

(The following is an excerpt of the original article which can be found at <http://lexpert.ca/article/the-business-of-personal-injurymedical-negligence-litigation-part-i-the-plaintiffs-bar/?p=&sitecode=mag>)



The Business of Personal Injury/Medical Negligence Litigation Part I: The Plaintiffs' Bar

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Richard Sommers, Q.C., and Robert Roth are perhaps the highest-profile medical negligence lawyers in the country. Three of the four lawyers in their firm do medical negligence work on the plaintiffs' side almost exclusively. They are members of a very thinly populated specialty. "As far as I'm concerned, there are only a handful of competent lawyers doing medical negligence cases successfully on a regular basis," say Roth.

Major medical negligence cases are so complicated that Messrs. Sommers and Roth frequently try cases together. "In our experience, these cases are very major undertakings. Certainly more than one person could handle alone," Roth says. "These days, we're looking at a minimum of six weeks to try a malpractice case, and it's not unusual for them to take four to six months." A recent case lasted for a year, and, at press time, Sommers and Roth were in Ottawa for a trial that had occupied more than 60 days of court time since mid-May.

With this caseload profile, medical malpractice specialists simply cannot afford to take on smaller malpractice cases, which in any event have no "nuisance" settlement value... "There is no automatic cutoff for what is a big case, but you have to weigh the cost and the risk against the potential damage award, and in malpractice cases that usually doesn't add up unless the damages are close to seven figures," Roth says.