

David White

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AREAS OF EXPERTISE

Personal Injury, Clinical Negligence, Industrial Disease, Professional Negligence, International & Travel, Insurance, Product Liability, Costs & Litigation Funding, Fraud, Inquests, Public Authority Liability, Accidents at Sea/Maritime Claims, Military Claims

David's principal areas of practice are personal injury, clinical negligence, insurance/indemnity disputes and costs law. David has been listed as a leading junior in Personal Injury work in Chambers & Partners and the Legal 500 for many years. David acts for claimants and defendants and is regularly instructed to represent clients both at court and at Joint Settlement Meetings. David is known as a "robust but realistic" advocate and negotiator, with a keen eye for detail and excellent client care skills. David acts led or unled in high value cases, as appropriate.

In the Personal Injury field David is regularly instructed in RTA, EL, PL, product liability and holiday claims. David has particular expertise in serious injury cases including amputation, traumatic brain injury, pain conditions (including CRPS and FND) and spinal injury. In his disease practice David has particular experience and expertise in asbestos cases.

In his clinical negligence practice, David acts principally for claimants. He regularly advises in cases involving complex medical issues, particularly concerning causation.

David also has an extensive costs practice, and regularly acts for paying and receiving parties in detailed assessments in the SCCO and the County Courts, often concerning substantial seven figure bills. He has been instructed in disputes concerning the enforceability of Conditional Fee Agreements and the recovery of ATE insurance premiums.

In the insurance and indemnity field, David advises insurers and policy-holders on policy disputes concerning policy wording and coverage and indemnity issues, and advises in solicitors negligence cases.

David has expertise in cross-border PI claims and is regularly instructed in cases that raise issues as to jurisdiction and applicable law (Rome II) and he is used to working with foreign law experts in such claims.

David regularly lectures and presents seminars to solicitors and insurers. He has recently lectured on recent developments in EL claims, loss of earnings claims for the self-employed, costs claims and Part 36 developments. David sits on the Editorial Board of *Kemp & Kemp: Law Practice and Procedure*, and he edits the chapters on Provisional Damages, Interim Payments and MIB Claims.

Personal Injury

David acts for Claimants and Defendants in serious injury cases, including traumatic brain injury, spinal injury, pain conditions (including Functional Neurological Disorder and Complex Regional Pain Syndrome) and amputation. David is regularly instructed in seven-figure cases, both led and unled, as appropriate.

David's cases usually involve complex medical evidence where there are issues as to causation and prognosis, and where quantification of the claim is complex and nuanced.

In the field of **spinal injury** David has recently been instructed for a paraplegic client (motor and sensory complete at T12) whose case concluded at a JSM. David was led by a KC. The Schedule of Loss was c. £5m which included substantial claims for live-in care, exoskeletons and adapted accommodation.

In the field of **traumatic brain injury**, David is instructed in cases concerning adults and children. David has particular expertise in cases where the residual cognitive deficit from the brain injury is subtle, but where the implications for future work prospects are potentially of great significance because of the intellectual demands of the job in question.

In the field of **chronic pain**, David acts for Claimant and Defendant clients in a wealth of different and challenging cases in which an ostensibly straightforward injury has morphed into a condition that is disabling and disproportionate to the initial injury, including cases concerning complex regional pain syndromes (CRPS), functional neurological symptoms disorders (FND), and other conditions that are believed to be psychiatrically-driven. David is familiar with the leading experts in this niche field and with the complex medical issues on causation and prognosis that arise.

In the field of **amputation**, David has been instructed in cases concerning both lower limb and upper limbs. David is presently instructed in cases concerning above and below knee amputations, below elbow amputation, a forefoot amputation and fingertip amputations.

David is familiar with the leading experts in the above fields, and can provide appropriate advice as to choice of experts.

David has a particular interest in quantum issues, for example, cases concerning how a continuing disability should impact on assessment of future loss (Ogden 8 arguments). David represented the Defendant in the leading case of Conner v Bradman [2007] EWHC 2789 (QB). Separately, David regularly engages with disputes arising from high value care and case management regimes in maximum severity spinal cord and brain injury cases.

David frequently advises in cases involving complex loss of earnings claims. For example, non-domiciled workers where there are issues as to whether Income Tax would have been paid on their earnings (and if so, where), and self-employed claimants with variable/erratic earnings and those working in unusual/niche areas, such as actors, performers, professional athletes and sports players.

David has developed a particular expertise in advising (claimants and defendants) in cases brought by theatrical and film performers (actors and dancers typically) arising from serious injury suffered on the stage or on location during the making of films, adverts, and TV dramas, for example, where a special effect or pyrotechnic effect has gone wrong, or where scenery or props have fallen. These cases can raise complex technical issues in respect of liability, appropriate insurer, and quantification of lost earnings where the performer's earnings are often highly variable.

David has expertise in fatal accident claims and is regularly instructed in claims where there are substantial loss of dependency claims, and where the family situation is complex, for example, where there are dependent children from multiple relationships. David is currently advising in a case where a mother and adult brother are claiming to be dependants of the deceased.

Recent concluded cases include the following:-

H v S

David acted for the Claimant, led by a KC. C suffered paraplegia (motor and sensory complete at T12) as a result of a section of tree falling on him during a tree felling operation. C had no recollection of how the accident occurred and liability was disputed. Quantum was complex and David drafted the Schedule of Loss. The case settled for a substantial sum at a JSM, the settlement reflecting risk on liability and quantum issues.

H v Q

A catastrophic injury case where the claimant suffered somatoform pain disorder or conversion disorder as a result of an accident on a building site. David advised throughout on the complexities arising from the multi-disciplinary medical evidence and assessment of quantum. David was unled until the final stages of the litigation. The final Schedule of Loss totalled £2.5m, and settled at a second Joint Settlement Meeting for a substantial seven figure sum, the discount reflecting uncertainty as to future prognosis.

O v G

David acted for a defendant in this below- knee amputation case. The quantum issues were complicated by the fact that the claimant was living and working in the UK illegally, which raised issues as to *ex turpi causa* and where her future would be spent.

B v L

David acted for a claimant in this catastrophic brain injury case. The claimant suffered a severe Traumatic Brain Injury as a result of a road accident and was left highly dependent on carers and requiring 24/7 care. The main issues were the appropriate care regime (residential home versus supported independent living in his own home with adaptations), case management and the extent of therapies. The case settled for a substantial seven figure sum.

Qualifications & Awards

Bar Vocational Course, "Very Competent" (ICSL, 1999)

CPE Diploma on Law (City University; 1998)

M.Stud. History of Art (Lincoln College, Oxford; 1997)

MA, English (Jesus College, Cambridge; 1996)

Major Scholar, Lincolns Inn (1998)

Hardwicke Entrance Award, Lincolns Inn (1997)

Memberships

PIBA, PNBA, London Common Law and Commercial Bar Association, British Institute of International and Comparative Law

Publications

Contributory Editor and member of the Editorial Board, *Kemp and Kemp Law Practice and Procedure*

Cases

Personal Injury

Conner v Bradman [2007] EWHC 2789 (QB)

The first reported case on the application of the Ogden tables for contingencies other than mortality to multipliers for future loss of earnings. The Court arrived at the compromise position of splitting the Table A and B adjustments on the particular facts of the case. David represented the Defendant in this leading case.

H v Q

A catastrophic injury case where the claimant suffered **somatoform pain disorder** or conversion disorder as a result of an accident on a building site. David advised throughout on the complexities arising from the multi-disciplinary medical evidence and assessment of quantum. David was unled until the final stages of the litigation, when he was led by Frank Burton QC. The final Schedule of Loss totalled £2.5m, and settled at a second Joint Settlement Meeting for a substantial seven figure sum, the discount reflecting uncertainty as to future prognosis.

O v G

David acted for a claimant in this **below- knee amputation case**. The quantum issues were complicated by the fact that the claimant was living and working in the UK illegally, which raised issues as to *ex turpi causa* and where her future would be spent.

B v L

David acted for a claimant in this **catastrophic brain injury case**. The claimant suffered a severe Traumatic Brain Injury as a result of a road accident and was left highly dependent on carers and requiring 24/7 care. The main issues were the appropriate care regime (residential home versus supported independent living in his own home with adaptations), case management and the extent of therapies. David was led by Frank Burton QC and the case settled for £4.25 million.

Insurance/Indemnity

David recently concluded a case at a JSM where the issue was the application of s151(8) of the Road Traffic Act 1988 in the light of the Court of Appeal decision in *Churchill v Wilkinson*, namely whether a claimant passenger who suffered injury as a result of the negligence of someone whom she had permitted to drive her vehicle should have a deduction from her damages for contributory fault, and, if so, the extent of the deduction.

Fatal Accidents

AB (PERSONAL REPRESENTATIVE OF THE LATE GH) v KL [2019] EWHC 611 (QB)

David acted throughout for the Defendant in this interesting fatal accident case that concluded at a Trial before David Edwards QC sitting as a High Court Judge. The case considered claims by the deceased's children for future financial contributions that it was said that the deceased would have made to the cost of their weddings and the cost of a first property in the future, and claims for the value of DIY services that would have been provided, even though the children did not own any property at the time of death.

Clinical Negligence

M v Wye Valley NHS Trust

David represented the claimant in this complex clinical negligence case. The claimant suffered a catastrophic stroke at Hospital, as a result of which he was rendered blind and suffered brain damage. Breach of duty was admitted but causation was very much in issue, the issue being whether early intervention by a neurologist would have prevented the stroke or reduced the effects of the same. There was also substantial disagreement relating to the future care and accommodation claims. The Defendant instructed a QC from the outlet. David was unled until the very final stages of the litigation when he was led by Gerard Martin QC. The Schedule totalled £2.9 million. A substantial settlement was achieved at a JSM.

Travel/International

Halfpenny v Virgin Holidays

David recently successfully represented the tour operator at trial and defeated a claim for improper performance of the contract pursuant to the Package Travel Regs, the claim arising from a holidaymaker who fell down steps in what was alleged to be a poorly-lit area in a Caribbean resort.

Prow v ES Global

David acted for the family of the lighting technician who was killed as a result of the collapse of a concert stage at a Madonna concert in France. The case raised issues of jurisdiction and applicable law. The case settled by consent.

David is presently instructed in a high value Jersey case and is working with English solicitors and Jersey Advocates on the liability and quantum aspects of the case.

Accidents at Sea

Neville v NDS

David represented the Claimant in this case that arose from injury sustained whilst the Claimant was on a "Treasure Hunt by RIB" trip in the Solent, the trip having been organised by his employer as a reward to the staff. The Claimant suffered spinal injury in the course of the trip and the physical injury developed into a psychologically-driven chronic pain state. This being an accident at sea, liability of the RIB operator was governed by the Athens Convention, and the case was litigated in the Admiralty Division of the High Court. The case required expert liability evidence from experts on weather, sea state, tides and powerboating. The claim against the employer raised interesting issues as to the extent of an employer's duty in respect of delegated activities. David secured a substantial settlement for his client at a 3-way JSM.