

## 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.

### International & Travel

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David is a founder member of the 12KBW International Practice Group. David is regularly instructed to act on behalf of Claimants and Defendants in cases that raise issues concerning jurisdiction and/or applicable law.

Recent cases include the following:-

*FDA v RS Reinforcements Limited*

David was instructed to act as associate counsel alongside the Jersey Advocate in this 5 day liability trial in Jersey before the Deputy Bailiff sitting with Jurats. The claim arose from a fall from height on a construction site when a working platform collapsed. The Claimant suffered life-changing injuries in consequence. Liability was established against the employer for breach of the non-delegable duty of care and the court proceeded to apportion liability between the employer and the contractor responsible for the defective working platform.

*L v W*

David acted for a claimant who suffered spinal injury as a result of an accident on a Spanish waterslide. Issues of liability and quantum were both governed by Spanish law and there was an issue as to the applicability of Spanish interest provisions in the English courts.

*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.*

*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. 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.

## Qualifications & Awards

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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

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

## Publications

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

## Cases

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### 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 outset. 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.