

PENNY JOHNSON V LE ROUX FOURIE

On Monday 23 May 2011, Mr Justice Owen gave judgment in a clinical negligence action brought by businesswoman, Penny Johnson, against consultant plastic surgeon, Mr Le Roux Fourie, for £6,190,840. Mrs Johnson was represented by Lawrence West QC of Henderson Chambers and Michael Mylonas, instructed by Colum Smith of McMillan Williams.

BACKGROUND

In August 2003, Mrs Johnson had consulted Mr Fourie about minor surgery to her nose and dark circles under her eyes. Mr Fourie advised Mrs Johnson that she ought to undergo more radical surgery involving a MACS facelift and replacement of breast implants. Following the surgery, she was left with a permanent facial twitch as a result of nerve damage and a painful deformity to her left breast.

***Mrs Johnson was represented
by Lawrence West QC of
Henderson Chambers***

CLAIM

Mrs Johnson alleged that the Defendant had exceeded her instructions in carrying out experimental surgery involving the cutting of major facial muscles. As a result of the facial twitch and deformity caused by the surgery, Mrs Johnson claimed that she was no longer able to run her business, a previously successful financial and IT consultancy, and that the effects of the surgery had had a devastating effect on her family and social life. Mrs Johnson sought damages for her past and future loss of earnings and for her pain, suffering and loss of amenity.

The Defendant strenuously denied liability until the eve of trial in 2009 when an admission of liability was made. However, the Defendant continued to deny that the surgery had been experimental and challenged the heads of damages sought throughout the week-long trial of quantum.

THE DECISION

The Court accepted the Claimant's case as to the impact that the effects of the surgery had on her life. In his Judgment, Owen J

stated that Mrs Johnson was a “completely different person” following the surgery. Further, he accepted Mr West QC’s contention that the facial twitch had made it impossible for Mrs Johnson to carry out the high profile face-to-face meetings upon which her business depended. The Judge held that these injuries had a devastating effect on her and led directly to the failure of her business. Mrs Johnson was awarded £6,190,884 in damages.

COMMENT

Mrs Johnson was awarded £6,190,884 in damages.

Following the admission of liability, the Claimant’s case was focused upon demonstrating the extent of the effects that her injuries had upon her personal and professional life. The case was therefore marked by the careful development and deployment of medical evidence in this regard. Further, the Claimant’s case relied upon evidence from high-powered businessmen both in England and abroad testifying to Mrs Johnson’s pre-surgery business acumen and her contrasting performance after the failed surgery in order to substantiate her damages claims. The majority of the award of damages represented her loss of earnings, both past and future.

Abigail Cohen (Barrister at Henderson Chambers)

Lawrence West QC of Henderson Chambers represented Mrs Johnson, instructed by Colum Smith of McMillan Williams.

Henderson Chambers
2 Harcourt Buildings, Temple
London EC4Y 9DB

T 020 7583 9020 **F** 020 7583 2686
E clerks@hendersonchambers.co.uk
DX 1039 Chancery Lane

www.hendersonchambers.co.uk