



## “sovereign product liability silk”

### Chambers & Partners

Augustus Ullstein QC has built up and maintained a wide ranging practice in a number of areas including; Personal Injury, Clinical Negligence, Product Liability, Sports Law, Construction, Insurance, Professional Negligence and Common Law. He has been involved in a number of high-profile cases including, for example, successfully acting for the families of the victims of Dr Harold Shipman in Judicial Review of the Government’s refusal to hold a public Inquiry (*R v Secretary of State for Health ex parte Wagstaff*) 1 WLR 292. He also defended three Balfour Beatty employees in the Hatfield Rail Crash prosecution.

Recently, he took the case of *Jain v Trent Strategic Health Authority* to the House of Lords. Although unsuccessful there, the case is now proceeding to the European Court of Human Rights who have accepted the complaint.

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## PRACTICE AREAS

- Personal Injury

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## PRACTICE AREAS

### PERSONAL INJURY

Augustus Ullstein has long experience of multi-party actions, particularly in relation to pharmaceutical products, dating back to the *Opren* Litigation in 1989. Since then, he has been involved in the *Myodil* Litigation, *Sheep Dip* Litigation, *LSD* Litigation, *Gulf War* cases and the *MMR* Litigation.

In the field of Personal Injury he gained international recognition in 1995 when he was one of five foreign lawyers appointed by the United States Federal Court as one of a panel to set the quantum of damages for claimants outside the USA. in the *Shiley Heart Valve* Litigation (*Bowling v Pfizer Inc.* 143 F.R.D. 138). He is currently advising

the DII Asbestos Trust in Texas in relation to UK claims for asbestosis and mesothelioma.

He has extensive experience in catastrophic injury, particularly acquired traumatic brain injury, a subject in which he has both given lectures and seminars.

In the field of Professional Negligence he has regularly acted for both claimants and defendants in all professions. He has particular expertise in the field of Financial Services, having been involved in the Barlow Clowes Litigation; Home Income Plans and Pensions Mis-selling. He also regularly acts for surveyors and valuers with particular emphasis on negligent lending by banks and other financial institutions.

He has also wide experience of commercial cases. He acted for the Claimants in a long running case about the collapse of a property joint venture in 2008 (*Daniels v Samuel Beadie (Properties and others)*). Currently he is instructed in a case involving the making of a film; a claim against Lloyds Bank for misrepresentation and breach of contract and a claim for loss of commission on a property venture.

He has been involved in high profile cases over the years, including litigation resulting from the activities of Nurse Beverley Allitt; acting for the families of Dr Harold Shipman's victims in Judicial Review Proceedings and latterly the MMR Litigation. He defended three of the Balfour Beatty employees in the prosecution which resulted from the Hatfield Rail Crash.

In 2009 he took the case of *Jain v Trent Strategic Health Authority* to the House of Lords. Although unsuccessful there, the European Court of Human Rights accepted the case and encouraged the UK Government to settle. The Jains subsequently accepted a very substantial sum in settlement together with their costs.

He has appeared as an expert witness on the English and European Law of Tort and damages in the United States on a number of occasions, in particular the Breast Implant Litigation (in *Re Dow Corning Corporation*).

He sits on the Council of the Academy of Experts and regularly gives courses and seminars for that organisation both in the United Kingdom and Hong Kong.

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## CASES

### PERSONAL INJURY

- **Aktas v Adepta : Dixie v British Polythene Industries PLC [2010] EWCA Civ 1170**: Claimant's right to issue fresh proceedings within the limitation period after the first claim was struck out because it was not served in time.
- **Archie McLeain v (1) Butler Service Group (UK) Ltd (2) Butler International Ltd (3) Butler International Inc (4) Strategic Support Services [2007]**: Important case regarding employers' liability.
- **Ronald Harry Bailey (By His Sister & Litigation Friend Janet Ashton) v Matthew George Warren 2006] EWCA Civ 51**.

### PROFESSIONAL NEGLIGENCE

- **Ashok Jain, Nisha Jain v Trent Strategic Health Authority (HL) [2009] UKHL 4**: Health authorities did not owe a duty of care in tort to proprietors of nursing homes when making applications without notice

for the cancellation of their registration.

- **Lingfield Properties (Darlington) Ltd v Padgett Lavender Associates (QBD) [2007] EWHC 2989 (QB)**: A firm of planning consultants owed no duty of care to ensure that conditions precedent to the grant of planning permission had been satisfied where its client had given no instructions to do so.
- **R (Moreton) v Medical Defence Union Ltd (QBD) [2006] EWHC 1948 (Admin)**: Judicial Review of the Dental Defence Union's refusal to indemnify an Orthodontist.
- **Seymour & Seymour v Caroline Ockwell & Co & Zurich IFA Limited [2005] EWHC 1137 (QB) 13 May 2005**.
- **Reeman v Department of Transport (CA) (1997) 2 Lloyd's Rep 674**.
- **Lampitt v Poole Borough Council [1990] 3 WLR 179; 2 All ER 887**.
- **Nottingham Health Authority v Nottingham City Council (CA) [1988] 1 WLR 903**.

## PRODUCT LIABILITY

- **Sayers & Ors v Smithkline Beecham Plc & Ors (QBD) [2003] EWHC 104**.
- **Horne-Roberts v Smithkline Beecham Plc (CA) (2002) 1 WLR 1662**.
- **Nash v Eli Lilly & Co (CA) [1993] 1 WLR 782**.
- **Chrzanowska v Glaxo Laboratories Ltd (QBD) [1990] 1 MedLR 385**.

## HEALTH & SAFETY

- **R v Balfour Beatty & Railtrack [2005]**: Prosecutions arising out of the Hatfield rail crash.

## COMMERCIAL

- **Richard Daniels & 7 Ors v Alan Deville & 6 Ors**.
- **Richard Daniels & 5 Ors v (1) Samuel Beadie (Properties) Ltd (2) Alan Deville**.
- **Bondor Developments Ltd & 5 Ors v Samuel Beadie (Properties) Ltd & 8 Ors**.
- **Pickenham Homes Ltd v Pickenham Estates Ltd (Ch D) [2008] EWHC 1810 (Ch)**: The court determined a number of issues in four joined actions concerning a joint venture and ordered a global account in respect of the venture.
- **Secretary of State for Trade and Industry v (1) Baljinder Chohan (2) Another [2007]**: Directors Disqualification Act.
- **Snowville UK LTD v Holidaybreak Plc [2004] EWHC 1336 (Ch)**.
- **Benham Ltd v Kythira Investments Ltd (CA) [2003] EWCA Civ 1794**.
- **MacDonald v Myerson & Others (CA) [2001] EWCA Civ 66; [2001] EGCS 15**.

## ADMINISTRATIVE & PUBLIC LAW

- **R (Chaston & ors) Devon County Council (QBD) [2007] EWHC (Admin)**: Decision of a Rights of Way

Authority to disregard the findings of an independent inspector quashed on grounds of unreasonableness and unfairness.

- **R (Wagstaff) v Secretary of State for Health (DC) 1 WLR 292:** Shipman enquiry.

## CIVIL LIABILITY

- **Milos Vladimir Stankovic v Chief Constable of the Ministry of Defence (QBD) [2007] EWHC 2608 (QB):** In light of evidence uncovered following a covert investigation by the security services, the Ministry of Defence Police had had reasonable suspicion for believing that a major in the army had committed an offence.

## TRUST & CONTENTIOUS PROBATE

He has extensive experience of the law of Trusts. He has advised upon numerous trust matters over many years in the context particularly of Family Law, Inheritance (Provision for Family and Dependents) and cases involving children. He has also drafted Trust Deeds on numerous occasions.

In relation to contested Probate actions he has been involved in 3 heavy matters over the last 2 years namely:

- A case in which the beneficiaries (all charities) of an earlier Will challenged the capacity of the Testator. Settled before trial.
- A dispute between 2 brothers as the capacity of their mother to make a Will. This case, involving and estate worth several millions, also included issues of undue influence and a concurrent claim under the Inheritance (Provision For Family and Dependents) Act. Settled 4 weeks before trial which had been estimated to last 3 weeks.
- A challenge to a Will, in Guernsey, on the ground that the single beneficiary was not the son of the Testator. The Estate was worth £200 million. Settled before trial.

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## RECOMMENDATIONS

Augustus is recommended for Personal Injury in both Chambers & Partners 2015 and the Legal 500 2013 and also for Product Liability and Clinical Negligence and Healthcare in the latter.

- *"He is very hardworking, and willing to push the boundaries."* Legal 500 2015
- *"He's very incisive and a very good person to have on your team."* Chambers & Partners 2014
- *"He's very accessible and good with clients."* Chambers & Partners 2014
- *"Very thorough and client-focused."* Chambers & Partners 2013
- *"A safe pair of hands for complex work."* Legal 500 2013
- *"A genuine gentleman who is prepared to go the extra mile for his clients."* Legal 500 2012
- *"Sovereign product liability silk."* Chambers & Partners 2009
- *"Brave where he needs to be, but always sensible."* Legal 500 2009

- "Sovereign product liability silk." Chambers & Partners 2009

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## APPOINTMENTS

- 1999: Recorder
- 1993: Assistant Recorder
- 1987 – 1992: Deputy Registrar for the Family Division

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## QUALIFICATIONS

- Qualified Mediator

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