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Cited Case Law: Neuropsychiatry in Litigation

This document provides a summary of the legal authorities cited in the presentation **"From Brain Injury to Behaviour."** Each entry details the case facts, the legal principle established, and its specific relevance to neuropsychiatric evidence in brain injury litigation.

1. Warrington Borough Council v Y [2023] EWCOP 27

- **Context:** Capacity to decide on residence and care; The Frontal Lobe Paradox.
- **Facts:** Y was a young woman with a traumatic brain injury (TBI) who presented with "superficial plausibility." In clinical interviews, she could articulate the risks of her situation (e.g., "I know I need support"). However, in her daily life, she failed to act on this knowledge, engaging in high-risk behaviours.
- **The Dispute:** A conflict of expert opinion arose. A psychiatrist (Dr. Grace) argued Y had capacity but was making "unwise decisions." A neuropsychologist (Dr. Todd) argued she lacked capacity due to **"Frontal Lobe Paradox"**—an impairment where the ability to *verbalize* a decision is preserved, but the executive function to *execute* it is damaged.
- **Judgment:** The Court preferred the evidence of Dr. Todd. Hayden J recognized that Y's ability to "talk the talk" masked a fundamental inability to "walk the walk."
- **Relevance to Presentation:**
    - **Slide 2 (The Frontal Lobe Paradox):** Demonstrates that a client can pass a standard interview (articulate speech, normal IQ) yet lack capacity due to executive dysfunction. It mandates looking beyond the clinic room to real-world performance.

2. Huntley v Simmonds [2009] EWHC 405 (QB)

- **Context:** Damages assessment; 24-hour care; Frontal Lobe Dysexecutive Syndrome.
- **Facts:** The claimant suffered a severe brain injury. While his physical injuries healed and his IQ remained relatively intact, he suffered profound behavioural changes: aggression, apathy, and an inability to plan.
- **The Dispute:** The defence argued for a lower care package, suggesting he could be rehabilitated or that his needs were exaggerated. The claimant argued for 24-hour care due to the need for a "prosthetic frontal lobe."
- **Judgment:** The Court accepted the concept of **Frontal Lobe Dysexecutive Syndrome**. It recognized that when the executive function (the "CEO") is damaged, the individual cannot organize their own life, regardless of their intelligence.
- **Relevance to Presentation:**
    - **Slide 5 (The CEO of the Brain):** Establishes the legal precedent for "replacing the CEO." Care is not just for physical tasks (washing/dressing) but for executive tasks

(initiation, emotional regulation, safety).
    - **Slide 9 (The Rehabilitation Trap):** Supports the shift from a "Cure" model (rehab) to a "Containment" model (support) when the injury is organic and permanent.

3. Ali v Caton [2013] EWHC 1730 (QB)

- **Context:** Capacity to manage property and affairs; "Grand Plans" vs. Reality.
- **Facts:** Mr. Ali suffered a severe TBI. He was physically mobile and could manage small amounts of money. However, he expressed grandiose plans for businesses and investments that were completely detached from his actual cognitive abilities. He even passed a UK Citizenship test, which the Defence used to argue he had capacity.
- **Judgment:** The Court found he lacked capacity to manage his financial affairs. The Judge distinguished between his ability to *manage a weekly allowance* (low complexity) and his ability to *manage a multi-million-pound settlement* (high complexity). His "Grand Plans" were evidence of **insightlessness**, not competence.
- **Relevance to Presentation:**
    - **Slide 6 (Profiling Organic Personality Change):** Illustrates **Insightlessness**. The disconnect between what the client believes they can do and what they can actually do.
    - **Slide 12 (Domain-Specific Capacity):** Highlights that capacity is decision-specific. A client can have capacity to shop but lack capacity to litigate or manage a trust fund.

4. Lillington v Ansell [2016] EWHC 351 (QB)

- **Context:** Causation; Organic vs. Psychological Injury.
- **Facts:** The claimant suffered brain injury due to hyponatraemia. A key area of dispute in such cases often revolves around whether behavioural symptoms (fatigue, mood swings, fog) are caused by **structural damage** (Organic) or a **reaction to the trauma** (Psychological/Functional).
- **Legal Principle:** While the claimant ultimately failed on breach of duty in this specific negligence case, the medical argumentation highlights the critical distinction between treating a psychological condition (amenable to therapy/cure) and managing an organic syndrome (permanent/requires care).
- **Relevance to Presentation:**
    - **Slide 7 (Differential Diagnosis):** Used to demonstrate the battleground between "Organic" and "Psychological" labelling. Neuropsychiatry is required to prove the organic basis of symptoms to secure long-term care funding rather than short-term therapy.

5. Dunnage v Randall [2015] EWCA Civ 673

- **Context:** Liability in negligence; The "Conscious Agent"; Volition.

- **Facts:** The defendant, suffering from paranoid schizophrenia, poured petrol on himself and set it alight, injuring his nephew (the claimant) who tried to save him. The insurance company argued the defendant was not liable because his mental illness meant his actions were involuntary.
- **Judgment:** The Court of Appeal held the defendant **was liable**. The court ruled that unless a mental condition *entirely eliminates* control (reducing the person to an automaton), the objective standard of care still applies. A "clouded" or "irrational" mind is still a "doing" mind.
- **Relevance to Presentation:**
    - **Slide 8 (From Pathology to Liability):** Clarifies the threshold for liability. It shows that brain injury does not automatically absolve a client of civil or criminal responsibility unless the **process** (executive function/volition) is completely destroyed.

6. York City Council v C [2013] EWCA Civ 478 (PC and NC v City of York Council)

- **Context:** The Mental Capacity Act 2005; The Causal Nexus.
- **Facts:** This case concerned a woman (PC) with significant learning disabilities and whether she had the capacity to decide to cohabit with her husband, who had a conviction for sexual offences.
- **Judgment:** The Court of Appeal clarified the **"Causal Nexus"** (Section 2(1) MCA). It is not enough to show a person has a brain injury and makes an unwise decision. You must prove they are unable to make the decision *because of* the brain injury.
- **Relevance to Presentation:**
    - **Slide 11 (Capacity and the Causal Nexus):** The defining authority for the link between the *Diagnostic Test* (The Injury) and the *Functional Test* (The Inability). Neuropsychiatric evidence provides this link.

7. Fletcher v Keatley [2017] EWCA Civ 1540

- **Context:** Evidence gathering; The "Snapshot" vs. The "Longitudinal View."
- **Facts:** A complex case involving a mild TBI where the claimant was accused of exaggeration. The Court had to sift through conflicting evidence: the clinical presentation (where he seemed better or worse at times) versus the surveillance and witness evidence of his daily life.
- **Judgment:** The Court upheld a pragmatic approach, recognizing that symptoms can fluctuate and that a "snapshot" assessment in a medical room is often less reliable than the "longitudinal" evidence of how a person functions over time.
- **Relevance to Presentation:**
    - **Slide 13 (The Evidence Beyond the Clinic):** Supports the argument that a 60-

minute interview is insufficient for TBI assessment. Experts must rely on collateral evidence (family statements, records) to see the true extent of the disability (or the Frontal Lobe Paradox).

8. Bond v Webster [2024] EWHC 1972 (Ch)

- **Context:** Prognosis; Testamentary Capacity; Progressive decline.
- **Facts:** A dispute over the validity of a will. The testator had suffered a brain injury years prior. The challenge was based on the fact that his cognitive capacity had not stabilized but had progressively declined due to white matter disease/neurodegeneration, rendering him incapable of understanding the will at the time of execution.
- **Judgment:** The Court found against the validity of the will, accepting evidence that the testator's cognitive trajectory was one of decline, affecting his ability to weigh complex information.
- **Relevance to Presentation:**
    - **Slide 14 (Forecasting the Future: Prognosis):** Challenges the old dogma that TBI recovery is "static." It illustrates **Trajectory B**: the risk of premature aging, early-onset dementia, and progressive loss of capacity, which must be factored into the quantum of a claim.