

APIL webinars

Dealing with psychosomatic, functional and medically unexplained symptoms in personal injury litigation

Thursday, 12 November 2020

10:00 - 11:00

Personal injury lawyers are often faced with clients who have symptoms that seem out of proportion to their original injury. Those treating them may be unable to explain their symptoms in terms of any structural damage to the body and may consider the condition to be “functional” or “psychosomatic”. In such cases it is often (and rather disparagingly) suggested that it is “all in their minds”. And yet their pain or disability can be just as great as somebody’s with a physically explained condition. So how do we ensure we do justice to their situation?

Such cases produce a unique set of challenges in personal injury litigation. Here we will attempt to unravel some of the complexities of these cases, and guide you through the common issues that arise.

- **Psychosomatic disorders** – What are these conditions? Are they “medically unexplained”? Does medical science know what is going on with such conditions?
- **Terminology** – “psychosomatic”, “psychogenic”, “somatisation”, “functional”, “dissociative”, “non-organic”...what do the doctors mean when they use such terms?
- **Diagnosis** – what are the key conditions and the signs and symptoms associated with them?
- **Causation** – Such cases often start with a minor incident which eventually leads life-changing consequences. Are there precipitating factors? Can you be predisposed to such conditions? How do the courts deal with issues of vulnerability?
- **Treatment** – how should such conditions be treated and when – during or after the litigation? Do care and equipment help or hinder recovery?
- **Prognosis** – How do you deal with a range of possible outcomes?
- **Exaggeration and dishonesty** - Exaggeration v. emphasis? Variability v. inconsistency? Can you distinguish between the dishonest and those displaying the characteristic symptoms or such disorders?
- **Experts** – which disciplines should you instruct?



Richard Geraghty is a partner with Irwin Mitchell where he specialises in catastrophic injury cases.

He heads the Serious Injury team in Irwin Mitchell’s London office, which consists of over 40 lawyers dealing with complex and high value personal injury cases including both national and international litigation.

He is also the national lead partner for training and education for the complex personal injury department.

He is on the editorial board for the Journal of Personal Injury Law.

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