



### Year of Call

1999

### Devil Masters

Rory Anderson QC

Miss ME Scott QC (now Lady Scott)



## Practice Profile

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Neil has specialised in the areas of professional negligence and industrial disease, and is predominantly instructed as junior counsel in complex, high value medical negligence actions. He acts for both pursuers and defenders across a range of subject matter that includes neurosurgery, general surgery, obstetrics and orthopaedics. Neil also deals with a large volume of other reparation claims. He is regularly instructed in industrial disease actions, in particular concerning asbestos. His experience of solicitor's negligence cases is extensive. In medical negligence and industrial disease actions, Neil must often deal with complex and difficult issues of causation. Neil regularly appears in Court in various different forums, with extensive experience of the Outer and Inner Houses of the Court of Session and a recent appearance in the UK Supreme Court.

Neil is a CEDR-accredited mediator. He was invited to join and contribute to the Faculty's sub-committee considering the Scottish Government's proposal for no-fault compensation for medical injury.

Neil was invited to visit Malawi in December 2012, along with David Young QC, to assess the need for and possibility of advocacy training as part of a Scottish Government-funded aid programme. Following his visit, Neil gave evidence to the Cross-party Group on Malawi at the Scottish Parliament on 5 June 2013.

Neil visited Kenya in March 2015, where he assisted with the training of Prosecutors through the International Justice Mission.

Neil is currently the Faculty's Director of Training & Education.

## Education & Professional Career to Date

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Traineeship (assigned), More & Co, (1998)

Trainee Solicitor, Morton Fraser (1996-98)

LLB (Hons), 2:1; Diploma in Legal Practice

## Appointments

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- Director of Training and Education, Faculty of Advocates (2017–present)
- Ad Hoc Advocate Depute (2017–present)

## Selected Cases

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- **Robert Prescott v The University of St Andrews [2016] CSOH 3**  
Mesothelioma case.
- **Ferguson v J&A Lawson (Joiners) Ltd [2014] CSIH 82**  
Mesothelioma case. The pursuers sought equitable relief under s19A of the Prescription and Limitation (Scotland) Act 1973, which Lord Uist granted. The defenders reclaimed. The Lord Ordinary's decision was challenged on the basis that he was plainly wrong and erred in law in his treatment of the insurance situation, the speculative nature of the pursuers' funding and whether or not the defenders' insurer had enjoyed a windfall. The Inner House refused the reclaiming motion.
- **Coyle v Lanarkshire Health Board [2014] CSIH 78**  
This was a high value medical negligence case involving a child brain damaged at birth. The case was fought on liability and causation. Damages were agreed by a lump sum and Periodic Payment Order. The Lord Ordinary found against the defenders on a very narrow factual basis. The reclaiming motion involved a detailed forensic analysis of the evidence in order to determine whether the Lord Ordinary was plainly wrong
- **Montgomery v Lanarkshire Health Board (UKSC 2013/0136)**  
Supreme Court, with Rory Anderson QC. Whether a consultant obstetrician and gynaecologist was negligent in her management of the appellant's pregnancy and labour and, if so, whether this was causative of the child's brain injury. The mother of a child born with cerebral palsy sued a health board alleging that her treating consultant ought to have warned her of risks of mechanical problems occurring during labour. The decision formulates the duty on a doctor to warn patients about the risks of procedures and their alternatives, disapproving the previous statement of the law in this area. It is likely to have enormous significance throughout the healthcare professions.
- **Annabelle Bell v Alliance Medical Ltd and another [2015] CSOH 34**  
Proof, acting as Junior alone, for the pursuer in a medical negligence action against a private healthcare provider who conducted an MRI scan. There was an admitted puncture of her brachial artery during an attempted venous cannulation. The central allegation was whether there were visible signs of an arterial puncture.
- **Glancy v Southern General Hospital NHS Trust [2013] CSOH 35**  
Proof for pursuer in medical negligence action.
- **Henderson & Anr v Burntisland Shipbuilding Co Ltd & Anr**  
Acted as Junior alone for the Defenders in this mesothelioma jury trial, against Senior and Junior Counsel for the Pursuer before Lord Bannatyne. The main issue was whether the stepdaughters of the daughter of the deceased were accepted as his granddaughters. The unanimous verdict was that they were not accepted as the deceased's grandchildren. Accordingly, no damages were

payable by the defenders to the pursuers. Verdict reached 26 June 2014.

- **Montgomery v Lanarkshire Health Board [2013] CSIH 3**  
High value medical negligence case, which is presently being appealed to the Supreme Court. The issue to be decided by the Supreme Court is, principally, about a doctor's duty to warn of significant risks and whether the law in this area should be changed.
- **Hannigan v Lanarkshire Acute Hospitals NHS Trust [2012] CSOH 152**  
Decided medical negligence case
- **McLean v William Denny & Bros Ltd [2004] SC 656**  
Reported industrial disease case
- **Stewart v Trafalgar House Steamship Co Ltd 2013 S.L.T. 834**  
Another mesothelioma case, which went to debate on a question of Private International Law. The issue was whether a non-existent party could be an "anchor defender", allowing the case to proceed in the Scottish Courts when there was no other factor in favour of finding jurisdiction here.
- **Murray's Executrix v Greenock Dockyard Co Ltd [2004] SLT 1104**  
Reported industrial disease case
- **Cruickshank v Fairfield Rowan Ltd [2005] SLT 462**  
Reported industrial disease case
- **Crossett and others v Upper Clyde Shipbuilders [2008] Rep LR 126**  
Reported industrial disease case

## Areas of Practice

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- Clinical and Professional Negligence
- Personal Injury
- Public and Fatal Accident Inquiries

## Directories

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Chambers and Partners 2019 Bar Guide: Band 1 for Personal Injury and Band 2 for Clinical Negligence

"Extremely thorough, very bright, always very well prepared and always willing to run an argument. He's one of the brightest juniors at the Scottish Bar."

"An excellent advocate who can cut through vast amounts of complex material to get to the right answer. He is excellent on his feet and a real expert in complex causation questions."

Recommended in The Legal 500 in 2015, 2016 & 2017

## Additional Information

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CEDR-accredited mediator (2008-present)

Talks given to devilling advocates on a wide variety of subjects as part of the Faculty of Advocates Foundation and April Skills Courses (2003-present)

Trained as an instructor by the Faculty of Advocates Training & Education department (May 2007);  
regularly participates in the training of devils  
Presentation concerning aspects of asbestos claims given at a symposium on respiratory medicine  
organised by the Royal College of Physicians, Edinburgh (2008)