

# 12

King's Bench Walk

## Gemma Scott

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### AREAS OF EXPERTISE

Industrial Disease, Personal Injury, International & Travel,  
Product Liability, Clinical Negligence

Gemma's practice encompasses all aspects of Personal Injury law, including serious spinal and brain injury cases, industrial disease litigation and group action claims. She acts for both Claimants and Defendants.

She is ranked in *Chambers & Partners* and the *Legal 500*.

#### Industrial Disease

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Gemma specialises in asbestos litigation. She acts for Claimants in mesothelioma, lung cancer, pleural thickening and asbestosis cases. She regularly deputises for Harry Steinberg Q.C.

She is junior counsel to two silks in a major product liability group action against the manufacturer and supplier of Asbestolux and Marinite, *Concept 70 Ltd & Others v Cape Intermediate Holdings plc*.

#### Personal Injury

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Gemma is particularly experienced in cases involving brain and spinal injuries. She is routinely instructed in her own right, but also acts regularly as a junior in high-value claims.

She was instructed alongside Frank Burton Q.C. in a catastrophic brain injury case. The Claimant received a lump sum award of over £3m plus periodical payments (equivalent to an overall lump sum in excess of £7m).

She is currently being led by John Kimbell Q.C. in a high-value brain injury case arising from an accident in France and by Robert Weir Q.C. in a catastrophic injury claim.

#### International & Travel

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Gemma is a member of the 12 International and Travel Group.

She was instructed on behalf of the Claimants in the *Bomu-Bonny Oil Pipeline Litigation*, which is believed to be the UK's largest ever environmental action. She supervised a team dealing with quantum issues.

Gemma is also experienced in matters involving conflicts of law, actions under the Package Holiday Regulations and international conventions.

## Product Liability

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Gemma is a member of the 12KBW Product Liability Group.

She is junior counsel to two silks in a major product liability group action against the manufacturer and supplier of Asbestolux and Marinite, *Concept 70 Ltd & Others v Cape Intermediate Holdings plc*.

## Clinical Negligence

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Gemma has a keen interest in clinical negligence work. She advises from the outset of litigation, assessing the merits of potential claims based on medical records.

## Qualifications & Awards

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The Queen's College, Oxford University, MA (Hons) Modern History

Post Graduate Diploma in Law (Nottingham Law School)

Bar Vocational Course (Nottingham Law School)

The Blake Prize in History, The Queen's College, Oxford

## Memberships

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PIBA

## Directories

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Legal 500 (2018)

Chambers & Partners (2019)

## Cases

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### Group litigation

Instructed alongside Charles Béar Q.C. and Michael Rawlinson Q.C in a major product liability group action.

The case is brought by insurers seeking contributions to settled claims from the manufactures of asbestos products. It involves complex liability issues, specifically the assessment of the relative culpability and the interplay of liabilities between the employers of those working with Asbestolux/Marinite boards and Cape as the manufacturer and supplier.

It is of potentially wider significance as it may also establish a cause of action against Cape for self-employed claimants who worked with its products.

#### *The Bomu-Bonny Oil Pipeline Litigation*

Instructed on behalf of 15,600 Claimants in a class action against Shell arising from 2 substantial oil spills in the Niger Delta.

Assisted with the quantification of the lead claims. This involved consideration of the likely effect of potential clean-up operations and the assessment of losses for people who did not keep records and were generally illiterate.

The terms of settlement are confidential, but it is believed to be the UK's largest ever environmental action.

## Personal injury

*AK (by her Litigation Friend, LK) v SK*

Instructed with John Kimbell Q.C. for the Claimant.

The Claimant was 15 years old when she was involved in a road traffic accident in France. She suffered life-threatening head and spinal injuries.

Before the accident, the Claimant's intellect was in the superior range. Despite sustaining a very severe brain injury and suffering profound neurological disabilities, it remains in that elevated range. However, the Claimant is unable to produce effective speech as she developed severe dysphasia and dysarthria. Her mobility is also seriously compromised; she is unable to walk functionally and is largely wheelchair-bound. The case is ongoing.

*NC (by her Litigation Friend, DC) v DC*

Instructed for the Claimant with Robert Weir Q.C.

The Claimant suffered an extremely severe brain injury when she was just 6 years old and has been left with devastating injuries. She sustained a significant degree of cognitive impairment and is unlikely to ever achieve functional speech or mobility. The case is ongoing.

*CIT (by her Litigation friend, DIT) v RSA PLC*

Instructed with Frank Burton Q.C. for the Claimant.

The Claimant suffered a catastrophic brain injury in a road traffic accident. The claim settled a JSM for over £3m plus periodical payments (equivalent to an overall lump sum in excess of £7m).

*Wojdon v Tomaszewski*

Instructed by the Claimant, who sustained a severe traumatic brain injury when he was knocked off his motorcycle.

He made a remarkable recovery and returned to his previous employment as an electrician for TFL. But he was unable to progress beyond that role because of the permanent impairments from his acquired brain injury.

Valuation of the case was complicated because of the uncertainties about the Claimant's career but for the accident. He had been accepted onto a university course, but there was no clear career progression beyond that point.

*Salmons v Foster*

Acted on behalf of the Claimant, who suffered serious physical and psychological injuries in a road traffic accident when aged 88. Her life expectancy was limited and was adversely affected by inadequate care provision and unsuitable accommodation.

There were difficult issues in respect of the Claimant's capacity because the psychological evidence suggested that she had suffered significant cognitive decline since the accident. However, the cause of that decline was multi-factorial.

*Pritlove v Parfitt*

Instructed by the Defendant. The Claimant suffered serious physical and psychological injuries in a motorcycle accident when aged 28.

There were complex medical issues and 10 experts. There was significant debate as to the Claimant's prospects for future employment. He had a sporadic work history, but had always engaged in physical jobs of which he was now incapable because of his chronic pain condition.

The case was settled at a JSM. Thereafter, the Claimant applied to Court to withdraw from that settlement and seek a higher award. But the judge upheld the settlement.

### *Brown v MITIE*

Acted on behalf of the Claimant, who suffered a significant back injury at work.

Liability remained in dispute until a few days before a split trial.

Quantum was strongly contested. The Claimant was in his 50s and had been unable to return to any form of work following the accident. There was evidence to suggest that the Claimant would have been made redundant in any event and issues as to his potential future earnings thereafter but for the accident.

### *Majed v Johns*

Instructed with Stephen Worthington Q.C. for the Defendant.

The Claimant suffered a severe brain injury at age three when he was knocked down on a pedestrian crossing. In addition to significant claims for care, accommodation, loss of earnings and therapies, damages were sought for the additional cost of living in the UK. The Claimant's father was studying in the UK at the time of the accident. The family intended to return to Pakistan upon the father's completion of his PhD, but was unable to because of inadequate medical provision. The case settled on the morning of trial.

### *Hayne v Provident Insurance*

Instructed on behalf of the Claimant with Frank Burton Q.C. The Claimant suffered a very severe traumatic brain injury when she was knocked down by the driver of a stolen vehicle.

### *Carsley v Stagecoach*

Instructed with Frank Burton Q.C. for the Claimant. The claim arose from a road traffic accident in which the Claimant suffered a very severe traumatic brain injury.

### *Palmer v Barber*

Acted on behalf of the Claimant, who suffered a serious injury to the brachial plexus of her dominant arm in a motorcycle accident.

## **Industrial disease**

### *Dalton v The Peninsular & Oriental Steam Navigation Company*

Instructed by the Executors of the Claimant's Estate.

Mr Dalton died of mesothelioma. He was a chef on board passenger ships owned by P&O. He was exposed to asbestos whilst the ships were in port for maintenance work. The case centred on difficult issues of liability. The Defendant alleged that any exposure was low level and argued for a later date of knowledge for P&O than land-based employers.

### *Back v Bicknell Construction Ltd*

Acted on behalf of the Claimant, who developed malignant mesothelioma as a result of his occupational exposure to asbestos.

The Claimant was employed as a quantity surveyor. He was exposed to asbestos whilst visiting the Defendant's sites. Liability was strongly disputed, with the Defendant arguing that the level of exposure was insufficient to amount to breach of duty in the light of prevailing knowledge.

*Parrott v Wallis*

The Claimant was mistakenly diagnosed with mesothelioma. The experts initially agreed the diagnosis, but when the condition failed to progress, revised their opinion to pleural thickening.

This raised difficult arguments in respect of mitigation because the Claimant had given up work at the time of his initial diagnosis.