

# 12

King's Bench Walk

## Philip Mead

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### AREAS OF EXPERTISE

International & Travel, Personal Injury, Employment & Discrimination, Insurance, Aviation

Philip joins the International and Travel Group of 12KBW with an established practice in the field of cross-border personal injury and employment law. He has been named as a Star Individual in Chambers & Partners for several years in respect of International and Travel Claims and has appeared in the leading cases on jurisdiction and conflict of laws. Philip has particular expertise in the field of European law, in respect of the application of the Judgments Regulation and the Rome II Regulation.

Philip's personal injury practice involves claims of the utmost severity and includes the following areas: road traffic accident claims, direct actions against foreign insurers and compensation bodies, employer's liability claims, product liability claims, fatal accident claims, package holiday claims and maritime and aviation claims.

Philip's employment practice has involved peripatetic and overseas workers, seafarers, claims against foreign embassies and international organisations, in relation to claims for breach of contract, discrimination and breach of statutory rights.

Philip has received instructions directly from foreign lawyers and foreign clients. He is able to act on a direct access basis without the need to instruct an English solicitor.

### International & Travel

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#### Jurisdiction

Philip has considerable experience in dealing with cases where there is a dispute as to the jurisdiction of the English Courts, having acted in several of the leading cases. In particular, Philip has experience of both cases requiring permission to serve out of the jurisdiction and those cases where permission is not required but jurisdiction is disputed. Philip's reported cases include the following:

*Hoteles Pinero Canarias SL v Keefe* [2016] 1 WLR 905 (CA) Jurisdiction; direct right of action against an insurer; joinder of tortfeasor; Judgments Regulation, Article 11(3) (appeal pending before the Supreme Court);

*Cook v Virgin Media Ltd* [2016] 1 WLR 1672 (CA) Jurisdiction; Scotland; civil procedure; forum non conveniens; strike out; personal injury (the leading case on intra-UK jurisdiction);

*Owusu v Jackson* (Case C-281/02) [2005] QB 801 (ECJ) Jurisdiction; EC law; forum non conveniens; Brussels Convention (the leading European case on jurisdiction under what is now the Judgments Regulation).

## **Conflict of laws and cases with a foreign dimension**

Philip has over 10 years of experience advising on and acting in personal injury claims with a foreign dimension. Philip has particular expertise in relation to claims involving the application of the Motor Insurance Directives and the Rome II Regulation.

Philip has particular knowledge and experience in dealing with the following issues: Bringing proceedings against foreign domiciled Defendants; Joinder and service of foreign Defendants; Applying foreign limitation; Applying foreign substantive law to liability and contributory negligence; Bringing claims against the MIB in respect of foreign accidents; Quantifying claims according to foreign law; Using direct rights of action against foreign insurers; Applying foreign law to fatal accident claims

Philip's cases include the following:

*Rai v Ministry of Defence* (9 May 2016; QBD) Conflict of laws; torts; choice of law; Rome II Regulation, Articles 1(1) and 4; acta iure imperii; employer's liability;

*Nemeti v Sabre Insurance Co Ltd* [2014] PIQR P12 (CA) Civil procedure; personal injury; amendment of parties; limitation; foreign road traffic accident;

*Jacobs v Motor Insurer's Bureau* [2011] 1 WLR 2609 (CA) Conflict of laws; applicable law; compensation against Compensation Body; implementing EU Directives; foreign road traffic accident; uninsured driver;

*Knight v AXA Assurances* [2009] Lloyd's Rep IR 667 (QBD) Conflict of laws; proper law; measure of damages and interest; foreign road traffic accident.

## **International employment cases**

Philip has considerable experience in handling cases of employees who work overseas or are peripatetic, and has appeared in the leading cases on the jurisdiction of the Employment Tribunal and the territorial scope of the statutory rights not to be unfairly dismissed or subject to unlawful discrimination. He has appeared in the following cases:

*Hasan v Shell International Shipping Services (PTE) Ltd* (14 January 2014; EAT) Jurisdiction of the Employment tribunal; breach of contract; discrimination on grounds of race; seafarers; unfair dismissal;

*R (on the application of the United Road Transport Union) v Secretary of State for Transport* [2013] IRLR 890 (CA) Employment; working time; international drivers; EU law; principles of effectiveness and equivalence;

*Ministry of Defence v Wallis* [2011] ICR 617 (CA) Jurisdiction of the ET; overseas employees; discrimination on grounds of sex; territorial scope; application of EU law;

*Diggins v Condor Marine Crewing Services Ltd* [2010] ICR 213 (CA) Jurisdiction of the ET; seafarers; place of work; unfair dismissal;

*Lawson v Serco* [2006] ICR 250 (HL) Employment overseas; jurisdiction of the ET; territorial scope; unfair dismissal (the leading case on the territorial reach of the Employment Rights Act 1996).

## Application of EU law

Many of the cases listed under the International & Travel sections concerned the application of EU law, whether contained in a Regulation or a Directive. The cases have concerned the application of directly effective rights, the interpretation of Directives and EU Regulations, the provision of an effective remedy, and the application of the European principles of effectiveness and equivalence: see *Hoteles Pinero Canarias SL v Keefe* (2016); *Rai v Ministry of Defence* (2016); *R (on the application of the United Road Transport Union) v Secretary of State for Transport* (2013); *Ministry of Defence v Wallis* (2011); *Jacobs v Motor Insurer's Bureau* (2011); *Owusu v Jackson* (Case C-281/02) (2005).

## Employment & Discrimination

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Philip has practised before the Employment Tribunal and Employment Appeal Tribunal for over 25 years. He has had a broad range of cases which have been reported (many on appeal to the higher appellate courts) including the following:

*Edwards v Chesterfield Royal Hospital NHS Foundation Trust* [2012] 2 AC 22 Breach of contract; disciplinary procedures; loss of reputation; recoverable loss; unfair dismissal

*ASLEF v Brady* [2006] IRLR 576 Unfair dismissal; gross misconduct; fairness; reasons for dismissal

*Chaudhary v STA Appeal Panel* [2005] ICR 1086 Jurisdiction of the ET; medical boards; race discrimination; right to a remedy; statutory appeals

*Williams v J Walter Thompson Goup Ltd* [2005] IRLR 376 Disability discrimination; reasonable adjustments; constructive dismissal

*Yearwood v Commissioner of Police of the Metropolis* [2004] ICR 1660 Discrimination; agency; liability of the principal; police officers

*Susie Radin Ltd v GMB* [2004] ICR 893 Employee consultation; redundancy; protective awards

*BMA v Chaudhary (No. 1)* [2003] ICR 1510 Abuse of process; doctors; promotion; race discrimination; time limits

*Transco v O'Brien* [2002] ICR 721 Employer's duties; trust and confidence; enhanced redundancy payments

*Mann v Secretary of State for Education and Employment* [1999] ICR 898 Collective redundancies; insolvency; redundancy payments; set-off

To read about Philip's experience in international employment claims, see the International & Travel section.

## Aviation

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Philip has an established practice in the field of cross-border personal injury and employment law, appearing in the leading cases on jurisdiction and conflict of laws. He has particular expertise in the field of European law, in respect of the application of the Judgments Regulation and the Rome II Regulation.

His international practice includes, Injury, employer's liability, product liability and fatal accident claims, package holiday, maritime and aviation claims. Philip's employment practice involves peripatetic and overseas workers, seafarers, claims against foreign embassies and international organisations, in relation to claims for breach of contract, discrimination and breach of statutory rights.

Philip is instructed in cases where there is a dispute as to the jurisdiction of the English Courts, in particular, Philip has experience of both cases requiring permission to serve out of the jurisdiction and those cases where permission is not

required but jurisdiction is disputed.

He has particular knowledge and experience in dealing with the following issues; Bringing proceedings against foreign domiciled Defendants, Joinder and service of foreign Defendants, applying foreign limitation; Applying foreign substantive law to liability and contributory negligence, quantifying claims according to foreign law, using direct rights of action against foreign insurers and applying foreign law to fatal accident claims

## Recent cases;

*Hoteles Pinero Canarias SL v Keefe* [2016] 1 WLR 905 (CA) Jurisdiction; direct right of action against an insurer; joinder of tortfeasor; Judgments Regulation, Article 11(3) (appeal pending before the Supreme Court);

*Cook v Virgin Media Ltd* [2016] 1 WLR 1672 (CA) Jurisdiction; Scotland; civil procedure; forum non conveniens; strike out; personal injury (the leading case on intra-UK jurisdiction);

*Rai v Ministry of Defence* (9 May 2016; QBD) Conflict of laws; torts; choice of law; Rome II Regulation, Articles 1(1) and 4; acta iure imperii; employer's liability;

## Qualifications & Awards

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Philip has been called to give expert evidence before the Legal Affairs Committee of the European Parliament.

## Appointments & Memberships

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Member of PIBA, Pan-European Organization of Personal Injury Lawyers (General Board Member for England and Wales) TATLA; ELBA; ELA; BEG; UKAEL.

## Directories

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Named as a Star Individual for Travel: International Personal Injury in Chambers & Partners 2017. Praised for being "completely on top of the myriad of European and international regulations," he is often instructed in high-value claims arising from RTAs and package holidays. He predominantly acts for claimants against insurers, compensation bodies and employers. "He knows the area inside out and back to front." "He is extremely experienced, well known and well recognised." "Philip is an excellent advocate who has been involved in some of the leading cases on private international law and jurisdiction."

"He is incredibly knowledgeable in relation to any claims involving cross-border disputes. He is an advocate of the highest calibre." *Chambers and Partners, 2021*

"He has a very good manner with clients and instantly puts them at ease." *Chambers and Partners, 2021*

"He provides pragmatic and commercial advice." *Chambers and Partners, 2021*

"He is one of the most innovative and informed counsel in the field of using EU Law, Conflicts of Law and comparative law in both domestic and cross-border tort law – particularly personal injury and travel law." *The Legal 500, 2021*

"A true specialist in European law and foreign jurisdiction claims. He is excellent at distilling complex legal issues into practical guidance." *Chambers and Partners, 2020*

"Almost needs no mention as one of the barristers with a big brain for all things private international law." *The Legal 500, 2019*

"Great on jurisdictional issues and a tactical mastermind" *The Legal 500, 2019*

"Philip's knowledge of cross-border issues is beyond impressive and he seeks innovative approaches to difficult issues. He teams that with an approachability and sensitive manner." *Chambers & Partners, 2019*

"He has an excellent breadth of knowledge in the area, and his advocacy skills come to the fore when dealing with complex issues." *Chambers & Partners, 2019*

"An absolute all-rounder; an intellectual with a very approachable and engaging manner." *Legal 500, 2018*

"He is outstanding with jurisdiction issues where he is quick to the point, explaining it easily to clients." *Legal 500, 2018*

"He has a great command of European law issues and how they affect domestic cases." *Legal 500, 2017*

"Extremely cerebral and on a higher plane when it comes to the machinations of Europe." *Legal 500, 2017*

"...an excellent advocate who has been involved in some of the leading cases on private international law and jurisdiction." *Chambers & Partners, 2017*

"...completely on top of the myriad of European and international regulations." *Chambers & Partners, 2017*

"He is a delight to work with and very much views litigation as a team approach." *The Legal 500, 2016*

"He is very bright and knows EU law and cases to an extent that most people don't. He always makes time in the morning or the evening for a call, and he is a real brainbox." *Chambers & Partners, 2016*

"Recommended for cases involving conflicts of law." *Legal 500, 2015*

## Publications

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Co-Author and editor of books on Personal Injury Compensation in Europe (2003) and (2005)

## Cases

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*Rai v Ministry of Defence* (9 May 2016; QBD) Conflict of laws; torts; choice of law; Rome II Regulation, Articles 1(1) and 4; acta iure imperii; employer's liability

*Cook v Virgin Media Ltd* [2016] 1 WLR 1672 Conflict of laws; jurisdiction; Scotland; civil procedure; forum non conveniens; strike out; personal injury

*Hoteles Pinero Canarias SL v Keefe* [2016] 1 WLR 905 Conflict of laws; jurisdiction; direct right of action against an insurer; joinder of tortfeasor; Judgments Regulation, Article 11(3)

*Hasan v Shell International Shipping Services (PTE) Ltd* (14 January 2014; EAT) Jurisdiction of the Employment tribunal; breach of contract; discrimination on grounds of race; seafarers; unfair dismissal

*Nemeti v Sabre Insurance Co Ltd* [2014] PIQR P12 Civil procedure; personal injury; amendment of parties; limitation; foreign road traffic accident

*R (on the application of the United Road Transport Union) v Secretary of State for Transport* [2013] IRLR 890 Employment; working time; international drivers; EU law; principles of effectiveness and equivalence

*Commissioner of Police of the Metropolis v Maxwell* [2013] Eq LR 680 Employment; discrimination on grounds of race and sexual orientation; victimisation; harassment; limitation

*Edwards v Chesterfield Royal Hospital NHS Foundation Trust* [2012] 2 AC 22 Employment; breach of contract;

disciplinary procedures; loss of reputation; recoverable loss; unfair dismissal

*Ministry of Defence v Wallis* [2011] ICR 617 Jurisdiction of the ET; overseas employees; discrimination on grounds of sex; territorial scope; application of EU law

*Jacobs v Motor Insurer's Bureau* [2011] 1 WLR 2609 Conflict of laws; applicable law; compensation against Compensation Body; implementing EU Directives; foreign road traffic accident; uninsured driver

*Diggins v Condor Marine Crewing Services Ltd* [2010] ICR 213 Jurisdiction of the ET; seafarers; place of work; unfair dismissal

*Knight v AXA Assurances* [2009] Lloyd's Rep IR 667 Conflict of laws; proper law; measure of damages and interest; foreign road traffic accident

*Spackman v London Metropolitan University* [2007] IRLR 744 Employment; quantum meruit; deductions from wages; breach of contract; industrial action

*Daniels v Commissioner of Police of the Metropolis* (5 July 2006; QBD) Employment and personal injury; harassment; psychiatric harm; occupational stress

*ASLEF v Brady* [2006] IRLR 576 Employment; unfair dismissal; gross misconduct; fairness; reasons for dismissal

*Lawson v Serco* [2006] ICR 250 Employment overseas; jurisdiction of the ET; territorial scope; unfair dismissal

*Chaudhary v STA Appeal Panel* [2005] ICR 1086 Employment; jurisdiction of the ET; medical boards; race discrimination; right to a remedy; statutory appeals

*Owusu v Jackson* (Case C-281/02) [2005] QB 801 Conflict of laws; jurisdiction; EC law; forum non conveniens; Brussels Convention

*Williams v J Walter Thompson Goup Ltd* [2005] IRLR 376 Employment; disability discrimination; reasonable adjustments; constructive dismissal

*Yearwood v Commissioner of Police of the Metropolis* [2004] ICR 1660 Employment; discrimination; agency; liability of the principal; police officers

*Susie Radin Ltd v GMB* [2004] ICR 893 Employment; employee consultation; redundancy; protective awards

*BMA v Chaudhary* (No. 1) [2003] ICR 1510 Employment; abuse of process; doctors; promotion; race discrimination; time limits

*Transco v O'Brien* [2002] ICR 721 Employment; employer's duties; trust and confidence; enhanced redundancy payments

*Mann v Secretary of State for Education and Employment* [1999] ICR 898 Employment; collective redundancies; insolvency; redundancy payments; set-off