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Managing Injury Claims:
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Tips and Tricks for Civil Litigators:

An Update on Recent EL/PL Cases with Practice Points for All Civil Litigation

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INTRODUCTION

- Update on recent EL / PL cases
- Key takeaways
- Legal points
- Strategic / tactical points

OLA: DUTY OF "DOUBLE REASONABLENESS"

- S2(2) Occupiers' Liability Act 1957:
  - The common duty of care is a duty to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there.

- Two pillars
  - Reasonable care by the occupier
  - Reasonable safety for the visitor

LILLYSTONE V BRADGATE EDUCATION PARTNERSHIP

- [2025] EWHC 3341 (KB)
- C was playing football on D's pitch.
- C kicked the ball out of play, over the pitch and perimeter fences, into the playing fields. The gate in the perimeter fence was locked.
- C climbed over the gate into the playing fields and sustained a laceration injury.



LILLYSTONE V BRADGATE EDUCATION PARTNERSHIP

- Key takeaway 1: Is there a willing assumption of risk?
  - S2(5) OLA: The common duty of care does not impose on an occupier any obligation to a visitor in respect of risks willingly accepted as his by the visitor
- Key takeaway 2: Does the injury arise due to the state of the premises or is the injury unrelated?
  - S1(1) OLA: whether any duty is owed by a person as occupier of premises to persons other than his visitors in respect of any risk of their suffering injury on the premises by reason of any danger due to the state of the premises or to things done or omitted to be done on them

SEPPINGS V CRAMPSIE & SON LTD T/A THE NEW INN ROUGHTON

- [2026] EWHC 859 (KB)
- C barmaid working in D's employment
- Slipped whilst walking on a tiled hallway
- C's case: no risk assessment, no training, no cleaning / spillage procedure, no system of inspection
- D's case: clean as you go policy



SEPPINGS V CRAMPSIE & SON LTD T/A THE NEW INN ROUGHTON

- Key Takeaway: Causation in OLA claims
  - "[50] I find that the defendant breached their duty of care to the claimant. However, given the absence of anything on the floor which is likely to have caused the claimant to fall, **those breaches were not causative of the claimant's** accident. Even if there had been a documented cleaning and inspection regime, a documented training programme, more staff on duty, less customers on site, documented risk assessments, or staff handbook, the accident would not have been prevented given the absence of a liquid or hazard on the floor."

SUFFOLK COUNTY COUNCIL V LYALL

- [2025] EWHC 1032 (KB)
- The Council had installed a wooden boardwalk over an existing public right of way
- The damp and shady conditions promoted the spread of slippery moss and algae
- C slipped whilst walking over the boardwalk



SUFFOLK COUNTY COUNCIL V LYALL

- Key Takeaway 1: Consider all the arguments
  - "[21] the judge's analysis of whether the Defendant discharged its duty of care in all the circumstances was correct. All that he was saying was that, on account of the foreseeable risk, consideration should have been given by the Defendant to the need to install anti-slip measures; and there is no evidence that any risk-assessment was carried out. The cost was not particularly high …**Had there been evidence demonstrating that the Defendant had addressed these factors yet nonetheless decided not to install any anti-slip measures, the Claimant may have been in difficulty.**"
- Key Takeaway 2: Get it right first time
  - "[12] [A's counsel] focussed on her first Ground of Appeal which incorporates **an argument that was not raised before the judge**. In my view, this Ground turns on a pure point of law, and the fact that it was not taken below does not matter. She submitted on authority that the Defendant owed no duty to take positive action to make the boardwalk safer. The Defendant cannot be held liable for an omission."

PASHAMOV V TAYLOR AND EDWARD VINSON LIMITED

- [2025] EWHC 1035 (KB)
- C was a seasonal farm worker and lived at a caravan site owned by D2.
- At the end of the working day, D2's bus would take C back to the caravan site.
- The bus could not reach designated pick-up point so stopped on the opposite side of a 60mph rural road.
- C crossed the road at the direction of his manager to inform other employees that the bus had arrived. C then hit by D1.



PASHAMOV V TAYLOR AND EDWARD VINSON LIMITED

- Key Takeaway 1: An employer's duty does not end when paid work does:
  - "[151] It is clear to me that, as a matter of fact, Mr Pashamov was carrying out tasks at the direction of, and for the benefit of, his employer. Those tasks related directly to other employees of EV Limited. That, in my judgment, falls plainly into the category of activities that are incidental to his employment. His employer therefore still owed him their common law duty of care."

- Key Takeaway 2: Your own risk assessment is a double-edged sword:
  - "[157] The risk of an accident is, in my judgment, clearly foreseeable if an employee is directed to cross a road with fast moving traffic at a place where there is no designated safe crossing point. The second defendant's own risk assessment is also a clear indication of why this argument should be rejected. The risk assessment highlighted that the risk to staff from not being collected at identified and safe pick up points was 'high'. The risks identified as 'high' included 'head injuries'. That was precisely what Mr Pashamov suffered..."

WARD AND SMITH V BCA AUTOMOTIVE LIMITED

- [2026] EWHC 204 (KB)
- C was an experienced car transporter. He fell when dismounting Deck 8 of an Odyssey car transporter.
- The Odyssey had been introduced to D's fleet in 2013/14. Deck 1 of the Odyssey was 18 inches longer than the older transporter than C was used to. This resulted in reduced space on Deck 8.
- C's case was that D failed to carry out a proper risk assessment on the introduction of the Odyssey and failed to provide training on the differences from the older model.
- D's case was that training was adequate and the accident was caused by C's failure to maintain three points of contact.



WARD AND SMITH V BCA AUTOMOTIVE LIMITED

- Key Takeaway 1: A deficient risk assessment does not automatically mean breach
  - "[18] In my judgment, a reasonably prudent employer would have conducted a risk assessment following the introduction of a new vehicle into its fleet, particularly so in the case of a vehicle of the size of a car transporter.
  - [31] Whilst I find that a risk assessment ought to have been undertaken upon the introduction of the Odyssey into the Defendant's fleet, I am satisfied that the Defendant provided suitable and sufficient measures to prevent the Claimant from falling. A risk assessment was in place prior to the accident in 2020 which identified dismounting from the transporter as a risk. That assessment provided for mitigation through appropriate training, including instruction on dismounting using three points of contact in accordance with the Safe System of Work."

- Key Takeaway 2: Consider the Claimant's evidence carefully; it may be fatal to their case:
  - "[37] The reasonable inference I make is that the Claimant was in a hurry and not taking sufficient care. This leads me to conclude that it was because of this that the Claimant decided to unload one of Mr Harrison's cars and decided against using a ladder, or kneeling or bending down to descend."

EVAN ‘S’ V MAGIBOARDS LIMITED

- [2025] EWHC 2045 (KB)
- Mr S, a factory operative, was punched in the face by a coworker, Mr B, during a workplace altercation.
- The dispute arose from Mr B's objection to Mr S using a radio and earpiece on the factory floor. On the day of the assault Mr B made two complaints about Mr S before approaching him and punching him.
- C's case was D knew from at least four prior incidents that an assault by Mr B was reasonably foreseeable, and adequate steps had not been taken to prevent it.
- Alternatively, C argued D was vicariously liable for Mr B's intentional tort.



EVAN 'S' V MAGIBOARDS LIMITED

- Key Takeaway 1: Foreseeability of violence requires a known history of violence, not merely workplace friction:
  - "[44] There was no history of violent behaviour and no indication, that day, that he was so minded until it happened. The acceptance by Mr Smith that in hindsight he could and would have done things differently is nothing to the point. Hindsight is not the basis for liability. By the time he realised on that day there would be a confrontation, nothing practically could be done. There were no measures, in my judgment, that could have prevented the assault that did in fact occur."

- Key Takeaway 2: The close connection test is not satisfied merely because an assault occurs between co-workers:
  - "[45] Mr B had no supervisory responsibility over the claimant; he was not employed to superintend the claimant's conduct in any way. His actions were, in my judgment, entirely unconnected to his employment, beyond the fact that they occurred in the workplace, and were directed at a fellow employee."

THE END



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