staffing levels were appropriate. It is also common practice to ensure there are at least two male members of staff on the Ward at any given time; this was the case on the night in question.
- It is not uncommon for two members of staff to carry out the restraint. The third member of staff involved in this restraint would merely be present to hold the patient's head.

The Claimant subsequently withdrew their claim.

Savings: £11,000 in costs and damages.

20. Forget the year 2000...introducing the Plinth 2000

The Claimant, who was employed as a nurse, complained of a repetitive strain injury, which she alleges was sustained due to a lack of equipment. She alleged that a "Plinth 2000" would have enabled her to sit in a more comfortable position thus, protecting her spine when moving to reach the patient's lower limbs for treatment.

Liability was denied on behalf of the Health Board, for the following reasons:

- The Claimant's Line Manager and the Health and Safety Advisors noted that the "Plinth 2000" was not a standard piece of equipment and was being trialled. It would have been purchased on the condition that there was a particular clinical need; we were advised that no such need existed.

- The wards are equipped with beds which can be adjusted, to enable the patient to sit in an appropriate position and allow access for treatment. Further, a treatment couch was available for use.
- The Plinth 2000 would not have fitted in the building's lift and thus, the Claimant would have been unable to utilise it on the ward in any event.
- It was the Claimant who had chosen to treat large sections of patients requiring a specialist treatment. All staff within the department were capable of carrying out this treatment and there was an option to share the work out, to reduce the Claimant's workload.
- The Claimant had received the relevant training and was a manual handling link worker, which meant that she had training above and beyond that of an ordinary staff member. She was well placed to assess the manual handling risks in the tasks and make suitable adjustments.

The Claimant subsequently withdrew their claim.

Savings: £20,000 in costs and damages.

21. Case closed

The Claimant was punched in the face by a patient, whilst working at A&E.

It was alleged that there was some police involvement and consequently, a post-incident investigation was not completed. Following repeated chasers to the Claimant's Solicitor for the statement provided to the police, they confirmed their discontinuance.

Savings: £13,000 in costs and damages.



22. Out of character

The Claimant had taken blood from a patient following which; he punched the Claimant in the jaw.

Liability was denied on behalf of the Health Board, for the following reasons:

- The task the Claimant was carrying out had been risk assessed.
- The Claimant was accompanied by a Health Care Support Worker, at the time of the incident.
- The Claimant was fully trained, including having been trained in violence and aggression, over and above that which the role would ordinarily require.
- The Claimant had previously attended to the patient in question and had had no prior instances of violence. She reported to her manager that this was out of the ordinary for the patient.



The Claimant subsequently withdrew their claim.

Savings: £7,500 in costs and damages.

23. Twist and Shout

The Claimant, a Healthcare Support Worker, heard screaming and as he turned, twisted his right knee due to water on the floor. He fell, hitting a trolley.

Liability was denied on behalf of the Health Board as it was highly likely that the Claimant would have known the floor was being cleaned at the time of the incident. There were also three warning cones and the cleaning trolley in the vicinity to warn the Claimant as to the wet floor.



The Claimant subsequently withdrew their claim.

Savings: £13,000 in costs and damages

24. Appropriate placement

The Claimant had been assisting on the Intensive Care Unit when he was assaulted by a patient, who was allegedly known to be violent.

Liability was denied on behalf of the Health Board, for the following reasons:

- The Patient had been processed and it was established that unit was the only appropriate placement for him.
- The Unit is a low stimulus unit and thus, well equipped for patients who exhibit violent or aggressive behaviour.
- Following the prior instance of violent, the patient was sedated and his observation levels were appropriately increased. Extra staff members were rostered to ensure the patient was properly supervised.
- An emergency alarm was available and sounded at the time of the incident, to which staff quickly responded.
- The Claimant was a trained and experienced member of staff, well versed in handling patients with violent and aggressive tendencies.

The Claimant subsequently withdrew the claim.

Savings: £15,000 in costs and damages.

25. Raise the bar

The Claimant was admitted to hospital. It was alleged that during her stay, the night staff failed to raise the safety bars on the bed and the Claimant fell out of bed onto the floor.

Liability was denied on behalf of the Health Board, for the following reasons:

- The Claimant's contemporaneous account of the incident is that she attempted to get up to go to the bathroom when she knocked her water jug over; she slipped in the water and her legs gave way.
- The Claimant had not previously fallen out of bed and was mobilising independently at the time.
- Cot sides are used to prevent patients slipping, sliding or



rolling out of bed and not to reduce a patient's independence, which in this case they would have.

- The Claimant was provided with a zimmer frame and a call bell; she knew her limitations and had been advised to use the call bell if she felt she needed assistance.

The Claimant subsequently withdrew their claim.

Savings: £12,000 in costs and damages.

26. Hazardous waste



The Claimant was attempting to change a bin which had been overfilled with used nappies. It was alleged that as he attempted to empty the bin, he sustained an injury to his back and that there were no warning signs in place to indicate the hazard in question.

Liability was denied on behalf of the Health Board, for the following reasons:

- The Claimant, as per his training, was well aware that upon finding the heavy bag, he should have informed a supervisor and requested assistance.
- He should not have attempted to lift the bag alone.
- The Claimant assessed the bin, considered it to be too full, took pictures of the bin and proceeded to lift it regardless; contrary to his training, instruction and risk assessment.

The Claimant subsequently withdrew their claim.

Savings: £17,500 in costs and damages

27. Trip wire

The Claimant was tasked with moving a patient using a hoist. As the Claimant was doing so, a loose cable from the bed that was on the floor became stuck under the hoist. The Claimant pulled the hoist, to remove the cable, as a result the hoist moved forward and rolled over the Claimant's left foot. It was alleged that the cables should not have been on the floor, they should have been secured off the floor to ensure the risk of injury was minimised.



Liability was denied on behalf of the Health Board, for the following reasons:

- The Claimant should have stopped at the point at which she became aware of the obstruction and secured those wires with the bunny clip provided, and then adjusted the bed and hoist, as necessary.
- The Ward Sister advised that whenever this manoeuvre is undertaken, the wires can become loose and the bed should therefore be inspected prior to pulling the hoist into position; which in this instance, the Claimant failed to do.

The Claimant subsequently withdrew their claim.

Savings: £6,000 in costs and damages.

CWM TAF MORGANNWG UNIVERSITY HEALTH BOARD

28. “TIMBER!!”



The Claimant in this matter alleged that whilst moving timbers and stacking them upright with another member of staff, one piece of timber fell and struck the Claimant’s right thumb causing injury. The matter was denied by the Health Board on the grounds that this was not a task which was unusual for the Claimant, as he was a supervisor. The witness, who was assisting the Claimant, also confirmed that it was the Claimant who had stacked the timber and he was therefore responsible for them.

Based on this a denial was put forward, followed by a Defence when proceedings had been issued. The Health Board utilised Part 18 interrogative questions. Once the Claimant had responded to the questions, it was confirmed that the Claimant was withdrawing his claim.

29. Watch your step



This case concerned an allegedly cluttered storage room. On the day of the incident the Claimant was attempting to pick up an item which was on a pallet due for collection. The item was stuck fast, allegedly causing the Claimant to strain to pull the item. His left foot slipped from the pallet causing a fracture to his big toe. The matter was denied from the beginning as a site inspection was undertaken, which revealed a very tidy storage room which had an orderly system which allowed for the collection of equipment.

The Claimant was fully trained and up to date in Manual Handling and had stood on the pallet, which he had been specifically advised against. Due to the strong letter of denial, the Claimant then withdrew his claim.

30. You can run but you can’t hide

The Claimant in this matter suffered an injury when she slipped on a wet floor, in the female changing areas. Liability was conceded as there had been a wet floor and no visible warning sign inside the changing rooms. It was discovered following the submission of medical evidence, that the claimant had been involved in numerous running events following a search on facebook. These images were released to the Claimant and an internal fraud investigation commenced. During this period,



the Claimant's solicitors submitted significantly lower offers, which the Health Board rejected. Following the rejection of such offers, the Claimant eventually accepted the Health Board's lowest offer.

Savings: Damages £7500

31. Struck out



This matter was issued from the beginning by a litigant in person, who alleged that when his mother was admitted, the hospital failed to notify him. He alleged that this in turn led to a missing persons report, which resulted in the Claimant being subjected to accusations of harm to his mother and he was later arrested. The charges were dropped, however he issued proceedings claiming that the negligence on behalf of the Health Board had caused such false investigations of the Claimant. Following Counsel's advice, an application to strike out was filed at court on the grounds that there was no case to bring as there had been no negligence on behalf of the Health Board. The court agreed and the matter was successfully struck out.

HYWEL DDA UNIVERSITY HEALTH BOARD

32. Baggy trousers

The Claimant was a hotel services assistant and alleged that she had to move a bed in order to clean and as she was doing so, her trousers got caught and she fell sustaining injury. Interviewing witnesses and regularly liaising with the client meant that our investigations were thorough and important information was identified. We therefore maintained a strong denial throughout the case on the basis that the Claimant failed to corroborate the alleged incident, there were no faults identified with the bed or braking mechanism, and there have been no previous issues with the uniform and their fit. As a result, the claim was withdrawn.

Savings: Damages £10,000



SWANSEA BAY UNIVERSITY HEALTH BOARD

33. The importance of Part 18 requests for future information



The Claimant was assisting in theatre when a patient involved in a road traffic accident had been brought in for emergency surgery. The Claimant alleged that he had suffered psychiatric harm as a result of the emergency situation. The Claim was discontinued following a detailed Part 18 request by the Health Board. The Claimant's responses made it clear that he was unable to establish a cause of action.

34. Who's been sitting in my chair?

The Claimant was visiting a Hospital when she sat on a plastic chair in the A&E Department which collapsed underneath her. The Health Board confirmed that there was a sufficient retrospective system of inspection for the chairs in place. The claim was re-directed to the chairs manufacturer.



35. Quick reaction

The Claimant was a Nurse who was alerted to a nearby violent patient by her colleagues. She claimed that as a result of the alert she swung around quickly to face the patient which caused her an injury. Liability was denied on the basis that the Claimant had received the relevant training, there were risk assessments and care plans in place, the staffing levels were appropriate and the placement of the patient was appropriate. The claim was subsequently withdrawn.

36. Cut the power



The Claimant was present at a home visit by the Defendant to demonstrate how to use a hydraulic bath seat. The Claimant alleges that the Defendant's employee told her to lift the bath seat but had not turned off the power first, causing the Claimant's arm to become trapped. Liability was denied as the Defendant's employee disputed the Claimant's allegations and said that the Claimant attempted to lift the bath seat without any instruction from her. The claim was subsequently withdrawn.

37. Successful at Pre-Action Disclosure Application

The Claimant made a Pre-Action Disclosure Application for documents which were relevant in the case. The Defendant did not have any documentation in its possession other than which it had already disclosed. The Claimant proceeded with the application despite the fact that the Defendant made its position clear and no formal request had been set out by the Claimant previously. The Defendant argued the application on the basis that the Defendant's position had been clear from the start and that the Claimant's request was unnecessary and not proportionate. The Judge agreed with the Defendant and stated that the Claimant's request was too generic and irrelevant.

The Claimant's application was dismissed and the Claimant was ordered to pay the Health Board's costs.



VELINDRE UNIVERSITY NHS TRUST

38. Kerb your claim



The Claimant came into contact, with a raised kerb in the car park of the main entrance she fell heavily to her right hand side and sustained an injury to her shoulder. We denied liability on the grounds that the Claimant tripped over a kerb that was not a defective. The Claimant withdrew her claim.

39. Glass slipper

The Claimant was asked to clean up glass/blood after an incident with a patient earlier that day. When doing so, the Claimant allegedly slipped on the glass and landed on her hand sustaining injury. We denied liability on the grounds that the Claimant's account of the accident was inconsistent, un-witnessed and she had failed to report it during her shift. The Trust also argued that reasonable steps had been taken to clean the area before the Claimant attended the area. The Claimant issued proceedings and the value of the case was approximately £160,000. The Claimant discontinued her case less than 1 month before trial.





TOTAL SAVINGS

**MADE FOR YOU
BY THE
PERSONAL INJURY
DEPARTMENT**

1 October 2018 TO 31 March 2019



£1,395,415.13

