

# 12

King's Bench Walk

## William Audland QC

Call: 1992

Silk: 2015

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### AREAS OF EXPERTISE

Personal Injury, International & Travel, Mediation, Clinical Negligence, Professional Negligence, Fraud, Aviation

William has an established reputation in the fields of international and travel law, and personal injury, and specialises in cross-border claims which combine these two areas of expertise. He is ranked as a leading silk in both these fields in all the major directories in which he has been described as “clear-thinking and clever, with a calm and persuasive style of advocacy”.

William also has a growing practice in the fields of clinical negligence, and as a Mediator.

William is regularly instructed by both claimants and defendants in all his fields of expertise.

### Aviation

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William has wide experience of claims brought under the Package Travel Regulations (including recovery actions on behalf of tour operators and their insurers from foreign suppliers and insurers), and of claims brought under the Montreal and Warsaw Convention, predominantly in high-value claims regarding civil liability for deaths and personal injuries.

His recent work includes;

*Noble Caledonia Ltd v Air Niugini Ltd No 1 [2017] EWHC 1095 (QB) and No 2 [2017] EWHC 1393 (QB)*. A commercial recovery action by a tour operator (represented by William) against an airline flowing from the delayed departure of a flight (by several days) which caused all clients to miss their cruise holiday. The preliminary issues involve arguments as to service of proceedings and jurisdiction and whether the Warsaw Convention applies to the claim. The appeal was listed to be heard by the Court of Appeal in January 2018, but the case was compromised shortly before the hearing.

William was instructed on behalf of the Defendant Tour Operator in a claim arising out of a fatal hot air ballooning accident in Turkey in which two balloons collided, Turkish law applied, and the claim was successfully defended on the basis of Turkish aviation limitation law, which gave effect to the Montreal Convention.

William is acting for the claimant in a claim against a firm of solicitors who mishandled a case brought under the Montreal Convention. The claim raises interesting issues regarding the nature of an ‘accident’ under the Convention and the measure of damages recoverable in a professional negligence case brought against solicitors who misapplied the Convention.

## Awards

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Chambers and Partners UK Bar Award for Personal Injury/Clinical Negligence Junior Barrister of the Year in 2013

## Memberships

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Personal Injuries Bar Association

Professional Negligence Bar Association

European Circuit of the Bar

Pan-European Organisation of Personal Injury Lawyers

Travel and Tourism Lawyers Association

London Common Law and Commercial Bar Association

## Directories

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William is ranked as a leading silk in his main areas of expertise – international and travel law, and personal injury – in all the major directories.

William is one of four silks in Tier 1 in the Legal 500 (2018) for Travel including Jurisdiction; and ranked in Band 3 by Chambers & Partners (UK Bar Directory 2019) for Travel: International Personal Injury.

Quotes include:

He is very talented and has an excellent level of professionalism and commitment. He is a brilliant advocate and has first-class negotiation skills – Chambers & Partners, 2019

He is a delightful and energetic barrister – Chambers & Partners, 2019

Excellent knowledge of the CPR surrounding case law. A pleasure to watch in court, with a compelling and well-reasoned manner that nonetheless manages to be concise – Chambers & Partners, 2019

He is a very bright thinker who is good at seeing ways through issues. He's very personable, provides a great service and is very responsive. He has a calm manner on his feet and judges like him – Chambers & Partners, 2019

He is incredibly knowledgeable, unflappable and able to get to the heart of complex matters very quickly – Legal 500, 2018

He is an undoubted leader and his strengths are attention to detail and a practical approach – Legal 500, 2018

A very able advocate, who is very much on top of his game – Legal 500, 2017

Technically astute and always willing to fight where necessary, he is a master of cross-examination – Chambers & Partners, 2018

Always impressive. His paperwork is superb and he is a truly skilled negotiator – Chambers & Partners, 2018

Very bright and great at identifying and addressing the key issues in complex cases – Chambers & Partners, 2017

He is excellent on tricky legal issues including cases with an international twist. – The Legal 500, 2016

His attention to detail, his tactical analysis and his advocacy skills are excellent. He thinks outside the box (...) – Chambers & Partners, 2016

(...) recommended for his versatility and technical abilities. – Who's Who Legal, 2016

He has a brain like the planet Jupiter, only larger. – The Legal 500, 2015

## Publications

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Personal Injury Schedules: Calculating Damages (Bloomsbury Professional) 4th ed.; Contributing Editor.

## Cases

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*Swift v Carpenter [2018] EWHC 2060 (QB)*. An assessment of damages in a claim for catastrophic injuries suffered by a trans-tibial amputee. Permission has been granted to the claimant to appeal to the Court of Appeal on the issues relating to the dismissal of her claim for *Roberts v Johnstone* damages for the costs of accommodation.

*X v Kuoni Travel Limited [2018] EWCA Civ 938* An unsuccessful claim against Kuoni (represented by William) in respect of a rape committed by an employee of the Sri Lankan Hotel where she was staying in the course of a package holiday. The case involved interesting issues as to breach of contract and vicarious liability. The claimant's application for permission to appeal to the Supreme Court is pending determination.

*Pinkus v Direct Line [2018] EWHC 1671 (QB)*. William represented the successful defendant in this case in which a claimant's claim for catastrophic injuries (originally alleged to include a subtle brain injury, but later alleged to arise out of serious psychiatric injury) was dismissed in its entirety with costs for fundamental dishonesty.

*Noble Caledonia Ltd v Air Niugini Ltd No 1 [2017] EWHC 1095 (QB) and No 2 [2017] EWHC 1393 (QB)* concerning an application to strike out a claim on the grounds of jurisdiction and the invalidity of service in the jurisdiction (on a general sales agent domiciled here), and a cross application to serve the proceedings on the defendant out of the jurisdiction. An appeal on all issues was to be heard by the Court of Appeal in January 2018, but the case was compromised shortly before the hearing.

*Simon v Imperial College Healthcare NHS Trust [2015] EWHC 2603 (QB)*: William successfully resisted an application by the Defendant/NHSLA to stay the proceedings (and adjourn the trial) pending the outcome of the Court of Appeal's decision in *Reaney v University Hospital of North Staffordshire NHS Trust* (and whether the decision in *Sklair* is wrong in law). Supperstone J held that the balance of justice under the overriding objective required the claim to proceed to trial.

*Ali v (1) Caton (2) Motor Insurers' Bureau [2014] EWCA Civ 1313*. The appeal and cross-appeal following the trial (cf. *Ali v (1) Caton (2) Motor Insurers' Bureau [2014] EWHC 1730 (QB)*) of an unusual claim for catastrophic brain injury sustained by a child in a road accident involving interesting issues of credibility and exaggeration after it was discovered that the claimant had passed the UK Citizenship Test unaided (suggesting he retained good cognition and mental capacity) whereas he asserted that he had only done so by cheating. Acting alone at trial, and with Stephen Worthington Q.C. on the appeals, William represented the Second Defendant.

*Dr Aldeen v Royal Devon & Exeter NHS Foundation Trust 21.11.2012*. An unreported decision of HHJ Griggs sitting in Exeter CC. William successfully defended the Trust in a claim by one of their former consultants who claimed damages for psychiatric injury/stress caused by his suspension from work on grounds of capability. After a two week trial the court dismissed the claim in negligence and breach of contract. In respect of the contractual claim the court followed the approach adopted by Simeon Maskrey QC, sitting as a deputy of the High Court, in *Lakshmi v Mid Cheshire Hospitals NHS Trust [2008] IRLR 956*, holding that a consultant's contract did not include the terms of the Trust's disciplinary and capability procedures, but included a term that the employer would comply with the procedure unless there was good reason to do otherwise.

*Moody v Aviva & another Lawtel 4.5.2011*. A decision of Mr Recorder Reeds Q.C. sitting in the Kingston upon Hull CC

concerning the assessment of damages in a claim by a talented young rugby league player who was playing in an Academy squad at the time of the accident, and who alleged that as a result of a spinal injury he had lost a probable career as (i) a professional player within a club side playing in the Super League and thereafter (ii) a professional coach. The latter claim was rejected. The former claim was assessed on the basis of a lost chance of 25% of achieving such a career.

*Davies v Pay [2010] EWCA Civ 752.* The Court of Appeal ordered a retrial in circumstances where the trial judge had failed to conduct a sufficient review of the evidence before dismissing a claim under the Fatal Accidents Act 1976 on the basis of erroneous assumptions as to the circumstances in which a fatal road traffic accident had occurred. The Defendant had admitted negligence, but asserted that his negligence had not caused or contributed to the death of the deceased.

*O'Leary v Tunnelcraft Ltd. & others [2009] EWHC 3438.* A decision of Swift J, who refused an application by a defendant for permission to rely on surveillance evidence in a claim for catastrophic injuries where that evidence was disclosed 31 days before trial in circumstances which amounted to an ambush.

*Smale v (1) Ball (2) Motor Insurers Bureau Lawtel 6.6.07.* A decision of Nigel Baker Q.C. sitting as a Deputy High Court Judge (QBD), in which he confined an award of damages for loss of earnings/earning capacity in a case involving a boy aged 12 when he sustained brain injuries, and 22 at trial, to two modest lump sum awards (i) pursuant to *Blamire v South Cumbria HA (1993) PIQR Q1*, and (ii) an award of *Smith v Manchester* damages; and rejected a much larger claim advanced on a multiplier/multiplicand basis.

*Caerphilly County Borough Council v (1) Matthew Hughes (2) Jamie Verity (3) Christian Rowlands Lawtel 17.03.06.* A decision of Silber J QBD (Cardiff District Registry sitting in Swansea on 6.12.05). A landmark decision concerning successful committal proceedings brought by a local authority pursuant to CPR 32.14(2)(b) against (i) a claimant who had attempted to bring a fraudulent claim for damages for personal injury and (ii) his two witnesses, for signing deliberately false statements with a statement of truth.

*Keeley v (1) Pashen (2) Wren Motor Syndicate 1202 at Lloyds [2004] EWCA (Civ) 1491.* An important case considering the extent to which a motor insurer can evade its liability under section 151 of the Road Traffic Act 1988 by reference to the limitations as to use under the policy. A driver who set down his last fares of the night and then drove his car at them to frighten them, thereby killing one of them, was held not to be driving his car "for hire and reward" (an excluded use under the policy) but to be driving it for "social, domestic or pleasure" (an included use under the policy).

*Dixon v Were [2004] EWHC 2273 (QB).* A high value claim for catastrophic (brain and psychiatric) injuries, involving (i) the application of the principles set out in *Master-Lister v Brutton & Co [2002] EWCA Civ 1889* to the issue of the claimant's disputed patient status; (ii) the resolution of claims for losses of earnings and remuneration package benefits, and the loss of a chance of very high earnings; and (iii) the resolution of a high value claim for care and case management.

*Ling v (1) Test Valley Borough Council (2) Salisbury Healthcare NHS Trust [2003] EWHC 490 (QB).* A clinical negligence case involving catastrophic injuries.

*A v X & B (Non party) [2004] EWHC 447 (QB).* Application by the Defendant for an order for non-party disclosure of medical records belonging to the Claimant's brother on grounds that the Claimant's psychiatric illness was genetic and not traumatic in origin.

*Beaton v Devon CC [2002] EWCA (Civ) 1675.* Occupiers Liability in relation to a public cycle path.