

12

King's Bench Walk

Kate Boakes

Call: 2014

boakes@12kbw.co.uk



AREAS OF EXPERTISE

International & Travel, Industrial Disease, Abuse, Aviation, Environment, Personal Injury, Inquests

Kate acts in all of 12KBW's core areas, with an emphasis on cross-border group actions, industrial disease, and claims arising out of intentional physical or sexual abuse.

She has considerable advocacy experience, having acted as sole counsel at multi-day trials and appeared in front of a jury. She is equally comfortable working on large-scale litigation as part of a team, and is regularly brought into complex cases by the pre-eminent silks in her fields of work.

She is presently instructed in several private international law claims brought by groups of foreign nationals against multinational corporations, including cases which arise out of mass environmental damage, workplace sexual abuse, and mistreatment by private security forces.

She regularly acts in cases involving the application of foreign law under Rome I and Rome II, and issues of jurisdiction.

She has a particular specialism in claims arising out of asbestos exposure. She is junior counsel for the claimant in *Head v Culver Heating*, which is due to be heard by the Court of Appeal in December 2020.

International & Travel

Kate has extensive experience of acting in cross-border cases. She acts in group actions in which she is regularly led by leading silks in the field, and in individual cases as sole counsel.

In group actions, she has represented clients from Peru, Brazil, Malawi, Kenya, and Zambia, in claims against multinational corporations arising out of environmental damage and human rights abuses.

She has acted in high-profile cross-border claims brought against the UK Government, including a claim against the MOD and FCO arising out of alleged unlawful detention and torture during the invasion of Iraq in 2004, and claims brought by individuals who were sent to commonwealth countries as unaccompanied child migrants following the Second World War.

She frequently advises in claims arising out of accidents abroad, including those brought under the Package Travel Regulations. She also has experience of litigation arising out of aviation crashes.

She speaks fluent French. She wrote the applicable law chapter of the Butterworths Personal Injury Litigation Service.

Cases include:

- *Lungowe v Vedanta Resources Plc*: acting for more than 2,000 Claimants in group litigation arising out of pollution of waterways and land surrounding a copper mine in Zambia. Listed for trial in October 2021. Led by Richard Hermer QC.
- *Rahmatullah v MoD & FCO*: acting for Mr Rahmatullah in his claim against the UK Government for its involvement in his capture in Iraq in 2004 and extraordinary rendition to Bagram, where he was held for 10 years and allegedly tortured. Settled in November 2019. Led by Richard Hermer QC.
- *GDH & PAB v Secretary of State for the Department of Health*: acting for two individuals who were migrated to Southern Rhodesia and Australia in the 1950s pursuant to the UK Government's policy of permitting the migration of unaccompanied child migrants from the UK to commonwealth countries after the Second World War. They allegedly suffered sexual abuse and general mistreatment in the institutions to which they were migrated.
- *Vilca & Ors v Xstrata Plc & Xstrata Tintaya SA*: one of The Lawyer's Top 20 Cases of 2016, in which 22 Peruvian environmental protestors brought claims for serious injuries and mistreatment sustained during demonstrations at an Andean copper mine. Kate appeared in five reported decisions in this long running litigation. Led by Phillipa Kaufmann QC, Harry Steinberg QC and Charles Béar QC.
- Instructed as sole counsel by four dependent children in their claim arising out of a road traffic accident in Lithuania in which their mother was killed (settled in September 2020).
- Instructed by an English family who sustained injuries as primary and secondary victims due to an accident in France;
- *Kenyan Emergency Group Litigation*: as a baby barrister, instructed by the Government Legal Department in litigation in which 40,000 claimants sought compensation for alleged abuses during the Mau Mau uprising in Kenya in the 1950s.
- *Bomu-Bonny Oil Pipeline Litigation*: as a pupil, assisted with litigation in which 15,600 claimants settled their claims against Shell for £55 million, following two oil spills in the Niger Delta. Assisted Harry Steinberg QC.

Industrial Disease

Kate has considerable experience of acting in industrial disease claims, particularly those arising out of mesothelioma and other asbestos-related diseases. She has acted in numerous mesothelioma cases as sole counsel and regularly assists leading counsel. She has experience of product liability claims, in addition to the usual claims against employers and occupiers.

She co-authored the damages chapter of Sweet & Maxwell's *Asbestos: Law & Litigation* and is well-placed to advise on difficult or novel quantum issues. She co-edits a [blog](#) to which many of the leading practitioners in the field subscribe.

Cases include:

- *Head v Culver Heating Co Ltd* [2019] EWHC 1217 (QB): assessment of "lost years" claim brought by a successful businessman involving the application of *Adsett v West*. The appeal application was exceptionally re-opened by Lady Justice Simler under CPR 52.30, and is due to be heard by the Court of Appeal in mid-December 2020. Led by Harry Steinberg QC.
- *Inman v M&S*: acting for the claimant who died of mesothelioma which she alleged was caused by asbestos when working for M&S in the 1970s. The Defendant accepted a longstanding Part 36 offer the week before trial. Led by Harry Steinberg QC.

- *Wright v London Borough of Tower Hamlets*: acting for a claimant who sought damages for loss of services in the lost years, in the form of the salary of his son who would have to give up his work to care for his disabled mother and brother, after the death of his father from mesothelioma. Settled for £650k the week before trial. Led by Harry Steinberg QC.
- *Madjid v London Borough of Camden*: acting as sole counsel in a mesothelioma claim which settled the evening before trial, in which the claimant recovered c.£70k in respect of a private care regime.
- *Inquest touching upon the death of Linda Johns*: acting as sole counsel for the family of a woman who died of mesothelioma having had no known occupational exposure. Dr Fiona Wilcox, Senior Coroner, concluded that the deceased had been exposed to asbestos when resident in housing owned by Wandsworth Council. Press coverage can be viewed [here](#).

Personal Injury

Kate acts in all areas of personal injury law, including employers' liability, public liability, occupiers' liability, road traffic, sexual abuse and other intentional torts. She specialises in cases with an international element. She is regularly instructed by insurers in cases involving suspected fraud.

Cases include:

- *Head v Culver Heating Co Ltd* [2019] EWHC 1217 (QB): assessment of "lost years" claim brought by a successful businessman involving the application of *Adsett v West*. The appeal application was exceptionally re-opened by Lady Justice Simler under CPR 52.30, and is due to be heard by the Court of Appeal in mid-December 2020. Led by Harry Steinberg QC.
- *Vilca & Ors v Xstrata Plc & Xstrata Tintaya SA*: one of The Lawyer's Top 20 Cases of 2016, in which 22 Peruvian environmental protestors brought claims for serious injuries and mistreatment sustained during demonstrations at an Andean copper mine. Kate appeared in five reported decisions in this long running litigation. Led by Phillippa Kaufmann QC, Harry Steinberg QC and Charles Béar QC.
- *Passey v Kevin Sears Carpentry Ltd* [2018] 12 WLUK 656: Acting as sole counsel for the Defendant at trial. Successfully established that the Claimant had brought a fraudulent claim based on a fictitious accident because she was aggrieved at the manner in which building work had been carried out next to her property. Claimant found to be fundamentally dishonest.
- Instructed as sole counsel by four dependent children in their claim arising out of a road traffic accident in Lithuania in which their mother was killed (settled in September 2020).

Abuse

Kate regularly acts in sexual abuse cases, in the context of civil actions as well as claims under the Criminal Injuries Compensation Authority scheme.

She has been instructed in claims against institutions including schools, children's homes, local authorities, and youth organisations, as well as against individual defendants. She has experience of acting in group cases and cross-border cases involving issues of jurisdiction and applicable law.

Cases include:

- *GDH & PAB v Secretary of State for the Department of Health*: acting for two individuals who were migrated to Southern Rhodesia and Australia in the 1950s pursuant to the UK Government's policy of permitting the migration of unaccompanied child migrants from the UK to commonwealth countries after the Second World War. They allegedly suffered sexual abuse and general mistreatment in the institutions to which they were

migrated.

- historic sexual abuse claims brought by multiple claimants arising out of abuse by the same schoolteacher;
- historic sexual abuse claims against the Sea Cadets;
- appeal of the CICA's damages award of £9,500 in an historic abuse case, in which the applicant was ultimately awarded over £100k;
- claim brought by a police officer arising out of repeated sexual assaults by a senior colleague;
- claim brought by a victim of a serious and prolonged campaign of voyeurism which led to epileptic and psychiatric symptoms;
- appeal of the CICA's rejection of a childhood sexual abuse victim's claim which was brought more than 20 years out of time;
- appeal of the CICA's rejection of a claim brought by a victim of marital rape.

Environment

Kate has acted in many cases arising out of environmental disasters and contamination. In such cases she brings to bear her experience of cross-border litigation and personal injury.

Cases include:

- *Lungowe v Vedanta Resources Plc*: acting for more than 2,000 Claimants in group litigation arising out of pollution of waterways and land surrounding a copper mine in Zambia. Listed for trial in October 2021. Led by Richard Hermer QC.
- *Bravo & Ors v Amerisur Resources Plc*: acting for Colombian *campesinos* who allege that their local waterways have been contaminated by oil emanating from Amerisur's operations. Led by Richard Lord QC.
- *Vilca & Ors v Xstrata Plc & Xstrata Tintaya SA*: one of The Lawyer's Top 20 Cases of 2016, in which 22 Peruvian environmental protestors brought claims for serious injuries and mistreatment sustained during demonstrations at an Andean copper mine. Kate appeared in five reported decisions in this long running litigation. Led by Phillippa Kaufmann QC, Harry Steinberg QC and Charles Béar QC.
- *Bomu-Bonny Oil Pipeline Litigation*: as a pupil, assisted with litigation in which 15,600 claimants settled their claims against Shell for £55 million, following two oil spills in the Niger Delta. Assisted Harry Steinberg QC.

Inquests

Kate usually acts in inquests where she is instructed in a connected civil claim. She has appeared at inquests into deaths arising out of aviation, workplace, and road traffic accidents, and exposure to asbestos. She has acted in multi-day inquests as sole counsel, and has experience of appearing in front of a jury.

Cases include:

- *Inquest touching upon the deaths of Peter Stacey & Christopher Nicholls*: five-day jury inquest in which Kate acted for the family of a man who died during a Tiger Moth biplane flight experience, which had been purchased for him as a birthday present. Press coverage can be viewed [here](#).
- *Inquest touching upon the death of Linda Johns*: acting for the family of a woman who died of mesothelioma

having had no known occupational exposure. Dr Fiona Wilcox, Senior Coroner, concluded that the deceased had been exposed to asbestos when resident in housing owned by Wandsworth Council. Press coverage can be viewed [here](#).

Reported cases

Kate appeared in the following reported cases.

Lungowe v Vedanta Resources Plc [2020] EWHC 749 (TCC): led by Richard Hermer QC. Acting for more than 2,000 Claimants in group litigation arising out of pollution of waterways and land surrounding a copper mine in Zambia. Suitability and scope of a GLO in circumstances where two claimant groups were represented by separate legal teams, brought proceedings at different stages of development, and which raised different factual issues.

Head v Culver Heating Co Ltd [2019] EWHC 1217 (QB): led by Harry Steinberg QC. Acting for the Claimant in a mesothelioma claim at trial. Assessment of “lost years” claim brought by a successful businessman. Application of *Adsett v West*. Appeal to be heard by the Court of Appeal in December 2020.

Passey v Kevin Sears Carpentry Ltd [2018] 12 WLUK 656: Acting as sole counsel for the Defendant at trial. Successfully established that the Claimant had brought a fraudulent claim based on a fictitious accident because she was aggrieved at the manner in which building work had been carried out next to her property. Claimant found to be fundamentally dishonest.

Vilca v Xstrata Ltd [2018] EWHC 27 (QB): led by Phillippa Kaufmann QC. Acting for 22 Peruvian environmental protestors who brought claims for serious injuries and mistreatment sustained during demonstrations at an Andean copper mine. Preliminary trial in respect of Peruvian law issues and limitation.

Vilca v Xstrata Ltd [2017] EWHC 2096 (QB): led by Phillippa Kaufmann QC. Application to plead a limitation defence for the first time weeks before trial.

Vilca v Xstrata Ltd [2017] EWHC 1582 (QB): led by Phillippa Kaufmann QC. Application to instruct a different foreign law expert. Circumstances in which permission to change expert would be contingent on the disclosure of previous expert's report.

Vilca v Xstrata Ltd [2016] EWHC 2757 (QB): led by Harry Steinberg QC. Application to rely on an expert in the field of the Voluntary Principles on Security and Human Rights. Consideration of the principles to be applied when a party seeks to rely on an expert in a novel field of expertise.

Vilca v Xstrata Ltd [2016] EWHC 1824 (QB): led by Charles Béar QC. Application for a “re-review” of the Defendant's disclosure by an independent lawyer in circumstances where there were concerns about the integrity of the disclosure process.

Qualifications

2012-2014: GDL & BPTC, City University Law School

2006-2010: BA (Hons) Modern Languages, Oxford University

Publications

Asbestos: Law & Litigation, 1st Ed. (Sweet & Maxwell, 2019): chapter on “Damages” co-authored with Harry Steinberg QC.

Immunotherapy: promise and problems. J.P.I. Law 2019, 3, 192-196: journal article co-authored with Michael Rawlinson QC and Max Archer.

Accidents Abroad (2018) Butterworths Personal Injury Litigation Service: author of the Applicable Law chapter.

Rules of Service. P.I.L.J. 2017, 159 (Oct), 22-24: journal article on the rules of service co-authored with Max Archer.