SHERIFFDOM OF LOTHIAN AND BORDERS AT EDINBURGH

IN THE ALL-SCOTLAND SHERIFF PERSONAL INJURY COURT

[2019] SC EDIN 71

PG55/17

JUDGMENT OF SHERIFF ROBERT D M FIFE

in the cause

KAREN BOYLE

Pursuer

against

(FIRST) WEST CALDER MEDICAL PRACTICE; (SECOND) DR MICHAEL HEWITT; (THIRD) DR STEVEN HAIGH; (FOURTH) DR ANNE CAMPBELL; (FIFTH) DR JAMES ROBERTSON; (SIXTH) DR CAROL SIMPSON; (SEVENTH) DR DOROTHY GRIBBEN; AND (EIGHTH) DR ALASTAIR MCINTYRE

Defenders

Pursuer: Doherty QC, Nicholson, Advocate; Allan McDougall, Edinburgh
Defenders: Smart, Advocate, Reid, Advocate; MDDUS

Edinburgh, 5 August 2019

[1] A proof in this action proceeded in May and June 2019. The pursuer claims damages for clinical negligence for alleged failures by the pursuer's general practitioner to investigate for suspected Cushing's disease during the period April until September 2012. The pursuer was subsequently diagnosed with Cushing's disease in 2014. It was a matter of agreement by the parties that the proof should be restricted to the issue of negligence, not causation and damages.

[2] The following authorities were referred to by parties:

1. *Hunter* v *Hanley* 1955 SC 200;

2. *Bolitho* v *City and Hackney Health Authority* 1998 232;

3. *Honisz* v *Lothian Health Board* 2008 SC 235;

4. *Dineley* v *Lothian Health Board* [2007] CSOH 154;

5. *Kennedy* v *Cordia (Services) LLP* 2016 SC (UKSC) 59;

6. *Jackson and Powell*, Professional Liability, (8th edn) at page 254;

7. *William Gillespie Dickson*, A Treatise on the Law of Evidence in Scotland (Vol 1) at pages 157 to 158.

[3] The sheriff, having resumed consideration of the cause finds the following facts to be admitted or proved:

Findings in fact

[4] Cushing's disease is a rare condition which results from prolonged excess cortisol secretion from a pituitary tumour. Cushing's disease is a serious illness with significant morbidity and mortality. The Endocrine service in Edinburgh and district would expect to manage 1-2 patients each year. A General Practitioner ("GP") was unlikely to see more than one case in the course of their career, and more likely would see no cases.

[5] The onset of Cushing's disease is very slow and takes time to evolve. It could be many months or a number of years before the disease could be clinically diagnosed by a GP.

[6] Cushing's disease is difficult for a GP to diagnose. A combination of symptoms and signs consistent with Cushing's disease is required for a clinical suspicion of Cushing's disease. These could include among other symptoms and signs: obesity, weight gain particularly centripetal weight gain, buffalo hump, facial plethora, acne, rounded or moon face or Cushingoid appearance, decreased libido, menstrual irregularity, hirsutism, depression, emotional lability, muscle weakness, thin skin and easy bruising with purplish striae, osteopenia and fracture of bones. Not all these symptoms and signs had to be present.

In a combination with other signs and symptoms, a moon face would be a striking feature and a significant symptom. The first intimation of the symptom of a moon face in the present case was in March 2019.

[7] Cushing's syndrome occurs when the body produces too much cortisol. While this can happen for many reasons, it often occurs when the patient uses corticosteroid medication such as high dose steroids or consumes excessive, relatively large amounts of alcohol. The features of Cushing's syndrome include weight gain in the face (a moon face), neck region, upper back and torso; striae, easy bruising and proximal muscle weakness.

[8] Drs Campbell, Simpson and McIntyre were all aware of Cushing's disease in 2012 as a well known rare condition taught at university.

[9] Drs Campbell, Simpson and McIntyre were all familiar with and had experience of patients with a Cushingoid appearance in 2012.

[10] The pursuer was a patient of the defenders from 2007 until February 2014.

[11] From 2007 until the end of 2012 the pursuer had around 50 GP attendances at the defenders, presenting with various complaints, symptoms and concerns including weight gain, low mood, post-natal depression, insomnia, alcohol excess and recreational drug use, depression, binge eating, suicidal ideation, acne, overactive bladder, painful and swollen eyelids, blurred vision, insomnia, face dryness/redness, dry lips, sore lump under chin, excess facial hair, polycystic ovary syndrome ("PCOS") and multiple sclerosis ("MS").

[12] When the pursuer first sought legal advice about making a claim against the defenders in May 2014 she complained the defenders were negligent from 2009, see note by pursuer dated 14 May 2014 production 5/60. On raising the present action the negligence against the defenders was by September 2012. In March 2019 the negligence against the defenders was confined to Dr Campbell and to the period April to September 2012.

[13] The pursuer had post-natal depression in 2007 and a long history of low mood, anxiety and depression from at least 2009 until after September 2012.

[14] The pursuer complained of facial acne from at least 2008. From 2010 until after September 2012 the pursuer had recurring symptoms of severe acne, temporarily alleviated from time to time with various antibiotics and Roaccutane which was first prescribed by the Dermatology Clinic in 2011.

[15] Roaccutane could only be prescribed by a dermatologist. Known side effects can include developing problems with the skin including dryness and redness, effect on mood and sleep disturbance.

[16] From at least November 2010 until after September 2012 the pursuer presented with facial plethora or redness of the face from time to time in addition to acne. That was not a significant symptom.

[17] From 2011 until after September 2012 the pursuer had amenorrhoea, commonly associated with contraception. The pursuer had a contraceptive implant implanon which was removed in August 2011. The pursuer was prescribed a contraceptive pill in April 2012.

[18] From childbirth in 2007 until after September 2012 the pursuer regularly presented with concerns about weight gain. The pursuer was overweight. On 8 February 2010 the pursuer's weight was 73.0kg. On 29 February 2012 the pursuer's weight was less at 71.5kg. The pursuer's weight was not recorded again until February 2014.

[19] Between 29 February 2012 and 10 April 2012 the pursuer's body mass index ("BMI") increased from 27.93 to 29.4. The increase in weight from February to April 2012 was not clinically significant.

[20] There was no reliable evidence of centripetal weight gain as at 19 April 2012 or from April to September 2012. There was no evidence of the pursuer's weight or weight gain from April to September 2012.

[21] One of the major manifestations of Cushing's disease is hypertension. Normal blood pressure ("BP") for a GP would be 140/90mmHg or less. One elevated BP reading would not result in a diagnosis of hypertension by a GP. The pursuer had no history of hypertension prior to 2012. The pursuer's BP was elevated when measured by Dr Campbell on 29 February 2012 at 149/97mmHg. Dr Campbell instructed a letter to be sent to the pursuer on 1 March 2012 to have a follow up BP check. The pursuer's BP was measured as normal or borderline normal on 10 April 2012 at 132/90mmHg. The pursuer's BP was not measured again until November 2012 when the reading was normal at 126/83mmHg. The pursuer did not have hypertension as at 19 April 2012 or from April to September 2012.

[22] The pursuer did not remember attending a consultation with Dr Campbell on 19 April 2012. The pursuer recalled on only one occasion showing Dr Campbell a magazine clipping but she did not recollect what the clipping was about.

[23] The only contemporaneous record of the presentation and appearance of the pursuer on 19 April 2012 was the clinical record noted by Dr Campbell. The pursuer presented with acne, low mood and weight gain. The pursuer presented with two principal complaints: "skin much worse/mood worse". On examination of the face Dr Campbell noted "extensive comedones/papules/scars". Dr Campbell prescribed Lymecycline for acne, Fluoxetine for depression and Desogestrel for contraception.

[24] At the end of a long consultation the pursuer showed Dr Campbell a magazine clipping about PCOS and said she was concerned she might have PCOS. The pursuer also asked about excess facial hair. No concern about PCOS had been raised by the pursuer

earlier in the consultation. Dr Campbell did not have time to read the clipping. She did not make a diagnosis of PCOS. She did not make a diagnosis of hirsutism. The underlying cause of hirsutism was commonly idiopathic. Dr Campbell thought PCOS could be a possibility but no more than that. Dr Campbell reassured the pursuer and provided her with information on PCOS which the pursuer could consider. Dr Campbell did not dismiss the pursuer's concern about PCOS or hirsutism. The clinical record notes the advice given:

> "Advised of no concern. Weight gain can cause and weight loss is treatment. POP can assist cycle control. No NHS treatment for hirsutism."

[25] There is no clinical record on 19 April 2012 of Dr Campbell noting the presence of hirsutism following examination of the pursuer's face. It is likely the pursuer had some facial hair on 19 April 2012. If on examination of the pursuer's face Dr Campbell had noted hirsutism that would have been recorded in the clinical notes.

[26] The pursuer did not remember any of the other consultations from April to September 2012.

[27] There is no other mention of hirsutism in the clinical records from April to September 2012. There is no evidence of the pursuer presenting with any symptom of hirsutism from after 19 April 2012 to September 2012.

[28] There is no other mention of PCOS in the clinical records from April to September 2012. There is no evidence of the pursuer raising any further concern about PCOS from after 19 April 2012 to September 2012.

[29] It was the standard practice of Dr Campbell to advise a patient to make another appointment to enable any concerns to be addressed if there was insufficient time to do so at the consultation. There is no evidence Dr Campbell advised the pursuer to make another appointment. On the presentation, appearance and symptoms of the pursuer on 19 April

2012 there was no requirement on Dr Campbell to advise the pursuer to make another appointment to address any concern about PCOS or hirsutism.

[30] The sign of a moon face or Cushingoid appearance is a very rounded face with fat deposits on the cheeks and lower parts of the face. Along with other symptoms which could include a combination of symptoms, but not necessarily all being present, of weight gain, particularly centripetal weight gain, facial plethora, acne, menstrual irregularity, hirsutism and depression, had the pursuer presented with a moon face on 19 April 2012 that would have been a significant symptom of Cushing's disease.

[31] The pursuer had a naturally round face. The pursuer did not present with a moon face or Cushingoid appearance at the consultation on 19 April 2012.

[32] The pursuer consulted Dr Campbell again on 6 June, 25 June, 15 August and 26 September all 2012. The pursuer consulted with Dr Simpson on 29 May 2012 and Dr McIntyre on 25 July 2012. The pursuer did not present with a moon face or Cushingoid appearance to any of the GPs during the period from April to September 2012.

[33] In the absence of a moon face or Cushingoid appearance during the period April to September 2012 there was no reason for Dr Campbell to suspect Cushing's disease.

[34] The onset of Cushing's disease was at some point from 2010 to before 2012.

[35] Cushing's disease would have been clinically apparent to an endocrinologist from around April to September 2012.

[36] Cushing's disease would not have been clinically apparent to a GP from April to September 2012.

[37] The pursuer's Cushing's disease became more clinically active towards the end of 2012 and early 2013.

[38] In March 2013 the pursuer's facial appearance as shown on photographs of the pursuer, productions 5/17 and 5/18, was typical of advanced Cushing's disease.

[39] In June 2014 the pursuer was diagnosed with Cushing's disease.

Finding in fact and in law

[40] On 19 April 2012 a GP of ordinary skill acting with ordinary care would not have decided the pursuer's presentation and symptoms required further investigation.

[41] There was no breach of any duty of care on the part of Dr Campbell to not have advised the pursuer on 19 April 2012 to make another appointment to address any further concerns about PCOS or hirsutism.

[42] On 19 April 2012 and from April to September 2012, with the pursuer's presentation, appearance and symptoms, no GP of ordinary skill acting with ordinary care would have suspected Cushing's disease.

[43] The pursuer having failed to prove negligence on the part of the defenders, the defenders are entitled to decree of absolvitor;

[44] Sustains the second and third pleas in law for the defenders; repels the first plea in law for the pursuer;

[45] Reserves all questions of expenses. The Sheriff Clerk will fix a hearing on expenses.

Witnesses

[46] The following is a summary and assessment of each of the witnesses who gave evidence.

1. Karen Boyle

[47] Ms Boyle was not working at the date of proof. She was a patient of West Calder Medical Practice from 2007 until 2014 when she moved to Kingsgate Medical Practice in Bathgate. Ms Boyle had a son in 2007.

[48] Ms Boyle worked as a beauty consultant part-time for about seven years, working the last few years in Jenners, Edinburgh for two days a week. She left that employment on 25 May 2012.

Weight

[49] There had been weight gain over a number of years. Ms Boyle had a little baby weight from the pregnancy. She tried to get fitter and lose some weight following her son's birth. She was exercising and eating healthily. She went back to work six months following the birth.

[50] It was around 2009 she started to notice a problem with her weight. She was exercising and on a strict diet but she was still gaining weight quite fast: "I was putting on 2-3 lbs every few days".

Acne

[51] Ms Boyle suffered from acne for a number of years prior to April 2012, from about 2008. She was prescribed Roaccutane following a referral to Dermatology in 2011. There was some improvement for a few months as her face dried out but then the Roaccutane stopped working. The acne was not consistent over the years. It did resolve for a period of time. During April to September 2012 she was still suffering from acne and getting medication for the acne.

Redness of the face

[52] Ms Boyle said she had redness of the face for a long time. The redness was always present with the acne. She had redness of the face from April to September 2012. Some days her face was more red than others. Every day was different. The acne was present. The redness of the face was present even when she was off Roaccutane. She had the redness but the acne disguised this. Ms Boyle had high intensity redness on the cheeks.

Hirsutism

[53] Ms Boyle did not remember how long she had had hirsutism other than to say it was "years" before April 2012. She had thick hair all round her face, her chin and jaws, upper lip and sides of the face.

[54] At the consultation with Dr Gibb on 6 March 2011 she told him she had had facial hair for about two years but she could not recall a specific date. When she was working at Estee Lauder she had facial hair. She thought she might have had the facial hair somewhere between 6-12 months before she left work on 25 May 2012.

[55] Ms Boyle qualified her evidence by saying she was actually very ill throughout that time and that trying to remember dates was very hard. She just knew the hirsutism was prolonged, over years.

[56] At work Ms Boyle would use a lot of makeup and skincare to camouflage what she could. She had her face threaded on a number of occasions. The most drastic action was for her to shave with a razor to see if that would help to last longer. Ms Boyle recalled shaving around two to three times. She was quite desperate at the time. This did not help so she stopped shaving.

Low mood/Depression

[57] Ms Boyle had postnatal depression in 2007. She was regularly on anti-depressants from 2008 although she was off tablets/off taking medication for a period in 2011. During the period April to September 2012 she continued to suffer low mood and continued to take medication.

[58] The low mood affected her personality. Ms Boyle said she had "a different personality every week". At times she was low, depressed and very sad. At other times she was very high. Family members and people at work would remark on her personality change including being a lot louder, more abrupt and saying things which were out of character.

Menstrual Periods

[59] Ms Boyle had a number of entries from the medical records put to her from 7 November 2011 to 26 September 2012 that noted she had had no periods.

Size/shape of face

Photographs 5/16, 5/17 and 5/18

[60] Ms Boyle said the shape and size of her face were changing week by week. Her face just looked round and fat and bloated. By the end of March 2012 she said her face shape was very round and bloated.

[61] Ms Boyle did not keep a diary and there were no photographs of her face from December 2010 until March 2013.

[62] Ms Boyle said she had a double chin in April 2012. In December 2010 the double chin was not so prominent. By March 2013 the double chin was not as important to her as

she was getting so fat. While similar the shape of her face was not as bad in April 2012 as it was in March 2013.

[63] The pursuer's said what her face looked like from April to September 2012 was partly from comments made by her family including the puffiness of her face and that her face just looked unusual.

[64] By using the photographs 5/17 and 5/18 she described having a rounded, bloated face with a double chin over the period April to September 2012.

Consultations with Dr Campbell:

19 April 2012, 6 June 2012, 25 June 2012, 15 August 2012 and 26 September 2012.

[65] Ms Boyle could not specifically recall the consultation on 19 April 2012 as she had attended many appointments. She recalled on only one occasion showing Dr Campbell a magazine clipping. Ms Boyle could not remember what Dr Campbell had said, only that it was not a concern. Ms Boyle could not remember what the clipping was about. She did not know if the clipping was about PCOS.

[66] Ms Boyle did not know if Dr Campbell took the magazine cutting off her. Ms Boyle said "it was, like, discarded". When Dr Campbell advised her it was of no concern Ms Boyle felt it was just brushed off.

Note: In the context that Ms Boyle could not even recall the consultation on 19 April 2012, did not know if Dr Campbell took the magazine cutting off her and did not know if the clipping was about PCOS the court cannot make any findings in fact of what was said by Dr Campbell to Ms Boyle or how that was said to Ms Boyle. This passage of evidence from Ms Boyle is not reliable.

[67] As at 19 April 2012 Ms Boyle said she had excess hair which was obvious. She would have spoken to Dr Campbell about that. Her skin was red. The shape of her face was rounded at the jaw and chin. Her skin was worse. She continued to have low mood and she continued to have no periods.

[68] Ms Boyle had no recollection of the subsequent consultations with Dr Campbell on 6 June 2012, 25 June 2012, 15 August 2012 and 26 September 2012. Ms Boyle could only speak generally of her facial appearance at that time.

Medical records

[69] Various entries in the medical records were put to Ms Boyle for her comments but as she had no recollection of any specific consultations any comments were of little assistance to the court. The records covered a variety of symptoms including low mood and depression, problems with her eyes, acne and skin problems generally, weight gain and hirsutism.

Assessment

[70] Ms Boyle did her best to tell the truth at all times during the course of her evidence. She was a truthful witness. The difficulty for her was recalling specific events including her appearance and symptoms over a relatively short period of time, April to September 2012, some seven years earlier.

[71] Ms Boyle had to tell the court about her facial appearance with the benefit of hindsight, the presence of a moon face having only been first raised around March 2019.

[72] The death of her father in December 2011 following a very short illness was devastating for Ms Boyle and her family. Ms Boyle struggled to cope with his death. The

death had a significant adverse impact on her mood for a long time, until after September 2012, and put a strain on family relationships. It is reasonable to infer that event in itself impacted on her reliability during the period April to September 2012.

[73] Ms Boyle could not recall any of the consultations during the period April to September 2012. In order to assist Ms Boyle in her recollection of consultations over the crucial period there was a tendency to lead Ms Boyle through the medical records in examination in chief, but she still did not recall any specific consultation and generally she had to rely on the clinical notes of the consultations.

[74] I have concluded Ms Boyle was not a reliable witness about her appearance and symptoms during the period April to September 2012 except to the extent this was recorded in the clinical notes. At times, through the passage of time, her recollection was incorrect. The court can rely on the contemporaneous clinical notes as being accurate.

2. Dr Anne Campbell

[75] Dr Campbell qualified as a GP in 1990. She had been a partner with the defenders for 26 years. She remembered the pursuer.

[76] She was aware of Cushing's disease in 2012. This was a well known rare condition taught at university. Dr Campbell had never seen a case of Cushing's disease but she was aware of the features of Cushing's disease in 2012, all as shown in diagram A from Davidson's Principles and Practice of Medicine, 23rd Edition 2018, production 5/58.

[77] Dr Campbell was familiar with a Cushingoid appearance. She would see this regularly in patients, usually due to long-term use of steroids.

Medical records pre 2012

[78] Dr Campbell was referred to a number of pre-April 2012 consultations for what was recorded in the clinical records: 22 November 2010, 3 March 2011, 17 March 2011, 18 March 2011, 1 June 2011, 8 June 2011, 14 July 2011, 15 August 2011, 7 September 2011, 23 November 2011 and 7 December 2011.

[79] In 2010 Dr Campbell noted the pursuer had acne rosacea. Acne rosacea generally affects the central region of the face, usually the cheeks and nose, sometimes the chin or forehead. The symptoms are redness of the face, pimples and in advanced cases the eyes may feel gritty or appear bloodshot. The pursuer was later diagnosed with acne vulgaris. Acne vulgaris affects primarily the face but the back, chest and shoulders may also be affected. The symptoms are characterised by a great variety of lesions with blackheads. The skin may become oily from overactive glands.

Consultations with pursuer in 2012 from 29 February 2012 and 19 April 2012

[80] In 2012 Dr Campbell would be seeing 25-30 patients a day. Each consultation had a 10 minute appointment booked. Some consultations were longer and some were shorter. Dr Campbell saw the pursuer very regularly from May 2010 until September 2012. Some patients were more familiar than others.

Consultation on 29 February 2012

[81] This was the first time Dr Campbell had seen the pursuer since 7 December 2011. The pursuer weighed 71.5kg with a BMI of 27.93. The pursuer was overweight. Her BP was measured at 149/97mmHg. A normal BP was 140/90mmHg or less. The pursuer's BP was slightly elevated. BP would be measured on three occasions to measure accurately. One

high BP reading would not result in a diagnosis of hypertension. Dr Campbell arranged for a further BP reading to be taken. There could be a number of reasons why the BP reading was elevated: contraception, Amitriptyline and amenorrhoea.

[82] Dr Campbell said she followed a practice protocol in relation to BP and arranged for the pursuer to return to the practice and have her BP checked again.

Consultation 19 April 2012

[83] Dr Campbell was not entirely dependent on what was noted in the clinical records. She remembered some aspects of the consultation. The pursuer had ongoing problems with her skin and her current medication was not effective. The pursuer also had concerns about her mood. The pursuer did have a tendency to stop taking medication rather than follow advice to the letter.

[84] Dr Campbell remembered the pursuer showing her a magazine cutting about PCOS at the end of what was a long consultation. She did not take or read this as she did not have time to read it. The pursuer was concerned she might be suffering from PCOS. Dr Campbell did not recall why the pursuer had that concern. PCOS was not a condition to be enormously concerned about as there were simple measures to manage this. First line management for PCOS was always to advise weight loss.

[85] Dr Campbell would normally advise a patient to make another appointment if required to address the issue properly. Dr Campbell could not recollect giving that advice on this specific occasion but that was her normal practice. Dr Campbell could not otherwise remember anything of the consultation beyond what was written in the clinical notes.

[86] Dr Campbell made a shorthand note in the clinical records about the PCOS concern. There had been no time to take a history of PCOS. Dr Campbell had not made a diagnosis of

PCOS. She was just trying to answer the questions asked by the pursuer and give the pursuer some information. She was trying to be helpful by addressing the pursuer's concern rather than dismissing that concern. Dr Campbell could not recall what she said to the pursuer. Her aim was to reassure the pursuer that PCOS was not something to be too concerned with as it could be dealt with.

[87] PCOS was not something that had come into Dr Campbell's mind until the pursuer produced the magazine clipping and Dr Campbell did not have time to make an assessment. The information given to the pursuer was because Dr Campbell thought PCOS could be a possibility but no more than that.

[88] Dr Campbell explained quite often a patient did not raise matters causing the most concern until the end of the consultation. The pursuer raised this at the end of the consultation.

[89] Dr Campbell did not remember the pursuer saying at the consultation that she had excessive facial hair. Dr Campbell believed she did not see any excess facial hair at the consultation on 19 April 2012.

[90] Dr Campbell saw the pursuer over a period of two years. At no point did she notice excess facial hair. If she had seen any excess facial hair she would have recorded that in the clinical notes. Dr Campbell would have been close enough to the pursuer to see any dark hair on the upper lip or chin. She was not saying the pursuer did not mention having excess facial hair but if she did Dr Campbell would have written this down. It was one of the cardinal symptoms for PCOS.

[91] The pursuer had a naturally round face. The pursuer did not present with a moon face at the consultation.

[92] There was no significant change to the appearance and shape of her face over the two years Dr Campbell saw her. The pursuer's facial appearance was much closer to the photograph of the pursuer in December 2010, production 5/16, than the photographs taken in 2013, productions 5/17 and 5/18. Dr Campbell had never seen the pursuer as shown in the 2013 photographs. The heart shape of her face remained. The pursuer put on some weight but there was no significant change to the appearance or shape of her face during the period April to September 2012.

[93] Dr Campbell saw the pursuer's face many times. If there was a new redness she would have noticed that. She did not remember any facial redness. Redness could be associated with acne. Dr Campbell's memory of the pursuer's face was that it was pale rather than red. She had severe acne but her face was pale.

[94] In 2012 Dr Campbell was aware of the NICE clinical knowledge summaries. She did not use them particularly. She looked online daily. She was aware hirsutism was a symptom of Cushing's disease. The NICE clinical knowledge summaries were not prescriptive. As one example, for PCOS Dr Campbell would have looked at the NHS Lothian PCOS Guideline, production 5/52, and based upon the NICE clinical knowledge summaries.

[95] Dr Campbell agreed with the definition of hirsutism in the NICE clinical knowledge summaries for hirsutism, production 5/11/3, that is, excess dark and coarse hair. The most common causes were idiopathic hirsutism and PCOS.

Consultations 6 June 2012, 25 June 2012, 15 August 2012 and 26 September 2012.

[96] The main issues for the pursuer continued to be low mood and acne. The acne was due to the use of hormonal contraception. That was not a symptom of Cushing's disease.

There was no basis from the examinations she carried out of the pursuer to suspect Cushing's disease.

[97] Dr Campbell explained the notes of the consultations in the clinical records were contemporaneous. There was no mention of a round face and redness in the clinical notes. Had pursuer presented with a round face or a florid face Dr Campbell would have made a note of that in the clinical records.

Assessment

[98] Dr Campbell was very matter of fact throughout her evidence. As she was called by the pursuer as a witness rather than the defenders she had a tendency to be defensive in her responses. In examination in chief she was asked many closed questions which restricted giving her own account of the facts and circumstances.

[99] Dr Campbell had seen the pursuer on various occasions prior to 19 April 2012 so the pursuer was well known to her. The previous medical history of the pursuer and the principal complaints presented by the pursuer at various consultations are significant factors in this case. It is of note that the consultation on 19 April 2012 was recorded as having lasted 21 minutes. That was a long consultation.

[100] I am satisfied Dr Campbell was doing her best to tell the truth and that she did not mislead the court. I am satisfied Dr Campbell had some recollection of the consultation with the pursuer on 19 April 2012 distinct from what was recorded in the clinical notes. Dr Campbell was incorrect in her recollection that it was she who mentioned hirsutism to the pursuer. I did not consider that to be a significant factor as there was some discussion about hirsutism.

[101] The pursuer did not present with an appearance of a Cushingoid or moon face during the period April to September 2012.

[102] In the absence of a Cushingoid or moon face appearance and the findings in fact in relation to the presentation, appearance and symptoms of the pursuer on 19 April 2012 and the subsequent consultations from April to September 2012, there was no duty of care on Dr Campbell to follow up on the consultation of 19 April 2012 or the later consultations and no reason for her to suspect Cushing's disease. It was reasonable for Dr Campbell to focus on the main complaints presented at the consultation on 19 April 2012. Dr Campbell's actions were consistent with a doctor of ordinary skill acting with ordinary care.

3. Judith Dunlop

[103] Ms Dunlop was a business manager for Christian Dior at Jenners in Edinburgh. She worked with the pursuer from 2010 until 25 May 2012 when the pursuer left her employment with Estee Lauder. At that time the pursuer was working part-time, two days a week, for 16 hours.

[104] Ms Dunlop described the pursuer having a number of symptoms including acne; swollen, puffy eyes; her face was red and angry; she had a very round face; and the pursuer put on a significant amount of weight over the two year period.

[105] Ms Dunlop said the pursuer's skin was very red and very problematic when she was not wearing makeup. The pursuer had cysts on her eyes and cysts on her eyelids on the lash line. The pursuer was prescribed Roaccutane which was only given in the most severe cases of acne. Her skin became a lot puffier as if someone who was on steroids. The eye area was rounder and she had fatty deposits on the sides of her face. Her skin was always red.

[106] When Ms Dunlop started in Edinburgh in 2010 the pursuer's skin was not that bad but her skin progressively got worse. Her skin went very quickly downhill.

[107] As for hair growth on the face Ms Dunlop could see stubble. It was "almost looking at a man's skin". She said everyone was taken aback when the pursuer said she was shaving her face. That was about a year before the pursuer left work:

> "She said she was getting hairier and hairier and having to shave on a daily basis or every other day".

[108] As for the shape of the pursuer's face it did become rounder and more swollen. Looking at the photographs 5/17 and 5/18 the symptoms were not as severe in 2012 as at March 2013 but the pursuer's eyes were starting to become really swollen by the time the pursuer left in May 2012. The pursuer's acne as shown in March 2013 resembled how it was in 2012. The pursuer had fatty deposits on her lower jaw area so that you could not see a jawline.

[109] As for the pursuer's weight, she gained weight but the pursuer was confused how she was gaining weight when she was eating healthily. The pursuer did put on a significant amount of weight in the two years she worked with Ms Dunlop. Ms Dunlop did not notice weight gain as much on the pursuer's body as on her face. Her face looked as if she was on steroids.

[110] On mood, the pursuer always had a really upbeat attitude. Everyone liked the pursuer because she was always bubbly but there was a decline in her mood prior to her leaving in May 2012. At the time the pursuer said she was fairly low and fairly anxious. It was apparent she was not capable of doing her job because of blurred vision.

[111] In 2018 a friend of Ms Dunlop found out she had Cushing's disease. It was only then Ms Dunlop found out about the symptoms of Cushing's disease. Ms Dunlop had not seen

the pursuer since May 2014 until the pursuer popped into Jenners in about January 2019. The pursuer had then apologised for being a bad employee and told her she had been diagnosed with a very rare disease which Ms Dunlop immediately said was Cushing's disease.

[112] Later in her evidence Ms Dunlop accepted the pursuer may not have been shaving daily. She did not know how often the pursuer was shaving.

[113] By the time the pursuer left in May 2012 Ms Dunlop said they had a fractured relationship and that they had not parted on good terms. There had been various issues for about a year before the pursuer left, particularly absenteeism and problems with her capability in doing the job because of blurred vision. There had been a really high percentage of absenteeism for someone working 16 hours a week and that included the period from January-May 2012. Ms Dunlop would have seen the pursuer infrequently during the period January-May 2012.

Assessment

[114] Ms Dunlop was a very confident, self-assured witness. It seemed to me Ms Dunlop was doing her best to assist the pursuer rather than giving an objective, reliable account of any symptoms she actually saw. Ms Dunlop exaggerated any symptoms seen on the pursuer. There was no doubt Ms Dunlop had been significantly influenced by her knowledge of Cushing's disease after a friend was diagnosed with the disease in 2018.

[115] My overall assessment was of Ms Dunlop using that recent knowledge of Cushing's disease and with the benefit of hindsight to provide an unreliable description of the pursuer's appearance during a period of many months when (a) she had various issues with

the pursuer's employment which was going to be terminated one way or another, and (b) she had little or no contact with the pursuer.

[116] Ms Dunlop latterly accepted she had a better recollection of the appearance of the pursuer in 2011. I have concluded Ms Dunlop was not reliable as to the appearance of the pursuer covering the period January to April 2012.

4. Margaret Boyle

[117] Mrs Boyle was the mother of the pursuer. In 2011-2012 Mrs Boyle saw the pursuer a couple of times a week. Mrs Boyle remembered the pursuer stopping work with Estee Lauder but she did not remember the date and was unable to use the date of termination of her employment on 25 May 2012 as a reference point.

[118] While Mrs Boyle was asked to recall the pursuer's appearance over the period April to September 2012 her evidence was not reliable. On several occasions Mrs Boyle said she was getting mixed up and confused about dates.

[119] Mrs Boyle's husband had died in December 2011 after a short illness. That was a further reference point. That prompted some recollection of the pursuer's appearance around that time. Mr Boyle had been alive when he had remarked on the pursuer's weight. Mrs Boyle remembered him worrying about the pursuer's weight. Both Mrs Boyle and Mr Boyle could not understand why the pursuer was putting on weight when she was taking her son to school and going to the gym several times a week. She was just getting "bigger and bigger" in 2012 but it was a slow process.

[120] Mrs Boyle said the pursuer had low mood in 2012. She was really unhappy. Mrs Boyle thought the pursuer may have been suffering from depression and she had had to

give up her job. She was unhappy being told she was eating too much and that was the cause of her putting on weight when that was not the case at all.

[121] The pursuer had bad acne. Her skin was inflamed and really red with acne all over. She said the pursuer had had this condition for "a long time" before she left work. She was sent to a specialist for the acne and was prescribed tablets. There was no improvement after that. She used quite a lot of makeup at work but when she came to see Mrs Boyle she would not be wearing any makeup.

Assessment

[122] Mrs Boyle was doing her best to tell the truth but apart from a general recollection of the pursuer's appearance around the time of her husband's death in December 2011, her evidence of the appearance of the pursuer was not reliable covering the period April to September 2012.

5. Linda Boyle

[123] Linda Boyle ("Ms Linda") was a sister of the pursuer. Her evidence was taken on commission as she had a number of serious health issues. Ms Linda was 10 years older than the pursuer. They were very close. They had drifted apart for a while after their father died in December 2011. While the pursuer looked ill at that time Ms Linda did not know how ill her sister was. After their father's death the pursuer's anxiety and depression got worse.

[124] During the months after December 2011 Ms Linda would see the pursuer about once a week at their mother's house but there was little interaction for months as the pursuer could be cagey and Ms Linda had to watch what she said to the pursuer. That continued until about the summer of 2012.

[125] It was difficult for Ms Linda trying to describe the pursuer's appearance over the period April to September 2012. Ms Linda was not able to relate the pursuer's appearance to when the pursuer stopped work with Estee Lauder in May 2012. She was better able to focus around the time her father died. Ms Linda described the pursuer as being "so ill at the funeral".

[126] Ms Linda described the pursuer as having really bad acne with her skin being really red; facial hair at the sides of the cheek, her chin, under her chin and on the upper lip, more noticeable at the side of the cheeks and some of the hair being dark; her face being really swollen and round "like a big football" and as the months were going on she was turning into "The Incredible Hulk". Ms Linda said that appearance was well before April 2012 and that even when her father had been alive he was concerned about the pursuer's appearance.

[127] Ms Linda looked at the photographs of the pursuer, productions 5/16, 5/17 and 5/18 to assist her recollection of the pursuer's appearance during the period April to September 2012. It was upsetting for Ms Linda to see the photograph 5/16 taken in December 2010. That photograph was taken on Boxing Day 2010 on Ms Linda's birthday. That photograph showed both her parents in addition to the pursuer. In photograph 5/16 Ms Linda described the pursuer as "glowing", that she looked like she had put on a bit of weight as she used to be thinner in the face.

[128] As for the photographs 5/17 and 5/18 taken in March 2013 Ms Linda described the pursuer as having a very sore face and that she did not look like her sister then. The pursuer's face was a lot bigger in 2013 than in 2012. In 2012 you could see she had a problem with her skin and the shape of her face. She had a double chin in 2012. By 2013 it looked like she had three chins.

[129] The pursuer's weight in 2012 made her look pregnant. She had a big round stomach. She was very active in 2012 but she was still putting on weight.

[130] As for her mood in 2012, the pursuer's mood was up and down. She could be more emotional and very snappy.

[131] Ms Linda described her father saying that the pursuer looked pregnant and as if her skin was on fire. Her father was concerned about the pursuer's shape and her skin. Ms Linda described the pursuer's condition getting gradually worse over a long time: "every week it was more acne and more red".

[132] Ms Linda accepted that she was not very good at years or dates, not helped by her medications.

Assessment

[133] Ms Linda was doing her best to tell the truth but I have concluded she was not a reliable witness about the pursuer's appearance and symptoms during the period April to September 2012.

[134] The pursuer exhibited some symptoms during that period including acne, weight gain and low mood. I could not make any findings in fact on Ms Linda's evidence that, as examples, the pursuer had the appearance of a moon face or hirsutism during the period April to September 2012.

[135] In addition to current medications affecting her reliability, the death of her father at the end of 2011 had been devastating. Ms Linda had a difficult relationship with the pursuer from the beginning of January 2012 until about the summer of 2012. The weekly contact with the pursuer during that time was brief and strained. It was difficult looking back some seven years and giving a reliable account of the pursuer's appearance during a relatively short

period, April to September 2012, when for most of that period there was little or no contact with the pursuer.

6. Dr Kaiser Chaudhri

[136] Dr Chaudhri was a general practitioner who had been in practice as a principal since November 1993. He had acted as a general practice expert for about six years. Dr Chaudhri had prepared a number of reports in the present case.

[137] Dr Chaudhri explained a patient would have a combination of signs and symptoms to give rise to a clinical suspicion of Cushing's disease. It would not be just one symptom and the patient might not necessarily have all the symptoms. If a patient had a moon face that would be a significant symptom.

[138] Diagram A within production 5/58, excerpt from Davidson's Principles and Practice of Medicine, was an accurate presentation of a moon face. A moon face had a widening of the face, particularly the lower face, with fat deposition on the face mainly the sides of the face near the jawbone extending to the chin.

[139] The pursuer's face as shown in photographs 5/17 and 5/18 did appear to be rounded with a lot of fat deposition on the sides of the face. The face also looked very red. These features were typical of a moon face.

[140] As at 19 April 2012 Dr Campbell would have been aware of the pursuer's depression, low mood, acne and being overweight. Dr Chaudhri did not think a GP would pay much attention to a modest increase in BMI. The recent BP readings would not be a cause for concern. The last reading measured nine days before 19 April 2012 was only very slightly elevated, borderline normal.

[141] The pursuer said she presented at the consultation on 19 April 2012 with five symptoms: depression, acne, amenorrhoea, hirsutism and moon face.

[142] While a combination of symptoms would be required it would not be necessary for the court to hold all five symptoms were present before Dr Campbell should have had suspicion of Cushing's disease. The most significant symptom was a moon face. That should have made Dr Campbell suspicious of Cushing's disease.

[143] In addition to the five symptoms the general concern of PCOS should have led Dr Campbell to have a suspicion of Cushing's disease.

[144] Dr Chaudhri was referred to all the reports he had prepared in the case: 5/1, 5/14, 5/22, 5/45 and 5/46, recognising that there had been a change of factual circumstances in March 2019 when the symptom of moon face was introduced into the case for the pursuer. That was covered in the supplementary report, 5/46. Expanding on that report Dr Chaudhri explained weight gain was another relevant symptom taken along with the other symptoms. The pursuer had said it was the front of her body (centripetal) that was gaining weight and not her arms and legs.

[145] Dr Chaudhri placed significance on the pursuer expressing concerns about PCOS. A GP was always taught to listen to the patient. Dr Chaudhri thought this concern was something Dr Campbell should have taken note of and followed up.

[146] The pursuer already had acne and a red face. If the pursuer was also found to have had facial plethora on 19 April 2012 that would not be of any particular significance to an ordinary GP.

[147] If there was a new symptom of hirsutism on 19 April 2012 that would be particularly important in the present case if there was the presence of other symptoms and in particular a

moon face. That should have led Dr Campbell to consider any underlying cause by way of further questioning and further testing which might focus on a specific cause.

[148] It was understandable if Dr Campbell did not deal with the concerns about PCOS there and then if presented by the pursuer at the end of the consultation on 19 April 2012. Patients would often come up with something significant at the end of a consultation.

[149] Dr Campbell could have made a further appointment or dealt with it at the next consultation if the pursuer had not made a specific appointment to discuss her concerns about PCOS. If no other consultation was made or suggested there was a potential risk of missing the diagnosis of Cushing's disease if the opportunity to follow up was lost.

[150] PCOS was a diagnosis of exclusion and Cushing's syndrome was a possibility. Production 5/10 was the NICE clinical knowledge summary for PCOS as at 2013, being a fuller version of what was available online and which a GP was more likely to access given time constraints. The advice from NICE was an example of guidelines available and was not prescriptive. Production 5/52 was the Lothian Guidance for PCOS as at 30 March 2010.

[151] Dr Chaudhri rejected the position of the defenders on record that the pursuer's physical condition was easily explained by PCOS. The GP would still require to consider what else it could be, a diagnosis of exclusion including the exclusion of Cushing's syndrome.

[152] On the assumption the pursuer had the same symptoms on 19 April 2012 as at the subsequent consultations with Dr Campbell on 6 June 2012, 25 June 2012, 15 August 2012 and 26 September 2012 Dr Campbell should have re-evaluated these signs and symptoms at each of these consultations. The appearance of a moon face was probably worse than as at 19 April 2012. That re-evaluation of signs and symptoms should have led Dr Campbell to suspect Cushing's disease.

[153] Cushing's disease was a rare disease. It was often quoted in literature that a GP might only see a case of Cushing's disease once or twice in a working lifetime. Cushing's syndrome was not rare. If a GP had, say, 2000 patients on a list about 4 or 5 patients would have Cushing's syndrome. These patients required a lot of medication. A GP might expect to see one of these patients every few weeks. The effects would be similar to Cushing's disease.

[154] The onset of Cushing's disease was variable in each case. The onset could be subtle at first. The symptoms would arise gradually and it could be difficult to differentiate a classic Cushing's disease with an overweight person who had a round face.

[155] Dr Chaudhri was of the opinion a GP would be able to diagnose a moon face from the photographs of March 2013, 5/17 and 5/18. These photographs showed a typical case of Cushing's disease. Taking the photographs in isolation a GP would not think that the patient had Cushing's disease. A GP could only describe the photographs as showing a moon face when the other features of Cushing's disease were present.

[156] The main side effects of Roaccutane were dry, cracked skin. Redness of the skin was not listed as a common side effect. Roaccutane could reduce redness in reducing inflammation of the skin.

[157] Dr Chaudhri was of the opinion Dr Campbell was in a different position to the other GPs in the practice. When she saw the pursuer on 19 April 2012 the pursuer expressed concerns about PCOS and presented with a new symptom, hirsutism. The pursuer also had the other symptoms including a moon face. Dr Campbell then saw the pursuer on several occasions in the following weeks.

[158] Dr Chaudhri was of the opinion Dr Cameron's conclusion in his report, production 6/7 (which pre-dated the moon face case), that there was no clinical negligence was not in

accordance with standard clinical practice. A GP had to consider an alternative diagnosis in terms of the guidance issued by NICE or some equivalent guidance.

[159] Standard clinical practice was designed to avoid GPs missing a diagnosis and potentially missing an important diagnosis. Ignoring such guidance was not consistent with standard clinical practice. In Dr Chaudhri's opinion Dr Cameron's opinion in supporting Dr Campbell would not be supported by a responsible body of GPs. Dr Chaudhri was critical of Dr Cameron as there was no explanation in his report for Dr Campbell making no re-evaluation at the later consultations in 2012, subsequent to the consultation on 19 April 2012.

[160] While Dr Chaudhri had not worked in West Calder as a GP he had worked in the Northwest of England in deprived social areas where depression was common. It was common in such an area for young women to have depression, acne and be overweight. Excess hair was also fairly common in young women but not necessarily with other symptoms. Dr Chaudhri agreed with Dr Campbell's views that hirsutism in young women was more likely to be idiopathic than for any other underlying cause.

[161] Dr Chaudhri and Dr Cameron had a joint meeting, by telephone, in February 2019, production 5/38. At the consultation with the pursuer on 19 April 2012 some GPs might have suspected Cushing's disease but many GPs would not and those GPs would be competent. It would be standard practice for a GP not to suspect Cushing's disease on that day but there should have been a follow- up.

Cross examination

[162] The various reports prepared by Dr Chaudhri were explored in cross examination.

Report 5/1-27 March 2015

[163] There was no mention of moon face or unusual appearance in the report. Dr Chaudhri's focus had been on considering the contemporaneous medical records.

[164] Dr Chaudhri agreed three good reasons for the pursuer's weight gain in 2012 had been noted in the records: hormonal contraceptive, eating more and the prescription for Amitriptyline.

[165] Dr Chaudhri agreed there was nothing recorded in the medical records for 2012, 2013 and 2014 about hirsutism apart from the note on 19 April 2012 where Dr Campbell had noted there was no NHS treatment for hirsutism. It was Dr Chaudhri's opinion that while Dr Campbell may have made a close inspection of the pursuer's face for blackheads and acne she may not have looked for hirsutism or seen any signs of hirsutism.

Note: It was put to Dr Chaudhri if a patient had present clinically facial hirsutism would that have been visible over the acne? Dr Chaudhri said the patient may have removed the hair or the GP may not have been looking for dark hair. That answer from Dr Chaudhri was not convincing.

[166] Dr Chaudhri was challenged for relying on observations by Dr Russell and Dr Gibb (page 11) to support his opinion of clinical negligence in 2012. In Dr Chaudhri's opinion the symptoms of Cushing's disease were present in 2012.

Note: I was not convinced by that answer. It was inappropriate for Dr Chaudhri to be giving an opinion on clinical negligence in 2012 with the benefit of hindsight and in particular placing weight on observations from two clinicians two years later. The only factual basis to support Dr Chaudhri's opinion was the last entry in the record of the consultation on 19 April 2012. In the report 5/1 at page 11 Dr Chaudhri states:

> "Further support for the assertion that the GPs at West Calder Medical Centre should have made the diagnosis of Cushing's disease is provided by the following 2 observations…"

Dr Gibb said in an email dated 26 June 2014 the pursuer had a 4 year history of every Cushing's symptom. That was a history given by the pursuer not from any independent source.

Dr Chaudhri relied on that email that it was Dr Gibb's opinion the pursuer had a 4 year history of Cushing's symptoms and that helped him to conclude the symptoms started in 2010.

That was an untenable position unless that was the opinion of Dr Gibb in evidence or in a report expressing that opinion. Dr Gibb did not produce a report and he did not give evidence.

It was the opinion of Dr Chaudhri that "the GPs" were negligent, that is, Drs Campbell, Dr Simpson and Dr McIntyre. Dr Chaudhri said that for the purpose of a preliminary report it was not a case of trying to blame individual GPs. In the report (page 11 paragraph 4) it was his opinion:

> "It is difficult to be precise on what date it was negligent not to have made a diagnosis, but I would estimate that by September 2012, the GPs should either have suspected the diagnosis or referred her to a specialist for further opinion"

[167] In explaining the term "estimate" Dr Chaudhri said: "it's a period of care over several occasions." Dr Campbell was in overall charge of the pursuer's care. The other GPs had only seen the pursuer on one occasion so they were not negligent.

Report 5/14 – 29 May 2018

[168] The clinical knowledge summary for hirsutism was set out at page 3 and for PCOS at page 4. There was a list of clinical signs for assessment of hirsutism and PCOS. In the

opinion of Dr Chaudhri there was a clinically detectable moon face during the period April to September 2012.

[169] The BP of 132/90mmHg measured on 10 April 2012 was borderline normal. Hospital doctors generally preferred lower BP readings than most GPs.

[170] Dr Chaudhri agreed, on reflection, that at page 7 of the report where he commented one of the symptoms as "high BP" that was not consistent with the evidence and would not be a diagnosis of high BP by a GP. Dr Chaudhri departed from that comment in his report.

Report 5/22 – 29 March 2019

[171] The primary criticism of Dr Campbell was that she did not follow up on the consultation on 19 April 2012 when the pursuer had expressed concern about a generalised hormonal disorder (PCOS) and had presented with a new symptom, hirsutism, in addition to the other symptoms.

Record of the joint meeting of experts in February 2019: 5/18

[172] Dr Chaudhri relied on the same information available to him in 2015 with the addition of replies to questions from Dr Campbell. Dr Campbell should have been active in making a follow up appointment for the pursuer: sent a letter, had someone else make the appointment, give a slip to the pursuer to take to reception.

Addendum report 5/45 – 25 March 2019

[173] Dr Chaudhri prepared an addendum report following the joint meeting to clarify matters. The two experts had looked at each consultation after 19 April 2012 in isolation and had agreed Dr Campbell had acted appropriately, but this had been a continuing process of

care. Dr Campbell should have arranged a follow up appointment after 19 April 2012. She failed to do so and failed to raise the matter at each of the subsequent consultations on 6 June 2012, 25 June 2012, 15 August 2012 and 26 September 2012.

[174] If the pursuer had clinically evident hirsutism present at the consultation on 19 April 2012, not only excess hair but specifically dark excess hair, Dr Campbell should have investigated that new symptom.

Report 5/46 – 29 March 2019

[175] This report was prepared as a result of the new information in March 2019 that the pursuer had presented with a moon face to Dr Campbell on 19 April 2012. Taken with the other symptoms the moon face appearance was a significant symptom of Cushing's disease. The increase in the moon face appearance would be gradual over time. It would start subtly then build up in time, becoming florid.

[176] If a recognised moon face was present in 2012 Dr Chaudhri expected a GP to note that in the records.

[177] While the note of a concern about PCOS made on 19 April 2012 would fade in the memory over time if not raised again, Dr Campbell did not arrange a follow up appointment. In any event, over time, the symptoms would be getting worse and the pursuer was presenting with those symptoms. Each consultation with Dr Campbell after 19 April 2012 the pursuer was presenting with symptoms of a generalised hormonal disorder which were getting worse. Dr Campbell needed to consider PCOS and other underlying causes. She failed to do so.

[178] In summary, the symptoms the pursuer had in April 2012 were paramount to Dr Chaudhri's opinion that Dr Campbell was negligent. He did take into account the email of

26 June 2014 from Dr Gibb with a 4 year history of pretty much every Cushing's symptom. This was useful to him in forming his opinion on negligence. The objective findings to support his opinion on negligence came from what Dr Campbell recorded of the consultation on 19 April 2012. If the various symptoms had not been evident in April 2012 there would have been no negligence.

Assessment

[179] Dr Chaudhri prepared a number of reports in this case. It is of note that only the final report dated 29 March 2019, production 5/46, addresses the presentation of a moon face, having first been raised in March 2019.

[180] Dr Chaudhri had previously given evidence in one negligence case as a GP expert witness. At times that lack of experience was evident in his evidence. Dr Chaudhri was prone to speculate. One example was the passage of evidence about his working in a dermatological clinic and what a dermatologist would or would not take into account when carrying out an examination of a patient following referral from a GP. As a matter of fact Dr Chaudhri did not know what a dermatologist would take into account in any examination or what would be noted in the reporting letter. Dr Chaudhri was straying beyond his area of expertise.

[181] On many occasions Dr Chaudhri's answers to questions were not precise. There was an absence of objectivity. There was a tendency not to focus on the question but to give a more general answer which was not of assistance to the court. At times there were inconsistencies in his opinion, for example, his evidence about "high" BP, "normal" BP then "borderline normal".

[182] Dr Chaudhri placed importance on what was said by Dr Gibb in an email of 26 June 2014 of a 4 year history of every Cushing's symptom to support his conclusion of negligence on the part of Dr Campbell. That approach was flawed.

[183] Dr Chaudhri placed importance for his opinion on the photographs of the pursuer from March 2013, productions 5/17 and 5/18, but later in his evidence he retracted and deferred to the endocrinologists.

[184] Dr Chaudhri's opinion was that Dr Campbell may not have seen any evidence of hirsutism if present as she was only examining the pursuer's face for acne and at one point he suggested Dr Campbell might not have noticed any evidence of hirsutism as the pursuer may have removed any such evidence before the consultation. That opinion was speculative and did not assist the court.

[185] Overall I was not impressed by Dr Chaudhri as an expert witness. His opinion on negligence was influenced by events post 2012 and in particular the 2013 photographs, the findings of Dr Russell in 2014 and the email from Dr Gibb in 2014. In any event his opinion was dependant on a factual basis which has not been proved. That undermined his opinion. I have not accepted his opinion on negligence.

7. Dr Carole Simpson

[186] Dr Simpson had been a GP since 1997 and a partner with the defenders since 1999. Dr Simpson had no recollection of the pursuer as a patient. Dr Simpson had seen Cushing's disease on two occasions, once as a student at the Western General Hospital, Edinburgh and once as a medical student on an elective in Dublin.

[187] Dr Simpson characterised a moon face as usually a face that was rounded in appearance, with plethora to the cheeks and often quite jowly about the chin as well. A moon face was a description of the patient's face not taking account of other symptoms.

Consultation on 29 May 2012

[188] Dr Simpson saw the pursuer on 29 May 2012. Dr Simpson had no recollection of the consultation and had to rely entirely on the clinical record. The patient came in for a further prescription of Fluoxetine having run out of tablets, a repeat prescription. If the patient had presented features of a moon face on 29 May 2012 and had Dr Simpson thought that consistent with a moon face and the patient had not been on steroids she would have noted that in the clinical record. She had not recorded any appearance of a moon face.

[189] A moon face had characteristics which might be clinically significant. A moon face was a clinical sign in itself: "it's a description". If a patient presented with a moon face that would suggest other investigations should be undertaken prior to considering other features which might point to Cushing's disease. That is what Dr Simpson did in clinical practice.

[190] Dr Simpson would have documented a moon face if she thought the patient had a moon face. A rounded jowly face was different from a moon face which would also have features of plethora and acne.

[191] The description of a moon face was a clinical sign, clinically apparent to the GP in examining the patient. A Cushingoid face and an obese face were normally quite different. A moon face was striking, quite a characteristic appearance. A moon face was a description of the patient's face at the time when seen.

[192] Dr Simpson was an experienced GP who gave her evidence in a very straightforward manner. Dr Simpson was a credible and reliable witness.

8. Dr Alastair McIntyre

[193] Dr McIntyre qualified as a GP in 2007 and had been a partner with the defenders since 2008. Dr McIntyre had no recollection of the pursuer as a patient.

Consultation on 10 April 2012

[194] Dr McIntyre did not recall the consultation and had to rely on the clinical record. This was an open surgery. The pursuer had not booked an appointment. The pursuer was asking for a duplicate sick line to certify a period of time off work as she had lost the previous sick line. There was also a note in the clinical record of the pursuer wanting to go onto the contraceptive pill Dianette. The pursuer thought her sister had a blood clot which would be a reason not to go on that contraceptive pill. The pursuer was to have that checked. Dr McIntyre took a BP reading and recorded a note of the pursuer's BMI. These were the clinical factors to see if it was safe for the pursuer to go on the pill which she was.

Consultation on 25 July 2012

[195] The patient had reported the acne tablets were not working. Dr McIntyre prescribed an alternative antibiotic and an aquagel cream in addition to prescribing Amitriptyline. There was a comment in the clinical record: "AC follow up.hads".

[196] Dr McIntyre advised the patient to follow up with Dr Campbell at her next appointment. The term "hads" was a depression questionnaire which the practice would ask patients to fill in to assess where their mood was at the moment.

[197] While there was no record of any facial examination Dr McIntyre said he would be sitting fairly close to the patient, perhaps 2-3 feet away, and would look at the patient's face

from that distance to see what the acne was like. If the patient had newly presented with acne that would have been documented by him in the clinical notes.

[198] As for "AC follow up" there was no specific appointment for follow up. The follow up appointment would be particularly in relation to the patient's mood and her depression. Note: While the pursuer presented with ongoing problems with acne it is of note that, so far as Dr McIntyre was concerned, any follow up appointment was to focus on the pursuer's mood and her depression, not any other symptoms.

General comments

[199] Dr McIntyre had experience of seeing a moon face. He gave examples of patients on steroids or having chemotherapy with a moon face as part of Cushing's syndrome. A moon face was literally increased deposits of fat on the lower part of the face. There would not necessarily be a particular finding of a moon face but taken alongside other features of Cushing's syndrome. If the moon face was obvious along with other features Dr McIntyre would have recorded this in the clinical notes. Other symptoms might include central obesity, being thinner on the arms and legs with the skin being thinner and prone to bruising.

[200] If a patient complained about their face changing Dr McIntyre would pay more attention to that than if not mentioned at all by the patient. It was a question of degree. A round face of itself would not be an obvious feature but if the round face was striking or unusual that would make it more obvious particularly if the patient had been seen regularly.

[201] Dr McIntyre had not recorded the appearance of a moon face in the clinical record for either of the consultations.

Assessment

[202] Dr McIntyre was an experienced general practitioner and straightforward witness. Dr McIntyre did not record the appearance of a moon face at either consultation. Dr McIntyre was a credible and reliable witness.

9. Dr Nial Cameron

[203] Dr Cameron had been a principal in general practice since 1986 and a general practice expert since 2002. Dr Cameron had prepared a report dated 3 October 2010, production 6/7. Dr Cameron adopted the report as part of his evidence in chief and subject to any change in circumstances since October 2018. There was scope for differences of opinion in this case. Dr Cameron had no reason to alter his opinion when giving evidence.

[204] On a consideration of the medical records the pursuer had struggled with low mood and depression since 2007 and ongoing issues with her skin condition had been significant in presentation up to and beyond 2012.

Roaccutane

[205] The pursuer was prescribed with Roaccutane which could only be prescribed by a dermatologist. Before being prescribed a blood test was required as Roaccutane can affect liver function. Side effects could include developing problems with the skin including dryness and redness. The drug could also affect mood and cause sleep disturbance as well.

BP

[206] A BP of 140/90mmHg was the cut off for normal BP.

[207] The following BP readings were satisfactory:

23 May 2007: 131/80mmHg
4 March 2009: 140/86mmHg
7 October 2009: 133/88mmHg

[208] Dr Cameron commented on other BP readings as follows:

29 February 2012: 149/97mmHg elevated
10 April 2012: 132/90mmHg satisfactory
5 November 2012: 126/83mmHg satisfactory
24 April 2013: 149/96mmHg elevated

Consultation on 19 April 2012

[209] A patient may well have a list of five things to discuss and, as leaving, raise something unusual. The general advice was that if the new concern raised required attention, that is, there could be significant harm or very likely to be significant harm if not dealt with promptly, such as chest pain, the GP would have to deal with the new concern at that point. Otherwise the GP would ask the patient to make an appointment where there was more time to discuss the new concern raised, if a brief discussion at the time was not sufficient to allay the concern.

[210] According to the clinical record Dr Campbell offered the pursuer information on PCOS. There was no underlying cause for the vast majority of persons with hirsutism. The actions of Dr Campbell were reasonable and appropriate in the circumstances. If the patient chose not to follow up it was reasonable for Dr Campbell to consider there was no ongoing concern.

[211] It was not for the GP to make sure the patient made a further appointment or instruct the patient to make a further appointment or give the patient a slip of paper to make a further appointment. That would not be usual practice for the condition PCOS. The first question asked about PCOS is whether fertility was desired as the condition affected

fertility. In Dr Cameron's opinion he would expect the patient to raise the issue again if the patient still felt there were significant problems.

Consultation on 6 June 2012

[212] Dr Cameron did not agree there was any obligation on Dr Campbell to re-raise with the pursuer the concerns about PCOS. The pursuer again presented with two significant conditions being acne and low mood/depression. That would have been the focus for the consultation. There was no duty on Dr Campbell to re-raise the concern about PCOS again if not presented by the pursuer as an ongoing concern. It was not reasonable to expect Dr Campbell to raise that issue again.

Consultations on 25 June 2012, 15 August 2012 and 26 September 2012

[213] The pursuer consulted 14 times in 2012 with 6 different GPs. There was plenty of opportunity for the pursuer to raise the concern about PCOS with any of these GPs.

[214] On 25 June 2012 the pursuer presented with a concern she might have MS. MS was a relatively uncommon condition. Dr Campbell gave the pursuer re-assurance that she did not believe the pursuer had MS. Dr Cameron had no concerns about Dr Campbell's conduct at that consultation.

[215] Dr Cameron had no concerns about the conduct of Dr Campbell at the consultations on 15 August 2012 and 26 September 2012.

[216] Amenorrhoea was extremely common with stress, not uncommon with depression, and a side effect of the contraceptive pill the pursuer was taking.

[217] A rapid, unexplained weight gain would have been of concern. The pursuer's weight gain from April to September 2012 was unremarkable. Stress could cause

fluctuations in weight. One of the side effects of medication was an increase in weight and an individual could increase weight when on a contraceptive pill. Any weight gain from April to September 2012 did not cause Dr Cameron any concern.

[218] Dr Campbell had a long consultation with the pursuer on 19 April 2012, 20 minutes, and recorded in the clinical record a reasonably detailed history. Dr Campbell took appropriate action for the main concerns of ongoing skin problems and the pursuer's overall mental welfare. Dr Campbell responded appropriately to the pursuer's concerns about hirsutism. The pursuer did not present with symptoms which a GP would expect to associate with Cushing's disease. The pursuer did not present with a very striking appearance, a Cushingoid appearance. Unless the pursuer had returned for a further consultation to discuss her concerns of PCOS it would not be reasonable for a GP to suspect Cushing's disease. This was very much to do with the context of the pursuer's presentation. Dr Campbell did not depart from standard practice.

[219] A moon face had a Cushingoid appearance, a striking facial appearance, extremely round as well as being obese. Dr Cameron rejected the suggestion that a moon face was a round face with other signs of Cushing's disease. A round face was a round face.

[220] Dr Cameron expected a competent GP to distinguish between an overweight, obese or round face. It was difficult for a GP to say the face was Cushingoid on face alone. The shape of the face should prompt the GP whether to look for or consider other signs and symptoms. If the patient presented with a moon face the GP should be looking for other characteristics, such as central weight gain and striae which are very different to normal stretch marks from being pregnant or overweight.

[221] It was possible excessive facial hair would only be visible if the patient had not taken steps to remove the hair but it was difficult to remove all evidence of facial hair as you would see stubble. The pursuer was again seen at Dermatology on 27 January 2014.

[222] The reporting letter of 12 February 2014 made no mention of hirsutism. If the pursuer was referred for acne to Dermatology Dr Cameron was certain any dermatologist would be looking for anything missed as an underlying cause, such as hirsutism.

[223] Dr Cameron said a moon face was a very subjective term. The shape and size of face was not exclusive to Cushing's disease. It was a possible sign of Cushing's disease but in Dr Cameron's opinion it was a fairly late sign when features had changed to such an extent. Dr Cameron described the appearance as striking as it was not just a round face but with other features including redness, shiny and with high colour. That was quite often a trigger to consider other issues. Someone who had a moon face would be significantly overweight and likely to have an extremely high BMI. It would not just be a round face. It would have to be excessive, a very atypical appearance of the face, before one would consider a Cushingoid appearance. The pursuer did not have an extremely high BMI as at April 2012.

Cross Examination

Consultation on 19 April 2012

[224] Dr Campbell examined the pursuer's face quite closely and did not record any concerns that the face was Cushingoid. The clinical record had quite a detailed description of the pursuer's facial appearance. There was no description of a Cushingoid appearance at that time.

[225] The pursuer must have at least asked about hirsutism on 19 April 2012. That was a new symptom as there was no mention of hirsutism in any previous clinical record. Dr Campbell had recorded there was no NHS treatment available for hirsutism.

[226] In her evidence Dr Campbell said she gave information about PCOS to the pursuer. The pursuer's evidence was that she had a feeling her concern was discarded. The pursuer's concerns were not discarded. Dr Campbell had recorded the concern in the last two lines of the clinical record. The only concern about PCOS was fertility. There was no immediate concern for the pursuer. If the pursuer was concerned about ongoing hirsutism she could or would have raised this at a further appointment. It was reasonable for Dr Campbell that the pursuer digest the advice given to her and then for the pursuer to decide whether to consult again with a GP on that issue.

[227] The pursuer raised very personal details at appointments. It would be very difficult to accept the pursuer felt so inhibited in not raising the concern again if this was a progressive, ongoing problem. While treatment for hirsutism might not be available on the NHS the pursuer could have accessed private treatment or seen a dermatologist privately.

[228] Dr Cameron said that for a diagnosis of hirsutism there had to be a growth of excessive hair, that is, significant. The qualifying term "excessive" was used. The first stage of any assessment process would be by discussing with the patient, examination, discussion and history. If the complaint persisted and was raised again he would have expected Dr Campbell to consider the complaint and take appropriate action.

[229] On the basis of the clinical records and the evidence of Dr Campbell it was Dr Cameron's opinion the pursuer asked about hirsutism on 19 April 2012 but was not presenting with hirsutism at the consultation or at any of the subsequent consultations during the period April to September 2012.

[230] If a patient presented with symptoms of PCOS the immediate advice from the GP would be to look at lifestyle issues. In the present case the pursuer would have had to stop the pill. The pursuer had a complex medical history. She was anxious about the possibility of being pregnant. The pursuer would have had to come off the pill for PCOS tests otherwise the results would be misleading.

[231] If the pursuer had presented again after 19 April 2012 with concerns about PCOS Dr Campbell should have considered what else it could be and consider all possibilities including a PCOS diagnosis by exclusion.

Assessment

[232] Dr Cameron made a favourable impression as a witness with well-reasoned answers. Dr Cameron maintained a robust defence of any criticisms of Dr Campbell during the period April to September 2012 and his opinion and the reasons for that opinion were compelling.

10. Dr Anthony Toft

[233] Dr Toft was a consultant physician and endocrinologist who had prepared a report dated 26 October 2017, production 5/2. Dr Toft adopted as part of his evidence in chief the report.

[234] The symptoms and signs of Cushing's disease were usually a constellation of symptoms. These signs and symptoms may vary. In the opinion of Dr Toft and on the balance of probabilities the onset of Cushing's disease was after February 2010 and before February 2012 because the pursuer had hypertension from at least February 2012.

[235] There was a joint meeting of experts by telephone in February 2019. The joint statement dated 22 February 2019 was production 5/39. Both experts agreed that the clinically apparent onset of Cushing's disease was in 2012.

[236] In the opinion of Dr Toft the clinically obvious presentation of Cushing's disease to a GP was early in 2012.

[237] Dr Toft would expect a young woman of 30 to have a BP of around 110/70mmHg to 120/80mmHg. A reading of 130/90mmHg might not be cause for treatment but required follow up for someone of that age. The subsequent BP readings for the pursuer were abnormally elevated. The pursuer had hypertension from at least February 2012.

[238] The term moon face would only be used when one suspected Cushing's syndrome. The moon face stood alone. Other symptoms may or may not be present which would not be present in simple obesity. It was not uncommon for GPs to refer patients who had a roundness of the face, a mooning appearance, but who were simply overweight and did not have Cushing's disease.

[239] The photographs, productions 5/17 and 5/18, showed a roundness or mooning of the face with obvious facial features including double chin and facial plethora with blotchiness and some acne round the chin. This was a moon face in the context of Cushing's disease. There can be slow progression over months or even years and the appearance becomes more obvious as time goes on. Looking at the photographs it was more likely than not the pursuer had a moon face at April 2012. That was likely to be clinically apparent to a doctor and even more likely over the period from April to September 2012.

Assessment

[240] I did not accept the opinion of Dr Toft that the pursuer had hypertension as at February 2012. I accepted the evidence of all the GP witnesses including the expert witnesses Dr Chaudhri and Dr Cameron that the pursuer did not have hypertension as at February 2012 or from April to September 2012.

[241] I did not accept the opinion of Dr Toft that the Cushing's disease would have been clinically apparent to a GP as at February 2012. If Dr Toft was correct in that opinion Cushing's disease would have been clinically apparent to Drs Campbell, Simpson and McIntyre from April to September 2012. I accepted their evidence that the pursuer did not have the appearance of a moon face during the period April to September 2012. I accepted the opinion of Dr Darzy, who had relevant experience, that Cushing's disease would not have been clinically apparent to a GP as at February 2012 or during the period April to September 2012.

11. Dr Ken Darzy

[242] Dr Darzy was a consultant diabetologist and endocrinologist who had been a medico legal expert witness for about 8 years. Dr Darzy adopted as part of his evidence in chief his report dated 15 November 2017, production 6/8.

[243] In the opinion of Dr Darzy the pursuer would have had a clinically obvious presentation of Cushing's disease in the second half of 2012, that is, clinically apparent to an endocrinologist, not a GP. Cushing's disease was a very slow onset disease that takes time to evolve. The textbooks stated it can be up to 7 years before the disease can be clinically diagnosed.

[244] A BP of 140/90mmHg was normal. That was the threshold to intervene if persistently recorded. An individual may have a significant variation in BP with some individuals differing during the course of the day and other individuals affected by white coat syndrome.

[245] There was a major turn in the Cushing's disease towards the end of 2012, beginning of 2013. There was a major step-up in disease activity. The pursuer developed purple striae in 2013. There was evidence of hypokalaemia in the blood in the blood tests and high levels of cortisol. Potassium was very sensitive to cortisol levels.

[246] A moon face was a descriptive term of a face more rounded than usual. In general the appearance of a moon face was due to being overweight or taking excessive alcohol. Dr Darzy did see patients with a moon face without Cushing's disease. When advanced there would be other symptoms including a buffalo hump and striae and where one was more likely to suspect Cushing's disease. Many patients with PCOS would have a moon face as well.

[247] The 2013 photographs of the pursuer, productions 5/17 and 5/18, were relevant. There was no evidence of Cushing's disease in the December 2010, photograph 5/16. Dr Darzy said that in the 6 months before March 2013 there was a major period of facial manifestations with the appearance of a moon face.

[248] Dr Darzy disagreed the Cushing's disease would have been apparent to a GP by September 2012. The facial appearance was sensitive to disease activity which could be weeks or less. The disease activity changed significantly after mid-2012. Patients with PCOS could have the same symptoms as Cushing's disease particularly patients with advanced PCOS.

[249] The progression of Cushing's disease from April to September 2012 would not be striking enough for every endocrinologist to suspect Cushing's disease. Dr Darzy suggested 40-50% of endocrinologists might suspect Cushing's disease by May-June 2012 whereas it would be 95-100% by late 2012.

Assessment

[250] Dr Darzy made a favourable impression as an expert witness with well- reasoned answers. I accepted his opinion, on the evidence, that the presentation of Cushing's disease in the second half of 2012 would have been clinically apparent to an endocrinologist, not a GP.

[251] Dr Darzy was incorrect in saying there was hypokalaemia in 2013. That evidence was contrary to what he recorded in his report at section 6, page 71, where he had noted there was no evidence of hypokalaemia in any of the blood tests up to May 2013. It is unfortunate this was not put to Dr Darzy in cross examination.

[252] I accepted Dr Darzy's opinion there was a major step-up in disease activity in the 6 months prior to March 2013, particularly with the manifestation of a moon face.

Submissions generally

[253] Written submissions for both parties were lodged and briefly expanded upon in oral submissions. These written submissions were of considerable assistance to the court and a saving of court time. The written submissions are referred to for their terms.

Submissions for pursuer

[254] The motion for the pursuer was for Dr Campbell to be found in breach of a duty of care towards the pursuer and for a proof on causation and quantum.

[255] The pursuer proposed findings in fact supported by a detailed analysis of the evidence. The pursuer provided a commentary on each of the witnesses, inviting the court to accept as credible and reliable the pursuer and the other factual witnesses for the pursuer: Margaret Boyle, Judith Dunlop and Linda Boyle. Dr Campbell was defensive and not convincing and her evidence should not be relied upon. Dr Simpson appeared reluctant to answer clearly questions about moon face. Overall Dr Simpson was an unhelpful and unimpressive witness who gave contradictory evidence and should not be relied upon. Dr McIntyre was a credible and reliable witness doing his best to assist the court.

[256] Dr Chaudhri was an independent and impartial expert witness whose opinion should be preferred to that of Dr Cameron who appeared to lack independence and objectivity.

[257] Dr Toft was an impressive witness whose extensive experience meant he was better placed than other experts to express an opinion that Cushing's disease was clinically apparent to a GP by early 2012. The opinion of Dr Toft should be preferred to Dr Darzy who had significantly less experience. Dr Darzy had commented on when Cushing's disease would have been clinically apparent to a reasonable GP, a matter outwith his area of expertise. Dr Darzy's evidence was inconsistent with his report when he relied on the feature of hypokalaemia in 2013 as demonstrating there had been a significant change in the activity of the disease at the end of 2012/beginning of 2013 whereas in his report the blood tests had shown no evidence of hypokalaemia by at least May 2013.

[258] For all these reasons the court should find that Dr Campbell was negligent and sustain the first plea in law for the pursuer.

Submissions for defenders

[259] The motion for the defenders was to sustain the second and third pleas in law, repel the pursuer's pleas in law and pronounce decree of absolvitor.

[260] In summary the submissions focussed on the central issue: did the pursuer have a Cushingoid appearance between April and September 2012?

[261] There was an analysis of the evidence. The pursuer was not reliable when ascribing dates to events. The pursuer had carried out research on Cushing's disease since her diagnosis. Her recollection had been affected by that research, with the benefit of hindsight. The pursuer had not been asked about her facial appearance before March 2019. The pursuer did not remember the consultation with Dr Campbell on 19 April 2012 or any of the subsequent consultations to end September 2012. The evidence of the pursuer was unreliable in relation to her symptoms or appearance at any particular time.

[262] The witnesses Margaret Boyle, Linda Boyle and Judith Dunlop were unreliable in ascertaining the pursuer's appearance between April and September 2012.

[263] Dr Campbell was a credible and reliable witness. Her account of the consultation on 19 April 2012, with the contemporaneous clinical record of the consultation, was compelling. Had the pursuer presented with clinically evidence hirsutism or a Cushingoid appearance or "moon face" between April and September 2012 Dr Campbell would have recorded that in the clinical notes. Dr Simpson and Dr McIntyre were credible and reliable witnesses. Neither of them made any note of the pursuer having a Cushingoid appearance during the

period April to September 2012. If the pursuer had presented with a Cushingoid appearance that would have been noted in the clinical records.

[264] Dr Toft placed significance on the pursuer having had hypertension since February 2012 but that was inconsistent with other GP evidence which should be preferred. Dr Darzy should be preferred to Dr Toft that the Cushing's disease was clinically apparent to an endocrinologist not a GP in early 2012: about 40-50% of endocrinologists by June 2012 and about 95% of endocrinologists by December 2012.

[265] Dr Cameron should be preferred to Dr Chaudhri. It would not be standard practice for a GP to make sure the patient made a further appointment having raised an issue such as PCOS at the end of a long consultation.

[266] Dr Chaudhri had prepared a number of reports which were not consistent with each other. Dr Chaudhri placed significant importance on what was recorded by Dr Gibb when examining the pursuer in 2014, reaching his conclusions with hindsight and not examining each consultation prospectively on the basis of the information available to the clinicians at the time.

[267] On 19 April 2012 Dr Campbell advised the pursuer to make a further appointment to discuss any concerns she had about PCOS. In the event Dr Campbell did not advise the pursuer to make a further appointment, failing to do so would not fall below the standard of the ordinary competent general practitioner.

[268] The pursuer's appearance and her presentation were not such as would appear to an ordinary competent general practitioner in the period 19 April 2012 to 26 September 2012 to give rise to a suspicion of Cushing's disease or to require further investigation.

[269] The second and third pleas in law for the defenders should be sustained and decree of absolvitor pronounced.

Issues

[270] Parties were agreed the court was required to determine the following issues on negligence:

> 1. With what symptoms and signs did the pursuer present and what concerns did she raise, when seen by Dr Campbell on 19 April 2012?
>
> 2. On 19 April 2012 was the pursuer suffering from clinically apparent Cushing's disease and if so of what degree of severity?
>
> 3. On 19 April 2012 whether Dr Campbell was negligent in failing to suspect Cushing's disease?
>
> 4. In relation to each of the pursuer's attendances with Dr Campbell on 6 June, 25 June, 15 August and 26 September 2012, whether Dr Campbell was negligent in failing to suspect Cushing's disease?

The Law

[271] The legal test for negligence is not in dispute, see *Hunter* v *Hanley* 1955 SC 200:

> "… the pursuer must prove that a doctor said to have been negligent was guilty of such failure as no doctor of ordinary skill would be guilty of if acting with ordinary care".

[272] The pursuer alleges deviation from normal medical practice in this case. The pursuer must prove (i) that there was a usual and normal practice, (ii) that the doctor had not adopted that practice and (iii) that the course which the doctor adopted was one which no professional man of ordinary skill would have taken if acting with ordinary care on 19 April 2012 and at each of the later consultations on 6 June, 25 June, 15 August and 26 September 2012.

[273] The photographs of the pursuer 5/16, 5/17 and 5/18 assisted the endocrinologists Dr Toft and Dr Darzy in forming an opinion when was the onset of the Cushing's disease and when Cushing's disease would have been clinically apparent.

[274] I have set out above reasons for accepting the opinion of Dr Darzy and not accepting the opinion of Dr Toft. Cushing's disease would not have been clinically apparent to a GP from April to September 2012.

[275] There are no photographs of the pursuer covering the period April to September 2012. There are no photographs from December 2010 until March 2013. An explanation was given to the court for there being no other photographs. I accepted that explanation. There was no basis for any criticism by the defenders that there were no other photographs.

[276] The photographs have not assisted me in determining the appearance of the pursuer from April to September 2012.

[277] At the consultation on 19 April 2012 the pursuer presented with a worsening of her mood and a deterioration of her skin with acne vulgaris. The pursuer was amenorrhoeic. The pursuer presented with some weight gain but nothing of significance. The pursuer did not have hypertension. Any redness of the face was not a significant symptom.

[278] The first mention of the pursuer having a moon face was in March 2019 in the course of an amendment procedure instigated by the pursuer and that a moon face would have been clinically apparent to Dr Campbell on examining the pursuer.

[279] Drs Campbell, Simpson and McIntyre were all agreed that if the pursuer presented with an obvious moon face along with other symptoms they would have recorded a moon face in the clinical notes. There is no mention of a moon face in the clinical notes for the pursuer covering the period April to September 2012.

[280] Dr Darzy said that in the six months before March 2013 the disease activity of Cushing's disease changed significantly and there was a major period of facial manifestations.

[281] On a balance of probability, on the evidence, the pursuer did not have the appearance of a moon face or Cushingoid face during the period April to September 2012.

[282] The pursuer expressed concern about PCOS on 19 April 2012. Dr Campbell re-assured the pursuer PCOS was of no concern and gave her information about PCOS. There is no other mention of PCOS in the clinical records from April to September 2012. There is no evidence of the pursuer raising any further concern about PCOS from after 19 April 2012 to September 2012. Had she any ongoing concerns about PCOS it is likely the pursuer would have presented with such a concern with a GP at one or more of the subsequent consultations from April to September 2012. The pursuer did not present with any further concern about PCOS during that period. A GP of ordinary skill acting with ordinary care would not have decided the pursuer's concern about PCOS required further investigation.

[283] The pursuer asked about excess facial hair. It is reasonable to infer the pursuer had a concern about facial hair. The first stage of any assessment process would be by discussing this with the patient.

[284] The NICE clinical knowledge summary for hirsutism was production 5/61. Under the heading Diagnosis it is stated:

> "How do I know my patient has it?"
>
> "Look for excessive terminal hair in androgen – dependent areas including the face, chest, linea alba, lower back, buttocks and interior thighs.
>
> Some hair growth in androgen dependent areas is normal, and there is no clear cut-off for defining excessive hair growth.
>
> It is important to differentiate between terminal hair which is dark, thick and coarse, and vellus (which is soft, fine and unpigmented). Vellus hair does not indicate hirsutism".

[285] There was no evidence the pursuer was presenting with hirsutism, that is, excessive dark, thick and coarse hair. The pursuer did not recall the consultation so could not assist.

Dr Campbell examined the pursuer's face for acne. It is likely that Dr Campbell would have recorded a diagnosis of hirsutism if the pursuer had presented at the consultation with excessive, dark, thick and coarse hair. That is not to say the pursuer did not present with some facial hair but not hirsutism. If the pursuer had presented with hirsutism on a balance of probability Dr Campbell would have recorded that symptom in the clinical notes.

[286] There is no other mention of hirsutism in the clinical records for the subsequent consultations from April to September 2012. If the pursuer had presented to any of the GPs with symptoms of hirsutism at any of these consultations on a balance of probability hirsutism would have been recorded in the clinical notes. There is no such record.

[287] Had the pursuer any ongoing concern or problem with hirsutism it is likely the pursuer would have presented with such a concern or problem at any one or more of the subsequent consultations from April to September 2012. The pursuer did not make any further complaint of excessive facial hair during that period.

[288] The presentation of redness of the face in addition to acne would not be of any particular significance to an ordinary GP. There was no record of redness of the skin noted in any of the clinical notes for the consultations covering April to September 2012. The pursuer did not present at consultation with a specific complaint of redness of the skin, the main concern about her face being the ongoing acne.

[289] The appearance and symptoms of the pursuer did not change significantly at any of the subsequent consultations on 29 April 2012, 6 June 2012, 25 June 2012, 25 July 2012, 15 August 2012 and 26 September 2012.

Decision

[290] The pursuer has failed to prove the case of negligence against Dr Campbell and the defenders. The issues 2, 3 and 4 are answered in the negative. The defenders are entitled to decree of absolvitor.

[291] Expenses are reserved at the request of parties. The Sheriff Clerk will fix a hearing on expenses to suit parties.