

Amber Galbraith

Year called: 2005
Email: amber.galbraith@compasschambers.com
Qualifications: LLB (Hons) 2:1 *Edinburgh University 1995*
Diploma in Legal Practice *Edinburgh University 1996*
Diploma Forensic Medicine *Glasgow University 2001*
Languages: French



LEADING BARRISTER



Practice

Amber qualified as a solicitor in 1996 and called to the Bar in June 2005. Her principal fields of practice include personal injury, clinical and professional negligence, fatal accident inquiries, public inquiries and health and safety litigation. She has been instructed in a wide range of litigation for both pursuer and defender and has presented cases in the Outer House and Inner House of the Court of Session, the High Court of Justiciary, Court of Appeal, the All Scotland Personal Injury Court and other Sheriff Courts, the Criminal Injuries Compensation First-Tier Tribunal and the First-Tier Tribunal (Immigration and Asylum Chamber). She has been involved in litigation involving public bodies, Government Departments, Health Boards, Local Authorities and large insurance companies. She has considerable experience in large-scale litigation, including public inquiries and catastrophic injury cases.

Memberships

Representative of the Junior Bar on the Civil Justice Committee, Personal Injury Sub-Committee

Representative of the Junior Bar on the Personal Injury User Group, chaired by Lord Armstrong

Chair of the Compulsory Disease Pre-action Protocol Reference Group

Appointments

Junior Junior Counsel to the Office of the Advocate General [August 2016 to December 2017]

Training

Lead Tutor on Personal Injury Elective for the Diploma in Legal Practice, Edinburgh University

Trainer for the Faculty of Advocates Devils course

Amber speaks regularly at training events organised by Faculty, Compass Chambers and outside organisations

Representative reported cases

Heather Bruce & Others v Tayside Health Board [2017] CSOH 123

Amber represented the family of a man who died, as a result of profound fluid loss, in Ninewells Hospital. Liability was admitted for a failure to timeously administer fluids and treatment for hyperkalaemia, and the proof was ultimately limited to the issue of causation.

<https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2017csoh123.pdf?sfvrsn=0>

Sharon Gilmour v Linea Directa Aseguradora SA Compaia Se Seguros Y Reaseguros [2017] SC EDIN 81

Amber represented the defenders in a proof on liability, in respect of a road traffic accident in Tenerife. The evidence and legal argument involved issues of private international law, and required evidence to be lead in Spanish, with interpreters and via video link.

<https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2017scedin81.pdf?sfvrsn=0>

Alan Cairns v Dundee City Council [2017] CSOH 86

Amber represented the pursuer as Junior Counsel in a proof on liability. The case related to a slip on ice in a public car park. Parties were able to considerably focus the issues in the case, such that the evidence was heard within two days and an *ex tempore* decision was given.

<https://www.scotcourts.gov.uk/search-judgments/judgment?id=b78336a7-8980-69d2-b500-ff0000d74aa7>

Thomas Sheridan v Newsgroup Newspapers Limited [2016] CSIH 67

Amber represented the pursuer as Junior Counsel in the Inner House, in relation to the defenders' application to refer the case to the Supreme Court. The initial application was refused, *ex tempore*, and Amber thereafter drafted the opposition to their application direct to the Supreme Court, which was also refused.

Lynda Brabender, representing Kaiden Ward v Fife Health Board [2016] CSOH 168

Amber represented the defenders in a four-week medical negligence proof during June 2016. The case was brought by the representative of a young child, who lost both eyes due a tumour which developed during his first year. The pursuer's case was that the family's health visitor was negligent in her care, and failed to refer the child for medical assistance.

<https://www.scotcourts.gov.uk/search-judgments/judgment?id=731225a7-8980-69d2-b500-ff0000d74aa7>

Adam Wagner v Thomas Grant and Arla Foods UK Plc [2016] CSIH 34

Amber again represented the defenders in this case, which was an appeal by the defenders in relation to the finding of primary liability the Lord Ordinary (see below). After a two day hearing, the Inner House upheld the decision on liability, but substituted a finding of contributory negligence of 60%.

<https://www.scotcourts.gov.uk/search-judgments/judgment?id=474814a7-8980-69d2-b500-ff0000d74aa7>

James & Julia McAllister and Henry & Christine McKenna v Robert & Maureen O'Hare, Airdrie Sheriff Court, 1st March 2016

Amber represented the defenders in a proof on liability, which related to the contamination of land by a spillage of oil. The case is presently proceeding to a proof on quantum.

Adam Wagner v Thomas Grant and Arla Foods UK Plc [2015] CSOH 51

This case proceeded to proof on issues of liability and appropriate prosthetic costs. Amber was junior counsel for the defenders. The pursuer lost his leg in a road traffic accident in 2009, when his motorcycle struck a lorry that was reversing into a farm, during the hours of darkness. After proof, the Lord Ordinary found the defenders to have been at fault, with a finding of 40% contributory negligence by the pursuer. The Lord Ordinary accepted the defenders' position in relation to prosthetic costs.

<https://www.scotcourts.gov.uk/search-judgments/judgment?id=4d02d5a6-8980-69d2-b500-ff0000d74aa7>

Elizabeth Gilchrist v Asda Stores Ltd [2015] CSOH 77

Amber represented the pursuer in a proof on liability, which was the first case to consider the impact of the Enterprise and Regulatory Reform Act 2013 on the application of 'six pack' regulations in relation to an accident at work. This case is thus far the only one to give judicial consideration to ERRA, and is regularly referenced in practice.

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=39d7dca6-8980-69d2-b500-ff0000d74aa7>

Lois Pack or Clark v West Dunbartonshire Council, Sheriff Peter Grant-Hutchison, May 2013, unreported

Amber represented the defenders in a preliminary proof on time-bar.

Anne Mackinnon v Thomas Hadfield t/a Ben Nevis Inn [2014] CSOH 15

Amber represented the pursuer in a proof restricted to quantum, which was held over six days. The pursuer suffered a serious injury to her back when she fell down stairs at work. There was conflicting medical evidence, however the pursuer was awarded £89,302 after proof.

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=a4a386a6-8980-69d2-b500-ff0000d74aa7>

James Farmer v FTV Proclad (UK) Limited [CSOH] 2013 165

Amber represented the pursuer in this case, which proceeded to proof before Lord Kinclaven in February 2013. Quantum was agreed at £22,000, and proof focused on liability. The pursuer slipped on a grassy bank while at work, and his claim was based on both common law and the Workplace Regulations 1992. The pursuer succeeded in the case, with only one third reduced in respect of contributory negligence.

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=c1b68aa6-8980-69d2-b500-ff0000d74aa7>

John Cowan v The Hopetoun House Preservation Trust & others [2013] CSOH 9

Amber appeared on behalf of the defenders in a proof on liability. The pursuer fell off a 'ha ha' wall, which the defenders contended was an obvious hazard, and they had taken all reasonable steps to ensure his safety at the premises.

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=1f7c86a6-8980-69d2-b500-ff0000d74aa7>

Alan Massie v Callum McCaig & SNP [2013] CSIH 14

Defamation action, where Amber represented the pursuer along with senior counsel. An interim interdict was obtained in December 2012 to prevent the publication of alleged defamatory comments by a local councillor and the SNP. Interdict was granted, but the decision was appealed and called for an early hearing in January. Unusually, there were 4 speeches in the case.

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=589a86a6-8980-69d2-b500-ff0000d74aa7>

Fiona Dickie v Mohammadreza Khandani [2012] CSOH

Amber represented the pursuer in a proof on quantum, where the pursuer stated she had continuing back problems that restricted her ability to wear high heels and so had an impact on her modelling career. Pursuer's medical evidence was preferred to that of the defender, and damages of £18,281 awarded. An important aspect of the decision related to the Court's observations on the expert evidence of the defenders' expert.

<http://www.scotcourts.gov.uk/opinions/2012CSOH122.html>

Zanna Marczenko v Freshlink Foods, Lady Clark of Calton, unreported. 2012

Amber represented the pursuer in a proof on liability, relating to an accident in the workplace. The pursuer had tripped over a loose wire in a food factory. Lady Clark delivered an *ex tempore* judgement, and found in favour of the pursuer.

Ann Moulds v Alexander Reid [2011] CSOH 13

Instructed as junior counsel for the pursuer in the first civil case for reparation arising from stalking, which was raised under

the Protection from Harassment Act 1997. The defender had plead guilty to criminal charges arising from his course of conduct towards the pursuer during 2006, however defended the civil action. The case proceeded to a preliminary proof on time-bar, and the pursuer was successful.

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=77b786a6-8980-69d2-b500-ff0000d74aa7>

Melissa Bruce v Alistair Brown and others [2011] CSOH 165

Instructed by the first defenders, who moved for a debate on the basis of a failure to plead a relevant case against the first defender.

<http://www.scotcourts.gov.uk/opinions/2011CSOH165.html>

David Brown v Scottish Water Dunfermline Sheriff Court, 27th January 2011, unreported

Instructed by the pursuer was injured in a road traffic accident on 18th July 2005. He was knocked from his bicycle, and sustained injuries to his neck, right shoulder, hip, knee and cuts and bruises. Liability was admitted, and the proof was restricted to quantum. The award of damages was £28,005.

Melanie Logan v William Logan and GHI Insurance Services UK Limited [2010] CSOH 123

Instructed by the pursuer in relation to injuries sustained in road traffic accident. Award of damages after proof: £65,848. The defender reclaimed and the reclaiming motion was heard by the first Division on 21st December, and was refused.

<http://www.scotcourts.gov.uk/opinions/2010CSOH123.html>

James Robertson v BAE Systems Marine Limited, Lord Bannatyne, unreported. 2010

Instructed by the pursuer. Case proceeded to proof on contributory negligence and quantum in the Court of Session on 28th September 2010, with ex tempore judgment given on 6th October 2010. The award of damages was £15,231.

Roslyn Mykoliw and others v Arthur Botterill & another [2010] CSOH 84

Amber was instructed by the defenders in a procedure roll debate in relation to the application of the Damages (Scotland) Act 1976 to 'step' relations.

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=6b8c86a6-8980-69d2-b500-ff0000d74aa7>

Thomas Turnbull v MNT Transport and another [2010] CSOH 163

Instructed as junior counsel for the first third party. The pursuer rode his bicycle into a trailer that had been parked in his street, causing a violent collision. The defenders were the HGV driver and his employers. They brought in two insurance companies as third parties, as road traffic and public liability insurers. This was a preliminary proof relating to the terms of insurance policies - the dispute being as to the appropriate interpretation. Lord Emslie held that both policies were engaged.

<http://www.scotcourts.gov.uk/opinions/2010CSOH163.html>

James MacDonald v Wood Group Engineering (North Sea) Limited [2010] CSOH 165

Instructed by the defenders in case involving accident at work on an oil rig. Both liability and quantum in dispute.

<http://www.scotcourts.gov.uk/search-judgments/judgment?id=43b686a6-8980-69d2-b500-ff0000d74aa7>

HMA v Mitie Engineering Services (Scotland) Limited and others, October 2008

Instructed by managing director of company in relation to a fatal accident at work. The case against him was withdrawn after a successful 'no case to answer' submission.

Public Inquiries

- Billy Wright Inquiry - instructed by the Northern Ireland Office from 2006 to 2008.

Amber carried out research, precognition, drafting and investigation work, working closely with Lead Counsel. The Inquiry had to consider a wide range of issues and the investigation was sub-divided into distinct chapters: Amber was involved with the chapters relating to intelligence and political issues. She attained 'Direct Vetting' status to allow her to consider the necessary documentation, and in the course of the investigation met with individuals from the Security Services, Army, PSNI and the Northern Ireland Prison Service.

- The Fingerprint Inquiry – instructed by core participants Iain and Shirley McKie and David Asbury.

Amber was mainly involved during the hearing and submission stage. She carried out extensive research and investigation work, including travelling to Amsterdam to consult with an expert witness. Amber took evidence from a number of witnesses, drafted lines of inquiry for each witness, which were submitted to Lead Counsel to the Inquiry and drafted submissions.

- Fatal Accident Inquiry in relation to the death of Mildred Rosenshine – instructed by Central Legal Office, on behalf of Greater Glasgow Health Board.

<http://www.scotcourts.gov.uk/opinions/2010FAI31.html>

Crown Office and Procurator Fiscal Service 1998 - 2004

Amber has fulfilled three distinct roles for the service:

- Fiscal, Glasgow office

Amber prepared and prosecuted cases heard in the District, Sheriff and Sheriff and Jury Courts. She gained considerable court experience during this time. Cases included child abuse, serious assault and many drugs type offences. She precognosed and indicted a large number of High Court cases, including murder, rape and death by dangerous driving.

- Lockerbie/ Pan Am 103 investigation team member

Amber was invited to join this team of experienced prosecutors to complete the investigations and prepare the case against the two accused Libyans. She was responsible for the preparation of material from Germany, working with the German Police and other agencies.

- Policy

In December 2001 Amber joined policy group as a developmental depute and represented the department on policy matters relating to death and mental health, liaising with the law officers and lawyers from the Scottish Government. In November 2003 she represented Scotland at seminar in Geneva on mutual legal assistance between the Swiss Government and the UK. In February 2003 she was promoted to the grade of Principal Depute and headed up the operational policy team within Policy Group. While she was responsible for the management of the team, she was also

closely involved in the development of policy in areas such as health and safety, road traffic, fatal accidents, corporate killing, misuse of drugs and the environment. Amber also played an important part of the implementation of the “Bonomy” proposals regarding High Court reform, and liaised closely with the Scottish Government and partner agencies in the drafting of the legislation. As a result of her work at Policy Group, Amber has an extensive knowledge of the workings of both the Scottish and Westminster administrations, and also is experienced in conducting high level negotiations.

Dundas and Wilson CS 1996 - 1998

Amber worked in both the Glasgow and Edinburgh offices during her traineeship. During this time she worked in four departments:

- Commercial Property
- Corporate
- Property Litigation
- Insurance Litigation