

12

King's Bench Walk

John-Paul Swoboda

Call: 2006

swoboda@12kbw.co.uk



AREAS OF EXPERTISE

Personal Injury, Industrial Disease, International & Travel, Clinical Negligence, Inquests, Professional Negligence

John-Paul practices in all aspects of Personal Injury law. He has particular interest and expertise in Asbestos Litigation, International and Travel litigation, Clinical Negligence, and Inquests. He undertakes high value work. He is approachable and thorough. John-Paul enjoys working as part of a team with his instructing solicitor and has a reputation for establishing a good rapport with lay and professional clients..

In relation to asbestos claims he is instructed by most, if not all, well-regarded claimant firms with an established asbestos team. He is ranked in Chambers and Partners and the Legal 500. Many of the claims John-Paul is instructed in involve difficult issues such as secondary exposure, low-level exposure, lung cancer claims, and difficult quantum issues such as recovery of immunotherapy costs or service claims in the lost years. His opponent is often a silk. Recent reported cases include: *Witham v Steve Hill Ltd* [2020] EWHC 299 (QB) (quantum in a fatal case, led by Steven Snowden QC); *Helm v Kenyon & Sons Ltd v Somewatch Ltd* [2019] EWHC 1108 (QB) (appeal from show cause); *Cary v Vauxhall Motors Ltd* [2019] EWHC 238 (QB) (liability for secondary exposure of wife); *Mark v Universal Coatings and Services Ltd v Barrier Ltd* [2018] EWHC 3206 (QB) (procedural issues in a silicosis case and led by Ronald Walker QC); *Stacey (Executrix of the Estate of Mr Perry) v Triplex Safety Glass Company Ltd* [2017] EWHC 1945 (QB) (causation and quantification).

John-Paul's expertise in International and Travel litigation is reflected by his ranking in the Legal 500 for Travel Law including Jurisdictional issues. He brings experience and knowledge to private international law matters, which typically involve the consideration and application of Rome II, Brussels recast, the doctrine of forum conveniens and service of the claim form out of the jurisdiction. John-Paul also has a wealth of experience in relation to claims arising from the Package Holiday Regulations and international conventions such as the Athens and Montreal Convention. He is also an editor of the International & Travel Law blog. As a result of his Spanish language skills John-Paul is often instructed in Spanish cases.

John-Paul's clinical negligence work is high value and he receives instructions from many well-respected firms. He is ranked in the Legal 500 for his clinical negligence work. He enjoys the medical and scientific aspect of such matters and works closely with his instructing solicitors and experts. He has experience of cases involving birth injury, amputation, unnecessary and negligent surgery, delayed diagnosis, cosmetic surgery, fatal cases, disclosure of risk and the negligent administration of clinical drugs. He is an editor of the Clinical Negligence Law blog.

John-Paul regularly acts for bereaved families, and occasionally acts for other interested parties, at Inquests. John-Paul has particular interest and expertise in Article 2 ECHR enhanced Inquests. Invariably John-Paul is instructed in civil proceedings following the Inquest. He has acted in high profile Inquests which have received significant press attention such as the Inquest

touching the death of Toni Speck a death in police custody where the deceased was detained under the Mental Health Act 1983; the Inquest touching the death of Graham Coker a death following surgery for oesophageal cancer where there were found to have been multiple failings by the NHS Trust; the Inquest touching the death of Jodie White-Charles where a young mother died of sickle cell complications as a result of Trust failures.

Personal Injury

John-Paul practices in all aspects of Personal Injury law and receives instructions from respected national firms representing both claimants and defendant insurers. He undertakes high value claims and fatal accident claims.

He has vast experience and expertise in relation to road traffic claims, employer's liability and public liability matters. He has an excellent understanding of post Enterprise Act employer's liability claims having lectured and written about the subject.

John-Paul is instructed in claims of the utmost severity. For example, John-Paul has experience of amputation claims, claims requiring the involvement of the Court of Protection because of severe brain injury, claims where periodical payments are required and fatal accident claims.

John-Paul has significant expertise is in relation to amputation cases, where he has a good knowledge of prosthetics and other relevant experts, brain injury where he has developed a good working relationship with neurosurgeons, neuropsychologists and neuropsychiatrists and 'pain cases' involving fibromyalgia, CRPS, neuropathic pain, psychiatric and psychological disorders.

Recent reported cases include *Irani v Duchon* [2019] EWCA Civ 1846 a case arising from an RTA where causation and quantification were in issue for an Indian national who faced deportation as a consequence of the negligence. The Claimant was award in excess of £400k.

Industrial Disease

John-Paul's main interest is in asbestos claims in which he is instructed by most, if not all, well-regarded claimant firms with an established asbestos team. Many of the claims John-Paul is instructed in involve difficult issues such as secondary exposure, low-level exposure, lung cancer claims, and difficult quantum issues such as recovery of immunotherapy costs or service claims in the lost years. His opponent is often a silk.

Recent reported cases include:

- *Witham v Steve Hill Ltd* [2020] EWHC 299 (QB) (quantum in a fatal case, led by Steven Snowden QC)
- *Helm v Kenyon & Sons Ltd v Somewatch Ltd* [2019] EWHC 1108 (QB) (appeal from show cause);
- *Cary v Vauxhall Motors Ltd* [2019] EWHC 238 (QB) (first report secondary exposure claim in England);
- *Mark v Universal Coatings and Services Ltd v Barrier Ltd* [2018] EWHC 3206 (QB) (procedural issues in a silicosis case) (led by Ronald Walker QC);
- *Stacey (Executrix of the Estate of Mr Perry) v Triplex Safety Glass Company Ltd* [2017] EWHC 1945 (QB) (causation and quantification).

John-Paul has significant experience of occupational cancer claims, COSHH claims and other disease claims.

International & Travel

John-Paul acts for claimants and defendants, including major tour operators and overseas hotels and suppliers of services, in accidents which occur abroad. His expertise in International and Travel litigation is reflected in his ranking in the Legal 500 for Travel Law including Jurisdictional issues.

As well as writing and regularly providing seminars on International and Travel Law topics John-Paul is an editor of the popular blog, International & Travel law.

John-Paul is a fluent Spanish speaker which is often helpful where the accident has occurred in Spain or a Spanish speaking country. He has experience of providing prospective advice to multi-national companies and national firms on private international law matters.

Recent interesting work includes:

- Representing various Spanish families in fatal accident claims arising from a collision between a lorry chartered by a Portuguese company and a minibus containing Spaniards involving multiple fatalities. (ongoing)
- Representing a family domiciled in England who, whilst on a family holiday, were involved in a horrendous RTA causing grievous harm where Belgian law applies
- Advising a multi-national company on the consequences of operating an adventure holiday scheme
- A claim involving a road traffic accident in Norway where the applicable law, pursuant to Rome II, is Norwegian law
- An anti-suit injunction where a claimant was seeking to pursue an action in the United States despite the English courts holding exclusive jurisdiction
- Representing a tour operator at an Inquest following a number of deaths at a holiday resort thought to be linked to the legionella pathogen

Clinical Negligence

John-Paul enjoys the medical and scientific aspect of clinical negligence claims and works closely with his instructing solicitors and experts. He undertakes high value work mainly receiving instructions from highly regarded claimant firms. He has experience of cases involving birth injury, amputation, unnecessary and negligent surgery, delayed diagnosis, cosmetic surgery, fatal cases, disclosure of risk and the negligent administration of clinical drugs. He is an editor of the Clinical Negligence Law blog.

Recent cases include:

- A birth injury claim leading to urinary incontinence of the mother.
- Failure to diagnosis a dermoid cyst on a 15 week old baby leading to severe brain injury.
- A brain injury claim arising from a delayed diagnosis of a brain tumour.
- A failure to diagnosis gall stone disease leading to pancreatitis, abdominal sepsis and severe complications including a complex form of diabetes.
- A claim arising from delay in A&E resulting in an above knee amputation.
- A claim arising from unnecessary surgery performed on a minor with complex congenital conditions (club feet and bowed legs) which left the claimant severely disabled.
- A claimant who suffered destruction of vestibular system by being given a toxic dose of antibiotics. As a result, the claimant has little, if any, sense of balance and disturbed vision.
- A failed radical prostatectomy giving rise to complete urinary incontinence.
- A delay in paediatric cardiac surgery leading to the death of a young child with a congenital cardiac condition.

He is an editor of the popular Clinical Negligence Law blog. He regularly provides seminars and write articles for AvMA, and at the request of national firms. He has several articles published in the Journal of Personal Injury Law including an article calling for an end to the *Bolam* test to determine breach of duty.

Inquests

John-Paul regularly acts for bereaved families and occasionally other interested parties, at all types of Inquests but has particular expertise in Article 2 ECHR enhanced Inquests. John-Paul has most experience in dealing with deaths in custody, 'jury' inquests, deaths in a clinical setting and deaths in employment and deaths arising from road traffic accidents. Invariably John-Paul is instructed in civil proceedings following the Inquest where a civil claim is brought.

Recent inquests include:

- Representing the family of Toni Speck. The death occurred in police custody where Toni was detained under the Mental Health Act 1983. The jury decided that the death should have been avoided.

- Representing the family of Irene Rzepa in this Inquest which concerned the death of this lady following repeated failures by general practitioners to consider her long history of high blood pressure.
- Representing the family of Graham Coker, a death following surgery for oesophageal cancer where there were found to have been multiple failings by the NHS Trust and where the entire unit was closed after a review by the Royal College of Surgeon.
- Representing the family of Jodie White-Charles where a young mother died of sickle cell complications as a result of Trust failures.
- Inquest touching the death of Mr Poland, Elliot and Jones: John-Paul represented the package holiday company (Saga) in the Inquest into the deaths of three British citizens following an outbreak of legionella in Calpe, Spain

Professional Negligence

John-Paul's experience of professional negligence matters (other than clinical negligence) relates to solicitor's negligence usually arising in personal injury litigation.

John-Paul has experience of claims arising from alleged negligence by a solicitor's firm dealing with asbestos claims, NIHL matters and clinical negligence claims.

Qualifications

University of Sheffield; International European and Comparative Law (LLB) 2001 – 2004

Memberships

Personal Injuries Bar Association (PIBA)

Professional Negligence Bar Association (PNBA)

Association v Medical Accidents (AvMA)

Pan Eueopean Organisation of Personal Injury Lawyers (PEOPIL) Travel and Tourism Lawyers Association (TATLA)

London Common law and Commercial Bar Association (LCLCBA)

Publications

International & Travel Law Blog

Clinical Negligence Law Blog

John-Paul regularly writes in the Personal Injury Law Journal and the Journal of Personal Injury Law

John-Paul lectures and writes articles frequently in those areas which has a particular interest in.

Reported Cases

Witham v Steve Hill Ltd [2020] EWHC 299 (QB) (quantum in a fatal case, led by Steven Snowden QC)

Irani v Duchon [2019] EWCA Civ 1846 (appeal and cross-appeal relating to causation of loss, *Blamire* and *Smith v Manchester* awards)

Helm v Kenyon & Sons Ltd v Somewatch Ltd [2019] EWHC 1108 (QB) (appeal from show cause)

Cary v Vauxhall Motors Ltd [2019] EWHC 238 (QB) (first successful secondary exposure claim in England);

Irani v Duchon [2018] EWHC 2314 (QB) (an RTA claim where causation and quantification were in issue for an Indian national who faced deportation as a consequence of the negligence. To be heard by the Court of Appeal in 2019)

Mark v Universal Coatings and Services Ltd v Barrier Ltd [2018] EWHC 3206 (QB) (procedural issues in a silicosis case, led by Ronald Walker QC);

Stacey (Executrix of the Estate of Mr Perry) v Triplex Safety Glass Company Ltd [2017] EWHC 1945 (QB) (causation and quantification).

R (on the application of Maureen Speck) v HM Coroner for the District of York & ors [2016] EWHC 6 (Admin) (Judicial review from coronial proceedings)

Quark Expeditions Incorporated v Ms Jacqueline Khoury High Court (Burton J) 25 November 2014 – (application for an anti-suit injunction in this international matter)

Mr Steve Kenny & 9 others v Jewel in the Crown Holidays High Court (Blair J) 11 December 2014 – (representing the tour operator in this multi-party litigation brought by 10 claimants who allegedly suffered food poisoning whilst on holiday in Spain)