12
King's Bench Walk

Frank Burton KC



Call: 1982
Silk: 1998

burton@12kbw.co.uk

AREAS OF EXPERTISE

Mediation, Arbitration, Early Neutral Evaluation

JUDICAL APPOINTMENTS

Deputy High Court Judge: 2010 - 2017 | Recorder: 1999 - 2017

Frank Burton KC received a Life Time Achievement Award from Chambers in 2017 after indicating his intention to retire from taking new cases at the Bar.

Since then, Frank has bult up a thriving Mediation practice and is regularly instructed by all leading solicitors in the field of personal injury. He is currently a joint Mediator with Lord Neuberger into the claims arising out of the Manchester Arena Terrorist attack in May 2017.

Frank has been a mediator for over 20 years. In personal injury mediations, he is able to offer, if the parties wish,an evaluative assessment as well as the traditional facilitative approach. He currently mediates about 30 cases a year and has done it for the last 7 years. In addition, he has arbitrated over a thousand cases involving MIB claims and is able to provide written early neutral evaluations of cases or of issues in dispute.

Frank's expertise and approach in mediation and arbitration have been highly praised, *"I am not usually that keen to fill in feedback forms but wanted to register how happy I was with Frank Burton's approach. His grasp of the issues was instinctive and thorough but I was expecting that. What was most impressive was the humanity of his approach and understanding. In particular knowing from the outset that a critical issue to resolve early on was the offence caused to the Claimant by being needlessly placed under surveillance but this never being confirmed or denied. The apology and acknowledgement that Frank extracted from the Defendants will never be forgotten by my client who has just phoned me to tell me how much that meant to him. He will forever be grateful for that".*

Whilst at the Bar, Frank received the Best Lawyers® 2015 and 2018 Personal Injury Litigation "Lawyer of the Year" award in London and was also selected by peers for inclusion in the Sixth Edition of The Best Lawyers in the United Kingdom in the practice area of Personal Injury Litigation.

Recognised in both the Legal 500 and the Chambers Directory as a "leading silk" in personal injury and in the Legal 500 as a 'leading silk' in medical negligence, Frank has an established practice in the areas of personal injury, professional and clinical negligence.

Frank Burton KC was named in Chambers & Partners top 100 KCs selected ranked according to their legal capability and the service they provide to their client and was one of just two PI silks named in the first of this prestigious group.

Listed as a Star Individual in Chambers & Partners as early as 2012, Frank was described as "colossal" and is admired for his "excellent legal mind, immense patience and empathy with clients, and incredible sway with the judiciary." Along

with this, his advice is acclaimed as "clear, concise, understandable and above all pragmatic and realistic."

In Chambers and Partners 2011, Frank is prized by both defendants and claimants for his "incredible intellectual acumen," he is noted for the "genuine compassion he exhibits towards people who have suffered serious injuries." Solicitors concur that he is a true market leader on asbestos-related cases, an area where he regularly represents claimants and demonstrates "a mild-mannered ruthlessness in court."

Frank is also described as “head and shoulders above the rest,” and “is everything you could possibly want in a KC.” One of the undisputed leaders in the field, he is endorsed as “a polished performer with a formidable intellect.” He has acted in some of the most high-profile litigation in the field such as the pleural plaques test cases, Grieves v F T Everard and Son and Rothwell v Chemical & Insulating Co. Frank has been commended for having "a rare combination of a brilliant academic mind, excellent preparation skills and a compelling manner with clients”.

Frank was named 'Personal Injury Silk of the Year' 2005, 2006 and 2008 at the Chambers Bar Awards. Frank was awarded Star Individual status in personal injury in Chambers 2009, the first barrister to achieve this rating. He was also described a leading Silk in industrial disease and clinical negligence.

Mediation

Frank has been a mediator for over 20 years. In personal injury mediations, he is able to offer, if the parties request it, an evaluative assessment as well as the traditional conciliatory approach. He currently mediates about 20 cases a year and has done for the last 5 years. In addition he has arbitrated over a thousand cases involving MIB claims and is able to also provide written early neutral evaluations of cases or issues in dispute.

Frank’s expertise and approach in mediation and arbitration have been highly praised, most recently reflected in the feedback following his last mediation: *“I am not usually that keen to fill in feedback forms but wanted to register how happy I was with Frank Burton’s approach. His grasp of the issues was instinctive and thorough but I was expecting that. What was most impressive was the humanity of his approach and understanding. In particular knowing from the outset that a critical issue to resolve early on was the offence caused to the Claimant by being needlessly placed under surveillance but this never being confirmed or denied. The apology and acknowledgement that Frank extracted from the Defendants will never be forgotten by my client who has just phoned me to tell me how much that meant to him. He will forever be grateful for that.” following his most recent mediation.*

Qualifications

Kent University (BA First Class Hons)
London School of Economics (PhD)

Appointments

Recorder 1999 – 2017
Deputy High Court Judge 2010 – 2017
He was Chairman of the Law Reform Committee of the Bar Council (2003 – 2005) and the Chairman of PIBA (2004-2006). He is a Bencher of Gray’s Inn (2004).

Publications

Co-author: Medical Negligence: Case Law
Co-author: Personal Injury Limitation Law
Contributor: Medical Accident Handbook (Association for Victims of Medical Accidents)
Contributor: PIBA Manual on Personal Injury
Contributor: Butterworths Professional Negligence Service

Cases

Wembridge and 14 others v (1) Winter (2) East Sussex Fire Service and another [2013] EWHC 2331 (QB) The claimants alleged that the fire service was in breach of numerous statutory health and safety regulations and negligent at common law.

Stanton v Collinson [2010] EWCA Civ 81; [2010] R.T.R. 26 – Contributory negligence not always present when failing to wear a seat belt.

McDonnell v Walker [2009] EWCA Civ 1257; [2010] P.I.Q.R. P5. Principles to be applied when considering s 33 Limitation Act 1980 on claims revived by the decision in Horton v Sadler.

Horsley v Cascade Insulation Services Ltd [2009] EWHC 2945 (QB) – Asbestosis and contributory negligence for smokers.

Cain v Francis [2008] EWCA Civ 1451 – Court of Appeal revisited the principles upon which courts should exercise their discretion under section 33 of the Limitation Act.

Johnson v NEI International Combustion Ltd: Rothwell v Chemical & Insulating Co. Ltd & Ors:

Topping v Benchtown Ltd (Formerly Jones Bros Preston Ltd)

Grieves v FT Everard & Sons Ltd & Ors (2007) [2007] UKHL 39– Pleural plaques test litigation in the House of Lords

Grieves v FT Everard & Sons Ltd [2005] PIQR 25,

Rothwell v Chemical & Insulating Co. Ltd [2006] 1 All ER 187 – Pleural plaques test litigation

Clough v First Choice Holidays and Flights [2006] EWCA Civ 15 – Causation: Material contribution to damage test in slipping accident

Bassie v Merseyside & Civil Defence Authority [2005] EWCA Civ 1474 – Construction of 1992 Workplace (Health, Safety & Welfare) Regulations 5(1) and 12(3)

Cooke v United Bristol Healthcare NHS Trust and others (2004) PIQR Q10. Assessment of damages for the cost of future care – what allowance to be made for cost rising more steeply than RPI

Phillips v Syndicate 992 Gunner and others unreported, 09/05/2003 – Extent of insurers' liability to pay damages awarded to Claimant against employer in mesothelioma case

Young v Western Power Distribution Plc [2003] EWCA Civ 1034 – Application of the Walkley principle

Farmer v Roll-Royce Ltd unreported, 26/02/2003, lawtel document no. AC0105047 – Largest award in a fatal accident case

White v ESAB Group (UK) Ltd [2002] PIQR Q6 – Multipliers

Cape Distribution Ltd v O'Loughlin [2001] EWCA Civ 178 – Calculation of damages in fatal accident cases

Worrall v Powergen Plc [1999] PIQR P103 – The use of the Ogden Tables in fatal accident cases

R v CICB ex p K [1999] 2 WLR 948 – Interpretation of s.4 Fatal Accidents Act 1976

Lattimer v Cumbria CC [1994] PIQR P395 (CA) – Introduction of fresh evidence on appeal

Hockaday v South West Durham Health Authority (1994) PIQR 275 – What defendants have to plead in defence

Morley v United Friendly [1993] 1 WLR 996 – Construction of an exclusion clause in a contract of insurance

Wilson v Best Travel [1993] 1 All ER 353 – Standard of care of travel companies in respect of the structure of buildings abroad

Charnock & ORS v Rowan & ORS (2012) [2012] EWCA Civ 2

Denzil Shawe – Lincolin v Arul Chezhayan Neelakandan (2012) [2012] EWHC 1150 (QB)