

## Marcus Dignum KC

Call: 1994

Silk: 2020

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### AREAS OF EXPERTISE

Personal Injury, Clinical Negligence, International & Travel, Insurance, Fraud

Marcus is a specialist defendant catastrophic personal injury silk, who acts for most of the large insurers in the UK defending claims predominantly in the context of RTA and EL/PL work. He also defends clinical negligence claims.

He took Silk in 2020, having been recognised as a Tier 1 Junior in Chambers & Partners and a Leading Junior in The Legal 500 for many years. He is lauded for his “robust, realistic and very personal service.” He combines “intellectual rigour, a commercial approach and great charm” to good effect on high-value catastrophic injury cases.

For many years he has dealt with claims of the highest value and has extensive experience of claims involving the most serious head and spinal injuries where awards are made or settlements reached of several million pounds.

He has particular expertise in cases involving paralysis, amputation and brain injury, including subtle brain injury.

He is much sought after as a trial advocate and was recently instructed to defend one of the largest personal injury claims ever made (£33m) over the course of a 10 day trial in the High Court.

### Clinical Negligence

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Marcus defends clinical negligence claims where the merits permit, most recently in the field of podiatry.

### Cases

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*RORY MACDONALD (BY HIS LITIGATION FRIEND LINDSAY MACDONALD) v SIMON BURTON (2020)*

It was appropriate to await imminent guidance from the British Psychological Society in relation to the use of recordings of neuropsychological tests in personal injury cases; it was not for the instant court to lay down any guidance prior to that. In the instant personal injury claim the court decided that as the claimant’s neuropsychological test had not been recorded, the defendant’s test should also not be recorded, to ensure a level playing field.

*FULL JUDGMENT*

## PERSONAL INJURY – CIVIL PROCEDURE

QBD (Martin Spencer J) 13/03/2020

References: LTL 17/3/2020 EXTEMPORE : [2020] 3 WLUK 235

*IAN SCOTT v (1) SIMON RICHARDSON (2) LIVERPOOL VICTORIA INSURANCE CO LTD (2019)*

QBD (Master Davison) 04/12/2019

## NEGLIGENCE – PERSONAL INJURY – ROAD TRAFFIC

MOTORCYCLES : ROAD JUNCTIONS : ROAD TRAFFIC ACCIDENTS : SPEEDING

Solicitors:

For the defendants: DWF Law LLP (Manchester)

LTL 16/1/2020 : [2019] 12 WLUK 517

*EDWARD GREGORY CLAYTON NYE v SAMUEL RAYSON (2019)*

A driver was not liable in negligence for the injuries suffered by a passenger who fell from his car while it was moving. The driver knew the passenger was drunk and acting in a giddy and childish manner, but that did not give rise to an independent duty to look after his welfare and to get him home safely. The last thing any reasonably prudent and competent driver would expect would be for a passenger to try and get out of the passenger side window, even if drunk and in high spirits.

## NEGLIGENCE – ROAD TRAFFIC

QBD (Manchester) (Judge Platts) 7/05/2019

References: LTL 9/12/2019 : [2019] 5 WLUK 747

*PETRENA MARY KEANE v DAVID R TOLLAFIELD (2018)*

A surgeon had not breached his duty of care towards a patient by failing to explain the risks of a surgical procedure to her. Despite the claimant's oral evidence contradicting her written statement, she should not be deprived of the protection of qualified one-way costs shifting, because the defendant had failed to show that she did not have a genuine belief in the contents of her statement when she made it.

## PERSONAL INJURY – NEGLIGENCE – PROFESSIONAL NEGLIGENCE

CC (Birmingham) (Judge Williams) 8/08/2018

References: LTL 19/11/2018 : [2018] 8 WLUK 306

*LEILA MOHAMED v (1) SHANE ENRIGHT (2) DIRECT ACCIDENT MANAGEMENT LTD (2018)*

The court gave directions on the service of late expert evidence in a personal injury action so as to avoid vacating or splitting the trial.

## CIVIL EVIDENCE – PERSONAL INJURY – CIVIL PROCEDURE

[2018] EWHC 764 (QB)

QBD (Geoffrey Tattersall KC) 6/03/2018

References: LTL 7/3/2018 EXTEMPORE

*ABC (BY HER LITIGATION FRIEND DEF) v DFT (2018)*

It would have been disproportionate and unfair to allow a personal injury claimant to recover £872,787 to appoint a deputy to administer a relatively modest award of damages of around £220,000. The work in managing such a modest fund would be very little after the first few years, and in those circumstances the properly recoverable sum in respect of deputyship costs was £125,000.

PERSONAL INJURY – DAMAGES

QBD (Cambridge) (Judge Yelton) 28/02/2018

References: LTL 24/5/2018

*SCARLETT v GRACE (2014)*

Witness summaries could not be relied upon under CPR r.32.9 by a defendant in the trial of a personal injury action where the defendant had failed to demonstrate that he had been unable to obtain witness statements. The defendant had to show that he had taken the matter to a point where the witness's refusal to assist was clear.

CIVIL EVIDENCE – PERSONAL INJURY – ROAD TRAFFIC – CPR

[2014] EWHC 2307 (QB)

QBD (Phillips J) 4/06/2014

*PAULA DRABBLE v IAN HUGHES (2013)*

A patient had not complained to her dentist of changes in the appearance of a white patch in her mouth, and no such changes had been apparent. Although the patient was later found to have a tumour, the dentist had not been negligent in not making an urgent referral to an oral surgeon.

PERSONAL INJURY – CLINICAL NEGLIGENCE – HEALTH – NEGLIGENCE

QBD (Recorder Sweeting KC) 23/01/2013

References: LTL 29/1/2013

*J W GRANT & CO v TROY FOODS LTD (2012)*

A judge had properly directed himself in respect of the considerations relevant to the weighing of hearsay evidence and in respect of the law of conversion when deciding that the defendant had failed in its duty as bailee to return to the claimant certain containers used to transport vegetables.

TORTS – CIVIL EVIDENCE

[2012] EWCA Civ 1702

CA (Civ Div) (Sir Andrew Morritt C, Longmore LJ, Davis LJ) 24/10/2012

References: LTL 24/10/2012 EXTEMPORE

*KNOWLES v CULLEN & ORS (2012)*

The court determined liability in a personal injury claim following a road traffic accident involving multiple defendants.

PERSONAL INJURY – ROAD TRAFFIC – NEGLIGENCE

[2012] EWHC 3536 (QB)

QBD (Swift J) 12/10/2012

References: LTL 15/10/2012 EXTEMPORE

*SCOTT v SYMONS (2012)*

A judge had been entitled to find, on the balance of probabilities, that a motorcyclist was responsible for the road traffic accident in which he was injured by riding his motorcycle onto the wrong side of the road.

ROAD TRAFFIC – PERSONAL INJURY

[2012] EWCA Civ 1354

CA (Civ Div) (Lord Neuberger MR, Moses LJ, Rimer LJ) 19/06/2012

References: LTL 19/6/2012

*(1) NIGEL DAVID STANGROOM (2) EQUITY RED STAR LTD v VALERIE ANN BROWN (ADMINISTRATOR OF THE ESTATE OF CHRISTOPHER NOEL BROWN, DECEASED) (2012)*

A judge had been wrong to find that a tractor driver had any liability for an accident in which a motorcyclist travelling at high speed collided with his tractor and trailer while he was pulling slowly out of a lay-by.

PERSONAL INJURY – NEGLIGENCE – CIVIL EVIDENCE

[2012] EWCA Civ 424

CA (Civ Div) (Lord Neuberger MR, Longmore LJ, Stanley Burnton LJ) 4/04/2012

References: LTL 4/4/2012

*MALASI v ATTMED (2011)*

While a road traffic accident in which a cyclist was injured had been caused by a taxi driver's excessive speed, the cyclist had been contributorily negligent in failing to stop at a red traffic light and failing to brake in sufficient time to avoid the collision. Damages for personal injury were therefore reduced by 80 per cent.

PERSONAL INJURY – ROAD TRAFFIC – NEGLIGENCE

[2011] EWHC 4083 (QB)

QBD (Judge Seymour KC) 5/12/2011

References: LTL 6/12/2011 EXTEMPORE