



Neutral Citation Number: [2021] EWHC 180 (QB)

Case No: QB-2019-003167

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**

Royal Courts of Justice  
Strand, London, WC2A 2LL  
Date: 03.02.21

**Before :**  
**MR JUSTICE FORDHAM**

**Between :**

<b>RPY,</b>	<b><u>Claimant</u></b>
<b>XFL,</b>	
<b>QZT</b>	
<b>- and -</b>	
<b>BARNET, ENFIELD AND HARINGEY MENTAL</b>	<b><u>Defendant</u></b>
<b>HEALTH NHS TRUST</b>	

**Matthew Brunning** (instructed by Bolt Burdon Kemp) for the **claimant**  
**Richard Furniss** (instructed by Bevan Brittan) for the **defendant**

Hearing date: 03.02.21

Judgment as delivered in open court at the hearing

## **Approved Judgment**

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

A handwritten signature in black ink, appearing to read 'Michael Fordham'.

THE HON. MR JUSTICE FORDHAM

Note: This judgment was produced for the parties, approved by the Judge, after using voice-recognition software during an ex tempore judgment in a Coronavirus remote hearing.

**MR JUSTICE FORDHAM :**

1. The purpose of today’s hearing is for me to consider whether the proposed settlement of the damages claim in this case is in the best interests of the Second and Third Claimants as Protected Parties: they are now aged 8 and 5 and I will call them “the Children”. These proceedings are a clinical negligence claim which relates to the standard of mental health care provided by the Defendant Trust in 2016 to the Children’s Father in the period just before he took his own life. The First Claimant – who I will call “the Mother” – brought these proceedings on behalf of the estate under the Law Reform (Miscellaneous Provisions) Act 1934 and the dependents (the Children and herself) under the Fatal Accidents Act 1976. I am using these terms – “the Children”, “the Father” and “the Mother” – in dealing with this child-focused approval application, in circumstances where an anonymity order was made in September 2019 and continues to have effect.
2. An order in November 2019 entered judgment on liability, the Defendant having made admissions. An order in 2020 recorded the terms on which the parties had settled the Mother’s ‘secondary victim’ claim, arising out of the circumstances of her husband’s death which she witnessed. At the relevant time in 2016, the family were living together in London. Following invasive dental treatment, the Father suffered from escalating pain and psychiatric symptoms. His condition deteriorated in the four days before his death. The Defendant admitted that but for their negligence, the Father would not have taken his own life. Over the four days before that happened, the Defendant accepts that there was no effective crisis intervention and that: an escalation of distress was not fully recognised; the treatment plan was vague and unacceptable; there was a failure to share information effectively; and there was no input from a psychiatrist.
3. The Father was a self-employed entrepreneur who had been proactive in researching new ventures before founding his own design consultancy company. He directed projects and worked with freelance developers and was working on apps that he had created. The Claimants’ position in the proceedings is that had the Father received appropriate psychiatric care it is likely that he would have fully recovered, after which he would have been able to return to work and to a normal family life: he may have suffered one or two further psychological episodes in his lifetime, but these would have been amenable to treatment, just as the episode in 2016 should have been.
4. There has not been a trial on any contested issues relating to quantum of recoverable damages. A proposed settlement was reached at a mediation last month. What is proposed is that there will be a lump sum award of £1,250,000 in full and final settlement of all outstanding claims, of which £50,000 will be apportioned and paid into the court funds office for the benefit of the child dependents – that is £25,000 for each of the Children – in the special investment account until they attain majority.
5. I have had the benefit of reading a thorough and clear Advice by Matthew Brunning of Counsel which sets out the reasons why the Claimants’ legal team consider that a settlement in this form, in these figures, and with this apportionment is in the Children’s best interests. I need say no more than that, having considered it carefully, together with the other papers in the case to which I have been referred, I agree that is a sensible settlement, and a fair and appropriate apportionment, in the circumstances, from the Children’s point of view. I am, therefore, happy to give my approval to the settlement and an order in the form proposed can be made.

6. Mr Furniss on behalf of the Defendant has rightly stated in Court today that his clients have given an apology and will be communicating in a letter to the Claimants the lessons that have been learned as a result of this case. Mr Brunning on behalf of the Claimants has rightly emphasised today that the Claimants, for their part, wished him to say that the litigation and the mediation were conducted in a spirit, with a speed and with a sensitivity that has been appreciated. As the approval judge I come to glimpse, through a bundle of papers, the lives of those affected by this case, what they have gone through and who they have lost. I want to say this to you about what I can see. Your husband, and your dad, was someone who worked hard on his business. He was talented, thorough and quick, with a great eye for detail. He was always coming up with new and innovative ideas. His designs and industry know-how were exceptional and he was a good friend and business colleague. He worked from home and would fit his work around you – his wife and children – because he loved spending time with you. Family was his main priority, and that is what motivated him to be a really good, hands-on, father.
7. So, I approve the settlement and make the Order in the terms discussed with both Counsel.

3.2.21