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King's Bench Walk

David White

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AREAS OF EXPERTISE

Personal Injury, Clinical Negligence, Industrial Disease, Professional Negligence, International & Travel, Insurance, Product Liability, Costs, Fraud, Inquests, Public Authority Liability, Accidents at Sea/Maritime Claims, Military Claims

David's principal areas of practice are personal injury, clinical negligence, insurance/indemnity disputes and costs law. He is listed as a Leading Junior for Personal Injury Work in the Legal 500. David acts for claimants and defendants and is regularly instructed to represent clients both at court and at Joint Settlement Meetings.

In the Personal Injury field David is regularly instructed in RTA, EL, PL, product liability and holiday claims. David has particular expertise in serious injury cases including amputation, head injury, stress/CRPS and spinal injury. David also has a particular interest in all disease cases (asbestos, work related upper limb disorder/RSI, and HAVS) and cases with an international flavour that raise issues as to jurisdiction or applicable law.

In his clinical negligence practice, David acts principally for claimants. He regularly advises in cases involving complex medical issues, particularly concerning causation.

David also has an extensive costs practice, and regularly acts for paying and receiving parties in detailed assessments in the SCCO and the County Courts, often concerning substantial seven figure bills. He has been instructed in disputes concerning the enforceability of Conditional Fee Agreements and the recovery of uplifts and ATE insurance premiums.

David also advises insurers and policy-holders on policy disputes concerning policy wording and coverage and indemnity issues, and advises in solicitors negligence cases.

David has expertise in cross-border PI claims and is regularly instructed in cases that raise issues as to jurisdiction (Brussels Recast Regulation) and applicable law (Rome II).

David regularly lectures and presents seminars to solicitors and insurers. He has recently lectured on recent developments in EL claims, loss of earnings claims for the self-employed, costs claims and Part 36 developments. David sits on the Editorial Board of Kemp & Kemp: Law Practice and Procedure, and he edits the chapters on Provisional Damages, Interim Payments and MIB Claims.

Personal Injury

David acts for Claimants and Defendants in serious injury cases, including traumatic brain injury, spinal injury, pain

conditions and amputation.

David's cases usually involve complex medical evidence where there are issues as to causation and prognosis.

David has a particular interest in quantum issues, for example, cases concerning how a continuing disability should impact on assessment of future loss (Ogden 7 arguments). David represented the Defendant in the leading case of Conner v Bradman [2007] EWHC 2789 (QB).

David frequently advises in cases involving complex loss of earnings claims. For example, non-domiciled workers where there are issues as to whether Income Tax would have been paid on their earnings (and if so, where), self-employed claimants with variable/erratic earnings and those working in unusual/niche areas, such as a self-employed consultant to NGOs and private security contractors in war zones.

David has expertise in fatal accidents claims and is regularly instructed in claims where there are substantial loss of dependency claims, and where the family situation is complex, for example, where there are dependent children from multiple relationships. David is currently advising in a case where a mother and adult brother are claiming to be dependants of the deceased.

Recent concluded cases include the following:-

H v Q

A catastrophic injury case where the claimant suffered somatoform pain disorder or conversion disorder as a result of an accident on a building site. David advised throughout on the complexities arising from the multi-disciplinary medical evidence and assessment of quantum. David was unled until the final stages of the litigation, when he was led by Frank Burton QC. The final Schedule of Loss totalled £2.5m, and settled at a second Joint Settlement Meeting for a substantial seven figure sum, the discount reflecting uncertainty as to future prognosis.

O v G

David acted for a defendant in this below- knee amputation case. The quantum issues were complicated by the fact that the claimant was living and working in the UK illegally, which raised issues as to *ex turpi causa* and where her future would be spent.

B v L

David acted for a claimant in this catastrophic brain injury case. The claimant suffered a severe Traumatic Brain Injury as a result of a road accident and was left highly dependent on carers and requiring 24/7 care. The main issues were the appropriate care regime (residential home versus supported independent living in his own home with adaptations), case management and the extent of therapies. David was led by Frank Burton QC and the case settled for £4.25 million.

Clinical Negligence

David acts mainly for Claimants in this field.

Recent cases include the following:-

M v Wye Valley NHS Trust

David represented the claimant in this complex clinical negligence case. The claimant suffered a catastrophic stroke at Hospital, as a result of which he was rendered blind and suffered brain damage. Breach of duty was admitted but causation was very much in issue, the issue being whether early intervention by a neurologist would have prevented the stroke or reduced the effects of the same. There was also substantial disagreement relating to the future care and

accommodation claims. The Defendant instructed a QC from the outlet. David was unled until the very final stages of the litigation when he was led by Gerard Martin QC. The Schedule totalled £2.9 million. A substantial settlement was achieved at a JSM.

David is presently advising claimants in cases involving negligent performance of cosmetic surgery procedures, poor surgical technique in a hysterectomy, and unnecessary spinal surgery.

Industrial Disease

David acts for Claimants and Defendants in disease cases, in particular cases concerning asbestos-related disease, stress at work and HAVS.

David is presently instructed in several large mesothelioma cases.

David has recent experience of the sensitive task of taking evidence by deposition at a claimant's home in a living mesothelioma case.

Professional Negligence

David is regularly instructed by Claimants and professional indemnity insurers in cases concerning alleged negligence of solicitors and/or barristers in the conduct of serious personal injury claims. These cases typically concern a lost opportunity to present a claim or to achieve a better outcome at Trial or settlement.

David has also acted for a claimant against his former solicitors in a case concerning negligent conduct of a claim for a lease extension pursuant to the Leasehold Reform Act 1993.

International & Travel

David is a founder member of the 12International Practice Group. David is regularly instructed to act on behalf of Claimants and Defendants in cases that raise issues concerning jurisdiction and/or applicable law.

Recent cases include the following:-

Halfpenny v Virgin Holidays

David recently successfully represented the tour operator at trial and defeated a claim for improper performance of the contract pursuant to the Package Travel Regs, the claim arising from a holidaymaker who fell down steps in what was alleged to be a poorly-lit area in a Caribbean resort.

Prow v ES Global

David acted for the family of the lighting technician who was killed as a result of the collapse of a concert stage at a Madonna concert in France. The case raised issues of jurisdiction and applicable law. The case settled by consent.

Neville v NDS

David represented the Claimant in this case that arose from injury sustained whilst the Claimant was on a "Treasure Hunt by RIB" trip in the Solent, the trip having been organised by his employer as a reward to the staff. The Claimant suffered spinal injury in the course of the trip and the physical injury developed into a psychologically-driven chronic pain state. Liability of the RIB operator was governed by the Athens Convention, and the case was litigated in the Admiralty Division of the High Court. The case required expert liability evidence from experts on weather, sea state, tides and powerboating. The claim against the employer raised interesting issues as to the extent of an employer's duty in respect of delegated activities. David secured a substantial settlement for his client at a 3-way JSM.

Insurance

David acts for and advises insurers and policyholders in this field of practice.

Common issues upon which David advises include whether indemnity should be provided or not, or whether a recovery action should be pursued against the policyholder or another insurer. David advises insurers and policyholders on coverage issues arising from fire and casualty claims. For example, David recently advised in a fire loss claim where it was alleged that the claimant had deliberately started the fire.

David also regularly advises insurers on issues arising from motor insurance, namely MIB and Article 75 issues. David was recently instructed by an insurer applying to set aside a section 152(2) declaration that another insurer had obtained.

Drawing upon his PI practice, David also advises on indemnity issues arising from critical illness/permanent health insurance.

David edits the MIB chapter in *Kemp & Kemp Law Practice and Procedure*.

Product Liability

David has acted for claimants and defendants in several cases in this field. By way of example, recent cases relating to defective car repairs, defective footwear, and defective catering equipment.

Costs

In addition to regularly attending Costs and Case Management Hearings (CCMCs) in the High Court and County Courts, David is regularly instructed to advise and represent parties in detailed assessments arising from concluded cases.

David has extensive experience of arguing costs points before Costs Masters in the SCCO and at County Court level. Recent instructions concerned the appropriate success fee in a PI claim valued at more than £500K (in which fixed success fees were not applicable), and whether noise-induced hearing loss (NIHL) was a "disease" within the meaning of Part 45 CPR. David also represented the paying party in Wright v Sherlock Interiors, one of the first costs-budgeted cases to go to a detailed assessment. Wright was heard by Master O'Hare in the SCCO.

David regularly acts for defendants challenging substantial six or seven figure costs bills and taking any appropriate technical points.

David delivered a paper on recent costs developments at the 12KBW Tower of London Conference (2016).

Fraud

David is instructed by Claimants and Defendants in cases where there are concerns regarding exaggeration or fraud and where careful and detailed cross-examination is required. David has recently been instructed in two cases concerning alleged "slam-on" road traffic accidents where the cases went to Trial.

Inquests

David regularly represents families and insurers at Inquests. David has attended Inquests arising from deaths in Hospital, RTAs, workplace accidents (typically on construction sites), disease cases (e.g. asbestos) and a plane crash.

Public Authority Liability

Within his personal injury practice, David acts for Claimants and Defendants in cases where the Defendant is a public authority and the claim arises from the exercise of public authority functions. David's expertise includes highways claims, and claims by care assistants, social workers, teachers, NHS staff and nursery workers.

Accidents at Sea/Maritime Claims

David has a niche expertise in accidents at sea where liability is governed by the Athens Convention. Such cases are litigated in the Admiralty Court which has its own particular procedures. This area of practice overlaps with David's expertise in foreign and international claims.

A recent example of such work, is *Neville v NDS/Howley*, a case that arose from injury sustained whilst the Claimant was on a "Treasure Hunt by RIB" trip in the Solent, the trip having been organised by his employer as a reward to the staff. The Claimant suffered spinal injury in the course of the trip and the physical injury developed into a psychologically-driven chronic pain state. This being an accident at sea, liability of the RIB operator was governed by the Athens Convention, and the case was litigated in the Admiralty Court. The case required expert liability evidence from experts on weather, sea state, tides and powerboating. The claim against the employer raised interesting issues as to the extent of an employer's duty in respect of delegated activities. David secured a substantial settlement for his client at a 3-way JSM.

Military Claims

David has acted for several members of the Armed Forces in PI claims. He has a particular expertise in claims arising from Non-Freezing Cold Injury (NFCI) and is familiar with the associated liability issues and the complexities of the consequent loss of earnings/loss of military pension claims.

Qualifications & Awards

Bar Vocational Course, "Very Competent" (ICSL, 1999)

CPE Diploma on Law (City University; 1998)

M.Stud. History of Art (Lincoln College, Oxford; 1997)

MA, English (Jesus College, Cambridge; 1996)

Major Scholar, Lincolns Inn (1998)

Hardwicke Entrance Award, Lincolns Inn (1997)

Memberships

PIBA, PNBA, London Common Law and Commercial Bar Association, British Institute of International and Comparative Law

Directories

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Publications

Contributory Editor and member of the Editorial Board, *Kemp and Kemp Law Practice and Procedure*

Cases

Personal Injury

Conner v Bradman [2007] EWHC 2789 (QB)

The first reported case on the application of the Ogden tables for contingencies other than mortality to multipliers for

future loss of earnings. The Court arrived at the compromise position of splitting the Table A and B adjustments on the particular facts of the case. David represented the Defendant in this leading case.

H v Q

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Travel/International

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Accidents at Sea

Neville v NDS

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