

Inquests

What our barristers do

Our barristers represent parties at coroner's inquests, such as those who have been bereaved and those who may be implicated in the death or face subsequent civil and/or criminal proceedings.

In more sensitive cases, there is often the prospect or possibility of an unlawful killing verdict and sometimes the investigation of a suicide. Many of these cases are industrial accidents and clinical mishaps, but we also deal with a wide range of other cases.

We also advise implicated parties and bereaved families and dependents on the civil and criminal proceedings that often follow inquests.-

Inquests in which we have been involved include those relating to Hillsborough, The Marchioness and the King's Cross fire, to name a few.

Who our barristers act for

Our barristers act for government entities, statutory and charitable bodies, corporate entities, insurers, coroners, NHS bodies, GPs and clinical practitioners, care homes and private health care providers, bereaved families and individuals.

Where our barristers act

We act at all stages of the inquest process, from pre-inquest reviews to advocacy at the inquest, whether with or without a jury.

39 Essex Chambers
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Emily Wilsdon

Year of call: 2011

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“Emily is an exceptionally bright barrister who seems to take even the most knotty of instructions in her stride. The speed with which she can unpick tortuous legal problems is highly impressive. A strong, confident barrister – definitely one to watch.”-The Legal 500 2023

Emily practices in administrative and public law, inquiries and inquests, and commercial and construction.

Within commercial and construction disputes she has experience of arbitration, shipping disputes, construction adjudication and banking fraud. She has been

admitted as a Member of the Chartered Institute of Arbitrators (MCI Arb). She has been-instructed as a member of the legal team from 39 Essex Chambers offering legal advice and support to the Foskett Panel.

An experienced public lawyer, she acts for claimants, government and public bodies across all areas of public law. She regularly appears in a wide range of courts and tribunals, including the High Court and Special Immigration Appeals Commission (SIAC). She is a member of the Attorney General's B Panel.

She represents the Department of Levelling Up, Housing and Communities in the Grenfell Tower Inquiry, and the Home Office in the Brook House Inquiry. She advises and represents a range of interested parties at inquests, including Article 2 inquests with a jury.

Areas of expertise

- Administrative and Public
- -- Civil Liberties and Human Rights
- -- Consultation
- -- Equalities
- -- Immigration and Business Immigration
- -- Public International Law
- Alternative Dispute Resolution
- Commercial
- Construction
- Inquiries

- Inquests
- Regulatory and Disciplinary

Administrative and Public

Emily has significant experience in a broad range of administrative and public law matters, and acts both for and against the government in judicial review proceedings, claims against public bodies and other proceedings with a public law element. She also acts in a range of national security cases before the High Court, Special Immigration Appeals Commission (SIAC), the Proscribed Organisations Appeals Commission (POAC) and the Investigatory Powers Tribunal (IPT).-She advises across a wide range of areas including unlawful detention, curfews, trafficking, asylum accommodation, sanctions, consultation, and judicial reviews against professional bodies.

Cases of note

- *Singh v Secretary of State for the Home Department* [2022] SN/93/2020 - A-review of a refusal of a naturalisation application, because of the applicant's involvement in a proscribed organisation.
Judgment
- *EOG and KTT v Secretary of State for the Home Department*[2022] EWCA Civ 307 - Linked appeals heard over three days, concerning aspects of policy about the grant of leave to remain to victims of trafficking, and the interpretation of the Council of Europe Convention on Action against Trafficking in Human Beings.
Judgment
- *Binder and others v Secretary of State for Work and Pensions*[2022] EWHC 105 (Admin) - Considered whether the Secretary of State failed to consult lawfully, via the 'UK Disability Survey', before publishing a National Disability Strategy.
Judgment

- *Jalloh v Secretary of State for the Home Department* [2021] AC 262, [2020] UKSC - The Supreme Court-decided that an unlawful curfew is detention for the purposes of the tort of false imprisonment;
Judgment
- *Kaitey v Secretary of State for the Home Department* [2020] EWHC 1861 (Admin) --Considered whether the Secretary of State has the power to place a person on bail under paragraph 1(2) of Schedule 10 to the Immigration Act 2016 in circumstances where it would be unlawful to detain them; involved core principles of statutory interpretation.
Judgment
- *DMA & others v Secretary of State for the Home Department* [2020] EWHC 3416 (Admin), [2021] 1 WLR 2374 --A systemic challenge which concerned the secretary of state's discharge of the duty under section 4(2) of the Immigration and Asylum Act 1999 to provide accommodation and subsistence support to eligible destitute refused asylum seekers with disabilities.
Judgment
- *Arumugan & Others v Secretary of State for the Home Department* [2020] PC/04/2019 - An appeal against the refusal to remove the Liberation Tigers of Tamil Eelam (Tamil Tigers) from the list of organisations proscribed under the Terrorism Act 2000.
Judgment

-- Civil Liberties and Human Rights

Emily acts in a broad range of areas involving civil liberties and human rights. She has a particular expertise in deprivation of liberty, false imprisonment in tort, and unlawful detention. She advises and acts in a range of cases, including those relating to curfews, bail, immigration detention and imprisonment.

Cases of note

- *Jalloh v Secretary of State for the Home Department*[2021] AC 262, [2020] UKSC 4 --Considered the meaning of imprisonment at common law and whether it should, or should not, be aligned with the concept of deprivation of liberty in article 5 of the European Convention on Human

Rights-(ECHR). The Supreme Court decided that an unlawful curfew is detention for the purposes of the tort of false imprisonment. Emily was instructed in this case in the High Court, Court of Appeal and Supreme Court, as well as in a range of related cases including *Lupepe* [2017] EWHC 2690 (Admin).

Judgment

- *Kaitey v Secretary of State for the Home Department* [2020] EWHC Civ 1875 –Considered whether the secretary of state has the power to place a person on bail under paragraph 1(2) of Schedule 10 to the Immigration Act 2016 in circumstances where it would be unlawful to detain them; involved core principles of statutory interpretation.

Judgment

-- Consultation

Emily regularly advises on and acts in cases involving the application of the principles of fair consultation, promises of consultation, and voluntary consultation.

Cases of note

- *Binder v Secretary of State for Work and Pensions* [2022] EWHC 105 (Admin) –Considered whether the Secretary of State failed to consult lawfully, via the 'UK Disability Survey', before publishing a National Disability Strategy. The issues were whether the secretary of state voluntarily embarked on a consultation with the public to which the common law principles of fair consultation discussed in *R v Brent London Borough Council ex parte Gunning* (1985) 84 LGR 168 applied; whether there was nevertheless a duty to consult with disabled people and/or disabled people's organisations; whether the decision not to consult was irrational; and whether there had been a breach of the public sector equality duty.-Emily is instructed in the appeal to the Court of Appeal.

Judgment

-- Equalities

Emily regularly advises and appears in cases which raise equalities issues, including the public sector equality duty. She has experience of systemic challenges to the lawfulness of policies and practices. She was appointed to the Equality and Human Rights Commission's B Panel in May 2019.

Cases of note

- *DMA & others v Secretary of State for the Home Department* [2020] EWHC 3416 (Admin) - A systemic challenge which concerned the secretary of state's discharge of the duty under section 4(2) of the Immigration and Asylum Act 1999 to provide accommodation and subsistence support to eligible destitute refused asylum seekers with disabilities. It considered the nature of monitoring that ought to take place, the contractual arrangements in place for the provision of accommodation and the distinction between monitoring performance under the contract and discharge of the non-delegable duty.

The court found that the home secretary was in breach of her duties under section 4(2) of the 1999 Act and section 6 of the Human Rights Act 1998 in failing to provide accommodation to the claimants within a reasonable period of time and in failing properly to monitor the provision of accommodation.

The court also found that operating a system which for cases with specific needs was unlikely to provide appropriate accommodation within the period set by guidance placed severely disabled people at an unfair disadvantage, and that the home secretary was in breach of the public sector equality duty in section 149 of the Equality Act 2010 in failing to monitor the provision of section 4(2) accommodation to individuals who had a disability.

Judgment

-- Immigration and Business Immigration

Emily has significant experience in all areas of immigration law, including the application of the Immigration Rules and a wide range of policies, and regularly acts in applications for judicial review in the Upper Tribunal (Asylum and Immigration) and the High Court. She is experienced in assisting individuals with applications and submissions, particularly within business immigration and applications outside the Immigration Rules.

-- Public International Law

Emily regularly advises on and acts in domestic cases involving the interpretation of international law, including the Council of Europe Convention on Action against Trafficking in Human Beings and the 1954 Convention relating to the Status of Stateless Persons.

Alternative Dispute Resolution

Emily has experience within both adjudication and arbitration, both domestic and international. As an Inner Temple Pegasus Scholar, Emily gained experience working on a wide range of commercial and arbitration matters as an Associate at Al Tamimi & Co, and at the DIFC Court in Dubai. Her work included advising and drafting on matters such as disputes about jurisdiction and the enforcement of arbitral awards and issues of contract, tort, financial regulation and civil procedure. She has been admitted as a Member of the Chartered Institute of Arbitrators (MCIArb).

Commercial

Emily accepts instructions in all areas of commercial law. She has experience of advising on and appearing in a range of contractual disputes and litigation involving allegations of fraud.-Recent instructions include construction adjudications relating to a luxury redevelopment of flats, a dispute concerning the failure to repay loans, claims arising out of a complex fraud, and a shipping dispute concerning damage to goods.

She has been instructed as a member of the legal team from 39 Essex Chambers offering legal advice and support to the Foskett Panel.

As an Inner Temple Pegasus Scholar, she gained experience working on a wide range of commercial and arbitration matters as an Associate at Al Tamimi & Co, and at the DIFC Court in Dubai. Her work included advising and drafting on matters such as disputes about jurisdiction and the enforcement of arbitral awards and issues of contract, tort, financial regulation and civil procedure.-Further information is available online here: www.foskettpanel.com

Cases of note

- *Marine Accident Investigation Branch in Ocean Prefect Shipping*-[2019] EWHC 3368 (Comm), [2020] Bus LR 712 --Concerned the admissibility of a Marine Accident Investigation Branch report into a private shipping arbitration.
Judgment
- *The Foskett Panel*--Advising and supporting the independent re-review panel (also known as the Foskett Panel) to reassess the direct and consequential losses suffered by victims of the fraud committed at the HBOS Impaired Assets Unit based at Reading and Bishopsgate.
Judgment

Construction

Emily has a detailed knowledge of building regulation and policy, the construction industry, building products and the testing regime as a result of her work on the Grenfell Tower Inquiry. She has experience of construction adjudication.-

She is used to dealing with document heavy matters and disclosure platforms; advising on sensitive issues of disclosure and procedure; assisting witnesses from the highest level of seniority down with the drafting of witness statements; and drafting detailed submissions dealing with large amounts of evidence and both technical and sensitive topics, and engaging with large client teams in order to do so.

Cases of note

- *Grenfell Tower Inquiry*--Emily represents the Department of Levelling Up, Housing and Communities (formerly MHCLG), led by Jason Beer QC.

Inquiries

Emily has a deep knowledge of inquiries law and practice covering all stages of a public inquiry, having been instructed for core participants in relation to a range of inquiries over a number of years, including the Grenfell Tower Inquiry, the Brook House Inquiry, the Independent Inquiry into Child Sexual Abuse, the Leveson Inquiry, and the Undercover Policing Inquiry.

Cases of note

- *Grenfell Tower Inquiry* - Emily represents the Department of Levelling Up, Housing and Communities (formerly MHCLG), led by Jason Beer QC, in the public inquiry into the fire at Grenfell Tower on the night of 14 June 2017.
- *Brook House Inquiry* - Emily represents the Home Office in this inquiry which is investigating the decisions, actions and circumstances surrounding the mistreatment of individuals who were detained at Brook House Immigration Removal Centre shown in the BBC Panorama programme "Under-Cover: Britain's Immigration Secrets".
- *Covid Inquiry* – Emily has advised a national organisation subject to Rule 9 requests.

Inquests

Emily regularly advises and represents a range of interested parties at inquests, including bereaved families and public bodies. She specialises in Article 2 inquests with a jury. She has particular expertise in deaths in custody and inquests with complex medical issues.

She has recently represented interested parties in a week-long jury inquest into a death in HMP Swansea; an inquest into a death in custody at HMP Woodhill related to the use of illicit drugs including new psychoactive substances (commonly known as spice); an inquest with complex medical issues arising from a deep vein thrombosis (which included detailed cross examination of the hospital consultant); and an inquest regarding the death of a child in a road traffic incident.

Regulatory and Disciplinary

Emily is instructed both by individuals and regulators in relation to professional misconduct proceedings. Recent cases include serious allegations of sexual misconduct, and proceedings before the Teaching Regulation Agency, and the

Nursing and Midwifery Council.

Recommendations

- *“Emily is an exceptionally bright barrister who seems to take even the most knotty of instructions in her stride. The speed with which she can unpick tortuous legal problems is highly impressive. A strong, confident barrister – definitely one to watch.”* Legal 500 2023

Memberships

- Administrative Law Bar Association (ALBA)
- International Chamber of Commerce, Young Arbitration & ADR Forum (ICC YAF)-

Qualifications

Education

- 2010 – 2011, Kaplan Law School, Bar Professional Training Course
- 2009 – 2010, New York University School of Law, LLM
- 2006 – 2009, Downing College, Cambridge University, MA Law

Scholarships and Prizes

- Inner Temple Pegasus Scholarship (2015)
- Middle Temple Inn of Court Queen Mother Scholarship (2010)
- Pomona-Downing Scholarship (2005)

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Scarlett Milligan

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“Highly analytical, thorough and she has excellent attention to detail. She has a superb ability to bring together a lot of complex information to form succinct arguments” The Legal 500 2023

Scarlett Milligan is a sought-after junior barrister who is regularly praised for being skilled beyond her level of call, and for her diligence and commitment to her cases. She has a broad practice in public law, inquests and inquiries, and in civil claims for negligence, personal injury, and other tortious wrongdoing.

She is recognised in the leading legal directories in the areas of inquests, public inquiries and administrative law and human rights, where she has been ranked as ‘Up and Coming’- and a ‘Tier 1 Rising Star’.-

She has experience acting for an array of clients, ranging from individuals through to large corporations and states. She is also junior counsel to the Crown

(Attorney General's C Panel).

Scarlett has experience of large-scale litigation, being led, and acting as sole counsel. She has a meticulous eye for detail and, as a result, is often instructed as sole counsel in significant cases with complex legal and factual backdrops, including advising on applicable law and jurisdiction. She has experience as sole counsel of advising and acting in cases valued at up to £10m.

Areas of expertise

- Inquests and Inquiries
- Personal Injury
- Civil Liberties and Human Rights
- Administrative and Public
- Regulatory and Disciplinary
- Construction

Inquests and Inquiries

“Scarlett is fantastic with advocacy but also has an amazing manner with bereaved clients and guides them through the process with a sensitive touch.” Chambers and Partners, 2023

“Highly analytical, thorough and she has excellent attention to detail. She has a superb ability to bring together a lot of complex information to form succinct arguments.”-The Legal 500, 2023

“Extremely conscientious, thorough, and always prepares meticulously. She provides unwavering support to the silks and senior juniors on the inquiry, and has a

remarkable capacity to digest huge volumes of material very quickly, and always with a sharp analytical focus” The Legal 500, 2022

“Scarlett Milligan has a growing presence in the inquests and inquiries sphere where she acts for a wide range of clients... She is an empathetic barrister who communicates clearly with clients and deals with all the issues in inquests in a way that is understood clearly” Chambers and Partners, 2022

Scarlett is a rising star in the field of inquests and inquiries, frequently appearing against opponents of far more senior call in important and complicated cases.

She has vast experience in this area, and her achievements have been recognised in the leading legal directories, where she is ranked as ‘Up and Coming’ (Chambers and Partners, 2022 and 2023) and a ‘Tier 1 Rising Star’ (The Legal 500, 2022 and 2023).

Her inquest experience covers a broad range of factual and legal scenarios, including:

- Police misconduct and/or negligence;
- Deaths in state custody;
- Self-inflicted deaths;
- Defective products;
- Health and safety issues, including building construction;
- Clinical negligence; and
- Road traffic accidents.

She has appeared in a number of Article 2 and jury inquests, and her strong civil liability practice means she is ideally suited for clients seeking advice on any connected civil proceedings which may arise following a death.

She also has experience acting and advising in judicial review and statutory review (Section 13 of the Coroners Act 1988) challenges to coronial decisions.

Scarlett currently acts as junior counsel to the Grenfell Tower Inquiry, and is acting for victims and their families in the Infected Blood Inquiry.

Personal Injury

Scarlett has a broad personal injury and civil liability practice which has strong connections to her inquests and inquiries work. Her experience includes:

- Occupiers' liability claims;
- Accidents at work and the application of health and safety legislation (including in a construction context);
- Claims for asbestos-related disease;
- Fire-related claims;
- Fatal accidents;
- Claims involving military personnel;
- Human Rights Act claims and other related claims for alleged misconduct or negligence on the part of public bodies;
- Intentional battery and assault actions;
- Sexual harassment;
- Tort of deceit proceedings arising out of insurance fraud; and
- Contempt of court.

She acts for both claimants and defendants, and is often instructed as sole counsel in high-value, High Court litigation. As a result, she can confidently handle multi-party cases, multiple experts, claims involving complicated injuries (including brain injuries and psychiatric illness), and complex heads of loss (such

as military loss of earnings).

She enjoys instructions which present knotty or complicated issues of law, and has experience of advising on applicable law, forum, crown immunity, and state immunity. She welcomes instructions which raise issues of public and private international law.

Scarlett is in an unusually strong position to advise upon or act in cases which concern technology and automation and their influence upon issues of health and safety in our society. In November 2019, she co-authored “*A Practical Guide to the Law of Driverless Cars*”, personally authoring the chapters on how the areas of negligence, product liability and employers’ liability will be impacted by, or require change as a result of, new automated technologies. She has since written articles and delivered lectures in this area, and welcomes instructions or invitations to speak on these issues.

Civil Liberties and Human Rights

“Scarlett is simply superb! Amazing advocate, great personality with clients and just an absolute pleasure to work with.” The Legal 500, Rising Star (2023)

Scarlett has extensive expertise advising and acting in cases involving civil liberties and human rights across judicial review proceedings, civil claims pursuant to the Human Rights Act 1998, in the context of inquests and public inquiries, and in the regulatory and disciplinary sphere.-

Her experience encompasses the full breadth of the ECHR articles and advising on Strasbourg case law and proceedings.-

She acts for claimants and defendants and has particular experience in actions against the police, prisons, local authorities, central government, and other public bodies for alleged mistreatment, misconduct, and negligence. She has acted in a number of notable cases in the context of violent or unusual deaths, terrorist acts, prisons, sexual abuse, and trafficking.-

Her strong civil liability and inquest experience makes her well placed to advise at an early stage, and to provide support, representation, and advice throughout a number of different proceedings.

Administrative and Public

“Scarlett is simply superb! Amazing advocate, great personality with clients and just an absolute pleasure to work with.” – Legal 500, Rising Star (2023)

Scarlett has experience of advising on and acting in challenges to the decisions of various governmental and public bodies in a number of factual contexts. She is highly regarded as both sole counsel and junior counsel, and acts for claimants and defendants in judicial review proceedings.

Her ability to digest large swathes of information makes her suitable to advise on an array of public law challenges, including cases with unusual factual or legal elements. Her cases to date span a number of factual contexts, including: modern slavery and trafficking; inquests; prisons and the Parole Board; the provision of legal aid; immigration; changes to welfare benefits; import and export restrictions; and taxation.-

Scarlett has a particular interest in the application of public law principles to the marketplace, business transactions, and private property. She has recent experience of advising industry on the potential to challenge government

interference, payments and taxation in reliance on Article 1 Protocol 1 of the European Convention on Human Rights (possession rights).

She enjoys instructions which present knotty or complicated issues of law, and has experience of advising on applicable law, forum, crown immunity, and state immunity. She welcomes instructions which raise issues of public and private international law.

Regulatory and Disciplinary

Scarlett has experience defending legal professionals against a variety of professional allegations, including claims of negligence and fraud. Relatedly, she has experience advising on vexatious claims and vexatious litigants, general civil restraint orders, and contempt of court.

Construction

Having been Junior Counsel to the Grenfell Tower Inquiry, Scarlett has a firm understanding of some of the most pressing and complicated issues in the built environment, as well as recent changes to the regulatory and legislative landscape, including the Fire Safety Act 2021, Fire Safety Regulations 2022, and the Building Safety Act 2022.- She is able to advise on these issues and connected matters, such as: building defects, claims for property damage, professional negligence and other forms of professional liability, health and safety liabilities, contractual disputes, and related insurance and reinsurance considerations.- Scarlett is part of 39 Essex's Fire Law group.

Recommendations

- *“Scarlett is fantastic with advocacy but also has an amazing manner with bereaved clients and guides them through the process with a sensitive touch.”*-Chambers and Partners 2023 - Inquests and Public Inquiries, Up and Coming
- *“Highly analytical, thorough and she has excellent attention to detail. She has a superb ability to bring together a lot of complex information to form succinct arguments.”*- The-Legal 500, 2023- Inquests and Inquiries, Rising Star
- *“Scarlett is simply superb! Amazing advocate, great personality with clients and just an absolute pleasure to work with.”*The-Legal 500 2023 – Administrative Law and Human Rights, Rising Star
- *“...has a growing presence in the inquests and inquiries sphere, where she acts for a wide range of clients. Among other prominent matters she is notable for having been instructed as counsel to the Grenfell Tower Inquiry.”*-Chambers and Partners 2022 - Inquests and Public Inquiries, Up and Coming
- *“Extremely conscientious, thorough, and always prepares meticulously. She provides unwavering support to the silks and senior juniors on the inquiry, and has a remarkable capacity to digest huge volumes of material very quickly, and always with a sharp analytical focus.”*The Legal 500 2022 – Inquests and Inquiries, Rising Star

Memberships

- Constitutional and Administrative Law Bar Association (ALBA)
- Health and Safety Lawyers' Association (HSLA)
- Personal Injury Bar Association (PIBA)

Qualifications

Education

- University College London: LLB
- BPP Law School, London: BPTC

Scholarships and Prizes

- Inner Temple Pegasus Scholar (2022)
- Inner Temple Princess Royal Scholar (2015-2016)
- UCL Flesch Bursary (2011-2014)
- UCL Santander Scholarship (2011)
- RGS Bursary (2009-2011)

Additional Information

Appointments

- August 2020 to date: Junior Counsel to the Crown – Attorney General’s C Panel (Civil)
- March 2018 to date: Member of the Governing Board of the Royal Grammar School, Newcastle upon Tyne

Publications

- “*A Practical Guide to the Law of Driverless Cars*” – Glassbrook, Northey and Milligan, Law Brief Publishing, November 2019.

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Samuel Burrett

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Sam practises across the range of chambers' civil liability work, specialising principally in personal injury, clinical negligence, costs, commercial and sports matters. He also has a particular expertise in public inquiries and investigations.

He routinely represents claimants and defendants at interlocutory hearings, costs and case management conferences (CCMCs) and fast and multi-track trials. Alongside his court work, he has a busy advisory and paperwork practice.

Sam is currently instructed as junior counsel to the Grenfell Tower Inquiry.

Prior to coming to the Bar, Sam worked as a caseworker for Advocate (previously the Bar Pro Bono Unit), where he assisted litigants who were unable to privately fund their representation and were ineligible for a legal aid.

Areas of expertise

- Personal Injury
- Clinical Negligence
- Costs Litigation
- Commercial and Construction
- Inquiries and Investigations
- Sport

Personal Injury

Sam has a specialist personal injury practice. He routinely acts in fast and multi-track cases for both claimants and defendants. He regularly advises on tactics, liability and quantum, as well as drafting pleadings and schedules. He has extensive experience of employers' liability, public liability, occupiers' liability, Highways Act and road traffic accident (including credit hire) claims. In his early career, Sam gained considerable experience prosecuting and defending allegations of serious dishonesty in the criminal courts, so he is well-placed to act in personal injury claims involving fundamental dishonesty and fraud issues.-

Clinical Negligence

Sam frequently acts in clinical negligence cases encompassing all branches of the medical professions, including optometrists, ophthalmologists and veterinary surgeons. He is instructed by claimants, healthcare trusts, private insurers and medical defence organisations. He has dealt with claims involving a range of complex liability and causation issues, including delayed and incorrect diagnosis, delayed referrals, surgical errors and negligent treatment of post-operative complications. He regularly advises on liability and quantum as well as

drafting pleadings and schedules.

Costs Litigation

Sam is a member of Chambers' specialist costs team. He is instructed to advise in 'between the parties' and 'solicitor own client' costs disputes and to represent in detailed assessment hearings and related applications. He has particular expertise with issues concerning enforceability of retainers, misconduct applications under CPR 44.11 and the operation of the fixed recoverable costs regime. He is also experienced in the range of costs matters associated with civil litigation, including costs and case management conferences (CCMCs), wasted costs and indemnity costs applications, Part 36 offers, and exceptions to qualified one-way cost shifting

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Commercial and Construction

Sam undertakes a wide range of commercial work, with a particular focus on contractual disputes and property damage cases. He has acted in cases concerning the existence and performance of contracts, interpretation of contracts, misrepresentation, enforceability and consumer contracts issues. In addition, he has a diverse property damage practice. He is instructed in claims arising from damage caused by substandard and defective construction work, weather and subsidence and tree roots. His instruction on the Grenfell Tower Inquiry leaves him especially well-placed to deal with cases involving fire-related damage in a construction context.

Inquiries and Investigations

Sam has a significant inquiry practice. Since early 2019, he has been instructed as junior counsel to the Grenfell Tower Inquiry, led by Richard Millett QC (Essex Court Chambers) and Andrew Kinnier QC (Henderson Chambers). He has been heavily involved in the Inquiry's work concerning fire safety, health and safety and the actions of the London Fire Brigade and other Fire and Rescue Services. Prior to his work on the Grenfell Tower Inquiry, he was instructed by the Commissioner of the Metropolitan Police in the Independent Inquiry into Child Sexual Abuse. He is, therefore, well-versed in all aspects of the inquiry process.

Sport

Sam has a growing practice in sports-related disputes, particularly sports injury cases. Alongside his expertise in personal injury and clinical negligence matters, his experience of commercial and contractual disputes as well as his prior experience practising in employment, disciplinary and criminal matters mean he is well-placed to advise and act in sports claims which interact with those areas of law. Sam also competed internationally in hockey. That elite sporting background gives him a valuable insight into the perspective and needs of players, organisations and professional bodies when dealing with sports cases.

Memberships

- Personal Injury Bar Association
- Professional Negligence Bar Association

- Advocate Panel Member

Qualifications

Education

- 2012 – 2013 / University of Law / Bar Professional Training Course (Outstanding)
- 2011 – 2012 / Graduate Diploma in Law / University of Law-
- 2008 – 2011 / University of Exeter / BA (Hons) in Ancient History

Scholarships and prizes

- 2015 / Levitt Scholarship / Lincoln's Inn
- 2013 / Buchanan Prize / Lincoln's Inn

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Jake Thorold

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Email: jake.thorold@39essex.com

Jake accepts instructions across all of Chambers' practice areas with a particular interest in public, planning and environmental law.

In his first six months of practice, Jake was instructed as sole counsel in both the High Court and in the high-profile South Kensington tube station planning inquiry. He was also instructed in the Supreme Court in *R (Maguire) v His Majesty's Senior Coroner for Blackpool and Fylde* (pro bono written submissions for MIND led by Alex Ruck-Keene KC (Hon)).

In 2021-2022 Jake was a Judicial Assistant at the Supreme Court of the United Kingdom and Judicial Committee of the Privy Council, assigned to Lord Sales and Lady Rose. In this role Jake was involved with some of the most important cases of the year, including *Hillside Parks Ltd v Snowdonia National Park Authority* [2022] UKSC 30 on successive planning permissions, *Fearn v Board of Trustees of the Tate Gallery* [2023] UKSC 4 on the applicability of the law of nuisance in cases of visual intrusion, *Basfar v Wong* [2022] UKSC 21 on the scope of diplomatic immunity for human trafficking and *Attorney General for Bermuda v Ferguson and others* [2022] UKPC 5 concerning the constitutionality of same-sex marriage in Bermuda.

Prior to coming to the Bar Jake worked for the Royal Society of Arts think tank and studied at Cambridge (starred double first), Harvard and Oxford (top of year).-He is willing to accept pro bono instructions in appropriate cases.

Areas of expertise

- Public Law
- Planning and Environment

- Civil Liability
- Commercial, Construction and Property

Public Law

Jake is developing a broad public law practice. During his first six months of practice he was instructed in the Supreme Court in *R (Maguire) v His Majesty's Senior Coroner for Blackpool and Fylde* (written submissions led by Alex Ruck-Keene KC (Hon)) and by the Department of Health in the Infected Blood Inquiry.

Jake has also been instructed as sole counsel in public law matters, including recently in multiple Court of Protection matters and for a successful appeal against the contents of a disabled child's educational, health and care (EHC) plan in the Special Educational Needs and Disability (SEND) Tribunal.

During pupillage, Jake assisted on a variety of public law matters including:-

- *R (L, M & P) v Devon County Council* [2022] EWHC 493 - which concerned whether there was a fixed timeframe for local authorities to make amendments to a child's EHC plan;-
- An appeal to the Upper Tribunal from a decision of the First-tier Tribunal in relation to an EHC plan appeal;-
- An appeal to the Court of Appeal regarding withdrawal of medical treatment for a five-year old child in a permanent vegetative state;-
- A Solicitors Regulation Authority (SRA) matter regarding a mentally unwell solicitor, which raised issues under Articles 2 and 6 of the European Convention on Human Rights (ECHR);-
- Advising on the correct construction of regulations governing the definition of income and capital for charging purposes under the Care Act 2014;

Planning and Environment

Jake has a particular interest in planning and environmental work and was-instructed as sole counsel by a group of residents' associations in the high profile South Kensington Tube Station planning inquiry. He has also acted as sole counsel in the High Court in relation to the government's use of hotels for the purpose of accommodating asylum seekers and whether that constituted a material change of use requiring planning permission.

Jake is also frequently instructed by both claimants and local planning authorities in judicial reviews of planning permissions.

Jake also gained experience in a wide range of planning and environmental matters during pupillage. For example, he was involved in:-

- Resisting a series of judicial reviews to a major housing development on the outskirts of Canterbury;-
- Advising a local authority on the legal soundness of a planning enforcement notice;-
- Resisting a local authority's application for a planning enforcement order sought on the basis that development had been "deliberately concealed";-
- Assisting on a challenge to local authority guidance promoting the emergency installation of low traffic neighbourhoods during the Covid-19 pandemic;-
- Advising a local authority on whether they should update their Community Infrastructure Levy charging schedule in a context where an update to the Local Plan was imminent.

Civil Liability

During pupillage, Jake was instructed (led by William Norris QC) in professional negligence proceedings concerning the death of a valuable racehorse at a

veterinary surgery. He was singled out by the judge in the judgment for the assistance he provided.

Jake appears regularly in the County Courts in matters such as personal injury and credit hire, and frequently drafts pleadings. Jake is often asked to advise on matters ranging from procedural issues to quantum.-

During pupillage, Jake gained experience of drafting statements of case, schedules, advices and legal research notes on a variety of matters including:-

- Advising and drafting a strike out application for a claim made for loss of time/earnings alleged to have arisen due to NHS maladministration;-
- Drafting pleadings and schedules of loss in personal injury and clinical negligence matters;-
- Advising on whether any duty of care is owed by the NHS to a family member killed by a patient receiving psychiatric treatment;-
- Advising on parameters for settlement in a clinical negligence matter pleaded at over £2m.

Commercial, Construction and Property

Jake is frequently instructed to advise on commercial and construction matters. He recently advised, for example, on a defective construction matter worth over £600,000.

During pupillage, Jake gained experience of drafting statements of case, advices and legal research notes on a variety of matters including:

- Assisting Paul Darling KC and David Sawtell in a three-day Dispute Adjudication Board hearing concerning a multi-million dollar claim for delay costs incurred during the construction of a South African power plant;

- Assisting Paul Darling KC in a major international arbitration concerning the construction of two airports in Oman;
- Advising on liability in a dispute concerning the construction of a website for Bulgarian businesses;
- Advising on whether easements had been acquired by prescription;
- Advising on the validity of a deed of novation in circumstances where its terms had been amended subsequent to it being signed;
- Drafting defences in adjudication enforcement proceedings in which a Claimant simultaneously sought to enforce and impugn an adjudicator's decision.

Memberships

- Administrative Law Bar Association (ALBA)
- Court of Protection Bar Association (CPBA)
- Personal Injuries Bar Association (PIBA)

Qualifications

Education

- BPTC, City Law School (Outstanding)
- GDL, City Law School (Distinction)
- MSt in British and European History, University of Oxford (Distinction – top of year)
- BA History, University of Cambridge (starred double first)

Scholarships and Prizes

- Peter Taylor Scholarship – Inner Temple (the Inn’s most prestigious award)
- Prize for highest mark in history master’s dissertation, University of Oxford
- Herchel Smith scholarship to Harvard University
- Honorary Bachelor Scholar, Emmanuel College, University of Cambridge

Additional Information

From September 2021 to July 2022 Jake worked at the Supreme Court as the judicial assistant to Lord Sales and Lady Rose.

Before coming to the Bar, Jake worked for the Royal Society of Arts think tank where he was the author of multiple public policy reports. He has been published in *The Guardian* and *The New Statesman*.

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Daniel Laking

Year of call: 2015

Email: Daniel.Laking@39essex.com

Daniel has a broad civil litigation and public law practice, specialising principally in the fields of personal injury and clinical negligence, insurance fraud, costs and litigation funding, inquests, inquiries and investigations, and health and safety.

He is a proficient and experienced advocate, having appeared in tribunals, County Courts, the Crown Court, the Coroner's Court, and in the High Court, both led and as sole counsel. Alongside his court work, he has a busy advisory and paperwork practice.

Daniel is familiar working for a wide range of clients, from individuals to corporations and government departments. He is currently instructed as junior counsel to the Grenfell Tower Inquiry and is appointed to the Attorney General's C Panel.

Daniel is a specialist contributor to Bullen & Leake's Precedents of Pleadings, a contributing expert to Lexis Nexis PSL in the fields of personal injury, clinical negligence and dispute resolution, and is a trustee of Pro Bono Community, a charity that provides training and placements to law students in advice centres across London. He also volunteers for the Independent Provider of Special Education Advice (IPSEA), a charity offering legal advice to parents of children with special educational needs.

Areas of expertise

- Personal Injury
- -- Insurance Fraud
- -- Product Liability

- -- Health and Safety
- Clinical Negligence
- Investigations
- Inquests
- Costs and Litigation Funding
- Insurance and Reinsurance
- Property Damage

Personal Injury

Daniel is frequently instructed in multi-track personal injury cases for both claimants and defendants. His practice includes high-value claims in which he is often instructed as sole counsel. He is frequently instructed to draft pleadings, schedules and counter-schedules and is familiar with cases involving complex expert evidence.

Daniel is available to advise on liability across a broad spectrum of cases, including:

- Animals Act claims
- Cross-border/international accidents
- Employers' liability
- E-scooters and micro-mobility
- Fatal Accident Act claims
- Fraud/fundamental dishonesty
- Highways Act claims
- Noise induced hearing loss and disease claims

- Occupiers' liability
- Road traffic accidents
- Secondary victim cases
- Sexual abuse and assault claims

He is well placed to advise on accidents at work due to his related specialisms in coronial law and health and safety, and has extensive experience of Fatal Accident Act claims. He is also able to advise on enforcement methods in relation to orders for costs and damages following trial.

Daniel appears in court for trials and interlocutory hearings on a regular basis. He has extensive witness handling experience, particularly in cases involving complex expert evidence and allegations of fraud.

Prior to pupillage, Daniel worked as a paralegal to a senior junior practising solely in catastrophic personal injury. He is proficient at drafting complex schedules and counter-schedules in high-value personal injury and Fatal Accident Act cases, particularly those involving dependency, care, accommodation/adaptions and loss of earnings/pension. Daniel is available to advise on complex quantum and future loss issues.

Cases of note:

Recent instructions include:

- A claim arising out of sexual abuse of a minor-
- A Fatal Accident Act claim arising out of an accident at work and related inquest proceedings
- A brain injury claim arising out of a road traffic accident
- A public liability claim arising out of defective premises
- A chronic pain case which began with short-lived soft tissue injuries.

-- Insurance Fraud

Daniel has a great deal of experience in fraudulent claims. He has been successful at trial in securing numerous findings of fraud or dishonesty, and has been instructed to advise at an early stage as to whether fraud/dishonesty should be alleged. He is familiar pleading defences raising fraud and taking such cases to trial. His practice extends to standalone applications for fundamental dishonesty after discontinuance.

Daniel is praised for his attention to detail and meticulous cross-examination in such cases, as well as his robust advice. He is frequently involved in cases where surveillance evidence has been obtained or late disclosure reveals inconsistencies.

His experience includes:

- Phantom passengers
- Staged accidents
- Exaggeration
- Medical causation
- Inconsistent evidence/accounts

As a specialist costs practitioner, Daniel is also well-placed to advise and represent defendants in costs applications arising in fraud cases, such as applications under CPR r44.15 (strike out) and 44.16 (fundamental dishonesty).

-- Product Liability

Daniel has a specialist practice in product liability. He has been involved in a number of claims arising out of allegedly defective products in a wide range of industries. He is comfortable pursuing and defending cases brought under the Consumer Protection Act 1987 as well as in negligence and contract. He advises on appropriate defendants in both domestic and international contexts and is familiar with the strict liability nature of such claims. He is well-placed to act for claimants and defendants alike.

Recent cases include:

- A claim arising out of a defective valve in domestic heating apparatus
- Defending a large clothing manufacturer against allegations of defective clothing
- Claims arising out of defective household appliances such as dishwashers and washing machines

Daniel's product liability practice complements his other areas of work, in particular health and safety, personal injury and property damage. He is able to digest large amounts of technical expert evidence and give concise advice as to strategy and next steps in such cases.

-- Health and Safety

Daniel is instructed to defend organisations and individuals in health and safety cases arising out of Health and Safety Executive (HSE) and local authority prosecutions (as well as other regulators) in both the Crown and Magistrates' Courts. He has a particular interest in sentencing practice in health and safety cases. His experience extends to workplace accidents in factories and on construction sites, care/clinical settings and accidents involving members of the public.

Daniel is comfortable representing parties before the criminal courts in such cases, and is also able to advise at an early stage, such as when an investigation has been or is likely to commence. He has provided advice in relation to enforcement notices and their challenge before the Employment Tribunal.

Due to his health and safety experience, Daniel is well placed to advise on occupiers' and employers' liability in civil cases, as well as the overlap between related criminal and civil proceedings. This is complemented by his expertise in inquests and Fatal Accident Act claims. Due to these areas of specialism, Daniel is familiar with providing strategic advice and representation in related sets of proceedings arising out of the same incident.

Clinical Negligence

Daniel is instructed by both claimants and defendants in a range of clinical negligence claims including both medical and dental negligence. He is regularly instructed by NHS Resolution, private insurance companies and medical defence organisations, as well as by claimants.

Daniel is familiar advising on cases involving detailed liability evidence and causation points arising out of a range of factual scenarios. His areas of specialism include:

- Consent claims
- Delayed or incorrect diagnosis
- Dental treatment
- Fatal accidents
- General practitioner claims

- Obstetrics cases
- Plastic surgery
- Unnecessary or prolonged treatment

Daniel's clinical negligence practice is complemented by his inquests experience. He has represented interested persons in inquests and subsequent civil litigation in a healthcare context. He is able to provide early strategic advice in such cases.

Daniel is happy to turn around urgent paperwork and frequently drafts particulars of claim, schedules/counter-schedules of loss, advice on liability and quantum and agendas for expert discussions. He regularly appears in court in clinical negligence matters and is happy to consider conditional fee agreement (CFA) instructions in appropriate cases.

Cases of note:

Recent instructions include:

- Class action against a government department in relation to prescription of medication
- A secondary victim claim arising out of treatment in hospital
- Failure to diagnose a spinal abscess
- Claim arising out of a full-term miscarriage
- Delayed diagnosis of cancer
- Delayed referral by GP to specialist services

Investigations

Daniel has a significant practice in inquiries and investigations. He has since 2017 been instructed on the Grenfell Tower Inquiry as junior counsel, led by Kate Grange QC (39 Essex Chambers) and Richard Millet QC (Essex Court Chambers). He is familiar with the specific challenges posed by ongoing, high-profile and document-heavy cases. Prior to his work on the Grenfell Inquiry, Daniel was involved in the second Deepcut Inquest and the inquests arising from the terror attacks on Westminster Bridge.

Daniel is familiar acting as both counsel to the inquiry as well as on behalf of core participants, including families, public bodies or private organisations. He is available to advise at an early stage in respect of disclosure, procedure and tactics, as well as to provide representation at hearings. His experience extends to cases which attract significant media coverage and volumes of disclosure, and he is familiar with all the main document management platforms.

Inquests

Daniel is an experienced inquest lawyer, both in his own right and as a junior. He is familiar with all aspects of coronial law such as the applicability of Article 2 of the European Convention on Human Rights (ECHR), jury inquests and the conclusions available to a coroner. He is well versed in the specific challenges posed by ongoing, high-profile and document-heavy cases. He has been instructed in inquests arising out of a range of contexts including terror attacks, national disasters, healthcare and road traffic accidents.

Daniel has experience in a range of areas including:

- Deaths in state custody

- Defective products
- Healthcare
- Road traffic accidents
- Suicide and self-harm
- Workplace accidents/health and safety

Daniel is available to advise at an early stage in respect of disclosure, procedure and tactics, as well as to provide representation at both pre-inquest reviews and final hearings. His specialism-in civil litigation renders him well placed to advise in relation to claims where both coronial and civil proceedings are anticipated.

Cases of note:

- Inquest in a healthcare context arising from alleged neglect
- Inquest in two deaths arising from a road traffic accident collision
- Inquest arising from suicide and self-harm material on social media
- Westminster Bridge inquests
- Second Deepcut inquest

Costs and Litigation Funding

Daniel is a sought-after junior in the field of costs litigation. He regularly appears before Costs Judges in the Senior Courts Costs Office as well as before Regional Costs Judges both led and in his own right. He is frequently instructed in high-value cases and those involving complex and novel points of law, particularly at Detailed Assessment.

He is available to advise on tactics and procedure in relation to Detailed Assessment hearings and related applications. He is also available to assist in cases where his specialisms overlap, for example, recovering costs of inquest proceedings in subsequent civil litigation and detailed assessments arising out of public law proceedings.

He is instructed in the County and High Courts on costs points that arise during substantive litigation (such as disputes on the application of CPR 44 fixed costs or costs-only hearings) and additionally has been instructed as specialist costs counsel in large-scale banking and tax litigation.

As a personal injury and fraud specialist, Daniel is familiar with all aspects of costs as they relate to personal injury (PI) and clinical negligence cases. He is frequently instructed in costs and case management conferences as well as costs applications that arise in civil proceedings. He has a full understanding of the exceptions to qualified one-way costs shifting and has been successful in recovering costs under both Civil Procedure Rule (CPR) r44.15 and CPR r44.16 in bespoke applications. He has also been instructed in applications for wasted and indemnity costs as well as in relation to Part 36 offers.

Cases of note:

- Advising on costs in excess of £2m arising from Tax Tribunal proceedings
- Detailed Assessment on the recoverability of pre-LASPO ATE premium
- Summary assessment proceedings in the High Court arising out of an abuse claim
- Advising on costs arising from ADR procedures and internal investigations
- Detailed Assessment relating to the Civil Legal Aid (Costs) Regulations 2013-

Insurance and Reinsurance

Daniel is familiar with a range of insurance law issues, including policy coverage, construction of policy terms, indemnity and material non-disclosure. He has advised in cases arising out of double coverage, particularly when fleet and employers' liability policies overlap, and has provided training to solicitors' firms in these areas. He is familiar with bringing claims exercising a right of subrogation and has been instructed in cases where there is a dispute around which policy should respond.

His insurance expertise complements his personal injury and health and safety practice areas. Accordingly, he is well placed to advise on insurance disputes arising from road traffic accidents as well as accidents in the workplace, or where there are a number of potential defendants. He is also able to advise on liability under the Road Traffic Act/Article 75 (of the articles of association of the Motor Insurers' Bureau) hierarchy.

Property Damage

Daniel has a diverse property damage practice which complements his work in insurance law. He is instructed by defendants and their insurers in bringing/defending claims, claiming contribution and exercising a right of subrogation. Daniel is available to advise on cases arising in negligence, nuisance, Rylands v Fletcher, conversion or in contract.

His expertise includes:

- Cladding and construction damage

- Conversion and trespass to property
- Fire and explosions
- Flooding
- Product liability
- Storm and weather damage
- Subsidence and tree root damage
- Water penetration

Property damage claims typically involve complex issues that span a range of specialisms. Daniel's related practice areas of insurance, civil litigation and product liability render him well-placed to advise and represent parties in a range of property damage cases. In particular, his instruction on the Grenfell Tower Inquiry renders him well-placed to deal with cases arising out of damage caused by fire, as well as in construction contexts.

Memberships

- Personal Injury Bar Association
- South Eastern Circuit

Qualifications

Education

- New College, Oxford: BA (Hons) Music
- City University, London: GDL (Commendation)
- City Law School, London: BPTC (Outstanding)

Scholarships

- Buchanan Prize
- Shelford Scholarship
- Lord Denning Scholarship
- Lord Haldane Scholarship
- Hardwicke Entrance Award

Additional Information

Appointments

- Trustee, Pro Bono Community
- Lexis Nexus Panel Expert
- Executive Committee, Personal Injury Bar Association
- Author, Bullen & Leake's Precedents of Pleadings, Product Liability

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Ashley Pratt

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"He is straight-talking, gets to the heart of complex issues quickly and provides excellent client care." The Legal 500 2022

Ashley practices in commercial, construction, and property law.-

Ashley's commercial law practice sees him instructed in a range of cases, including banking, property, energy, telecommunications, construction and international commercial law. Ashley regularly acts for national and international law firms in this regard and has an active interest in arbitration. He has acted on a number of construction adjudications and was recently instructed in arbitral proceedings.

Ashley frequently appears in the Commercial Court, the Technology and Construction Court, and the Chancery Division. He has been instructed in a number of reported commercial, construction and property decisions.

His international work continues to involve litigation concerning America, Dubai, Eastern Europe, which have involved issues such as fraud, jurisdiction, asset-tracing and enforcement.

Ashley has an ongoing interest in cryptocurrency cases especially in the context of freezing injunctions. He recently acted in a circa US\$120m crypto-currency dispute against one of the chief engineers of a large crypto-currency firm.

Ashley is well versed in obtaining interim injunctions, especially freezing injunctions at late notice.

Ashley has vast experience of professional negligence and insurance claims and co-authored the Professional Negligence Journal review of the year chapter for Bloomsbury Press in 2020.-

Areas of expertise

- Commercial
- Construction
- Property

Commercial

Ashley's commercial law practice sees him instructed in a range of cases including banking, energy, property, telecommunications, construction and international commercial law. Ashley regularly acts for national and international law firms in respect of his commercial law practice.

Some recent cases Ashley has been instructed in include:

A £96m energy hedge fund dispute.

For 39 Claimants (led) in a group litigation dispute concerning an alleged gold mining ponzi fraud.-

Acting in a harbour dispute in the admin court where permission has been granted for JR. -

A US \$120m crypto-currency dispute against one of the chief engineers of a large crypto-currency firm.

An international civil fraud claim defending claims in excess of US\$100m.

A £2million telecommunications dispute.

Ashley has been involved in numerous reported commercial law decisions. A highlight of some of his recent cases that have been reported are set out below.

Cases of note:

- *Simwood e SMS v GovData* [2022] 1 WLUK 359 - Acting for Simwood in successfully resisting an application in a high value telecommunications dispute to strike out its claim prior to trial. Ashley appeared alone against leading counsel. The case concerned an alleged failure to have Simwood appointed to a government telecommunications panel. The case involved complex factual and legal issues concerning loss of chance in an alleged breach of contract dispute.-
- *GFH Capital v Haigh* [2021] EWHC 1533 (Comm) - *GFH Capital v Haigh* [2021] EWHC 1533 (Comm) Acting on behalf of Bharani Bank based in Dubai in long-running litigation against the former managing director of Leeds United. The case has involved Ashley appearing in multiple divisions of the High Court and has involved complex issues concerning trusts, property, contract, fraud, and asset-tracing. This matters continues.-
- *Kazakhstan Kagazy v Arip* [2021] EWHC 521 (Comm) - Advised the Defendants leading up to the trial, along with leading counsel, in a civil fraud claim worth in excess of US\$100m.
- *Atkinson v Varma* [2021] EWHC 592 (Ch) - Acting for the defendant following the theft of monies from investors arising out of the purported development of the Grosvenor Hotel in Bristol

Construction

Ashley is regularly instructed by national and international law firms in construction disputes.-

Ashley has recently acted in adjudications and has an active interest in arbitration. He has appeared in recently reported construction decisions. He continues to be instructed in high-value construction disputes.-

An example of some recent cases he has been instructed in are:

A commercial development dispute continuing in the High Court (2022).-

Acting for the respondent to adjudication proceedings in respect of multiple allegations of latent defects concerning a substantial residential development (2022).

Latent defect discovered in a penthouse in central London (2022).-

Pursuing a contractor following a property that collapsed mid-build (2021).

Enforcement claim in the Technology and Construction Court following an award for adjudication (2021).

Cases of note:

- *G & D Brickwork Contractors Ltd v Marbank Construction* [2021] EWHC 3009 (TCC) [2021] 10 WLUK 523 - Ashley appeared before Mrs Justice Joanna Smith in the TCC. The case concerned the relationship between strike out in the County Court, subsequent adjudication and enforcement in the TCC.
- *Italian KBB Co Ltd v Boutros* [2021] 196 Con. L.R.224. - Ashley appeared on behalf of a defendant in this complex construction dispute was a complex dispute concerning breach of contract, the right to insist upon an account, and the law concerning penalty interest clauses.

The judge described Ashley as having performed a “heroic task” in the case.-

Property

Prior to coming to the bar to practice Ashley worked in a property litigation department of a law firm and dealt with many commercial and residential property disputes. Ashley’s experience is especially useful in commercial chancery cases where enforcement of judgment debts arise both nationally and internationally.

Ashley has acted in a wide range of land disputes over the years including cases concerning breach of restrictive covenants, trusts of land etc. Ashley regularly appears in the Lands Tribunal and the Chancery Division.

Ashley has been instructed in cases on behalf of landlords and tenants following challenges to the payments for cladding where s20 of the Landlord and Tenant Act 1985 notices have not been complied with. He has appeared in the Tribunal in respect of the same.-

Ashley is regularly instructed to challenge and enforce service charges.-

Ashley often acts in cases concerning disputed commercial leases.-

Cases of note:

- *Atkinson v Varma* [2021] EWHC 592 (Ch) - Acting for the defendant in connection with the theft of monies from investors arising out of the purported development of the Grosvenor Hotel in Bristol.
- *GFH Capital v Haigh* [2021] (QB) –Recovery/transfer of multiple properties including hotel and apartments held on constructive trust. Involved multiple hearings.-

Recommendations

‘‘He is straight-talking, gets to the heart of complex issues quickly and provides excellent client care.’’ The Legal 500 2022

Memberships

- The Commercial Bar Association (COMBAR)

Qualifications

Education

- LLB Hons

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Vaughan Jacob

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Vaughan represents both claimants and defendants in a range of civil courts, including the Court of Appeal, High Court Queen's Bench and Chancery Divisions and County Courts all over the country. He is routinely instructed in complex, high value litigation. He frequently appears as sole counsel against QCs and senior juniors.-

Vaughan offers commercially sound and concise advice and representation at every stage of the litigation process, including pre-trial applications, interim injunctions, interlocutory hearings, costs and case management hearings and multi-track trials. He provides detailed and authoritative guidance on liability, causation and quantum and is able to respond to instructions quickly.-

Vaughan regularly attends mediation, round table and joint settlement meetings and engages with alternative dispute resolution at every stage of the litigation process.-

Vaughan has a particular interest in claims which involve allegations of fraud.

Areas of expertise

- Personal Injury
- Clinical Negligence

Personal Injury

Vaughan's expertise includes:

- Fraudulent/exaggerated claims
- Employers' liability, including accidents at work and on construction sites
- Road traffic accidents, including policy coverage issues, recovery claims and credit hire claims
- Uninsured driver claims (Road Traffic Act 1988 (RTA) -insurer, Article 75 of the Motor Insurers' Bureau (MIB) articles of association and MIB agreements and recovery actions under s151(8) of the RTA.
- Travel and cross border personal injury claims including jurisdiction and choice of law arguments
- Occupiers' liability
- Highways claims
- Public liability
- Product liability
- Fatal accidents claims
- Abuse claims
- Health and safety at work
- Sports injuries
- Use of Ogden tables and actuarial calculations concerning future loss
- Cases involving contractual indemnity and insurance coverage issues
- Costs, including representation at costs and case management conferences (CCMCs) and detailed assessment hearings

Cases of note:

- *Reed v RJ Utility Services Limited and others* [2021] - Represented the defendant construction company and their insurer from the outset in defending a claim pleaded at over £10m when their employee suffered a serious brain injury and quadriplegia on a construction site when cladding

from an adjacent site became detached and landed on him. The claimant discontinued his claim against the client following service of Vaughan's defence and a joint settlement meeting, accepting Vaughan's client had no duty of care in circumstances where he had no notice of any potential defect with cladding on a nearby site.-

- *Hajduk v Sharpak* [2021] - Represented the defendant and her insurer from the outset in this employers' liability claim. The claimant claimed damages of over £200,000 following a minor repetitive strain injury at work. She claimed she had chronic regional pain syndrome and was unable to work but surveillance obtained by the defendant suggested she could use the arm freely and exaggerated her symptoms at her medico-legal exams. Following a robust defence, counter-schedule and skeleton argument, the claimant discontinued her case on the morning of a three-day trial in front of Her Honour Judge Gore QC .
- *Castilho v Doldur* [2021] - Successfully defended the defendant and his insurance company in a multi-track trial in this personal injury claim following a road traffic accident. Following robust cross examination, the judge found the claimant's account of the accident and injury was fabricated. Vaughan obtained both a finding of fundamental dishonesty and an order that the claimant's credit hire company be added to proceedings for costs purposes pursuant to Civil Procedure Rule (CPR) 44.6(2) and 44.16(2)(b).
- *Belskis v (1) Kitunzi and others* [2021] - Represented the defendant in at first instance and on appeal before His Honour Judge Gerald in a personal injury claim in which there was an issue over the extent of expert evidence and the discretion afforded to judge when considering what expert evidence is "reasonably required to resolve proceedings" for the purposes of CPR 35.1. The defendant was successful and the claimant's appeal was dismissed.-
- *Harris v GLJ* [2020] - Represented the defendant from the outset in an employers' liability claim pleaded in excess of £1.7m. The claimant claimed he suffered from a stroke and serious brain injury, which caused his successful business to fail. Liability was not in dispute, but causation and quantum were contested. Medical evidence was obtained from a variety of experts including a consultant neurologist and forensic accountant casting doubt on the pleaded case. The case settled a month before trial at joint settlement meeting for £555,550, 30% of the pleaded value of the claim.
- *Ian Smith v Menzies Aviation* [2020] - Successfully defended the defendant at trial in this employer's liability case. The claimant claimed he suffered serious injury due to the defendant's

allegedly inadequate risk assessment, training regime and supervision on site. The claim was dismissed in its entirety following Vaughan's thorough cross-examination.

- *Richardson v Tesco* [2019] - Successfully defended the defendant supermarket chain at a multi-track trial before Her Honour Judge Sykes from a personal injury claim relating to a slip at one of their stores allegedly causing serious injuries and losses of over £250,000. Following Vaughan's cross-examination, the claimant's account was exposed as barely credible and Her Honour Judge Sykes dismissed the claim in full.
- *Matthew Boon v others v Pritchard and others* [2018] 2 WLUK 320 - Successfully secured a finding of fundamental dishonesty for a defendant insurer against 17 separate coach passengers bringing linked fraudulent personal injury claims following a six-day trial in front of His Honour Judge Gregory QC.

Clinical Negligence

Vaughan represents both the NHS and individual claimants. His expertise includes:

- Lack of consent to medical treatment
- Diagnostic failure
- Delayed diagnosis
- Failed surgical treatments and procedures
- Negligent prescription and administration of drugs
- Negligent pre-surgical and post operative care
- Claims involving a break in the chain of causation
- In addition to court representation, Vaughan provides detailed and efficient written advice on breach of duty, causation, quantum and litigation tactics

Cases of note:

- *MA v NHS* [2021] - Represented the defendant NHS trust from the outset in this claim. The claimant claimed over £1.1m in damages arising from an alleged negligent jejunostomy exchange. Breach of duty, causation and quantum were in dispute. Vaughan argued the claim was vastly inflated due to the claimant's pre-existing and coterminous medical conditions. The claimant accepted the defendant's early commercial offer to settle of £150,000 shortly before a five-day trial, saving the NHS over £1m in damages and legal costs.
- *KS v NHS* [2021] - Represented the defendant NHS trust from the outset in this claim brought for over £700,000 following an admitted failure to provide a diagnosis of disseminated BCG infection. Breach of duty was admitted but causation and quantum remained in dispute. The claim settled at mediation with a reduction of over £300,000 from the claimed sum.-
- *Trueman v Practice Plus Group* [2021] - Represented the claimant from the outset in relation to a failed stemless shoulder replacement procedure causing pain and necessitating further procedures. Reached a favourable settlement of £75,000 at an early stage of litigation.-
- *P v NHS* [2021] - Representing the claimant family in relation to the lack of urgent treatment their daughter received which resulted in her death. Breach of duty and causation was admitted in 2021 following Vaughan's detailed letter of claim. The case on quantum is ongoing.-
- *Various claimants v NHS* [2020] - Represented various NHS trusts and defended over 20 linked claims brought by claimants who underwent hip operations between 1995 and 2012 across the country. Worked in collaboration with Neil Block QC and Romilly Cummerson.

Memberships

Personal Injury Bar Association-

Qualifications

Education

- Law conversion and Bar Vocational Course, BPP Law School London, VC.

- BA(Hons) English Literature, University of Warwick (1st class).

Scholarships and Prizes

- Major Harmsworth Scholar, Middle Temple, 2009

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Samantha Jones

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Phone: +44 (0)20 7832 1111

“An exceptionally dedicated and thorough barrister: you can count on her to leave no stone unturned and to get to the bottom of any problem you may have. She is bright, talented, and extremely committed to her cases. A natural leader, and a real asset to any legal team.” The Legal 500 2023 (Tier 3)

Samantha is a highly regarded and in-demand multi-disciplinary barrister who practises in personal injury and clinical negligence, health and safety, construction, commercial, regulatory and disciplinary law and public law. She is recognised in the legal directories for her thoroughness, forensic analysis of the evidence and her personable ability to lead and work as a team. Samantha is regularly led by silks in high-profile, complex matters. She frequently acts as sole counsel. She acts for a range of clients from individual claimants and companies to insurers, government departments, local authorities, and quasi-governmental bodies. She is a strong advocate and tactician, benefitting from extensive court and trial experience. Samantha was appointed to the Treasury Panel of Junior Counsel (C Panel) in 2018.

Before joining the Bar, Samantha achieved a distinction in her LLM from McGill University and, most notably, undertook a Judicial Assistantship at the Constitutional Court of South Africa.

Areas of expertise

- Clinical Negligence and Personal Injury
- Health and Safety
- Inquiries and Investigations
- Inquests
- Administrative and Public
- Costs and Litigation Funding
- Regulatory and Disciplinary
- Commercial

- Cladding and Other Building Defects

Clinical Negligence and Personal Injury

“Her knowledge of the area is remarkable, and her client care abilities are second to none.” The Legal 500 2022

Samantha is a much sought-after personal injury and clinical negligence barrister, representing claimants and defendants. Samantha acts in complex, high-value matters as sole counsel and being led by senior members of chambers. She undertakes work in all areas of personal injury, with a particular focus on group actions. Samantha’s clinical negligence practice continues to grow from strength to strength. She frequently acts in high-value, multi-party matters concerning a range of clinical negligence issues including delayed diagnosis, negligent treatment and failures in front-line and tertiary care. Samantha acts in all medical matters such as orthopaedics, cancer, gynaecology and fertility, brain injury, pharmaceutical, cosmetic surgery, and fatal injuries, among others.

Samantha is a contributor to the clinical negligence chapter of Bullen & Leake & Jacob’s Precedents of Pleadings.

Samantha’s practice is strengthened by her frequent inquest work, expertise in healthcare regulatory proceedings and keen eye for costs.

Samantha undertakes work on a conditional fee agreement (CFA) basis.

Cases of note:

- *Archer and Others v Ministry of Justice; Freitas and Others v Ministry of Justice*– Led by Colin Thomann in claims for breaches of the Regulatory Reform (Fire Safety) Order 2005 brought by 32

prisoners who suffered physical and psychiatric injuries during a fire in a prison. -Samantha was significantly involved in advising on quantum, procedure and costs. Case settled.

Health and Safety

Samantha has a developing health and safety practice as a result of her in-depth focus on health and safety practice, management and compliance of the Royal Borough of Kensington and Chelsea and the Royal Borough of Kensington and Chelsea Tenant Management Organisation in the Grenfell Tower Inquiry.

Samantha is instructed as lead junior counsel to the Inquiry being led by Richard Millett QC and Andrew Kinnear QC. Samantha acts in all health and safety matters, with a particular focus on fire safety and breaches of the Regulatory Reform (Fire Safety) Order 2005 and the Health and Safety at Work Act 1974.

She is a member of the Health and Safety Lawyers' Association. She welcomes speaking opportunities.-

Cases of note:

- *The Grenfell Tower Inquiry* - Instructed as lead junior counsel for the Inquiry led by Richard Millett and Andrew Kinnear QC.
- *Archer and Others v Ministry of Justice; Freitas and Others v Ministry of Justice*– Led by Colin Thomann in claims for breaches of the Regulatory Reform (Fire Safety) Order 2005 brought by 32 prisoners who suffered physical and psychiatric injuries during a fire in a prison. -Samantha was significantly involved in advising on quantum, procedure and costs. -Case settled.

Inquiries and Investigations

“An exceptionally dedicated and thorough barrister: you can count on her to leave no stone unturned and to get to the bottom of any problem you may have. She is bright,

talented, and extremely committed to her cases. A natural leader, and a real asset to any legal team.” The Legal 500 2023 (Tier 3)

“She is incredibly thorough, personable and very good at encouraging the team and keeping everyone on top of their work.” “She is an exceptionally hard-working barrister and never misses any detail.” Chambers and Partners 2022 (Up and Coming)

Samantha is a highly regarded and formidable Inquiry barrister.- She has been instructed across a number of high profile Inquiries since 2017 for core participants and as counsel to the Inquiry.- Most recently, Samantha has been instructed as a leading junior on the COVID-19 Inquiry by the Medicines and Healthcare products Regulatory Agency (MHRA).- She has advised on the non-statutory Essex Mental Health Independent Inquiry.- Most significantly, Samantha has acted as one of the most senior juniors on the Grenfell Tower Inquiry since 2018, being led by Counsel to the Inquiry, Richard Millett KC, and Andrew Kinnear KC. Samantha has been at the forefront of the inquiry’s work concerning fire safety, health and safety and the actions of the London Fire Brigade and other fire and rescue services, leading two teams of junior barristers, questioning witnesses and preparing cross-examination. She possesses in-depth knowledge and experience of all aspects of the Inquiry process and the Inquiries Act 2005, from disclosure to core participant participation, witness handling and publication of rule 13 letters, and recommendations.- Prior to that, Samantha was instructed on the Undercover Policing Inquiry by the Commissioner of the Metropolitan Police.

Samantha has risen through the ranks of the legal directories over the last four years in inquests and inquiries. She is now one of the most junior barristers

recognised in Tier 3 of The Legal 500 for Inquests and Inquiries and she was recognised in Chambers and Partners 2022 in the 'Up and Coming' category.

Cases of note

- *The Grenfell Tower Inquiry* - instructed as lead junior counsel for the Inquiry led by Richard Millett and Andrew Kinnear QC.
- *The Undercover Policing Inquiry* - instructed by the Commissioner of the Metropolitan Police.

Inquests

She is incredibly thorough, personable and very good at encouraging the team and keeping everyone on top of their work.” “She is an exceptionally hard-working barrister and never misses any detail.” Chambers and Partners 2022 (Up and Coming)

“Super bright, able to handle vast amounts of information and material, and grasps issues quickly. Always cuts through to the heart of a matter, is concise and with punchy written work. Works extremely hard and never seems to run out of energy.” The Legal 500 2022 (Tier 3)

Samantha is a well-regarded inquest barrister due to her substantial inquest experience in Article 2 inquests, inquests concerning fatal accidents, clinical negligence, mental health and deaths of children. She acts on behalf of companies, governmental bodies, quasi-governmental bodies and families. She has developed particular experience in high profile inquests concerning multi-agency failings which have resulted in the deaths of children. Samantha has risen through the ranks of the legal directories over the last three years; she is now one of the most junior people recognised in Tier 3 of The Legal 500 for Inquests and Inquiries and recognised in Chambers 2022 in the 'Up and Coming'

category.

Samantha regularly becomes involved at an early stage of proceedings to advise clients on disclosure, procedure and strategy. Samantha is very familiar with providing advocacy at pre-inquest reviews and final hearings and she attends site visits. She is well versed in procedure and case law of the coroner's jurisdiction. Samantha's practice in public law, personal injury and clinical negligence means that she is well placed to act in judicial reviews of coroner's decisions and civil proceedings arising; she frequently advises on such matters.

Cases of note:

- Inquest touching on the death of Justin Barrett - Three-day inquest before the Senior Coroner for Inner North London concerning the suicide of a mental health in-patient.
- Inquest touching on the death of Ellie Butler --Two-week high-profile inquest before Dame Linda Dobbs investigating multi-agency working and failings during and after care proceedings concerning the six-year-old girl who was subsequently killed by her father. For news coverage, please [click here](#).
- Inquest touching on the death of Shanay Walker - Four-week high-profile inquest concerning the death of a seven-year old girl while in the care of her paternal aunt. For news coverage, please [click here](#):
- Inquest touching on the death of David Buttriss - Two-day inquest involving matters of medical negligence and mental health.
- Inquest touching on the death of Carole Sherriffs - Three-day inquest involving matters of medical negligence.
- Inquest touching on the death of Suzette Mason - One-day inquest concerning matters of medical negligence.
- Inquest touching on the death of David Efemena - Five-day high-profile Article 2 of the Human Rights Act inquest concerning the death of an RAF cadet while he was sleeping out on a training exercise. For news coverage, please [click here](#).

Administrative and Public

Samantha has a broad public law practice and is experienced in representing families, public bodies and government departments in a range of matters. Samantha's practice has focused on mental health, healthcare, special education needs, inquests and inquiries. She was appointed to the Attorney General's Treasury Panel (C Panel).

Samantha's practice is complemented by her prior public law and human rights experience:

- LLM in Comparative Human Rights Law, McGill University, Canada.
- Judicial Assistant at the Constitutional Court of South Africa.
- Internships with JUSTICE, the Human Rights Institute of the International Bar Association and the Centre for Capital Punishment Studies, Uganda, working with death row prisoners.

Costs and Litigation Funding

Samantha is a member of chambers' specialist costs team. Samantha's broad civil litigation practice means that she frequently advises clients on discrete costs issues in wider litigation. She frequently represents claimants and defendants at cost budgeting hearings and summary assessments.

Samantha is a contributor to 39 Essex Chambers' Costs Newsletter: '3+9 = Costs'.

Regulatory and Disciplinary

Samantha is a strong regulatory tribunal advocate who is instructed to prosecute and defend in regulatory matters by regulators, registrants and the Professional Standards Authority (PSA). Samantha is instructed by the PSA to advise and act in appeals under s29 of the National Health Service Reform and Health Care Professions Act 2002 in the High Court as sole counsel.

Samantha established her practice by taking a six-month secondment at the Nursing and Midwifery Council (NMC), appearing in over 15 complex multi-day substantive hearings and numerous interim order and review applications. She has since advised and acted in complex and high-profile regulatory matters before the NMC, the General Optical Council, the Health and Care Professions Council and the PSA.

Samantha's practice in this area is strengthened by her high value and complex clinical negligence and inquest work.

Cases of note:

- *HCPC v Helen Winter* - Defended a clinical psychologist who previously worked at Kids Company. It was found that she offered drugs to a client outside of working hours, took drugs in her personal time, and further breached boundaries with service users. Registrant avoided being struck off and was given a 12-month suspension order.
- *NMC v Butterworth and Billington* –Prosecuted in an eight-day two-hander matter, acting on her own. Two nurses made numerous racist remarks on ward and displayed other unprofessional behaviour towards colleagues and in front of patients. Both were struck off from the NMC register.

Commercial

Samantha accepts instructions in a broad range of commercial litigation matters. Samantha has particular expertise in fire safety, health and safety, professional negligence, and matters concerning the Building Regulations, the Building Safety Act 2022, the Regulatory Reform (Fire Safety) Order 2005, and the Health and Safety at Work Act 1974. Samantha has focused extensively on these issues while instructed as lead junior counsel to The Grenfell Tower Inquiry, having worked closely with experts and on the cross-examination of some of the inquiry's most high-profile witnesses.-

Samantha's most recent commercial work includes:

- representing the government in a multi-million-pound commercial arbitration regarding the design and construction of a large regeneration project
- acting as sole counsel in a cross-border mediation in a misselling claim
- advising directors on a range of contractual matters including defending allegations of fraudulent misrepresentation.

Samantha's commercial practice is complemented by her regulatory and costs expertise.-

Cladding and Other Building Defects

Samantha possesses a wealth of experience in analysing construction building defects, fire risk assessments and fire safety breaches as a result of her lead role on the Grenfell Tower Inquiry, acting as lead junior counsel to the inquiry led by Richard Millett QC and Andrew Kinnear QC.-

Samantha has particular expertise in the interplay of active and passive fire

protection measures in a building's fire safety strategy, the work of fire risk assessors, duties of responsible persons and health and safety management and compliance. Samantha advises on all aspects of building defects, and health and safety law, including the Regulatory Reform (Fire Safety) Order 2005, the Health and Safety at Work Act 1974 and the Building Regulations.-

Samantha's experience in this area is complemented by her personal injury practice, and regulatory practice, where she offers over five years of experience prosecuting and defending in many of the regulatory tribunals.-

Cases of note:

- *The Grenfell Tower Inquiry*

Recommendations

“She is incredibly thorough, personable and very good at encouraging the team and keeping everyone on top of their work.” Chambers and Partners 2022 (Up and Coming)

“She is an exceptionally hard-working barrister and never misses any detail.”
-Chambers and Partners 2022 (Up and Coming)

“Super bright, able to handle vast amounts of information and material, and grasps issues quickly. Always cuts through to the heart of a matter, is concise and with punchy written work. Works extremely hard and never seems to run out of energy.”-The Legal 500 2022 (Tier 3)

“Very on top of the detail and inspires great confidence.” -The Legal 500 2021 (Tier 4)

“She is bright, sensible and all her work is characterised by a detailed grasp of the evidence.” The Legal 500 2020

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Memberships

- Health and Safety Lawyers Association (HSLA)
- Personal Injury Barristers’ Association (PIBA)
- Action against Medical Accidents (AvMA)

Qualifications

Education

- BPP Law School, BPTC, Outstanding
- McGill University, LLM, Distinction
- School of Oriental and African Studies, University of London, LLB, 2:1

Scholarships and Prizes

- Denise Pannick Award, Gray’s Inn Scholarship
- Provost’s Graduate Scholarship, McGill University

Additional Information

Appointments

- Gray’s Inn Barristers’ Committee – Vice Chairman – 2021 - present

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Emma Corkill

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Phone: +44 (0)20 7832 1111

"Emma is a force to be reckoned with. She is knowledgeable, determined and ultra professional." Chambers and Partners 2023

"Emma is a real pleasure to work with. She is particularly good with experts. She provides really helpful, commercial advice and makes the complex seem simple." Chambers and Partners 2023

"Emma is an outstanding advocate who can think quickly on her feet and is tenacious when it comes to fighting for her clients." The Legal 500 2023

Emma is an experienced and confident advocate who appears regularly in court as well as at joint settlement meetings (JSMs) and mediations.

Emma is a member of the Personal Injuries Bar Association Executive Committee, an Advocacy Trainer for Inner Temple, a co-author of a chapter on product liability in the medical context for Lewis and Buchan:-Clinical Negligence-and is a specialist contributor to the clinical negligence chapter of Bullen, Leake and Jacob's-Precedents of Pleadings.

Emma's areas of practice include:

- Clinical negligence
- Abuse
- Personal injury

Emma's preference is for electronic instructions and paperless working.

Areas of expertise

- Clinical Negligence
- Personal Injury
- Abuse

Clinical Negligence

“Confident, tenacious, knowledgeable ...”-The Legal 500 2020

Emma acts for both claimants and defendants in clinical negligence cases and is regularly instructed by NHS Resolution (NHSR), private insurance companies and medical defence organisations as well as by claimants. Emma accepts instructions in all medical malpractice claims, and regularly deals with a wide

range of cases including:

- Birth injury claims
- Fatal claims
- Claims against opticians/optometrists/ophthalmologists
- Plastic surgery cases
- Dental cases
- Consent claims
- Cases involving incorrect diagnosis or delay in diagnosis.

Cases of note:

- *AB v St George's University Hospitals NHS Trust* –Emma acted as junior counsel for the claimant in a high-value birth injury claim which settled shortly before trial for approximately £26.5m.
- *CD v East Suffolk and North Essex NHS Foundation Trust* –Emma acted as junior counsel for the claimant in a birth injury claim which settled for around £13m.
- Emma acted for the defendant in an unusual case involving transmittance of a disease from a donor organ after a transplant operation. It was one of the first reported instances of the particular disease being transmitted via a donor organ.
- Emma acted for the defendant in a claim for uterine rupture sustained in labour. The injury occurred at an unusual location and arguments based on scope of duty were raised.
- *AMW v Sheffield Teaching Hospitals NHS Foundation*–Emma acted for the defendant in a claim for failure to spot and treat cauda equina.
- *DD v Bradford Teaching Hospitals NHS Foundation Trust* –Emma acted in a case involving a negligent failure to act upon mucocele of the appendix. The appendix ruptured, causing cancerous cells to spread.

Personal Injury

Emma accepts instructions in all areas of personal injury work and acts for both Claimants and Defendants, although she has a special interest in historic abuse, fraud and fundamental dishonesty cases. Emma regularly advises on complex future loss issues.

Emma's busy practice includes:

- Fatal accidents;
- Brain and head injury claims;
- Spinal injury claims;
- Amputation cases;
- Claims involving Complex Regional Pain Syndrome, Chronic Pain, Fibromyalgia and Functional Neurological Disorder;
- Criminal Injuries Compensation Authority claims and appeals; and
- Inquests, including those involving care and nursing homes.
- Accidents in the workplace, including issues of contractual indemnity between contractors and sub-contractors;
- Occupiers' liability cases;
- Road traffic accidents;
- Highways cases.

Notable Cases

- Being led by Susan Rodway QC acting for over 80 Claimants in relation to the Grenfell Tower fire
- Being led in the sports concussion litigation claims for the Claimants
- Acted for a premier league football club in a historic sexual abuse claim

- Acted for various schools defending historic sexual abuse claims
- Acted as junior for a client involved in the Independent Inquiry into Child Sex Abuse

Abuse

“A skilled advocate who handles difficult conferences well.”- The Legal 500 2021

Emma has developed a specialism in sexual abuse claims. She usually acts for defendants, including employers and organisations. Emma regularly deals with issues of limitation, vicarious liability and quantum in these cases.

Cases of note:

- *AA v BB* –Advised a defendant in respect of a claim that they had knowingly had unprotected sex whilst carrying a serious sexually transmitted condition.
- *DKA v a premiership football club* –Acted for the defendant football club in respect of a claim for damages for historic sexual abuse.
- *GKT v a schools association* –Emma acted for the defendant association in respect of a claim for damages for historic sexual abuse.
- *I/CSA v* –Emma acted, led, for an ex-social services officer who was called to give evidence to the Independent Inquiry into Child Sexual Abuse about processes and knowledge in his department 30 years ago.
- *ODN v AB* –Emma acted for the defendant in a claim where the defendant’s (now adult) child accused him of historic sex abuse.
- *PJS v a school* –Emma acted for a school in respect of allegations that one of the teachers sexually abused a pupil in the late 1970s/early 1980s.

Recommendations

"An outstanding barrister with a sharp legal mind." The Legal 500 2020

"Confident, tenacious, knowledgeable ..." The Legal 500 2020

"Superb advocate." The Legal 500 2020

"A skilled advocate who handles difficult conferences well, ensuring clients are at ease and fully understand the case." The Legal 500 2021

"Her pleadings are incisive and reflect careful thought about the issues in the case."

The Legal 500 2021

"Emma is a force to be reckoned with. She is knowledgeable, determined and ultra professional." Chambers and Partners 2023

"Emma is a real pleasure to work with. She is particularly good with experts. She provides really helpful, commercial advice and makes the complex seem simple."

Chambers and Partners 2023

"Emma is an outstanding advocate who can think quickly on her feet and is tenacious when it comes to fighting for her clients." The Legal 500 2023

Memberships

- Personal Injuries Bar Association Executive Committee
- Advocacy Trainer and scholarship interviewer for Inner Temple

Qualifications

Education

- BVC (Outstanding), BPP Law School
- GDL (Commendation), BPP Law School
- MA Chinese Law, Politics and Mandarin (Distinction), SOAS
- BA (Hons) Drama, Loughborough University

Scholarships and prizes

- Inner Temple Philip Teichman Award and Inner Temple Exhibitioner

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Romilly Cummerson

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Phone: +44 (0)20 7832 1111

“Very astute, commercial and strategic. She is very easy to partner with in a team and achieves fantastic results” Chambers and Partners
2022

Romilly specialises in personal injury, clinical negligence, professional negligence and related insurance issues. She represents Claimants and Defendants in respect of a wide range of complex and high value claims and has a particular interest and aptitude for cases involving complex issues of medical causation and/or substantial medical evidence.

Highly regarded for her attention to detail, and pragmatic, constructive, approach to litigation, Romilly has an approachable manner, which enables her to communicate effectively with a wide range of clients, opponents and tribunals. She is experienced in group litigation and has a particular reputation for the effective cross-examination of expert witnesses.

Romilly is recommended as a leading junior in The Legal 500 and Chambers and is regularly instructed by firms recognised as leading personal injury and clinical negligence solicitors in the legal directories.-

Areas of expertise

- Clinical Negligence
- Personal Injury
- Professional Negligence

Clinical Negligence

Romilly is a senior clinical negligence junior with a particular interest and aptitude for cases involving complex issues of medical causation and/or substantial expert evidence. She represents Claimants and Defendants in respect of claims involving all branches of the medical professions and -a wide range of issues, including surgical negligence, diagnostic and prescribing errors, issues of consent; and medical product liability.

She is regularly instructed in high value and complex claims, often as sole counsel against a KC or teams of Leading and Junior Counsel.

For the past five years she has been instructed by NHS Resolution in respect of a large number of claims arising out of the use of metal-on-metal hip implants and is now instructed as part of a Counsel team led by Neil Block KC -in the NHS vaginal mesh litigation.

She is a contributor to Lewis and Buchan: "*Clinical Negligence—a Practical Guide*"

Cases of note

- *HX v East and North Hertfordshire NHS Trust*- Romilly was instructed by the Defendant in this £multi-million claim for damages for personal injury arising out of an alleged negligent failure to diagnose meningococcal septicaemia when the Claimant attended the Trust's A&E department complaining of a painful wrist and a history of flu-like symptoms. The Claimant required bilateral trans-tibial amputations and sustained severe bilateral hearing loss. -The claim settled following a joint settlement meeting (JSM) in which Romilly acted as sole counsel against leading and junior counsel for the Claimant.
- *Various Claimants v NHS (vaginal mesh litigation)*- Romilly is instructed as part of the NHS legal team led by Neil Block KC in respect of litigation arising out of the use of trans-vaginal surgical mesh implants in the management of pelvic organ collapse and urinary incontinence over a period of approximately 20 years.-

- *RTX v PK and HCA International* –Romilly was instructed on behalf of the First Defendant, a Consultant Cardiac Surgeon, in this claim arising out of alleged failings in post-operative care following aortic valve replacement and coronary artery bypass surgery. The claim alleged negligent delay in the diagnosis and treatment of cardiac tamponade, resulting in the Claimant suffering cardiac arrest and a stroke. All aspects of breach, causation and quantum were in issue. The claim raised a number of complex technical medical issues with regard to managing a differential diagnosis in the vulnerable post-operative period and causation of brain injury in a Claimant with significant co-morbidities and several competing negligent and non-negligent risk factors. Romilly was instructed as sole Counsel against a KC
- *Various Claimants v NHS (Metal-on-Metal Hips Litigation)* –Romilly is instructed by NHS Resolution in respect of a large number of cases arising out of the use of prostheses with metal-on-metal bearing surfaces in total hip replacement surgery. Over the last three years she has taken a senior role in a team led by Neil Block KC devising the NHS response to a sub-set of over twenty linked claims, concerning so-called mix-and-match prostheses (prostheses using a combination of components produced by different manufacturers). The sub-set of claims settled following a JSM. Romilly continues to advise as sole counsel in some ongoing elements of the metal-on-metal-(MoM) hips litigation.
- *RCX v Wes Suffolk NHS Foundation Trust* –Romilly represents the Claimant in this action for damages for personal injury arising out of a negligent failure to report a mammogram as suspicious for malignancy. This error resulted in a two-year delay in the diagnosis and treatment of breast cancer. As a result of the delay, the Claimant required more extensive treatment for her cancer and sustained significant psychiatric injury.-
- *CWX v Sussex Partnership NHS Foundation Trust and Southern Health NHS Foundation Trust* -Claim arising from treatment provided to the Claimant's husband ("H") by the Defendant Trusts for his acute onset depression and anxiety. H took his own life whilst under the care of the Second Defendant's Crisis Resolution and Home Treatment Team. Claims were brought on behalf of the estate and H's Dependents under the Law Reform(Miscellaneous Provisions) Act and the Fatal Accidents Act 1976. Romilly was instructed by NHS Resolution on behalf of both Trusts.
- *ML v Hillingdon Hospital NHS Foundation Trust & Ors* –Romilly acted for the Claimant in this claim for damages for personal injury caused by a negligent failure to manage his diabetic foot

condition, resulting in a delay in diagnosis and treatment of Charcot arthropathy. As a result of the delay, the Claimant suffered severe pain with recurrent ulcers, episodes of osteomyelitis and sepsis and ultimately required a below-knee amputation. -

- *GFX v The Mid-Yorkshire Hospitals NHS Trust* – Claim arising from the Defendant’s admitted failure to diagnose an aneurysm on an MRI scan. The aneurysm was detected 5 years later, but ruptured before a CT angiogram could take place, causing the Claimant to suffer a sub-arachnoid haemorrhage. The aneurysm was coiled and a secondary coiling procedure was subsequently required to ensure complete occlusion of the aneurysm. The case raised complex issues of medical causation, in particular with regard to causation of an alleged severe loss of executive function, resulting in a loss of capacity and the need for 24-hour care and specially adapted single-storey accommodation. Romilly was instructed by NHS Resolution as sole counsel against a QC for the Claimant.

Personal Injury

Romilly’s personal injury practice is weighted towards defendant work. She is a senior junior, experienced in dealing with high value and complex claims, including catastrophic injury claims, multi-party claims and group litigation. She is particularly adept at cases involving difficult causation issues and extensive medical evidence. She has a wide range of experience in all aspects of personal injury litigation including employers’ liability, industrial disease, sports injuries, product liability, occupiers’ liability, public liability, road traffic claims and aviation accidents.

Romilly is experienced in dealing with claims in which issues of fraud and fundamental dishonesty arise and associated committal proceedings

Cases of note

- *Various Claimants v CNG and Cadent* –Romilly is instructed by Eversheds Sutherland and led by Derek O’Sullivan QC in this substantial group of claims arising out of the New Ferry gas explosion in 2017. The explosion was caused by the deliberate, criminal actions of a third party, in respect of which a criminal conviction has been secured. The claim therefore raised interesting questions regarding the scope of the duty owed by the Defendants to the Claimant as suppliers/distributors of gas.
- *Rugby Union Concussion Test Case Litigation* - Romilly is currently instructed in this large group litigation brought by former rugby union players all of whom have sustained permanent brain injury, including Chronic Traumatic Encephalopathy, as a result of repeated concussive and sub-concussive head trauma sustained during match play and in training.-
- *DP v Randhawa* –Quantum only claim arising out an RTA in which the Claimant sustained multiple injuries, including moderate traumatic brain injury, cranio-facial fractures and psychiatric injury. The key issues in the claim concerned the Claimant’s alleged dishonesty with regard to exaggeration of the ongoing effects of her injuries and quantification of the claims for loss of earnings and pension losses in the context of a young Claimant at the start of her working life. Romilly was instructed by DAC Beachcroft on behalf of the Defendant’s insurers.
- *NG v PG* –Romilly represented the Claimant in this claim for damages arising out of an accident that occurred when the Claimant was hit by a car driven by a family member. The accident occurred on C’s driveway and resulted in her becoming trapped between the vehicle and her home. -C sustained catastrophic injuries to the lower limbs, necessitating a trans-tibial amputation to one leg.-
- *DB v Marks & Spencer PLC* - Romilly was led by Derek O’Sullivan QC in this Occupiers’ Liability Act claim arising out of what appeared to be a minor slipping incident in the Defendant’s store. C sustained minor soft tissue injuries in the accident but subsequently developed a functional dystonia of the right lower limb resulting in almost total loss of mobility and significant long-term care and accommodation needs. The claim settled following a JSM. Romilly represented the Defendant at several interlocutory hearings and achieved a number of key strategic victories for the Defendant, in particular with regard to defining and restricting the expert evidence reasonably required to resolve the claim.
- *MJ v Jones* –Romilly was led by Neil Block in this high value brain injury claim arising out of an RTA. It was alleged that, in addition to the anticipated effects of any severe brain injury, the injury

-caused the Claimant to engage in serious criminal behaviour and that 24-hour care/supervision was required to prevent further offending behaviour. C was resistant to the level of supervision suggested by his medico-legal team. The claim, therefore, raised complex issues of criminal responsibility, potential deprivation of liberty and the interplay between civil proceedings and the role of the Court of Protection in the life of a protected party.

Professional Negligence

Romilly acts for Claimants and Defendants in respect of solicitors' negligence claims, particularly those arising out of the conduct of clinical negligence and personal injury litigation. In addition, she is experienced in veterinary negligence claims involving a wide variety of issues including surgical negligence, herd management, prescribing errors and antimicrobial stewardship. She has a particular interest and aptitude for cases involving complex expert veterinary evidence.

Cases of note

- *JF v SB* - Romilly is instructed by the Veterinary Defence Society as sole counsel in this claim for the loss of a race horse as a result of alleged errors in the diagnosis and treatment of infection. The claim involves interesting issues of causation, microbiology and antimicrobial stewardship.
- *E v BHVG* - Romilly represents the Defendant in this claim for the loss of over 300 kid goats due to alleged surgical negligence and management of post-surgical infection
- *X v Crutes LLP* - Instructed as Junior Counsel in this multi-million pound claim for damages for professional negligence arising out of the Defendant's handling of the Claimant's product liability claim. The claim, which settled following a JSM, -required careful analysis of a large body of complex medical evidence.

Recommendations

- *"In Court her advocacy skills shine. She is tenacious and really fights for her clients"* The Legal 500 2022 – Clinical Negligence
- *"Very astute, commercial and strategic. She is very easy to partner with in a team and achieves fantastic results"* Chambers 2022 – Personal Injury
- *"Really impressive – she is very client-focused and has a good eye for detail"* Chambers 2022 – Personal Injury
- *"Romilly is a very personable barrister, thorough in her preparation and strategically aware"* The Legal 500 2022 – Personal Injury
- *"Diligent, intelligent, pragmatic, and excellent in dealing with novel cases"* The Legal 500 2021 – Clinical Negligence
- *"Romilly is a very cool customer, calm under pressure, very well prepared and organised and always finds the sweet spot on court positioning. Always willing, she is very easy to work with as part of a coordinated defence"* The Legal 500 2021 – Personal Injury
- *"Excellent at evaluating the nuances of the medical records"* The Legal 500 2020- Clinical Negligence
- *"She is an extremely intelligent and skilful junior barrister involved in large-scale cases"* The Legal 500 2020 – Personal Injury

Memberships

- Professional Negligence Bar Association
- Personal Injury Bar Association-

Qualifications

Education

- 1997-1998 Inns of Court School of Law BVC
- 1996-1997 University of Cambridge LLM
- 1993-1996 University of Cambridge BA (Hons) Law

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Camilla Church

Year of call: 1998

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Phone: +44 (0)20 7832 1111

Camilla Church is a specialist personal injury practitioner. She has developed her practice both at the Bar and also as in-house counsel for a leading litigation firm. As in-house counsel Camilla gained an excellent breadth of experience across the entire range of personal injury and clinical negligence litigation. She also acquired, at first hand, a good understanding of the methods and requirements of her lay and professional clients.

Camilla's approach is practical and constructive and she is used to taking responsibility for a case from an early stage and steering it through to its

conclusion. She believes in offering her clients realistic and timely advice and representing them with tenacious and resourceful advocacy. Camilla is familiar with all methods of ADR and is an effective negotiator with an eye for the wood rather than the trees.

Areas of expertise

- Personal Injury
- Clinical Negligence
- Costs and Litigation Funding

Personal Injury

Camilla's personal injury caseload includes high value catastrophic injury cases, occupational disease cases and fatal accidents. She regularly sees claims involving complex regional pain syndrome and post traumatic stress disorder. Her written work covers all aspects of drafting and advisory work, including schedules and counter schedules involving complex future loss of earnings and care claims and 'Ogden 6' calculations. She appears regularly in the High Court and the County Court. She has successfully negotiated settlements in a number of round table meetings and mediations.- In addition to the categories of cases listed below Camilla has also received instructions in the following cases:

- Claim for PTSD by a 'rescuer' present at the aftermath of a fatal helicopter crash in Morecombe Bay
- Preliminary advice as to potential civil/criminal liability arising out of allegedly false evidence provided by Autofocus in credit hire litigation

Road Traffic

Road traffic claims constitute a significant part of Camilla's practice. She has advised and drafted pleadings in many multiple vehicle accidents where liability is in dispute and she is experienced in analysing and addressing accident reconstruction expert evidence. She has advised in respect of contributory negligence arising out of failure to wear safety belts and helmets and also in cases involving allegations of contributory negligence against highways authorities. Camilla has dealt with claims involving indemnity issues and those involving uninsured drivers and the Motor Insurers Bureau. She has also had the pleasure of running and defending numerous credit hire arguments.

Recent cases include:

- Advising insurer as to indemnity position where the collision was caused by the front seat passenger pulling up the handbrake of the policy holder's car (policy holder driving)
- Claim to recover outlay in multiple vehicle collision claim
- Claim by a scooter-driver in respect of below the knee amputation

Employers Liability / Health and Safety

Camilla has worked on many employers' liability claims and is very familiar with the health and safety regulations and associated case law.- She has been instructed in numerous claims involving healthcare employees including ward and theatre nurses, mental health nurses and occupational health therapists and technicians.- She is interested in arguments about the employer/employee relationship and issues of control.- She appreciates the importance of acquiring a thorough understanding of the occupation and equipment in question.

Recent cases include:

- Claims by mental health nurses in respect of assaults by patients
- Claim by sonographer for work-related upper limb disorder
- Claim by a gravedigger who fell into the grave
- Claim by a tunnel digger involving multiple sub-contractors
- Claim by a theatre staff nurse for work-related upper limb disorder
- Claim by electrician involving multiple sub-contactors
- Claim by occupational therapist injured in a service user's home
- Claim by occupational therapist technician injured whilst making adaptations to service user's home
- Claim by paramedic for injury caused by allegedly defective trolley bed
- Claim for below the knee amputation by a school caretaker

Public Liability

Camilla has considerable experience in highways claims and occupiers' liability claims.- She has also dealt with cases involving animals and has advised an insurer client in respect of proposed amendments to the Animals Act.

Recent cases include:

- Multiple defendant, liability disputed slipping claim
- High value tripping claim
- Represented major retailer in slipping/tripping claims brought by customers

Inquests

Camilla has appeared in numerous inquests, including those held before a jury.

Recent inquests include:

- Jury inquest into the death of an overhead crane operator

- Jury inquest into the death of a farm shop employee
- Inquest into the death of a driver struck by a loose tailgate on the motorway
- Inquest into the death of a young motorcyclist whose motorcycle skidded beneath a lorry on oil spilled from a broken down bus

Clinical Negligence

Camilla deals with an increasing number of cases of clinical negligence and has developed a good range of experience in this area.

Recent cases include:

- Liability claim for allegedly negligent hallux valgus correction surgery
- Liability claim for allegedly negligent failure to diagnose DVT
- Liability claim for allegedly negligent treatment of arm fracture
- Liability claim alleging that a non-absorbable suture was used/not removed during abdominal surgery
- Liability claim for allegedly failing to diagnose eye infection leading to blindness
- Liability claim for allegedly negligent transurethral resection of the prostate surgery
- Dealing with quantum in an Erb's palsy claim
- Dealing with quantum in a cauda equina syndrome claim

-

Costs and Litigation Funding

Camilla has appeared in the Senior Courts Costs Office and has experience in respect of both substantive and interlocutory costs matters.

Memberships

- Middle Temple
- Personal Injury Bar Association

Qualifications

1998 – Middle Temple Harmsworth Exhibition 1998 – Bar Vocational Course
(Very Competent) 1994 to 1997 – MA Hons Law, Magdalene College, Cambridge
University (2:1)

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Emily Formby KC

Year of call: 1993 | Silk: 2021

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Phone: +44 (0)20 7832 1111

Emily is well known for her extensive personal injury and clinical negligence practice and is involved with the most complex cases of the highest value. Within these specialisations, she has wide experience acting for both claimant and defendant in all types of claims, both public and private, and in related areas such as inquests, Court of Protection, cost disputes, insurance related issues, fatal accidents, fraud, employer liability, road traffic and product liability claims. Emily has been recommended in the fields of personal injury and clinical negligence for many years in The Legal 500, Chambers and Partners and Legal Experts directories. Her expertise in clinical matters means she is often sought out for complex inquests looking into clinical and care home issues.

She is a CEDR qualified mediator and a recorder sitting in the Crown and County Court. She is vice chair of the Personal Injuries Bar Association (PIBA).

Areas of expertise

- Personal Injury
- Employers Liability
- Inquests
- Animal Claims
- Road Traffic
- Public Liability
- Product Liability
- Sport
- Alternative Dispute Resolution

Personal Injury

“She is very determined, committed, robust and empathetic.” Chambers and Partners 2022

“She has incredible forensic skills, great attention to detail and patience in the face of all sorts of obstacles.” Chambers and Partners 2022

“Emily is always measured and has an exceptionally thorough approach. Where Emily is involved, we know our client’s case is stronger for it.” The Legal 500 2021

“Emily cuts to the issues and is sensible and pragmatic.” The Legal 500 2021

Emily is instructed in the full range of clinical negligence and personal injury cases, and is always happy to speak about prospective instructions to see where she can help. Specialising in high value and catastrophic claims, she is long experienced in managing claims so as to cut quickly to the heart of the issue, she is adept at managing large multi-personnel and expert conferences as well as remaining empathetic and attuned to the fine detail of any case. Able to master a wealth of complex forensic and clinical detail, Emily can analyse cases so as to focus on the key issues. Conscious of the human element inherent in injury work, Emily strives to provide the best outcome possible for those for whom she is working and is imaginative and creative in her approach to team work. Formidable and fierce when required, Emily can lead but is not afraid to listen. Her persuasive advocacy wins plaudits and brings success but her compassion and humanity is never hidden. She has growing recognition for her work in fatal accident claims.

Cases of note

- Acting for the claimant where failure to bring mother to early assisted delivery led to significant injuries for mother and baby.
- Representing the claimant where a doctor had been struck off for inappropriate surgery.
- Acting for defendant where claimant alleged failure to admit to hospital led to suicide attempt
- Acting for the claimant in a complex claim. Delayed diagnosis of cerebral bleed leading to significant but subtle permanent symptoms. Complex causation issues.
- Acted for claimant where failure to monitor baby at birth led to avoidable oxygen starvation and injury.
- Acting for claimant where failure to administer and monitor anti-coagulation treatment led to undiagnosed clotting and death.

Employers Liability

Emily is instructed in high-value employer liability claims ranging from stress at work and bullying issues to accidents in the workplace, including schools, prisons, hospitals and more usual office claims.

Cases of note

Alleged injury to worker due to lifting and threading heavy machinery. After fully fought trial, claimant lost claim. Emily represented the defendant employer.

Inquests

Often highly complicated and contested cases where emotions run high, Emily has a wide ranging and broad inquest practice including many years of experience with jury inquests. She has represented government departments, particularly the prison service and many parties in a large number of suicide

cases. She works with clients who have fatal accidents and represents them at the inquest before moving into the damages claim, being particularly experienced in accidents involving cyclists. In the clinical negligence sphere, she represents doctors and patients when there is an investigation into how death arose and is fully conversant with article 2 of the Human Rights Act and human rights arguments and the interplay of European and domestic law. She represents those in care homes, particularly vulnerable adults, and has also been involved in a number of health and safety inquests. An adjunct to her inquest work is the number of fatal accident claims that follow.

Cases of note

- Acting for family where failure to admit or react to deceased's condition led to completed suicide.-
- Acting for mother where failure to monitor baby at, during and after birth led to avoidable death.
- Acting for hospital where alleged failure to monitor and admit patient led to death.
- Acting for family raising concerns over lack of access to primary care leading to developing avoidable conditions in vulnerable adult living in residential care leading to avoidable death.

Animal Claims

Accidents involving animals are often complicated and poorly understood. From horses in the New Forest causing accidents to dog bites and incidents in public parks, Emily understands the particular elements of animal claims and all that they can entail.

Road Traffic

Emily has particular expertise in road traffic accident claims. She has long worked in cycling claims and has an unparalleled experience in such cases ranging from accidents involving pot holes to the most catastrophic incidents involving bicycles and HGVs in conflict, multi-vehicle incidents and a wide range of claims. She has growing recognition and expertise in the developing world of e-scooter and micromobility claims and has lectured widely on the topic. She is also the co-presented of popular podcast Wheel Life, which looks at cycling and vulnerable road users from a legal perspective.

Cases of note

- Cyclist killed by cycling into van while exit way trapped by passing cars.
- Cyclist involved in catastrophic road traffic accident leading to long term harm and needs.
- Multiple vehicle accidents when deceased was struck by number of vehicles in succession.
- Pedestrian injured when struck by car when walking on road at night.

Public Liability

From an accident perspective, Emily has been instructed in a wide range of public liability claims from incidents on the highway, accidents with rights of way/liability issues, road design, ownership, trespass, occupiers' liability and accidents at events.

Product Liability

Accidents where products are involved from shearing of forks on a bicycle to the collapse of a bar stool chair or a product found in an apple pie are all instances

of product liability claims where Emily has been involved.

She also has experience in complicated claims looking at the failure of mechanical items leading to catastrophic accidents from helicopters to cars.

Sport

Injuries in contact sport and accidents involved bicycles are particular areas of claim where Emily has considerable experience.

Alternative Dispute Resolution

A CEDR qualified Mediator, Emily is able to bring significant 'coal face' experience as an injury litigator to her alternative dispute resolution work.

Her mediation training also assists her in all forms of dispute resolution when she is representing one of the parties. Instructed by all parties, Emily has extensive experience and a track record of success in all forms of ADR, where joint settlement meetings (JSMs) form a bedrock of her litigation practice.

Her role sitting as a Crown and County Court judge means she is able to bring her judicial training to bear on all aspects of ADR. She is used to balancing needs, listening to argument, taking an objective overview and managing matters with calm authority, thereby assisting the parties to reach a conclusion that is satisfactory to all concerned.

Emily is delighted to be one of the founder members of the 39 Essex Chambers ADR panel for fixed-fee arbitrations and adjudications.

Recommendations

Personal Injury

- *"She is exceptionally good at what she does and has a very detailed and brilliant advocacy style. She is friendly, pleasant and very effective."* Chambers and Partners 2022
- *"She is very determined, committed, robust and empathetic."* Chambers and Partners 2022
- *"An impressive junior. Very personable and thorough, as well as being a good strategist."* The Legal 500 2021
- *"She is brilliant with clients, and has a forensic mind and excellent attention to detail."* *"Very pragmatic and sensible."* *"Very thorough, clever and a good tactician."* Chambers and Partners 2021

Clinical Negligence

- *"Shows an ability to digest very complex medical concepts and problems which is second to none."* The Legal 500 2021
- *"Has excellent attention to detail and can quickly pick apart a case to get to the key issues."*
- *"She is very experienced in this field and well respected. Her manner with often vulnerable and traumatised clients is excellent – she is thorough but comforting."*
- *"A powerful advocate."* Chambers and Partners 2021

Memberships

- Personal Injuries Bar Association (PIBA) – Vice Chair
- Professional Negligence Bar Association (PNBA)
- Public Law Bar Association
- Member of Bar Pro Bono Unit

- London Common Law & Commercial Bar Association
- South Eastern Circuit
- The Honourable Society of Middle Temple

Qualifications

Education

- 1986 – 1989, Oxford University, BA (Oxon) Modern History
- 1991 – 1992 City University, Diploma in Law
- 1992 – 1993 Inns of Court School of Law, Baxxr School

Scholarships and Prizes-

- Queen Mother's Scholarship (Middle Temple) 1991 and 1992

Additional Information

Appointments

- Recorder of the Crown Court 2009
- Recorder of the Civil Court 2019

Publications

- Contributing Editor: *Kemp and Kemp: Quantum of Damages*
- Contributor: *Kemp & Kemp: Personal Injury Law, Practice & Procedure*

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Caroline Allen

Year of call: 2005

Email: caroline.allen@39essex.com

Phone: +44 (0)20 7832 1111

Caroline's practice is focussed upon personal injury, clinical negligence, inquests and costs work.– Within her personal injury practice she has particular experience of workplace claims including claims involving work-related stress, upper arm RSI, respiratory disease and industrial deafness.- Her caseload includes catastrophic injury cases, occupational disease cases, accidents suffered abroad and fatal accidents. Caroline has a substantial clinical negligence practice which encompasses claims against all branches of the medical professions.- She is regularly instructed on behalf of claimants, healthcare trusts and private healthcare providers.- She appears frequently in the Coroner's Court on behalf of public bodies, individual interested persons and bereaved families and has experience of Article 2 and jury inquests, and of cross-examination of court-appointed expert witnesses. She also undertakes a considerable body of costs work, particularly concerning costs issues arising in the context of personal injury and clinical negligence work.

Caroline writes and lectures regularly on a range of current issues.

Areas of expertise

- Personal Injury
- Inquests
- Clinical Negligence
- Costs and Litigation Funding
- Commercial

Personal Injury

Caroline has a specialist personal injury practice.- Her caseload includes catastrophic injury cases, occupational disease cases, accidents suffered abroad and fatal claims.- She appears regularly in the High Court and county courts and has successfully negotiated settlements in a significant number of JSMs involving high-value claims.- She regularly drafts pleadings and advises in a wide range of personal injury matters.- Workplace claims form a significant proportion of her practice in this area and include claims involving work-related stress, upper arm RSI, respiratory disease and industrial deafness.- She has experience of expert cross-examination.

Inquests

Caroline is regularly instructed in inquests involving complex and sensitive matters, acting on behalf of public bodies, including healthcare trusts and local

authorities, individual interested persons, including care home workers and employers, and bereaved families.- She is regularly involved at an early stage in proceedings, advising on disclosure, evidence, procedure and strategy, both at the Pre-Inquest Review stage and beyond.- Her experience includes Article 2 inquests, jury inquests and the cross-examination of expert witnesses.- Most recently, she has represented:

- A healthcare trust in a 3 day Article 2 inquest following the suicide of a teenager;
- A healthcare trust in a 5 day inquest following the death of a baby with an undiagnosed congenital condition;
- A bereaved family following the death of an elderly parent in a care home, in which a conclusion of neglect was reached;
- Several local authorities following deaths involving vulnerable adults, including drug and alcohol related deaths and suicides;
- The supervisor of the deceased in a 3 day jury inquest following a death in the workplace;
- Bereaved families following deaths during complex cardiac surgery and routine bowel surgery;
- A care worker initially arrested for manslaughter following a death in a care home. (A conclusion of death by natural causes was subsequently returned by the jury at inquest.)

-

Clinical Negligence

Caroline has a well-established clinical negligence practice covering all branches of the medical professions and is regularly instructed on behalf of claimants, healthcare trusts and private healthcare providers.- Over the course of the past 12 months she has represented claimants and defendants in cases alleging negligence against General Practitioners, general surgeons, colorectal surgeons,

spinal surgeons, oncologists, gastroenterologists, dentists, orthodontists, nurses and ophthalmologists, advising on a wide range of issues including delayed diagnosis, misdiagnosis, surgical errors and negligent nursing care.- Recent cases have included:

- Failure to diagnose necrotising fasciitis, resulting in extensive surgical debridement and disfigurement;
- Failure to prescribe appropriate post-surgery prophylaxis to a patient known to be at raised risk of pulmonary embolism;
- Failure on the part of neighbouring healthcare trusts to arrange timely transfer of a patient with extremely complex healthcare needs, resulting in the patient's death;
- Surgical errors, including negligent execution of surgery and failure to diagnose and treat post-operative complications.

-

Costs and Litigation Funding

Caroline is a member of Chambers' specialist costs team and often appears in the SCCO and county courts in detailed assessment hearings, applications and appeals for receiving and paying parties.- She also undertakes regular advisory work.

Commercial

Caroline is regularly instructed in insurance, sale of goods, property damage and general contractual matters, providing advice and representation in fast-track and multi-track actions.- She has considerable experience of credit hire litigation.

Memberships

- Personal Injury Bar Association (PIBA)

Qualifications

- Inns of Court School of Law BVC – Highly Competent: 2004-2005
- Lord Mansfield Scholarship, Lincolns Inn: 2004
- Oxford Brookes University GDpL: 2002-2003
- Hardwicke Entrance Scholarship and Lord Bowen Scholarship, Lincolns Inn: 2002
- St Hilda's College, Oxford BA Modern History 1st Class: 1999-2002

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"She is excellent in advisory work and on her feet, and can contend with complex facts with ease." The Legal 500 2023

"A clever and insightful lawyer able to develop and articulate complex legal issues. A silk in waiting." The Legal 500, 2022

Nicola is a versatile advocate with a diverse and multi-disciplinary practice encompassing clinical negligence, Court of Protection (COP) (health and welfare and property and affairs), public and regulatory law, personal injury, costs and sports law.

She is instructed in high-value, legally and procedurally complicated cases which often have a high degree of sensitivity or novelty, and generate press and public interest.

Nicola is instructed by the NHS, central government, private health care providers, individuals, corporate bodies, regulators and other public authorities. She is frequently instructed in cases raising public and private law issues which cross-over a number of her practice areas.

She has served on all three Attorney General panels including a reappointed term on the A Panel.

She is an experienced advocate in a variety of courts including the Court of Appeal and the High Court and has appeared before a range of regulatory tribunals.

She is experienced in group litigation and specialist group litigation costs.

She has an expertise in safeguarding arising from her work with vulnerable adults in the COP and in sexual abuse claims in the civil context. She sits as an

arbitrator on Sports Resolution's Safeguarding Panel and has acted for governing bodies and individuals in safeguarding cases in sport.

Areas of expertise

- Clinical Negligence
- Personal Injury
- Healthcare
- Court of Protection and Medical Treatment
- Civil Liberties and Human Rights
- Administrative and Public
- Regulatory and Disciplinary
- Costs and Litigation Funding
- Sport
- Information and Media

Clinical Negligence

“Extremely professional and knowledgeable. She is able to give exceptional yet compassionate advice in very complex cases. She puts up a good fight for her clients.”

Chambers and Partners, 2021

Nicola is experienced in high-value, sensitive and legally difficult cases including spinal injury, birth injury, brain injury and complex psychiatric injury. Nicola acts for claimants, NHS Resolution and private health care providers. She is often instructed in cases worth over £1m, involving technical evidence. She is an

experienced public lawyer and is often instructed in unusual healthcare claims involving human rights issues or complex capacity or deputyship issues. She is also experienced in costs issues in clinical negligence claims. She is known for her empathy and sensitivity to clients combined with a forensic and rigorous approach to the law and facts. She was junior counsel in *Robshaw v United Lincolnshire* [2015], a high-value cerebral palsy quantum case.

Cases of note:

- *Numerous claimants v Ministry of Defence* [Ongoing] – Instructed by the MoD in claims brought by hundreds of members of the armed forces who were prescribed the anti-malarial drug Lariam and claim long-term neuropsychiatric injury. Highly technical generic and individual expert evidence. The case proceeds as novel “mirrored” litigation outside court.
- *Numerous claimants v Maidstone and Tunbridge Wells NHS Trust* [2022] – Acting for NHS in intimate claims brought by family members of deceased victims of David Fuller who sexually abused their bodies in a hospital mortuary. Complex liability issues and instructed in respect of compensation scheme.
- *KA v Dr AH* [2022] - Acting for claimant in high-value claim against a GP for delay in diagnosis of a brain tumour. C was NHS employee and contentious loss of earnings claim. Settled at over £1m at mediation.
- *Brennan & Ors v City of Bradford & Leeds Teaching Hospitals NHS Trust* [2021] 1 WLUK 429 - Acted for NHS in claims brought under Article 8 European Convention on Human Rights (ECHR) (A8) by family members in a novel claim about decomposition of deceased’s body in hospital mortuary. Wide press coverage.
- *E v An NHS Trust* [2022] –Acting for claimant in unusual consent claim following C’s withdrawal of consent to an intimate examination resulting in serious psychiatric injury due to re-triggering of early childhood trauma.
- *HS v East Kent Hospitals University NHS Foundation Trust* [2021]– Acted for the defendant. Complex causation issues; and whether the claimant would have avoided pregnancy and subsequent stroke had she been given advice about risks of pregnancy. Hybrid wrongful birth

claim raising difficult legal issues. Acted for NHS. Settled at joint settlement meeting.

- *M v Dartford and Gravesham NHS Foundation Trust* [2020] - Acted for the defendant in high-value stroke claim, technical causation questions involving multiple experts. Exceptional weight of documents. Failed joint settlement meeting. Further negotiations led to settlement at reduced figure. Against a QC.

Personal Injury

Nicola acts for claimants and defendants in high value catastrophic personal injury claims including traumatic brain injury (TBI), spinal injury, functional disorders and complex psychiatric injury. She is particularly valued for her COP expertise in cases raising difficult capacity or deputyship issues. She is known for her empathy and sensitivity to clients, combined with a forensic and rigorous approach to the law and fact heavy cases. She is extremely experienced in high-value quantum disputes. She is adept at dealing with technical expert evidence from a wide range of disciplines. She is experienced in sexual and physical abuse claims, often involving health or social care settings and is often instructed in unusual injury cases arising from deliberate torts or other public law wrongs (including human rights claims).

“Nicola is exceptional. Her standout qualities are her clear, logical and analytical mind and her dedication to the job” The Legal 500, 2023

Cases of note:

- *PAA v Daralyn Williams* [2022]- Acted for claimant in high-value TBI claim arising from road traffic accident. Contributory negligence and quantum in dispute. Dispute over 2:1 v 1:1 care and family as carers. Led by Stuart McKechnie QC, appeared alone at approval hearings. Settled for multi-million lump sum plus periodical payments order (PPO).

- *Adoo-Kissi-Debrah and ors v Department for Environment and ors* [Ongoing] - Acting for Transport for London and the Mayor of London in a claim for damages for breach of an EC Directive and the ECHR by the estate and family of a child who suffered a fatal asthma attack alleged to have been caused by unlawful levels of air pollutants in London.
- *PIV v Ministry of Defence* [Ongoing]-Acting for defendant in sexual abuse claim brought by former RAF cadet against flying instructor. Vicarious liability and causation issue as to whether fibromyalgia triggered by sexual abuse.
- *W v Ministry of Defence* [Ongoing] - Instructed by defendant in TBI claim caused by helicopter accident in Afghanistan. High-value quantum dispute involving complex issues about accommodation (claim for two homes) and care regime.
- *Gatland & ors v Independent Police Complaints Commission (IPCC)* [2022] - Acted for six police officers in claims for misfeasance in public office/breaches of ECHR against IPCC arising from police misconduct investigations causing psychiatric injury. Complex statutory regime, facts and law. Negotiated substantial settlements at mediation against QC for IPCC.
- *A v Cygnet Health Care* [Ongoing] - Representing claimant in claim for abuse and resulting personal injury from treatment she suffered while a resident of Whorlton Hall care home, which was exposed in a Panorama documentary.
- *AXB (by his litigation friend, AXC) v Thera South Midlands* [2021] - Acted for learning disabled adult in claim for Post-traumatic stress disorder (PTSD) caused by negligent care and treatment by a residential care provider. Settled out of court and approved.
- *Phillips v Natural England* [2021] - Acted for Natural England in stress at work claim arising from a high-profile investigation.

Healthcare

Nicola acts for individuals, the NHS and private healthcare and social care providers and local authorities in a wide range of healthcare disputes involving public and private law issues. These claims frequently involve novel and complex issues of law and are heard in the Administrative Court or in High Court

or County Court. The cases often involve public and private cross-over issues including NHS contract and service reconfiguration disputes. Nicola is a specialist in restitution claims in the health and social care sector and acts for individuals, deputies and public authorities. She has acted in a wide range of cases involving human rights, confidentiality, data protection and misuse of private information in the health care field. She acts in inquests in deaths raising concerns about healthcare provision.

“Nicola is very legally and technically accomplished.” “Nicola has very good attention to detail and gets straight to the heart of the issue”. Chambers and Partners, 2023

Cases of note:

- *Numerous claimants v Maidstone & Tunbridge Wells NHS Trust* [Ongoing] - Acting for NHS in intimated claims brought by family members of deceased victims of David Fuller who sexually abused their bodies in hospital mortuary. Complex liability issues and instructed in respect of compensation scheme.
- *R (on the application of Megan Bacon-Evans, Whitney Bacon-Evans v NHS Frimley Clinical Commissioning Group* [Ongoing] - Acting for CCG in discrimination/ECHR judicial review challenge to the criteria adopted by the CCG for same-sex couples accessing NHS funded IVF treatment. Wide press coverage.
- *Brennan and ors v City of Bradford and Leeds Teaching Hospitals NHS Trust* [2021] 1 WLUK 429 - Acted for NHS in claims brought under Article 8 ECHR (A8) by family members in novel claim about decomposition of deceased's body in hospital mortuary. Wide press coverage.
- *Disabilities Trust v Slough Borough Council, North Lincolnshire Borough Council* [2021] - Represented care services provider in claim for breach of contract and restitution against local authorities for non-payment of care home fees. Claim successfully settled at mediation for substantial sum.

- *Bart's Health NHS Trust v Yvonne Goodright* [2021] - Represented NHS trust in claim in the Chancery Division for a declaration that it was lawful to make arrangements for the cremation of a body in the hospital's mortuary in circumstances where the personal representatives had failed to do so.
- *Inquest touching on the death of ME* [2021] - Represented family at three-day inquest arising from a tragic suicide against a background of failings in mental health care where there was a disputed issue as to engagement of Article 2 and breach of the systemic duty.
- *Dewhirst v South Tees Hospital NHFT* [2019] - Consultation challenge to hospital re-configuration and cessation of core services at local hospital. Acted for claimant, led by Fenella Morris QC. Permission granted, contested costs hearing.
- *Brenda Grant v George Eliot Hospital NHS Trust* [2017] - Represented NHS in first damages claim brought for failure to follow an advance directive under the Mental Capacity Act stating that the patient did not wish to be artificially fed. Settlement agreed out of court at £45,000. Against QC. Press coverage.
- *R v Bedford Primary Care Trust ex parte Watts* (QBD) 21 October 2003 [2003] EWHC 2401 (Admin) –A claim for a hip operation carried out in France on the basis of EU law.

Court of Protection and Medical Treatment

Nicola represents the Official Solicitor (OS), private individuals, local authorities and health bodies in a wide range of Court of Protection (COP) cases involving adult health, welfare and finances in the inherent jurisdiction. Nicola has appeared in many medical treatment cases concerning adults, children and babies, including in end of life cases, drawing up her wide-ranging expertise as a clinical negligence practitioner. She acts for hospital trusts, the OS and family members. She is very experienced in claims raising Mental Health Act issues. She is regularly instructed in property and affairs cases including challenges to deputyship appointments and/or claims brought against deputies or attorneys

and/or issues arising in the management of large personal injury funds (including social care/funding).

She is frequently instructed in cases where there are concerns about physical and financial abuse and/or associated damages claims.

“She is very thorough, experienced and incredible at drafting.” “She is incredibly professional, with an abundance of integrity.” Chambers and Partners, 2022

Cases of note:

- *Re P (Discharge of a Party)* [2019] - EWCOP 48, [2021] 1 WLR 3098 (CoA) - Nicola acted for the Mental Health Trust in long running proceedings in the High Court raising medical treatment and welfare issues in respect of a victim of sexual abuse diagnosed with atypical anorexia. The case went to the Court of Appeal following the discharge of P's mother as a party without notice.
- *Staffordshire County Council v DD & ors* [2021] - COP case considering the capacity test under Schedule A1 Mental Capacity Act (MCA) to consent to care and treatment arrangements in the context of fluctuating capacity.
- *Hwyel Dda University Health Board v EW (by her litigation friend, the OS)* [2022] - Nicola represented the health board in an extremely urgent case about whether an elderly woman should be force fed while under restraint so as to avoid imminent death.
- *Re PH* [2022] - Nicola represented the Public Guardian in a contested property and affairs application to revoke lasting powers of attorney and replace with a deputy. Dispute over capacity to make gifts and whether attorneys acting in P's best interests.
- *An NHS Trust v A & B & C* [2018] EWHC 2750 (Fam) - Nicola represented the family of an infant, C, with severe brain injury in a case about withdrawal of life-sustaining treatment.
- *Re D (Medical Treatment)* [2017] EWCOP 15 –Nicola represented the Ministry of Defence in an unusual case concerning a former soldier who had sustained traumatic brain injury and wished to travel to Serbia to undergo experimental stem cell treatment.
- *Re PV* [2015] EWCOP 87, [2016] EWHC EWCOP 3707 (Mr Justice Charles on appeal) - COP case concerning trusts created for the purpose of administering awards made by the Criminal Injuries Compensation Authority. No involvement of the COP was required in the settlement of

such trusts because the award was not ever P's money. Guidance given by the Court of Protection in dealing with such cases.

Civil Liberties and Human Rights

Nicola acts for individuals, health and social care providers, local authorities and central government in a wide range of disputes about human rights and civil liberties. She appears in a range of different courts and is extremely experienced in acting in damages claims for breaches of human rights.

Cases of note:

- *Numerous claimants v Maidstone & Tunbridge Wells NHS Trust* [Ongoing] - Acting for NHS in intimate claims brought by family members of deceased victims of David Fuller who sexually abused their bodies in hospital mortuary. Complex liability issues and instructed in respect of compensation scheme.
- *Milner v Barchester Healthcare Homes Limited* [2022] EWHC 593 (QB) - Acted for a care home in claims for breaches of Articles 2 and 3 ECHR arising from treatment of deceased at care home. Complex issues of liability and victim status. Article 2 claim struck out at preliminary hearing. Remainder of the claim was compromised.
- *Adoo-Kissi-Debrah and ors v Department for Environment and ors* [Ongoing] - Acting for Transport for London and the Mayor of London in a claim for damages for breach of an EC Air Quality Directive and the ECHR by the estate and family of a child who suffered a fatal asthma attack alleged to have been caused by unlawful levels of air pollutants in London
- *R (on the application of Megan Bacon-Evans, Whitney Bacon-Evans v NHS Frimley Clinical Commissioning Group* [Ongoing] - Acting for CCG in discrimination/ECHR judicial review challenge to the criteria adopted by the CCG for same-sex couples accessing NHS funded IVF treatment. Wide press coverage
- *A v Cygnet Health Care* [Ongoing] - Representing claimant in claim for abuse and resulting personal injury from treatment she suffered while a resident of Whorlton Hall care home, which

was exposed in a Panorama documentary

- *Brennan and ors v City of Bradford and Leeds Teaching Hospitals NHS Trust* [2021] 1 WLUK 429-- Acted for NHS in claims brought under Article 8 ECHR (A8) by family members in novel claim about decomposition of deceased's body in a hospital mortuary. Wide press coverage
- *Phillips v Secretary of State for Transport* [2020]-- Acted for the Secretary of State in a claim about revocation of vehicle licence plate numbers and breach of Article 1 of the First Protocol ECHR. Strike out hearing

Administrative and Public

Nicola acts for individuals, health and social care providers, local authorities and central government in a wide range of public law disputes. She has particular expertise in healthcare cases concerning NHS procurement, NHS contract disputes (or partnership arrangements), restitution/vires claims, healthcare reconfiguration, commissioning disputes (including experimental treatments) and data protection/misuse of private information. She is instructed by a range of public bodies in cases involving vires issues, breaches of ECHR, the Public Sector Equality Duty (PSED), misfeasance in public office and misuse of private information/data protection breaches. She has acted in a number of challenges to elections conducted by public bodies. She has acted in a range of commercial public law cases in the transport and telecommunications sector.

“Nicola is an excellent advisory lawyer (both orally and in writing), quickly establishes the trust of clients (even when they are sceptical of authority figures as a result of other experiences) and is a highly skilled advocate too.” *The Legal 500, 2022-*

Cases of note:

- *R (on the application of Megan Bacon-Evans, Whitney Bacon-Evans v NHS Frimley Clinical Commissioning Group* [Ongoing] - Acting for CCG in discrimination/ECHR judicial review challenge to the criteria adopted by the CCG for same-sex couples accessing NHS funded IVF treatment. Wide press coverage.
- *Gatland & ors v Independent Police Complaints Commission (IPCC)* [2022] - Acted for six police officers in claims for misfeasance in public office /breaches of ECHR against IPCC arising from police misconduct investigations causing psychiatric injury. Complex statutory regime, facts and law. Negotiated substantial settlements in mediation against QC for IPCC.
- *Phillips v Secretary of State for Transport* [2020] - Acted for the Secretary of State in a claim about revocation of vehicle licence plate numbers and breach of Article 1 of the First Protocol ECHR. Strike out hearing.
- *R (on the application of Barking & Dagenham College) v Office for Students* [2019] EWHC 2667 (Admin) - Higher education institution's challenge to regulator's algorithm-based decision.
- *Dewhirst v South Tees Hospital NHFT* [2019]- Consultation challenge to hospital re-configuration and cessation of core services at local hospital. Acted for claimant, led by Fenella Morris QC.
- *R (on the application of Juttla & ors) v Hertfordshire Valleys Clinical Commissioning Group* [2018] EWHC 267 (Admin) - Challenge to decision to cease commissioning a respite service for children
- *RH v Secretary of State for Work and Pensions (DLA)* [2018] UKUT 48 Upper Tribunal case concerning the role of appointees and litigation friends in the Upper Tribunal.
- *National Aids Trust v NHS Commissioning Board & Local Government Association & anr* [2016] EWHC 2005 (Admin), [2016] EWCA Civ 1100-- Powers of NHS England to fund PrEP, an antiretroviral drug to be used preventively to prevent individuals contracting HIV.
- *South Staffordshire and Shropshire Healthcare NHS FT & anr v The Hospital Managers of St George's Hospital and AU* [2016] EWHC 1196-- An NHS Trust had the power to judicially review a discharge decision of its own hospital managers.
- *R (Buckinghamshire CC) v Kingston upon Thames RBC* [2011] EWCA Civ 457-- Consideration of duty of consultation in a community care challenge.

Regulatory and Disciplinary

“Nicola is a trusted adviser for complex and developing areas of law.” “She is very good on tactics and strategy.” Chambers and Partners, 2023

Nicola’s regulatory and disciplinary practice covers a wide field of regulation and discipline: health and social care professionals, arbitrators, financial service professionals, legal professionals, veterinary professionals and health, education and financial institutions. She represents individuals and regulators and often offers advice on difficult policy issues or unusual situations faced by regulators or those they regulate. She is regularly instructed in cases raising sexual misconduct and safeguarding issues. She appears before disciplinary tribunals and acts in High Court judicial review and appeal proceedings.

Cases of note:

- *Gatland & ors v Independent Police Complaints Commission (IPCC) [2022]* - Acted for six police officers in claims for breach of Article 6 ECHR for substantial delay by IPCC in police misconduct investigation. Complex statutory regime, facts and law. Negotiated substantial settlements in mediation against QC for IPCC.-
- *Professional Standards Authority v (1) Social Work England (2) Bennett [2021] EWHC 3539 (Admin)* - Represented Social Work England (SWE) in the first statutory appeal brought against the regulator. Whether SWE was required to remove a social worker guilty of serious and persistent dishonesty in respect of immigration offences.
- *Re LM [2020]* - Represented a psychologist in proceedings before the Health and Care Professions Tribunal Service (HCPTS) brought by a former patient alleging an inappropriate sexual relationship, which gave rise to a complicated interlocutory application for exclusion of hearsay evidence.
- *R (on the application of Barking & Dagenham College) v Office for Students [2019] EWHC 2667 (Admin)* - Higher education institution’s challenge to regulator’s algorithm-based decision.

- *Uwen v General Medical Council* [2018] EWHC 2484 (Admin)- Whether practising without professional indemnity insurance justified an interim suspension order.
- *HA v University of Wolverhampton & General Pharmaceutical Council* [2018] EWHC 144 - Represented General Pharmaceutical Council in case about whether a university was entitled to seek disclosure of a prospective student's criminal record.
- *Professional Standards Authority v (1) General Dental Council (2) AB* [2016] EWHC 2154 - Represented General Dental Council in a statutory appeal brought by a dentist who had continued to practise while infected with hepatitis B.

Costs and Litigation Funding

Nicola advises on and appears at detailed assessment hearings and other costs cases in the Senior Court Costs Office and the County and High Courts on behalf of paying and receiving parties. She has considerable experience in dealing with group litigation costs (having been instructed to deal with costs matters in the Coal Coke Ovens Group Litigation). She is particularly experienced in costs issues arising from clinical negligence and personal injury litigation-and Court of Protection cases.-She is often instructed in cases involving legal aid costs and costs applications against the Lord Chancellor. She has experience of advising on and drafting damages-based agreements (DBAs). She is currently acting in a-number-of cases involving the application of set-off in different contexts.-She has experience of wasted costs applications. She is currently instructed in a detailed assessment where there are points of principle about mixed claims in publication and privacy proceedings and the recoverability of success fees and after the event (ATE) insurance premiums.

“Nicola is very level-headed, an effective advocate and a good communicator.”

Chambers and Partners UK 2023

“She is excellent in advisory work and on her feet, and can contend with complex facts with ease” The Legal 500 2023

Cases of note:

- *Dalia El-Demellawy v European Bank for Reconstruction and Redevelopment* [2020] - Detailed assessment proceedings before Master Leonard. Interest ran at Judgments Act rate on the defendant’s costs despite an order for set-off against the claimants costs by the trial judge (application of *Fearn v Anglo-Dutch Paint*).
- *Momonakaya v Ministry of Defence* [2019] EWHC 480 (QB) - Whether a claim had been settled pursuant to Part 36 in circumstances where clarification of the offer following receipt of the Compensation Recovery Unit (CRU) certificate had not been provided.
- *Dewhirst v South Tees Hospital NHFT* [2019] - Represented claimants in contested High Court costs hearing in judicial review claim following a compromise agreement.
- *Holmes v Brighton & Sussex University Hospitals NHS Trust* [2020] - Appeal in refusal of an application to set aside a notice of discontinuance in a clinical negligence claim.
- *Marsh v Ministry of Justice (Court of Appeal)* [2018] - Acted for the Ministry of Justice in the appeal against the judge’s order that it would be unjust for the usual Part 36 consequences to apply due to the change in the personal injury discount rate. Appeal compromised.
- *In the matter of AE, FW, SC and JB and ors* [2017] COP - Costs dispute in the Court of Protection about costs sanctions for failure to give full and frank disclosure.
- *Pearce v Secretary of State for Energy & Climate Change, Coal Products Limited, National Smokeless Fuels Limited* [2016 – 1019, Turner J, Master Gordon Sakar) - Group litigation costs. Instructed as junior counsel to Alexander Hutton QC to deal with costs management and other costs issues for the defendants including an application for early disclosure of ATE policies.
- *Bakhtiyar v Secretary of State for the Home Department, Upper Tribunal* [2015] - Represented the SSHD in a challenge to the SSHD’s reliance on the *Re Eastwood* approach of assessing the costs of in-house lawyers.

Sport

Nicola is an experienced advocate in civil, public and regulatory law. She is a member of 39 Essex Sports group. She has a particular interest in safeguarding issues as a result of her involvement in historical abuse litigation in the civil field, as well as her public law work involving abuse of vulnerable adults and children. She works in the following areas:

- Safeguarding issues in sport whether in the context of sports arbitrations or civil claims
- Disciplinary cases in the sporting context
- Advising on General Data Protection Regulation (GDPR) and confidentiality issues in the sporting context
- Acting in claims for damages for misuse of private information and/or breaches of the Data Protection Act and the Human Rights Act

Nicola has been appointed to Sport Resolution's National Safeguarding Panel.

Recent highlights include:

- Sitting as an arbitrator on safeguarding cases in sport
- Advising in relation to a high profile, confidential investigation into safeguarding issues in the employment law context, in particular GDPR issues and disclosure obligations
- Acting in sexual abuse claims raising issues of consent, vicarious liability and limitation
- Acting in disciplinary cases where the allegations concern inappropriate sexual misconduct/abuse of position
- Acting as a special advocate before a sports safeguarding panel in circumstances where material had been withheld from the subject of the investigation

Information and Media

Nicola is instructed on claims involving information rights including matters arising under the GDPR, Data Protection Act, as well as claims in tort for misuse of private information, claims for breach of confidence or under Articles 8 and 10 ECHR. She is often instructed in claims for damages against public bodies for breach of information rights including claims against the police, health care bodies and central and local government. She advises on subject access requests and has advised bodies on Data Protection Act (DPA)/GDPR issues in the context of regulatory and disciplinary investigations.

Cases of note:

- *F v Virgin Care Services Limited [2020]* - Acted for the health care provider in a claim for breach of the DPA and a claim for misuse of private information arising out of the communication of information about appointments at a sexual health clinic.
- *C1 and C2 v The Chief Constable of West Midlands Police [2018]* - Acted for C1 and C2, undercover police officers, in a claim for misuse of private information/breach of confidence, breach of the DPA and Article 8 ECHR against the chief constable arising from the loss of information containing personal details C1 and C2 and their involvement in a covert operation.
- Advising in relation to a high-profile disciplinary investigation in the employment context given rise to DPA and disclosure issues [2019].

Recommendations

- *"She is excellent in advisory work and on her feet, and can contend with complex facts with ease."* Chambers and Partners 2023
- *"She is very straightforward and clear in addressing judges."* Chambers and Partners 2023

- *"Nicola is incredibly diplomatic."* Chambers and Partners 2023
- *"She is able to break down complicated legal problems."* Chambers and Partners 2023
- *"She is empathetic and practical to the client's needs."* Chambers and Partners 2023
- *"Nicola is very legally and technically accomplished."* Chambers and Partners 2023
- *"Nicola has very good attention to detail and gets straight to the heart of the issue."* Chambers and Partners 2023
- *"She is very thorough, experienced and incredible at drafting."* *"She is incredibly professional with an abundance of integrity."* Chambers and Partners, 2022
- *"Very personable and bright"*. *"She's both good with clients and articulate on paper."* Chambers and Partners, 2022
- *"She has a really good calm manner that instils trust in the panel. Doesn't take points that are too high or impossible to back up."* *"Impressive, practical and very good with clients."* Chambers and Partners, 2022
- *"Her legal knowledge is fantastic, and she has the ability to frame submissions in an intelligent, yet easy to digest manner that the court loves."* The Legal 500, 2022
- *"A clever and insightful lawyer able to develop and articulate complex legal issues. A silk in waiting."* The Legal 500, 2022
- *"A terrific junior with good judgement, who is hard-working, knows her stuff and is good at meeting deadlines."* *"She is incredibly detailed in her approach – a spreadsheet queen."* Chambers and Partners UK 2021-
- *"Extremely professional and knowledgeable. She is able to give exceptional yet compassionate advice in very complex cases."* *"She puts up a good fight for her clients."* Chambers and Partners UK 2021-
- *"She is personable, calm and unflappable in court."* *"She is always extremely approachable. She gives robust and clear advice."* Chambers and Partners UK 2021-
- *"Extremely bright, thorough and thoughtful."* Chambers and Partners UK 2020
- *"A robust advocate who is very down to earth. She provides very sound advice."* Chambers and Partners UK 2020

Memberships

- Association of Regulatory and Disciplinary Lawyers (ARDL)
- Personal Injury Bar Association (PIBA)
- Court of Protection Bar Association (CPBA)
- Administrative Law Bar Association (ALBA)
- Professional Negligence Bar Association (PNBA)
- Liberty

Qualifications

Education

- BA (Hons) Law, New Hall, Cambridge, 1998
- Bar Finals, Inns of Court School of Law (1999)
- King Edward VI Grammar School, Chelmsford, Essex
- Ursuline High School, Brentwood, Essex

Scholarships and prizes

- Von Moltke Scholarship, Inns of Court
- Inner Temple Bursary (1998)
- Duke of Edinburgh Entrance Scholarship (1998)
- Cambridge European Studies Scholarship for Italian Studies in Italy (1998)

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Additional Information

Appointments

- Committee member of Cambridge Medico-Legal Conference (2021 to date)
- Sport Resolution's National Safeguarding Panel, Legal member (2021 to date)
- Member of Bar Council Remuneration Committee (2018 to date)
- Equality, Diversity and Inclusion Officer, 39 Essex Chambers

Languages

- German
- French

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Bernard Doherty

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Phone: +44 (0)20 7832 1111

“He is simply outstanding; on paper, in person and in court.”

The Legal 500, 2019

Bernard is a highly experienced advocate in both conflict of laws and complex personal injury claims, making him the obvious choice for the most serious cross-border personal injury litigation. He has been ranked in Band 1 for both travel law and personal injury in The Legal 500 and Chambers and Partners for several years. He is the lead author of *Accidents Abroad: International Personal Injury Claims* (Sweet & Maxwell). Bernard sits as a recorder (part-time judge) and is a qualified mediator. He is approachable and advises on complex issues in a clear, comprehensible way.

Areas of expertise

- Travel and International Injury
- Clinical Negligence and Personal Injury

Travel and International Injury

"He's exceptional ... a walking encyclopedia on travel law. He's also very approachable and responsive."-Chambers and Partners, 2022.

Bernard has unrivalled experience in all aspects of travel law, including claims arising from package travel, overseas motor accidents, employers' and occupiers' liability claims, Montreal and Athens Convention cases and clinical negligence claims arising from treatment abroad, as well as in questions of insurance law, which arise in many such cases. He represents claimants and

defendants in both multi-party and individual claims. Bernard also acts in professional negligence claims arising from the alleged mishandling of cross-border litigation.

He is the lead author of *Accidents Abroad* (Sweet & Maxwell) and regularly writes and lectures on issues arising in cross-border litigation.

Bernard appears in Band 1 for Travel Law in both *The Legal 500* and *Chambers and Partners* and has done for several years.

Cases of note:

- *Klifa v Slater* [2022] EWHC 427 (QB) [2022] I.L.Pr. 15 - An application to stay a post-Brexit claim arising from a skiing accident in France on forum non conveniens grounds.
- *Hill v Generali Biztosito ZRT* [2021] EWHC 3381 (QB) [2022] 1 WLR 2477 - The High Court holds that the favourable jurisdiction rules for injured persons when suing an insurer under Brussels I Recast apply also to any subrogated part of the claim brought for the benefit of the insurer, resolving a long-standing debate on the issue.
- *Owen v Galgey* [2020] EWHC 3546 (QB) [2021] I.L.Pr. 7 - In what circumstances will it be appropriate to use article 4(3) of Rome II to override the basic choice of law rules in articles 4(1) and 4(2)?
- *Hutchinson v Mapfre Espana* [2020] EWHC 178 (QB) [2020] Lloyd's Rep. I.R. 333 - For the good arguable case purposes of a jurisdiction challenge, a territorial scope clause in an insurance policy limiting indemnity to claims brought in Spain was an impermissible derogation from the special rules of jurisdiction in Brussels I Recast, which are designed to protect the weaker party.
- *Schofield v Gultepe* [2019] EWHC 293 (Admlty) - Trial of liability in a claim arising from an accident at sea off the coast of Greece and governed by Greek law.
- *Naraji v Shelbourne* [2011] EWHC 3298 (QB) - Clinical negligence trial in relation to unsuccessful knee surgery to a professional footballer undertaken in the USA, with liability governed by the law of Indiana.

- *Owusu v Jackson* (C-281/02) [2005] Q.B. 801 - Seminal decision of the European Court of Justice on the absence of a discretion to stay a claim against an English domiciled defendant on grounds of forum non conveniens, even where the proposed stay is for proceedings in a country which is not a member state of the EU.

Clinical Negligence and Personal Injury

“A cool head at all times and supreme with his knowledge and advice.” The Legal 500, 2022.

Bernard represents claimants and defendants in personal injury cases of all kinds, including injuries of the utmost severity, often catastrophic brain injury and spinal injury cases. He has experience of all types of claims, including employers' liability, occupiers' liability, motor cases, clinical negligence, and fatal accidents, as well as the insurance issues which often occur in such claims. Bernard also acts in professional negligence claims arising from the alleged mishandling of injury cases. He acts in individual claims and multi-party actions, including group litigation. He regularly lectures in the field of personal injury law.

Bernard appears in Band 1 for Personal Injury in both The Legal 500 and Chambers and Partners and has done for several years.

Cases of note:

- *DEF v Jones* (High Court, 2022) - High Court claim concerned with a claimant suffering a catastrophic brain injury in a road traffic accident. An anonymised settlement of the claim was approved with lump sum damages at some £3m and periodical payments at some £250K pa.
- *Havard v Upright Scaffolding* (High Court, 2022) - High Court employer's liability claim arising from a scaffolding accident leading to the claimant being rendered paraplegic. The case proceeds with liability and quantum in dispute.

- *Jagger v Holland* [2020] EWHC 1197 (QB) - Liability trial in a lower limb amputation case arising from an accident while setting up a fairground site. The claim has subsequently settled on a periodical payment basis with an overall value of some £5m.
- *Adesoro v Mr Bagels Ltd* (High Court, 2021) - An employer's liability case in which the claimant suffered an upper limb amputation. As well as ordinary liability and quantum issues, the case raised questions as to immigration status and illegality issues. Claim settled.
- *Allen v Two Four Broadcast Ltd* (High Court, 2021) - Claim arising from a ski jumping accident during the course of filming a TV programme. The claim settled on the basis of discontinuance against the defendant represented by Bernard and continues against another defendant.
- Claims arising from accident on M1 (High Court, 2021) - Multiple fatal accident claims arising from a collision on the M1 when a minibus was crushed between two lorries. Quantification issues were complicated by the overseas domicile of a number of victims and their dependents. Bernard represented multiple claimants, and all claims were settled and, where necessary, approved.
- *Simon v Helmot* [2012] UKPC 5 - Junior counsel in Privy Council appeal relating to the correct approach to the calculation of discount rates and multipliers in the courts of Guernsey.

Recommendations

- *"An authority on cross-border cases, he is very astute with the technical points and excellent in the foreign courts."* Chambers and Partners, 2022
- *"Has a calm and assured air about him that is very reassuring when the pressure is on. A great pleasure to work with and he is very helpful and approachable."* Chambers and Partners, 2022
- *"A cool head at all times and supreme with his knowledge and advice. A QC in all but name."* The Legal 500, 2022
- *"Bernard is particularly well equipped to deal with cross-border disputes, especially in the field of tort claims."* The Legal 500, 2022

Memberships

- Personal Injuries Bar Association
- Pan European Organization of Personal Injury Lawyers

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Derek O'Sullivan KC

Year of call: 1990 | Silk: 2016

Email: derek.osullivan@39essex.com

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“A standout silk who regularly appears in high-value catastrophic injury cases. He elicits stellar market praise...”

Chambers and Partners 2022

Derek O'Sullivan KC is recognised as one of the country's leading Personal Injury practitioners. His practice concentrates on very high value catastrophic injury

claims.

Derek was named 'Personal Injury & Clinical Negligence Junior of the Year' at the Chambers Bar Awards 2012 and then in 2013, 2014, 2015 and 2016 he was a "Star Individual" in the Chambers Personal Injury ranking for Juniors. He took Silk in 2016 and his practice has grown whilst in Silk. He is a Band 1 Leading Personal Injury Silk in both Chambers and Partners 2021 and a Leading Silk in Legal 500 2021.

Derek's practice concentrates on cases where claimants have been catastrophically injured. He has a particular expertise in relation to brain injury cases- not only cases of severe traumatic brain injury but also "subtle" brain injury cases and cases involving cumulative causes-and spinal injury cases. He is also regularly instructed in catastrophic spinal injury and amputation cases. Derek is familiar with all elements of catastrophic injury cases and is used to leading a team (including extensive medical expert evidence) defending very high value claims.

Areas of expertise

- Personal Injury
- Occupiers Liability
- Road Traffic
- Employers' Liability
- Public Liability
- Sport Injury and Negligence
- Travel and International Injury

- Insurance Fraud
- Health and Safety
- Policy Coverage
- Product Liability
- Group Litigation
- Civil Liability Group ADR Scheme

Personal Injury

"A master tactician and strategic thinker who is always on his game. The depth and breadth of his knowledge across a wide range of issues is second to none". Chambers and Partners

Derek's practice concentrates on cases where claimants have been catastrophically injured. He has a particular expertise in relation to brain injury cases- not only cases of severe traumatic brain injury but also "subtle" brain injury cases and cases involving cumulative causes-and spinal injury cases. He is also regularly instructed in catastrophic spinal injury and amputation cases. Derek is familiar with all elements of catastrophic injury cases and is used to leading a team (including extensive medical expert evidence) defending very high value claims.

Quantum

Derek is involved with all quantum issues generally encountered by personal injury practitioners dealing with catastrophic injury cases. Issues which he is currently dealing with include: severe brain injury; tetraplegia and paraplegia; claimants in states of minimal consciousness; so-called subtle brain injury cases; major psychiatric decompensation consequential on severe brain injury;

capacity (litigation, management of affairs and deprivation of liberty) and all issues relating to statutory funding and settlements.

Derek has drafted a considerable number of Periodical Payment Orders and has been involved in a number of cases involving PPOs for care as well as PPOs for other heads of loss. He has also been involved in (and drafted PPOs) cases where claimants have provided reverse indemnities.

Occupiers Liability

Derek has acted in a very considerable number of occupier's liability claims with the cases dealt with including:

- Liability of the occupiers of woodlands, nature reserves, holiday parks and historic monuments
- Liability of domestic householders in relation to the 1957 Act
- Liability of the occupiers of commercial premises (both to visitors and persons attending in the course of their employment) in relation to the 1957 Act.
- Liability of occupiers (both domestic and commercial) in relation to claims by trespassers under the 1984 Act.

Road Traffic

Derek has conducted many cases arising from road traffic accidents and has particular expertise in the interpretation, understanding and challenging of accident reconstruction evidence. Recent cases taken to trial include: ***Farah v Abdullahi & 5 Ors*** [2020] EWHC 825, QBD; a case that involved multiple tortfeasors and insurers as well issues including the cause(s) of the claimant's extensive brain injury, novus actus interveniens and divisibility of injury, as well as ***Barrow v Merrett*** [2021] EWHC 792 (QB) and ***Arkelaos v Phillips*** [2021] EWHC

2321 (QB): both cases where the defendant driver was absolved of any liability following a collision with a child running into the road ahead of them.

Employers' Liability

Derek has extensive experience of acting for defendants in EL claims; in particular he has extensive experience of acting in multi-defendant cases involving accidents on construction sites. A recent case taken to trial was *Harris v Bartrum* [2020] EWHC 900 (QB): the employer was found not liable to the employee who suffered catastrophic injury when the articulated lorry and trailer which he had been employed to drive rolled over him.

Public Liability

Rail Claims

For many years Derek has acted for rail companies in relation to claims by passengers, trespassers and claims by injured employees. He is also instructed by Network Rail. He is familiar with the issues in rail claims (including CAHA) and has a good knowledge of the relevant Master Rule books and Railway Standards. His most recent trial acting in relation to a railway accident involved Derek acting for a train operating company being sued by a passenger after an accident in which the passenger suffered a bilateral amputation after falling between a platform and a moving train: *Robinson v Greater Anglian Railways* [2018] EWHC 272 (QB). This was an important decision as the claimant sought (unsuccessfully) to argue that the overall safety of train despatch systems on the rail network was unacceptable. Following this Derek acted for Network Rail/GWR in relation to a claim by a passenger who fell down an escalator at the

newly modified Reading Station (thereby suffering a catastrophic spinal injury): *Snell v Network Rail* (2018, QBD; claim discontinued prior to trial). Currently Derek is acting for a number of rail industry parties, including being instructed in the claims arising from the New Cumnock Derailment as well as by the Defendant in *Martin-Shea v DB Cargo Limited* (QBD, Newcastle DR): a case involving a child trespasser who suffered catastrophic injury when coming into contact with the overhead electric line at the Tyne Yard (as a result of climbing onto a wagon of a train awaiting departure).

Sport Injury and Negligence

As a keen sportsman Derek has always had an interest in sports law cases and has had frequent instructions over the years, having acted in a number of cases, including: negligent tackle claims (football and rugby) assault claims (football, rugby and ice hockey) catastrophic injury arising from golfer's negligence (jogger blinded by errant golf ball) and a claim against the Football Association (in relation to its rules on banning players following red cards and accumulations of yellow cards). In a recent rugby case Derek was instructed by Cardiff Blues in respect of the High Court claim brought by Owen Williams against the Cardiff Blues and 5 other Defendants following the catastrophic spinal injury suffered by Owen Williams whilst playing in competition in Singapore in 2014.

Derek has also represented a number of sports clubs in respect of employer's liability claims; including a Premiership rugby club accused of negligence in the rehabilitation of a player after injury.

Derek is also involved in representing amateur clubs and is familiar with claims being brought by members against unincorporated associations.

Derek is currently involved (on behalf of the WRU) in the prospective claims being advanced by former professional rugby union players against the IRB, RFU and the WRU in relation to brain injury and neuro-cognitive disorder.

Travel and International Injury

Aviation accidents

Derek is instructed in relation to personal injury claims arising from accidents aboard aircraft (both fixed wing and helicopters). Derek has dealt with Montreal convention cases together with non-Convention cases where liability for the accident is in dispute; Derek was instructed by aviation insurers for the aircraft owner in the case of *Day v Tasker et al* (2009) QBD, Leeds DR.

Derek has also acted for aviation companies and airports in relation to "airside" issues; e.g. he was previously a London airport in relation to an industrial illness claim (by an airside worker) involving alleged breaches of the Control of Substances Hazardous to Health Regulations.

Accidents at Sea

Employer's Liability Claims involving accidents at sea or on-board ships; Derek has wide experience in this niche area and has experience of cases involving the following:-

- The Shipbuilding and Ship-Repairing Regulations 1960
- The Docks Regulations- 1988
- The Merchant Shipping and Fishing Vessels (Health Safety & Welfare) Regulations 1997
- Liability generally where UK regulations do not apply

Accidents abroad

For many years Derek has acted for insurers in relation to claims arising from personal injury accidents abroad and so conflicts of laws/Rome II issues are frequent in Derek's practice. He was previously Junior Counsel in a cross border case (involving catastrophic injury) where the damages claim was pleaded at over £40m and then subsequently as Leading Counsel for one of the parties in a cross border claim (resulting from an accident in France) where the damages were pleaded at an even higher figure. Derek has experience of foreign law claims involving: French, Spanish, German, Italian, Norwegian, Belgian, Serbian, Kuwaiti, Brazilian and Maltese law.

Insurance Fraud

Derek has a particular interest in fraud in personal injury cases and is instructed in cases with a (potentially) high value but where issues of fraud or fundamentally dishonest arise. The advent and consequences (in relation to QWOCS) of fundamental dishonesty under s. 57 Criminal Justice and Courts Act 2015 has changed the landscape in relation to how insurers deal with potential fraud in claims and Derek is regularly instructed in cases involving consideration of fundamental dishonesty.

Road Traffic Act and Motor Insurance issues

Derek is frequently instructing by motor insurers in relation to policy coverage issues/issues under the Road Traffic Act 1988 and potential Art 75 status. He has extensive experience of cases where insurers have Art 75 status and/or where the MIB are involved and indeed has assisted insurers on numerous occasions with submissions to the Technical Committee of the MIB.

Health and Safety

Accidents at work/deaths at work can result in both criminal proceedings against the employer in question as well as private law claims for damages arising from the accident. Insurers tend to be involved in both proceedings and since commencement of his practice Derek's practice has always involved representing companies or individuals being prosecuted under the Health and Safety at Work Act/daughter legislation as well then acting for them in any subsequent civil proceedings (or inquests).

Derek frequently receives instructions from the employer's liability insurers of companies and individuals who are facing health and safety prosecutions in the criminal courts and he is very experienced in relation to trials in the magistrates court (e.g. *R v Bestway* Coventry Magistrates Court; a case under s. 3 of the Health and Safety at Work which involved a so-called "HTML defence") and the Crown Court with a jury (e.g. *R v Thomas* and *R v County Mall Management Limited*).

Cases in which Derek has been involved in his practice include prosecutions brought under:-

- Sections 2, 3 and 7 of the Health and Safety at Work Act etc. 1974
- The Workplace (Health Safety and Welfare) Regulations 1992
- The Manual Handling Operations Regulations 1992
- The Health and Safety (Display Screen Equipment) Regulations 1992
- The Personal Protective Equipment Regulations 1992/1998
- The Control of Substances Hazardous to Health Regulations 1988/1999/2002

- The Construction (Health Safety & Welfare) Provisions 1996
- The Provision and Use of Work Equipment Regulations 1992
- The Management of Health and Safety at Work Regulations 1999
- The Electricity at Work Regulations 1999
- The Work at Height Regulations 2005
- Lifting Operations and Lifting Equipment Regulations 1998
- Construction (Design and Management) Regulations 2007/2015
- Control of Asbestos at Work Regulations 1987/Control of Asbestos at Work Regulations 2006/2012

Gross Negligence Manslaughter and Corporate Manslaughter

Derek is one of the few Counsel who has acted in both a gross negligence manslaughter case (*R v English Brothers*, Northampton Crown Court) and a corporate manslaughter case (*R v Cavendish Masonry*, Oxford Crown Court). He was recently instructed in another such prospective case (in which the prosecuting authority chose not to proceed after a number of submissions made by the prospective defendant).

Policy Coverage

Insurance

Derek has considerable experience in disputes arising by reason of fraud/material non-disclosure/misrepresentation in insurance claims. He has represented insurers in a number of such cases which have proceeded to trial (e.g. *Savash v Co-Op General Insurance*) and which have dealt with the following

- Presentation of fraudulent documents/use of fraudulent devices in support of claims.
- Presentation of fraudulent claims
- Material non-disclosure in claims
- Material non-disclosure/misrepresentation in insurance proposals.

He is currently involved (for insurers) in a number of such ongoing cases.

Derek has also been instructed in disputes involving policy coverage issues.

Cases in this area include insurers refusing to provide public liability cover to a footballer who recklessly injured a fellow player, insurers refusing to provide public liability cover to an insured who injured a friend whilst engaging in horseplay with an air-rifle and insurers refusing to provide cover in respect of a fire which had been wilfully/recklessly started.

Product Liability

Derek has been regularly instructed over the years by insurers in product liability claims; the cases he has been involved in range from being instructed in the "*the toxic leather Sofa*" Group Litigation (acting for one of the many defendants) to acting for the manufacturers or suppliers of: bicycles, plumbing equipment, air hoses, butane gas canisters, baby changing stations, televisions, truck tyres, car tyres, motorcycle tyres, bicycle tyres etc.

Group Litigation

Derek was instructed in the "*the toxic leather Sofa*" Group Litigation (acting for one of the many defendants) and is currently instructed as Leading Counsel in relation to the claims (including personal injury and property damage) arising from the New Ferry explosion in 2017 as well as being instructed in the

prospective claims advanced by former professional rugby players.

Civil Liability Group ADR Scheme

Derek's seniority and reputation in the personal injury "*marketplace*" has led to numerous requests for him to act as a QC Mediator in personal injury litigation (and litigation or disputes, such as coverage and insurance disputes arising between motor insurers following a multi-vehicle accident, arising out of personal injury claims). He accepts instructions to act as a QC Mediator and uses his long experience of this litigation to assist parties (not just Mediations involving a claimant and defendants but also as between defendants) who require the involvement of a QC Mediator. He has a fair-minded and "hands on" approach which the parties in Mediation conducted by him have found to be of great assistance and is currently instructed to act as a QC Mediator in a number of cases in which the parties have been unable to achieve settlement by the conventional means of a Joint Settlement Meeting conducted by the parties (or have not believed that a JSM would be a worthwhile exercise due to the differences between the parties).

Recommendations

- *"A standout silk who regularly appears in high value catastrophic injury cases. He elicits stellar market praise for his technical ability and client care as well as his handling of fraud allegations. He is one of the few barristers to have been instructed in a corporate manslaughter case". "A very smooth advocate who wins everybody over with persuasion". "A master tactician and strategic thinker who is always on his game. The depth and breadth of knowledge across a wide range of issues is second to none".*

Chambers and Partners 2018- 2021

- *"Tenacious, thorough and an excellent advocate."* The Legal 500 2022

- *“Phenomenally good, his pleadings are a work of art.” “He’s completely on the ball excellent with clients and an excellent all-rounder”. “Excellent relationships with the lay clients and very good at handling expert witnesses”.*

Chambers and Partners 2017

- *“Excellent and charismatic; a fighter”* Legal 500 2017
- *“He never loses sight of commercial reality”* Legal 500 2017

Memberships

- Personal Injury Bar Association

Qualifications

- BA (Dunelm)

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Christian Du Cann

Year of call: 1982

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Phone: +44 (0)20 7832 1111

"Christian Du Cann is one of the most respected juniors in the market, with a well-earned reputation given his exceptional courtroom abilities."

Chambers and Partners 2023

Christian Du Cann has appeared in both the *Chambers Directory* and the *Legal 500* as a leading junior barrister in personal injury every year since 1998. He is also ranked for Industrial Disease in Chambers & Partners and Health & Safety in Legal 500. He appears in court frequently against silks, and acts for both Claimants and Defendants. Chambers & Partners also named Christian in the Chambers 100, a list of the top 100 juniors practising at the Bar across all practice areas.

Areas of expertise

- Personal Injury
- Clinical Negligence
- Alternative Dispute Resolution

Personal Injury

"Christian is a very experienced and knowledgeable barrister, very personable and excellent on his feet." Chambers and Partners 2023

He has a special interest in medico-legal work and the majority of his personal injury practice comprises claims involving either catastrophic injury or industrial disease. He has particular experience in employer's liability claims and appeared for many public companies through almost all the major EL/PL insurers

defending claims involving stress, abuse, asbestos, WRULD-and VWF.

He appears regularly in the criminal courts defending HSE prosecutions.–He is fully conversant with the recurring liability issues in road traffic and work-place accidents, public liability claims, foreign torts and sports accidents.

Clinical Negligence

Christian has also practised clinical negligence for the past 10 years as a significant part of his established medico-legal practice acting for both Claimants and Defendants in the usual areas associated with such claims: cerebral palsy, obstetric mismanagement, meningitis, maxillo-facial and cleft palate surgery, cardiac surgery, orthopaedic surgery (especially the upper limb), spinal surgery, and psychiatric management of patients. He is fully conversant with the required analysis of breach and causation elements in issues of liability, together with a ready understanding of all quantum matters having been involved in high value claims often involving structured settlements of each type.

Alternative Dispute Resolution

Christian has long and extensive experience of alternative dispute resolution having participated over 2 decades in many arbitrations, and countless mediations and joint settlement meetings covering the whole spectrum of disputes covering personal injury and clinical negligence, the latter mainly on behalf of the NHR. He has been regularly asked to advise in order to resolve inter-insurer disputes. In 2020 he has received training from world –renowned Arbitrators in preparation for entry to the 39 EC ADR Panel for fix-fee arbitrations and adjudications.

Recommendations

Chambers and Partners 2014 name Christian as a Star Individual for Personal Injury, they also rank him for Health and Safety law.

Legal 500 2013 name his as a top ranked junior for Personal Injury and Health and Safety. Christian was named Personal Injury junior of the year at the Chambers Bar Awards 2005 and as the top ranked junior for Personal Injury in the Legal 500 2009.

Quotes

“He is a joy to watch on his feet and is probably one of the best PI litigators of his generation.” Legal 500 2015

“A truly excellent advocate who inspires confidence in clients.” Legal 500 2015

“A superb advocate in Crown Court.” “He’s very good at taking difficult points and is really good at mitigation.” Chambers and Partners 2015

“He’s extremely intelligent, and very good at cutting through issues and seeing the nuances in a case. You can put him up against any silk you care to name.” Chambers and Partners 2015

“He’s a tremendous advocate, and somebody who really fights your corner in the courtroom.” Chambers and Partners

Qualifications

- BA (Cantab)

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Geoffrey Brown

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Phone: +44 (0)20 7832 1111

“Geoffrey is an extremely able and vastly experienced advocate. He is an excellent pleader and has a great ability to influence and control the court.” The Legal 500, 2022

Geoffrey deals with relatively technical and complex cases, primarily in the fields of injury, damage, insurance and commercial work centred on claims for business losses of one form or another.

Areas of expertise

- Personal Injury
- Property Damage
- Insurance and Reinsurance

Personal Injury

Geoffrey has many years' experience across a wide range of personal injury litigation. This extends to employer's, public, products and motor liabilities, as well as accidents abroad. Areas of particular interest include construction and transport industry accidents (highways/rail industry), stress claims and (latterly) labour trafficking. He deals with a full gamut of credibility and honesty issues (up to and including fundamental dishonesty). Often, there are overlapping issues with insurance coverage. Brain injuries or pain states are a common feature, while he also deals with the more serious orthopaedic injuries (including amputation).

Cases of note:

- *Komives v Hick Lane Bedding* [2022] I.C.R. 588 [2022] I.C.R. 588 - Labour trafficking claim against employer's liability insurer. Insurer's avoidance upheld.
- *Morrow v Shrewsbury Rugby Club* [2020] EWHC 379 (QB) - Brain injury claim. Issues in regard to whether complaints in fact down to brain injury, role of treating neuropsychologist, exaggeration of symptoms. Also, consideration of role of intermediary.
- *Kasabaqi v Westway Community Transport* [2021] EWHC 3614 (QB) - Amputation claim. Alleged non-cooperation in regard to examination by defendant's medical expert.
- *Aspen Insurance v Mann* (QBD, Middlesbrough, 4 September 2020) - Committal to prison for fundamental dishonesty at personal injury trial (in relation to accident circumstances and impact of injury).
- *Dalton v Nottinghamshire CC* [2011] EWCA Civ 776 - Highway authority liability. Relevance of its post-accident actions to consideration of breach.

Property Damage

Geoffrey has many years' experience of cases arising from damage by fire, flood and other perils in the civil liability context. This spans a wide range of liability claims, including professional (and contractors') liability and product liability, claims arising from construction projects and claims against energy companies. It also covers a wide range of associated insurance issues and disputes, including in relation to alleged fraud, policy avoidance, breach of warranty and coverage.

Cases of note:

- *Rushbond plc v JS Design Partnership* [2021] EWCA Civ 1889 - Professional liability claim against architects in relation to security of a building during an inspection visit – issue as to whether any relevant duty of care imposed.
- *Al Iqra v DSG* [2019] EWHC 429 (QB) - Product liability claim against suppliers of a fan heater in respect of fire attributed to an unidentified defect therein.
- *Maritsave v NFU Insurance* [2011] EWHC 1660 - Claim under insurance policy arising from fire damage to building – issue in regard to alleged breach of warranty (in relation to security precautions for unoccupied property).
- *Shepherd & Neame v EDF* [2008] EWHC 123 - Claim against energy company in respect of fire damage to buildings attributed to loose wiring.
- *Jockey Club v Willmott Dixon* [2016] 4 WLR 43 - Claim for wind damage to new stand at Royal Ascot. Consideration of issues in regard to Part 36 offer and indemnity costs.

Insurance and Reinsurance

Geoffrey takes on free-standing insurance disputes, while at the same time dealing regularly with the insurance issues that arise in conjunction with personal injury and property damage claims on which he is instructed.

Cases of note:

- *Komives v Hick Lane Bedding* [2022] I.C.R. 588 [2022] I.C.R. 588 - Labour trafficking claim against employer's liability insurer. Insurer's policy avoidance upheld.
- *Sahota v Ergo Versicherung* (2021 Commercial Court) - Claim under fire insurance policy. Avoidance based on non-disclosure in relation to user and non-compliance with planning notices, etc. Settled in run-up to trial.
- *Maritsave v NFU Insurance* [2011] EWHC 1660 - Claim under insurance policy arising from fire damage to building – issue in regard to alleged breach of warranty (in relation to security precautions for unoccupied property).
- *French v Groupama Insurance* [2011] EWCA Civ 1119 - Claim under proper insurance policy in respect of subsidence damage. Consideration of a pre-litigation costs-inclusive offer made by insurers.

Recommendations

- "His technical understanding is very impressive." Chambers and Partners, 2022
- "A very effective advocate." Chambers and Partners, 2022
- "He is a good, solid senior junior who can be relied upon to deliver great results on every occasion."
- "Geoffrey is an extremely able and vastly experienced advocate. He is an excellent pleader and has a great ability to influence and control the court." The Legal 500, 2022

-

Memberships

- Personal Injury Bar Association
- Professional Negligence Bar Association

- Commercial Bar Association-
- London Common Law and Commercial Bar Association

Qualifications

Education

- MA in Law, Cambridge, 1980.-

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Charlie Cory-Wright KC

Joint Head of Chambers

Year of call: 1984 | Silk: 2006

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“He is a brilliant advocate with a lovely manner and tone about him. Judges trust him completely.”-Chambers and Partners 2022

Charlie Cory-Wright KC specialises in catastrophic injury claims and clinical negligence claims. He also regularly works in the public law field, both in healthcare related matters, and as a vetted special advocate in terrorist related proceedings.

He was appointed in 2018 to be lead counsel for NHS BT in the ongoing Infected Blood Inquiry (IBI).

He has for over 15 years acted as a Special Advocate in National Security cases, in the High Court, in the Special Immigration Appeals Tribunal, and in Employment Tribunals.

He was, in 2015, appointed by an NHS Trust as lead investigator for the purposes of a FPPR investigation into its CEO, prompted by allegations made about her to the CQC; he spent 6 months investigating the allegations and producing his Report.

His private law work in catastrophic and psychiatric injury cases is evenly split between claimants and defendants. Prior to taking silk in 2006, he was on the Attorney General's A Panel, and dealt with many fatal accidents and other injury and clinical negligence claims for the Government, as well as for insurers. He continues to do both. However since then, his work has also been for claimants – both in catastrophic physical or psychiatric injury and in clinical negligence. He also has a particular interest in secondary victims.

He regularly undertakes catastrophic cases with a foreign element.

He undertakes Costs work, and has a particular interest in misconduct (CPR 44.11) cases

He was-appointed Joint Head of Chambers in October 2019

He was-Chair of the Personal Injuries Bar Association from 2012-14.

Charlie is consistently rated by Chambers & Partners as a Leading Silk in Personal Injury and Administrative & Public Law and in The Legal 500 for Personal Injury and Clinical Negligence.

Areas of expertise

- Inquiries and Healthcare
- Personal Injury and Clinical Negligence
- Administrative and Public
- Alternative Dispute Resolution

Inquiries and Healthcare

In May 2022 Charlie was appointed as one of the lead counsel (on the Counsel to the-Inquiry team)-for The-Covid-Inquiry.

From 2018 to date Charlie's work has almost exclusively been as lead counsel for NHS-Blood and Transplant ("NHSBT"), instructed by-Weightmans-solicitors. NHS BT is one of the most significant of the institutional Core Participants involved in the Infected Blood Inquiry.

Charlie-also-has significant experience generally in healthcare matters, and in particular in the public law regulatory context. He has undertaken a lengthy Fit and Proper Person investigation into a Trust Chief Executive on behalf of a Healthcare Trust.)

This is all in addition to his work in private law clinical negligence claims.

Personal Injury and Clinical Negligence

"He has a fantastic, relaxed manner with clients." "He never gives up and is brilliant in court." Chambers and Partners 2019

'A wonderful courtroom performer with an impressive ability to absorb the complexities and cut through the main issues.' The Legal 500 2018

Administrative and Public

"A powerful advocate who makes his submissions very well and is very comfortable with the court. Clearer than many public lawyers, and someone with that little bit more flair." "One of the most sought-after special advocates - he's very affable, which clients like in stressful situations." Chambers & Partners 2019

Charlie's role as Special Advocate involves protecting the interests of individuals suspected of terrorist-related activity in hearings in the High Court or the Special Immigration Appeal Commission.- This is done by seeking to undermine the case advanced by the Secretary of State against such individuals, by reference to the secret material upon which the government wishes to rely (which material cannot be disclosed to the individual or his own representatives).

Alternative Dispute Resolution

As well as court appearances, Charlie has for many years been involved in the ADR process, either at joint settlement meetings or mediations.- His approach can fairly be described as user-friendly and "can-do".- Clients appreciate the approach that he has to his cases as much as they do his legal expertise. -He

likes being part of a team.- He recognises both the need to ensure that clients understand the process that they are involved in, and the need to protect the interests of lay and professional clients and witnesses. He believes in being straightforward, friendly and accommodating, but at the same time knowing that-robustness-(and indeed-fearlessness)-is crucial if it is in the best interests of the client. He has for some years been an accredited arbitrator in injury-related work.

Recommendations

“He is a brilliant advocate with a lovely manner and tone about him. Judges trust him completely.” Chambers and Partners 2022

“He is very easy-going but can be combative when needed. He is very persuasive.” “A very pragmatic and effective advocate. He is excellent and has a very smooth manner.” Chambers and Partners 2022

“Charlie is thoughtful, calm, astute, and always happy to roll up his sleeves and be part of the team.” The Legal 500 2022

“A powerful advocate who makes his submissions very well and is very comfortable with the court. Clearer than many public lawyers, and someone with that little bit more flair.” “One of the most sought-after special advocates – he’s very affable, which clients like in stressful situations.”-Chambers and Partners 2019

“He has a fantastic, relaxed manner with clients.” “He never gives up and is brilliant in court.”-Chambers and Partners 2019

“A wonderful courtroom performer with an impressive ability to absorb the complexities and cut through the main issues.”-Legal 500 2018

“Really great to work with, thoughtful and meticulous” Chambers and Partners 2017

“Decisive, interested, authoritative and good with clients”-Legal 500 2016

“He’s totally team-committed and user-friendly.” “He’s totally committed to the case and it’s unbelievable how hard he works.”

-Chambers and Partners 2016

“He displays complete dedication to doing the best for his clients; his work ethic is second to none.”-Legal 500 2015

“He really knows how to lead and has an inclusive style.”-Legal 500 2015

“His main attributes are his knowledge of large, complex and high-profile PI actions, and his approachability.”

Chambers and Partners 2015

“He’s a very sensible and well-prepared opponent.”-Chambers and Partners 2015

“Impressive on his feet and in conference, he’s not afraid to give clients a frank appraisal of their cases.” Chambers and Partners 2015

“A leading silk with exceptional skills.” Legal 500 2014

Qualifications

- Inns of Court School of Law - Bar Finals: 1982-1983
- City University - Diploma in Law: 1980-1981
- Balliol College Oxford - BA (Hons) English Literature: 1977-1980

Publications

Head Editor of Kemp News

Lectures

Charlie lectures on damages in PI claims at the Judicial Studies Board and at PIBA seminars and conferences.

Appointments

- Chair, Personal Injuries Bar Association: 2012
- Special Advocate in terrorist-related Special Immigration Appeal Commission and Control Order cases
- The Attorney-General's (Treasury) A Panel. This was without having previously been a member of either the C or B Panels: 2001

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Susan Rodway KC

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"She wholeheartedly embraces her clients' cases and then fights them every inch of the way." "She is a very experienced, well-known and respected silk." "A formidable opponent." Chambers and Partner, Clinical Negligence, 2022

Susan has a wealth of experience across a wide spectrum of civil and commercial litigation, domestic and international arbitration, in particular sports arbitration, and mediation. She is renowned for her advocacy skills, particularly in cross examining experts in specialist scientific, medical and sports arenas. She has been instructed in numerous leading cases arising out of clinical negligence, catastrophic injuries, group litigation, professional negligence of accountants and solicitors and sports law and domestic and international sports arbitration, in particular arising out of motorsports, cycling or equine competition including anti-doping issues.

Areas of expertise

- Alternative Dispute Resolution
- Clinical Negligence
- Personal Injury (including Abuse)
- Sports Law

Alternative Dispute Resolution

Despite her grounding in litigation and her fearsome reputation as an advocate, Susan has always been interested in alternative dispute resolution (ADR). She was involved at the outset in initiatives within the NHS to find methods of dealing with patient complaints without resort to litigation and qualified as an accredited mediator over 13 years ago. She acted as vice chairman of the NHS Tribunals, which decided complaints against general practitioners and pharmacists. She frequently resolves her own cases by ADR and is as member

of the Chartered Institute of Arbitrators, the London Court of International Arbitration as well the Singapore Institute of Arbitrators, enabling her to act or sit as an international arbitrator.

Susan has recently been appointed as a legal arbitrator to Sports Resolution.-

Clinical Negligence

In clinical negligence, Susan has a formidable reputation. Many of her cases have resulted in landmark decisions or record awards of damages. She acts mainly for claimants in cases involving catastrophic birth injuries, acquired brain damage, failures in diagnosis and treatment and foetal abnormalities. She acts for international claimants to pursue claims against health professionals in foreign jurisdictions.-

Cases of note:

- *Evie Toombes v Dr Philip Mitchell* [2020] EWHC 3506 QB And [2021] EWHC 3234-- Landmark case of pre-conception negligent advice leading to birth of claimant with spina bifida. Civil Liability (Congenital Disabilities) Act 1976. Action brought in claimant's own right against general practitioner. Claimant succeeded on liability and case proceeds to assessment of damages.-
- *Thorley v West Birmingham Hospitals NHS Trust* [2021] EWHC 2604 (QB)-- The claimant had atrial fibrillation for which he was prescribed warfarin. Following a coronary angiogram, the claimant had an ischaemic stroke. This left him physically and cognitively disabled. The claimant brought a negligence claim against the defendant trust. He alleged that the trust had caused or, in the alternative, materially contributed to his stroke for two reasons. Firstly, the trust advised him negligently to stop warfarin four days, as opposed to three days, prior to the angiogram. Secondly, the trust failed to restart warfarin on the evening of his procedure.

The trust denied breach of duty, but admitting that warfarin should have been restarted no later than one day following the angiogram. Causation was denied.

Mr Justice Soole made the following findings: there was no breach of duty beyond that which was admitted by the trust; the case failed on 'but for' causation; and material contribution would not apply where indivisible injuries are caused by a single tortfeasor.

Personal Injury (including Abuse)

Susan is an experienced and established personal injury practitioner and is instructed by both claimants and defendants across the whole range of circumstances giving rise to liability from tort to breach of statutory duty to criminal prosecutions. She regularly acts in cases leading to catastrophic injuries such as acquired brain damage, spinal injury, multiple trauma and loss of limbs as well as claims for psychiatric injury, stress, bullying or harassment and fatal accidents. She is held in high regard as a fearless advocate for her clients and her willingness to pursue novel arguments which challenge and seek to extend the boundaries of established decisions.

For example, she has appeared in most of the leading cases of actions under the Animals Act 1971 for injury or damage caused by horses. It is significant that a number of recent decisions have exonerated keepers of animals from liability by applying the statutory defence of "volenti" under section 5 of the Act. This is an argument which she has long promoted in the appellate tribunals.-

In another but related area, she has regularly pursued cases arising out of hospital acquired infections. These cases were difficult to establish in the early days but this field of litigation has led to changes of policy within the health system. She has also acted in emerging areas of industrial/occupational diseases such as claims for bladder cancer caused by petro-chemicals or

aerotoxic syndrome caused by inhaling aircraft cabin air (which is thought to have an association with organophosphates).-

Her case load often involves an international element, and she is comfortable with disputes as to the correct legal forum or those requiring the application of foreign law and practice.

Cases of note

- *EXE v Governors of the Royal Naval School* [2020] EWHC 596 (GB) - The defendants employed a 30-year-old man, "Hughes", as a kitchen porter from 15 October 1990 to 10 July 1991 at their school for girls. He was provided with accommodation on the school premises. The defendants were not aware that Hughes had a criminal record, including offences of indecent assault on a female and unlawful sexual intercourse with a girl under the age of 15. Had the defendants been aware of these convictions, Hughes would not have been offered employment.

This was a very thorough judgment by a careful judge. The core issue was limitation and at every turn the defendants were able to show that the lapse of time had adversely affected the evidence in respect of all issues. There was no need for the judge to go on to consider in detail issues 2,3 and 4 and make findings on them. The fact that he did so and supported his findings with clear and powerful reasoning makes this an extremely useful judgment to consider in the context of historic sexual abuse claims.

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- *Sid Ali Atmani et al v Royal Borough of Kensington & Chelsea et al* (AKA Grenfell Tower, Civil Litigation)– Susan Rodway QC, Shaman Kapoor and Emma Corkill represent 87 claimants in their civil claims for injury and losses arising out of the tragic fire at Grenfell Tower, London which led to the death of 72 people. Instructed by Bishop Lloyd and Jackson Solicitors (BLJ), the claims have been issued against the Royal Borough of Kensington and Chelsea (RBKC) and the tenant management organisation (TMO) that between them owned and operated Grenfell Tower.

Together with all other known Grenfell proceedings, the claims were consolidated solely for a case management conference which took place on Wednesday 7 July 2021 at which Susan and

Shaman attended.

More than 1,100 claimants were represented at the hearing by 22 different firms of solicitors representing claimants who have been bereaved, those that survived, those that were residents, those that were visitors, and those that were emergency responders. The defendants across all proceedings were represented by a further 16 different firms of solicitors and the lawyers involved required three court rooms for in person attendance as well as remote link.

All parties (except for the BLJ claimants) had agreed to a stay for nine months. Facing claims of being an “outlier”, “splinter group” and “lone voice”, Susan articulated that the BLJ claims should not be delayed and that they were ready to issue their particulars of claim so that we could all find out how RBKC and TMO seek to defend the indefensible given their total refusal to make a formal admission of liability. The court granted a stay except to allow the BLJ claimants to serve their particulars of claim by 31 August 2021.

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- *Laura McEwan v Avon and Somerset Constabulary* - QB-2019- 003393-- Claim following claimant being hit by a police car during a car chase, whilst she was out celebrating her birthday. Complex matter involving multiple expert witnesses.

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- *Al-Najar v The Cumberland Hotel (London) Limited* [2019] EWHC 1593 (QB)-- Several guests staying at the Cumberland Hotel in Marble Arch were attacked by Philip Spence, who had entered their room to steal. The guests had over-ridden the door closing and locking mechanisms and left their bedroom door open whilst they slept. The case raised important issues about the liability of a hotel for the criminal acts of third parties.

The judge found that the hotel owed a duty of care to the claimants to take such care as was reasonable in all the circumstances to protect them from injury. He found that reasonable security was provided and that there had been no breach of duty and the claims were dismissed.

Sports Law

Susan is an active and competitive rider and motorcyclist and drives sports and supercars on and off track. Susan is a mediator and arbitrator and regular lecturer on international sports law. She is a member of Women in Sports Law Association (WISLaw). Her past and current work covers design and construction of racecourses and motorsports tracks (all weather surfaces/ portable hurdles/safety barriers); product liability: equine and motorsports equipment; insurance coverage; regulatory, selection and eligibility and anti-doping (various sports); appearing in many of the leading cases decided under the Animals Act 1971. Susan is currently extending her academic qualifications by completing her Master's degree in International Sports Law. She also heads up chambers' sports law group.

She has recently taken on the sub-concussion cases for claimants in contact sports such as rugby union, rugby league and football.-

Cases of note

- Rugby Union Concussions Claims - Susan is instructed by Richard Boardman of Rylands Law to act for a large number of professional rugby union players in their actions against the Rugby Football Union (RFU)/WRU -and World Rugby arising out of permanent brain damage due to concussions and sub-concussive injuries suffered during their professional career. The claim is brought in negligence and is based upon allegations of failings in the introduction and implementation of rules and regulations to identify, reduce or prevent damage due to repetitive head injuries in match play and in training sessions. It is likely that proceedings will be issued in early 2021 and that the claimants will apply for a Group Litigation Order in order to manage the claims.

Recommendations

- *“A dynamic and fearsome advocate who is very bright. She is down to earth, approachable and works extremely hard.” “She gets straight to the heart of a case and has a very caring approach. She is a really effective advocate.”* Chambers and Partners, Personal Injury, 2022
- *“She wholeheartedly embraces her clients' cases and then fights them every inch of the way.” “She is a very experienced, well-known and respected silk.” “A formidable opponent.”* Chambers and Partner, Clinical Negligence, 2022
- *“A great advocate – definitely someone you want on your side.”* The Legal 500, Personal Injury, 2022
- *“Susan is fearless. She is a fantastic advocate and will go the extra mile.”* The Legal 500, Clinical Negligence, 2022

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Memberships

- Personal Injury Bar Association-
- Professional Negligence Bar Association-
- Court of Protection Bar Association
- Inter Pacific Bar Association-
- PiCARBS

Qualifications

Education

- King's College, London
- City University-

Additional information

Appointments

- Master of the Bench of Middle Temple (2009)
- Arbitrator appointed to Sports Resolution (2021) – –

Languages

- French (fluent)
- Italian (conversational)-
- Spanish (conversational)
- German (conversational)

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Neil Block KC

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“He is an absolutely outstanding litigator who elicits a huge amount of trust and confidence from his clients.” “One of the best silks around – he’s very hard-working, bright, tough and determined.” Chambers and Partners 2021

“He is a sublime barrister: very clever, sensible and concise.”
Chambers and Partners 2021

Neil Block KC has a reputation as a sensitive but brave advocate, a skilled negotiator and commercially aware practitioner. For many years, Neil has represented a range of clients involved in substantial and complex disputes which are resolved with or without resort to litigation and/or mediation or other form of alternative dispute resolution (ADR). Historically, his clients have usually been insurers, their insured, defence organisations, the government or other major institutions, and sports regulators, ruling bodies and clubs. He has considerable experience of multi-party litigation and jurisdictional disputes. He is currently representing HM Treasury, HMRC and the Department for Work and Pensions (DWP) in the UK Covid-19 Public Inquiry.

Neil is one of the few current practitioners who can properly claim to be a specialist in a number of areas of practice ranging from commercial and insurance to sports law, product liability, personal injury and clinical negligence. His commercial and insurance practice is based in professional indemnity, material damage, fraud and product liability, and insurance coverage disputes.

Neil is consistently ranked highly in the legal directories for his work in insurance and reinsurance, professional negligence, clinical negligence, personal injury,

product liability and travel. He continues to be ranked as one of Chambers and Partners' 'Star Individuals'. Chambers and Partners also named Neil in the Chambers 100, a list of the top 100 barristers practising at the Bar across all practice areas.

Neil is an accredited mediator and has conducted wide-ranging mediations. He is also a member of the Sports Resolution Legal Arbitrator and Mediation panels.

Neil was named Personal Injury Silk of the Year at the Chambers Bar Awards 2021. He was also awarded Personal Injury & Clinical Negligence Silk of the Year in The Legal 500 UK Awards 2019.

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Areas of expertise

- Sport
- Group Litigation and Multi-party Claims
- Clinical Negligence and Personal Injury
- Insurance Coverage/Insurance and Reinsurance
- Product Liability
- Alternative Dispute Resolution
- Inquiries and Investigations
- Material Damage
- Professional Negligence

Sport

Neil has appeared in many of the landmark sports injury cases of the past 40 years. He is currently working on high-profile claims relating to concussion in rugby union and professional football, claims involving training and alleged abuse of gymnasts, and a claim relating to brain injury in professional boxing.-

Cases of note:

- *Smolden v Nolan* [Court of Appeal] - Seminal case on liability of referees for injuries in sport. Involved multiple scrummage collapses in rugby union match.
- *Watson v British Boxing Board of Control* [Court of Appeal] - Boxer injured in World Championship bout. Regulatory body held liable for failure to provide adequate medical facilities.
- *Slack v Glennie* [Court of Appeal] - Speedway sidecar crash. Claim against organisers and track owners. Issues about duty and standard of care.
- *O'Neill v Fashanu* [High Court] - One of numerous claims relating to alleged bad tackles in professional football matches in which Neil has been instructed.
- *Johnson v Brands Hatch* [High Court] - Serious crash in motor-cycle grand prix. Claim against organisers and track designers.-

Group Litigation and Multi-party Claims

Neil has extensive and probably unparalleled experience of acting in major group and multi-party actions involving product liability, abuse, personal injury, clinical negligence, insurance and environmental damage.

Cases of note:

- *Various v NHS* - Neil represented various hospital and trusts defending claims of clinical negligence and product liability in relation to insertion of metal-on-metal hip prostheses.

- *Various Claimants v MOD* [Ongoing] - Neil is representing the MOD defending a large number of claims by service personnel alleging psychiatric injury resulting from the prescription of Lariam, an anti-malarial medication.
- *Various Claimants v NHS* [Ongoing] - Neil is representing various NHS hospitals and trusts defending a large number of claims alleging injury resulting from implantation of vaginal mesh.
- *Various Claimants v RFU* [Ongoing] - Neil is representing the Rugby Football Union (RFU) defending a large number of claims by ex-professional and amateur rugby union players alleging brain injury resulting from concussive injury playing rugby.
- The Kenyan Emergency Group Litigation [High Court] - Neil led a large team of leading and junior counsel successfully defending claims by 40,000 Kenyans alleging personal injury and other losses pre-independence at the time of the Mau Mau -uprising. This was the longest ever High Court trial.
- *ICF v Winterthus* [High Court] - A major and complex commercial dispute about after the event insurance, solicitors' negligence, and consumer credit relating to about 8,500 insurance policies.
- Environmental damage - Claim against multi-national company in respect of alleged water contamination resulting from mining operations in Africa.
- Historic abuse claims - Neil has been instructed in claims arising out of alleged abuse by celebrities e.g. Jimmy Savile, various sports organisations e.g. Barry Bennell (football), schools, and religious institutions.

Clinical Negligence and Personal Injury

Neil has been instructed by defendants in many of the highest value, most complex and important clinical negligence and personal injury cases. His profile is evidence by being awarded the Personal and Injury and Clinical Negligence Silk of the Year awards (both Chambers and Partners and The Legal 500) on numerous occasions. His practice includes both individual claims and multi-party/group actions. These cases not only involve complex liability and quantum issues, but also jurisdictional and insurance issues.

These cases are too numerous to list to give a full range of examples, but include:

Cases of note:

- *Robshaw v United Lincolnshire Hospitals NHS Trust* [High Court]– An example of a birth trauma/cerebral palsy case. Record damages (at the time) were awarded. Complex quantum issues.
- *Mugweni v NHS London* [Court of Appeal] - Neil represented the defendant and successfully defended an alleged negligent obstetric case relating to the timing of delivery.
- *Various v Iain Paterson* [High Court] - Neil represented Mr Paterson, the breast surgeon alleged to have performed unnecessary and inappropriate surgery on many hundreds of patients.
- *Pike & Doyle v The Indian Hotels Company Limited* [High Court] - Neil represented the defendant hotel in claims relating to the Mumbai terrorist attacks.
- *Al Najjar v Cumberland Hotel* [Court of Appeal] - Neil successfully defended the Cumberland Hotel against claims from guests who were grievously injured by an intruder in their hotel rooms.
- Anonymised cases [High Court] - Neil represented defendants and their insurers in hundreds of motor, Employers Liability, Personal Liability, sports, abuse and other cases in which anonymity order have been made in relation to the identity of the parties. These cases have involved a range of liability and quantum issues. All involve injuries of the utmost severity.

Insurance Coverage/Insurance and Reinsurance

Neil has advised on a range of coverage disputes including scope of cover, exclusions, limits of indemnity, aggregation, dual insurance, fraud and moral hazard.

He has recently advised extensively in relation to business interruption cover in relation to claims arising out of the Covid-19 pandemic.

Cases of note:

- *ICF v Winterthus* [High Court]– A major and complex commercial dispute about after the event insurance, solicitors' negligence, and consumer credit relating to about 8,500 insurance policies.
- *Harcourt v Pegasus* [High Court] - Contested issue about disclosure of policy terms and conditions and limit of indemnity to claimant.
- *Cheval Roc v Zurich Insurance* [High Court/Commercial Court]– Cliff collapse in Jersey. Successful defended claim on basis of coastal erosion exclusion.
- Confidential– Advising a regulator and various parties in relation to the business interruption insurance test litigation.
- *McGreggor v Prudential Insurance Company* [High Court]– Neil successfully defended this claim by the owner of a commercial premises under a fire insurance policy. The defence proved fraud.
- *Chappell v AXA* [Commercial Court]– Neil successfully defended a fire claim on the basis of non-disclosure and moral hazard. Occupier was operating a sex chat-line from the premises.
- Various construction-related coverage issues

Product Liability

Neil has represented defendants in single and multi-party/group actions relating to product liability. These include pharmaceutical products, medical products, machinery, vehicles, food products, leisure equipment, building products and a range of other products.

Cases of note:

- *Metal-on-Metal Hip Litigation* [High Court] - Neil led the team representing all NHS hospitals and trusts defending the claims by patients alleging that the hip prosthesis implanted were defective.
- *Various v NHS* [High Court] - Neil is leading the team representing all NHS hospitals and trusts defending the claims by women alleging pain and injury following implantation of vaginal mesh.

- Confidential - Neil is representing a major fast food outlet in relation to a claim arising out of a fatal allergic reaction to a consuming a food product.
- Confidential - Neil is advising a product manufacturer/supplier in relation to claims arising out of the Grenfell Tower fire.
- *Various v MOD* [High Court] - Neil is leading the team defending the large number of claims by service personnel arising out of the prescription of Lariam, and anti-malarial medication.

Alternative Dispute Resolution

Neil is a mediator and also acts as counsel at mediations and joint settlement meetings. He is also on the mediation and arbitration panels of Sports Resolution.

Inquiries and Investigations

Neil is representing HM Treasury, HMRC and DWP at the UK Covid-19 Inquiry. This is the largest core participant government team, and the particular focus is on the financial and economic aspects of the pandemic.

Material Damage

Neil has represented defendants to claims for fire, flood, subsidence and other damage.

Many of these cases also involve issues of insurance coverage and injury and are listed above.

Cases of note:

- *Cheval Roc v Zurich* [High Court] - A property damage claim arising out of erosion of a cliff in Jersey. Neil successfully represented the defendant insurer.
- *Southwark v Woodwell London Limited and Gallagher* [High Court/ Technology and Construction Court (TCC)] - Neil represented the defendant contractor in relation to a fire at Walworth Town Hall arising out of hot works on the roof.
- *Trustees for Roman Catholic Purposes v Kimberley Clark* [High Court/TCC] - Neil represented the commercial waste paper recycler in relation to a serious fire at premises owned by Trustees for Roman Catholic Purposes. There were issues about causation, fire preventative measures and contract.
- *Adams v SSE* [High Court/TCC] - Neil successfully defended a claim that a fire at a rural property was caused by defective electrical equipment owned and maintained by the defendant supplier.

Professional Negligence

In addition to medical and health professions (see Clinical negligence section of CV), Neil has acted for professionals and their insurers and defence organisations in a wide range of claims. In particular, he has recently represented solicitors, surveyors, accountants, and insurance brokers.

Cases of note:

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- *James v Jeffrey & Powell, Woolcombe v Kleinman Klarfeld, Richards v Hallmark* and many other similar cases - Claims in which it is alleged that solicitors have under-settled personal injury and clinical negligence claims.
- *Strathmore v Brown and RSA* - A broker's negligence claim following a building fire.
- Confidential valuer's negligence cases - Neil acted for both lenders and valuers during the heyday of such claims.

- Re: Bondcare [TCC/Adjudication] - Neil acted for project managers on a hotel development near Heathrow airport who were alleged to have been negligent.
- The Supertram Litigation [Court of Appeal] - Neil acted for the project manager in this long-running litigation. The claim was dismissed against his client with costs.
- *Allerdale DC v CSL Group* [Chancery Division]

Recommendations

“A heavyweight silk for the highest value and most complex of cases. Extremely knowledgeable; excellent negotiator and strategist. He works as a true member of the team with insurers and solicitors.” The Legal 500 2021: Personal Injury

“He is never flustered and always understands all the key issues, presenting them succinctly and with reassurance and respect for his audience.” The Legal 500 2021: Travel Law

“Instils calm in clients through a measured but confident approach.” The Legal 500 2021: Clinical Negligence

“Provides excellent advice and his advocacy skills are impressive.” The Legal 500 2021: Insurance & Reinsurance

“He is a sublime barrister: very clever, sensible and concise. He is commercially minded and someone you ultimately trust to give you very good advice.”

“He is outstanding and a very smooth operator with an extremely authoritative voice. He is extremely calm when dealing with high-value and complex litigation.”

Chambers and Partners 2021: Personal Injury

“He is an absolutely outstanding litigator who elicits a huge amount of trust and

confidence from his clients.” “One of the best silks around – he’s very hard-working, bright, tough and determined.” Chambers and Partners 2021: Clinical Negligence

“An extremely polished performer.” Chambers and Partners 2021: Product Liability

“Very persuasive in court and has excellent client care skills – he is able to put people at ease.” Chambers and Partners 2021: Travel: International Personal Injury

“An absolutely outstanding tactician with good understanding of this area of law and a mastery of large-scale litigation.” Chambers and Partners 2019: Travel: International Personal Injury

“Neil is incredibly easy to work with, and has excellent client rapport.” “He’s a very accomplished and engaging advocate, who almost has you doubting your own case when you’re against him.” Chambers and Partners 2019: Product Liability

“A terrific advocate.” “He is vastly experienced in this sphere.” Chambers and Partners 2019: Clinical Negligence

“He’s very bright and determined.” “He is very subtle and quietly impressive.” Chambers and Partners 2019: Personal Injury

“An excellent tactician who is exceedingly sound on quantum” Chambers and Partners 2018: Clinical Negligence

“Commercially aware and a robust advocate.” A hugely impressive and supportive leading counsel who is respected by his peers.” “Unflappable, well respected and extremely talented.” Chambers and Partners 2018: Personal Injury

“He is very much a team player, who is excellent with clients and particularly skilled in negotiations.” Chambers and Partners 2018: Product Liability

“He is straightforward, knowledgeable and smart.” “He is very experienced and brilliant with clients.” Chambers and Partners 2018: Travel: International Personal Injury

“He is an arch pragmatist and understands the judicial mind intuitively.” The Legal 500 2017: Clinical Negligence

“He is authoritative and his judgement is invariably very sound.” The Legal 500 2017: Personal Injury, Industrial Disease and Insurance Fraud

“A versatile commercial barrister with a strong coverage expertise.” The Legal 500 2017: Insurance and Reinsurance

“He is very experienced and extremely knowledgeable in his field.” The Legal 500 2017: Product Liability

“Impressive.” The Legal 500: Professional Negligence

“A forensic and analytical mind, and the number-one silk for the highest value cases.”
The Legal 500 2017: Travel Law

“He has a wonderful ability to focus on the key issues and see the wood for the trees.”
“He is excellent and calm and has experience coming out of his ears.” Chambers and Partners 2017

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Memberships

- London Common Law Bar Association
- Professional Negligence Bar Association
- Personal Injury Bar Association

Qualifications

- BA (Hons)
- LLM (Exon)
- Trained Mediator

Appointments

- Master of the Bench, Gray's Inn (2008)
- Sports Resolution Mediator and Arbitrator Panel

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Matthias Kelly KC

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“one of the most hardworking and approachable barristers”

The Legal 500

Matt is a legal science graduate of Trinity College Dublin (1977). He then studied in London and qualified as a Barrister, being called to the Bar of England and Wales in 1979. He was subsequently admitted as Barrister in Northern Ireland (1983) and the Republic of Ireland (1983). He qualified as an Attorney in New York in 1983 and was admitted to the US Federal Bar in 1984. He is a King’s Counsel (KC) in London and a Senior Counsel (SC) in Dublin.

He is a past Chairman of the Bar of England and Wales and a past Chairman of the UK Personal Injuries Bar Association. He is a part-time Judge in England and Wales, sitting as a Recorder in the Crown Court, the County Court and the Family Court. He is an Examiner of the High Court of England and Wales. He has appeared before, and argued cases, in every Court in both England and Wales and the Republic of Ireland up to and including the Supreme Courts in both countries. He is a Bencher of The Hon. Society of Gray’s Inn, London.

Areas of expertise

- Inquiries and Inquests
- Clinical Negligence and Personal Injury
- Abuse
- Industrial Disease
- Court of Protection

Inquiries and Inquests

Matt has appeared in the Independent Inquiry into Child Sexual Abuse, the Brook House Inquiry (2022), The Disclosures Tribunal (Dublin 2019-2020). He chaired the Independent review of the administration and finances of ASLEF (the train driver's union) (2004). From 2005-2007 he was the full-time legal advisor to the Department of Enterprise, Trade and Employment In Dublin, overseeing Company Investigations. Matt has also conducted an independent Inquiry into allegations of sexual harassment and discrimination for CWU (the communications workers Union) (2004). Matt was appointed by the Irish Government to conduct an Independent review of discovery by the Department of Education and Science to the Commission to inquire into child abuse in Irish Institutions. 2004. Matt was Chairman of the Hepatitis C Working Party established by the Haemophilia Society in September 2001, to devise costed proposals for a financial assistance fund to recognise the loss and suffering of people with haemophilia resulting from their infection with hepatitis C (HCV which reported in March 2002.-

Cases of note:

- Inquest into Death of Tamara Mills (south Tyneside NHS Foundation Trust) 2015 - Inquest into the death of a 13 year old girl. Matt represented her family. The coroner concluded that she suffered “a premature death contributed to by a lack of appreciation and/or reaction to the deteriorating nature of her chronic respiratory condition (asthma) and the absence of any planning to monitor, manage and co-ordinate her care, improvement, its sustainability and prevent her death”

Clinical Negligence and Personal Injury

Matt has many years' experience conducting Personal Injury and clinical negligence cases. He is a past Chair of the Personal Injuries Bar Association. He has represented many Claimants in cases of catastrophic injury (brain, spinal, internal and psychiatric injury).-

Cases of note:

- *Howard v Brighton and Sussex University Hospitals NHS Trust* (2006) High Court, London, cerebral palsy.-
- *Firth v Geo. Ackroyd Ltd and another* (2000) Lloyds LR (medical) 312 - Recoverability of cost of care provided by local Authority under statutory duty).
- *Page v Sheerness Steel, Wells v Wells and Thomas v Brighton Health Authority* (1998) 3 WLR 329. House of Lords - The leading case on multipliers for future loss and the discount rate.-
- *Rastin v British Steel Plc; Todd v Evans; Adams v Geest Plc; Byrne v Webber; Donaldson v Canavan; Ayres v British Steel Plc*; (1994) 1 WLR 732 - The Automatic striking out of personal injury actions due to delay.
- *H v Ministry of Defence* (1991) 2 WLR 1192 - The Right to Jury trial in personal injury cases.
- *Kennedy v Ryan* (January 2015), High Court Dublin - Symphysiotomy, limitation, liability for post caesarean operation.
- *Ellie Challis v Barking, Havering & Redbridge Hospitals Trust*, 2008-2011. High Court London, medical negligence, meningococcal septicaemia. Quadruple amputee.

- *Adam Jones V BBC and others*, (2007). High Court - Employer's liability, and occupier's liability.-
- *Zeb v Frimley Health NHS Foundation Trust* (2016) EWHC 134 (QB) - Clinical negligence: TB Meningitis.-
- *Mulgrew v Health Service Executive*, High Court Dublin, - Leg amputation, severe damage to hip by Medical Negligence, July 2012

Abuse

Matt has appeared as counsel in many abuse cases in both court and before Inquiries, representing institutions and individual who have been abused, physically, sexually, emotionally and financially.-

Cases of note:

- *International Transport Federation v Minister for Justice and Equality and others* (Equality Commission of Ireland intervening). (2018) High Court Dublin-- An application for a mandatory injunction to compel the Irish Government to implement its obligations in domestic, European and International law to actively prevent modern slavery, human trafficking and enforced labour in Ireland. It was conducted in the High Court in Dublin, in November 2018. It was Subsequently settled by mediation, with the Government agreeing to establish a revised scheme and re-organise its methods and systems of enforcement, including a revised system of visas.
- *McNamee v Michael Boyce*, Sexual Abuse. Jury Trial, High Court Dublin November 2014 - Matt successfully acted for the Claimant, who suffered sexual abuse as a child over many years.
- Numerous applications for compensation under the Irish Government Redress Scheme for victims of abuse received whilst in residential care.
- Group action, *Re Ellindon School Group Litigation*, Cambridge. High Court, 2007-2009.
- Group action: *St George's School*, Liverpool, 2004-2006. Child abuse.
- *O'B v Residential Institutions Redress Board*, (2009), High Court, Dublin. [2009] IEHC 284

Industrial Disease

Matt has appeared in many cases over the years involving industrial diseases such as vibration white finger, dust induced chest injury, mesothelioma, skin disease, industrial deafness, injuries causing serious injuries and allergies.

Cases of note:

- *Raymond Shanks v Swan Hunter Group PLC* (2007) EWHC B4 - Mesothelioma claim damages of £1,000,00.
- *Christine Perry v Post Office*, High Court, London, Mr Justice Griffith Williams, 18/10/2001 –The issue was can trauma cause MS? -After hearing extensive and detailed expert medical evidence and argument the Court concluded that it could not on its own cause MS
- *Cleary v Shannon and others* (2014) High Court Dublin - Can trauma cause MS? Matt successfully acted for the Claimant.
- *Rob Dawber v Eastern Infrastructure*, York County Court, HHJ Swanson, 1/3/2000 –First case establishing liability for mesothelioma arising out of low level, outdoor, intermittent occupational exposure to "white" asbestos. Later made into a film by ken Loach "The Navigators" (2001)-
- *Wright v JWC* (1947) Ltd. High Court, London, - Mesothelioma, pension loss and tax implications.
- *William Searle v BRB (Residuary) Ltd*, mesothelioma, High Court London 2012.
- *A Gardner v Alliance Long Acre*, High Court. London, Mesothelioma, 2011-2012.
- *Marshall v Laporte Industries Ltd* (2010-2011). High Court, London. Mesothelioma

Court of Protection

- *Health Service Executive v KW & Others* (2015) IEHC 741 - Adult capacity and ability to refuse treatment.

- *Teehan v Health Service Executive*, (2013) IEHC 383. High Court Dublin - Provision of Home Birth Services.
- *Health Service Executive v XY* (2013) 1 I.R. 574 - Mental Health. Detention of young person, Articles 6, 8, 13 ECHR. Forcible treatment.-
- *XY (a minor suing by her guardian ad litem, Raymond McEvoy) v The Health Service Executive, The Attorney General & The Irish Human Rights Commission* (2013) 1 IR 592 - Constitutionality of section 25(6) of the Mental Health Act 2001, Child Care Act 1991 and Articles 3, 5, 6, 8, 13 and 14 ECHR.-
- *Health Service Executive v MD*, High Court, Dublin 2013 - Forced administration of ECT.--

Memberships

- Personal Injuries Bar Association (PIBA)
- Association of Regulatory and Disciplinary Lawyers, (ADRL)
- Court of protection Bar Association(COPBA)
- Western Circuit

Qualifications

Education

- St. Patrick's Academy, Dungannon,, Co. Tyrone (1969-1973)-
- Trinity College Dublin (1973-1977) -BA (Mod) LLB
- Inns of Court School Law, London (1978)
- 1979: Barrister; Gray's Inn (member of the Western circuit.)-
- 1983: -Barrister; King's Inn, Dublin and Inn of Court, Belfast.- 1986: -Attorney; New York State Bar.

- 1987: Attorney; U.S. Federal Bar. -
- 1999: Queen's Counsel.

Additional Information

Appointments

- Chairman of the Bar of England and Wales, 2003.
- Vice Chairman of the Bar Council of England and Wales 2002.
- Chairman, Bar Conference (England and Wales) 2001.
- Vice-Chairman Bar Conference (England and Wales) 2000.
- Chairman, Personal Injuries Bar Association, 2001-2002, Vice Chairman, 2000-2001. --
- Chairman of the Policy Committee of the Bar Council of England and Wales, 2000.
- Vice Chairman, Disciplinary Appeals Panel, Institute of Actuaries (England and Wales) 2000 to 2019
- Member Inter-Professional Working party on the actuarial assessment of damages in personal injury and fatal accident litigation ("The Ogden tables" 3rd and 4th editions). 1997-2002.
- Member of the Committee of Inquiry ("Blackwell Committee") established by the Lord Chancellor to inquire into the activities of non-legally qualified loss adjusters, 1999-2000.
- Consultant to European Commission on UK Health and Safety Law, 1994-96.
- Member Gray's Inn Management Committee 1993-1995.
- 2002: -Bencher of The Hon. Society of Gray's Inn, London.
- 2002: -Recorder of the Crown Court.
- 2005: -Senior Counsel, Republic of Ireland.
- 2008: -Accredited mediator.
- 2018: Examiner of the High Court.

Publications

- Author of a chapter on UK Damages in *"Contemporary Studies in Economic and Financial Analysis"*, Volume 91, Personal Injury and Wrongful Death Damages Calculations, a Transatlantic Dialogue, Emerald Press, 2009.
- *"A comparison of Securities litigation in the US and the EU"*, International Atlantic Economic Conference, Warsaw, Poland, 12th April 2008, joint paper with Arthur A. Eubank, Jr, Ph.D.-
- Author Chapter on Multipliers in Manual of Personal Injuries; Sweet & Maxwell 1997 (1st edition) 2000 (2nd edition), 2007 (3rd edition).
- Member editorial panel Sweet & Maxwell specialist research papers 1996-2000.
- Joint Editor, Manual of Personal of Personal Injuries (Sweet and Maxwell), 1997 (1st Ed) 2000 (2nd Ed.)
- Joint editor and contributor to *"Munkman on Employers Liability"*, 13th edition, Butterworths, 2002.
- *"Multipliers"*, article for newsletter of Institute of Chartered Accountants, 1999.
- *"Legal Aid"*, The Lawyer, June 1999
- *"Child Abuse, uncovering the facts"*, New Law Journal, 1994.
- *"Achieving full compensation"*, New Law Journal, 1994.
- Journal of Personal Injury Law, 2000 JPIL pages 137-141. (Sweet & Maxwell): Review of Law on dependency claims in Fatal Accidents Claims).
- Review of the leading PI cases in 1999/2000 *"The Lawyer"*, 16/10/2000.
- *"Independence day for the Bar"*. Human Rights. The Times, 25/9/01.
- *"Are brokers' fees recoverable?"* Kemp 5-282/1. 27/3/02.
- *"Funding awards: all change?"* Solicitors Journal 6th September 2002, p 774.
- Participant in Experts meeting on *"Standards for settling Personal Injury Claims in Europe"*, University of Tilburg, Netherlands 11th January 2002.
- *Damages for successive torts*, 24th September 2002, Butterworths Tolley, London.

- *“Consequences of the Hitler-Stalin Pact”* Riga Graduate School of Law, Riga, Latvia, 30th April 2005.-
- Lecture University of Tours, 12th & 13th November 2015 *“Magna Carta Today”*.
- *“Where is Magna Carta Today?”*, in *The Rights and Aspirations of the Magna Carta*, Palgrave Macmillan; 1st ed. 2016 edition
- Università degli Studi di Brescia, *“International law and counter terrorism”*. 18th May 2016.
- Scuola Superiore Sant'Anna, Pisa, *“Law, National Security and Terrorism in a Democratic Society.”* 19th May 2016. -
- University of Bordeaux 16th March 2018 *“National perceptions of Judges and Lawyers in Common Law and Civil law Jurisdictions.*
- Università degli Studi di Brescia, *“International law and counter terrorism”*. 18th May 2016.
- Pantheon-Assas (Paris 2), Sorbonne. Possible relationships and co-operation between the UK and the EU post-Brexit, 25-26 May 2019.-

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