

# 12

King's Bench Walk

## Gemma Scott

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### AREAS OF EXPERTISE

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

Gemma specialises in serious personal injury cases, industrial disease claims, and in large group actions.

She regularly appears against silks and senior juniors in High Court cases. She is also frequently instructed as junior counsel in multi-million pound claims, often working alongside silks from other chambers.

She is ranked as a leading junior in the fields of Personal Injury and Industrial Disease in the Legal 500, and features in Chambers & Partners' Spotlight table for Industrial Disease.

### Personal Injury

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

#### Notable cases

*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 a very severe brain injury, profound neurological disabilities, and spinal injuries. Her intellect remained in the superior range, but she was unable to produce effective speech and was wheelchair-dependant.

*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 was left with devastating injuries. She sustained a significant degree of cognitive impairment and was unlikely to ever achieve functional speech or mobility.

## *TB v GM*

*Acting on behalf of the Claimant as junior counsel to Gerard Martin Q.C.*

*The Claimant, a high-earning and extremely fit man, suffered a profound brain injury and significant injuries to his lower limbs when he was knocked off his motorcycle.*

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

Instructed with Frank Burton Q.C. for the Claimant, who sustained a catastrophic brain injury in a road traffic accident.

## *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 it was unable to do so because of inadequate medical provision there.

## *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**

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Gemma has particular expertise in asbestos litigation. She acts for Claimants in mesothelioma, lung cancer, pleural thickening, and asbestosis cases.

### Notable cases

#### *Bussey v Anglia Heating Ltd [2018] EWCA Civ 243*

*Instructed by the Claimant. Gemma appeared in the Court of Appeal as junior counsel to Michael Rawlinson Q.C. The Court unanimously ruled in favour of the Claimant in this significant case, which clarified the test for judges dealing with*

*low-level exposure claims.*

## *P v WMS Ltd*

*Acted for the Claimant with Harry Steinberg Q.C. The Deceased was exposed to asbestos when handling asbestos insulation boards on site in 1966. The case would have tested the limits of the Court of Appeal's judgment in Bussey in respect of foreseeability. It settled less than one week before trial.*

## *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.

## *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 while 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.

## **Group Litigation**

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### *Concept 70 Ltd v Cape Intermediate Holdings plc*

Instructed alongside Charles Béar Q.C. and Michael Rawlinson Q.C. in a major product liability test case for insurers seeking a contribution to settled claims from manufacturers.

### *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.

Gemma 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.

## **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 growing clinical negligence practice.

### Notable cases

#### *MB v X NHS Trust*

Instructed on behalf of the Claimant, whose wife suffered extensive intracranial bleeding as a result of negligent treatment.

## **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

Chambers & Partners

## **Publications**

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Contributor *Asbestos: Law & Litigation*, Sweet & Maxwell, 2019 (Chapter; Knowledge)