

Elaine Smith

Year called: 2022
Email: elaine.smith@compasschambers.com
Qualifications: Bachelor of Law (Hons) - University of Glasgow - 2007/2008
Diploma in Legal Practice - Glasgow Graduate School of Law - 2008/2009



Profile

Elaine has a busy and varied practice covering reparation, regulatory crime (including health and safety prosecutions) and inquiries.

Elaine represents Pursuers and Defenders in a variety of personal injury cases stemming from road traffic accidents, accidents at work, occupier's liability, and public liability claims. In addition, Elaine's practice encompasses actions brought as a result of historic abuse, medical negligence and product liability.

Elaine has a particular interest in fatal accidents. As well as representing various parties in civil claims for damages arising from fatal accidents, Elaine is regularly instructed in fatal accident inquiries having experience of representing families and corporate bodies participating in the proceedings. Notably, Elaine was instructed as Crown Junior in the M9 fatal accident inquiry which examined Police Scotland's failure to action a call which resulted in the death of an occupant of a car which had left the motorway.

Elaine also has experience of representing companies in health & safety prosecutions. Elaine was appointed as Standing Junior Counsel to the Scottish Government in 2024.

Representative Cases

As Counsel

FAI into the death of Graham Anderson

Elaine was instructed to represent the interests of a company who had called for assistance of the ambulance service following the collapse of one of their employees. The sheriff was persuaded not to adopt the criticisms of the company's system of working advocated for by the Crown.

M9 Fatal Accident Inquiry

Junior to Gavin Anderson KC for the Crown in the fatal accident inquiry into the deaths of Lamara Bell and John Yuill. Involved extensively in preparation in advance of inquiry which included drafting various court orders dealing with how documents and statements should be treated by the inquiry, contempt of court orders and the drafting of five joint minutes.

Fatal Accident Inquiry into the deaths of Katie Allan and William Brown

Lead by Mark Stewart KC, Elaine was instructed as junior counsel to represent the interests of William Brown's father. William tragically died while on remand at HMP YOI Polmont.

FAI into the death of Kenneth Heron

Elaine was instructed to represent the widow of the late Kenneth Heron at the Fatal Accident Inquiry looking at the circumstances of his death at work. The Court accepted various criticisms could be made of the system of work and training.

As Solicitor / Instructing Agent

Angela Kelly v Dundee City Council

Elaine was instructed for the successful pursuer in action for damages following an accident at work. Liability was denied throughout the case with a live dispute as to the extent of an employer's duty of reasonable care at common law. Court accepted the submission made for the pursuer that an employer will conduct a risk assessment so that suitable precautions can be taken to avoid an injury to its employees.

Courtney Sloan v Keira Wilson, Unreported, Sh A Cubie, Glasgow Sheriff Court, May 2021

Appeared as Solicitor for the pursuer in a contentious opposed motion regarding certification of a Consultant Psychologist. Defender's position was that certification should not be granted as the pursuer's psychological symptoms were fabricated. Successfully resisted the opposition.

Hannaway v Discount Trade Windows Limited and Others [2020] SAC (Civ) 8

Instructing agent for the applicant and appellant in a Summary Application seeking to recover an employer's liability insurance policy from a company in administration. Question before the Sheriff Appeal Court was whether the Sheriff had erred in concluding that it could not be said an action was likely to be brought under the Third Parties (Rights against Insurers) Act 2010 where the company was not yet a relevant person in terms of the 2010 Act.