In the recently published cases of **Re XY Twins Inflicted Injury [2024] EWFC 413 (B)** and **Re XY Twins Inflicted Injury (Naming Perpetrator) [2024] EWFC 414 (B)**.

Susan Quinn, led by Jonathan Sampson KC, instructed by Lovall Chohan represented the mother.

Tim Potter, led by Jo Brown KC, instructed by Creighton & Partners, represented the father.

The first judgement (413) concerns HHJ Rowe KC finding that a maternity nurse, Emily Waters employed by the family had inflicted injuries to the twins while in her care.

The twins had sustained injuries including fractures to ribs and X suffered a skull fracture and fracture to the left femur. HHJ Rowe KC found Ms Waters to be an unreliable and uncredible witness who had difficulty explaining significant inconsistencies. In addition to her evidence being uncorroborated and indirect.

The local authority did not seek any finding against either parent both of whom were exonerated by the judge. Ms Waters accepted responsibility for X’s femoral fracture and facial bruise. Five findings were made against her. The findings ended the care proceedings, and it was determined that threshold was not met for any public law orders to be made for the children.

The second judgment (414) relates to the decision to name Ms Waters in the published judgments. It was determined that the fact-finding judgment should identify Ms Waters as the perpetrator for the following reasons:

1. Publication of Ms Waters’ name would not risk identifying the children.
2. The principle of anonymity for a professional witness is usually for those not found to be at fault and at risk of harassment and vilification for doing their job. This principle did not apply to Ms Waters.
3. A child-care professional while doing their job injured young children and working in a profession unregulated by any professional body.
4. HHJ Rowe KC found Ms Waters to be dishonest and unreliable and unable to rely on her word that she will not work with children again. Therefore, publication will increase the safeguards against the risk posed to children by Ms Waters.
5. Ms Waters’ name would be published in criminal proceedings.
6. It was acknowledged that publication would have an impact on Ms Waters but deemed to be the ‘*the price to be paid for open justice’*.

The full judgments can be accessed here:

<https://assets.caselaw.nationalarchives.gov.uk/ewfc/b/2024/413/ewfc_b_2024_413.pdf>

<https://assets.caselaw.nationalarchives.gov.uk/ewfc/b/2024/414/ewfc_b_2024_414.pdf>

Given the significance of the principles of open justice & transparency, the judgments have garnered press attention as well as responses from the Transparency Project and the British Nanny Association. The press reports and responses are available at the following links:

1. ***Transparency Project*** report - <https://transparencyproject.org.uk/re-xy-twins-another-family-court-judgment-names-an-individual-to-warn-parents/>
2. ***The Daily Mail*** report - <https://www.dailymail.co.uk/news/article-14425217/Private-nurse-grievous-injuries-newborn-twins-unmasked.html>
3. ***The Sun*** report - <https://www.thesun.co.uk/news/33515448/judge-names-nanny-baby-twins-injuries/>
4. ***British Nanny Association*** official response - <https://www.facebook.com/britishnannyassociationuk/photos/a-sad-day-and-what-we-have-been-trying-to-avoidthe-recent-case-involving-emily-w/122178016106108286/?_rdr>

**Summary by Tamara McCarthy-Baker**

**Pupil**

**4 Brick Court**