

William Audland KC

Call: 1992

Silk: 2015

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AREAS OF EXPERTISE

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

William is ranked as a leading silk in the major directories in all his principal areas of practice - international and travel, personal injury, clinical negligence and sports law - and specialises in cross-border claims which combine these areas of expertise. He represents both claimants and defendants, and has a growing practice as a mediator.

Clinical Negligence

William acts in a variety of complex and high-value clinical negligence claims, usually for claimants, and his areas of specialism include spinal cord injuries (spinal epidural haematoma and abscesses etc.) and brain injuries.

Recent and ongoing cases include:

MAR (by Litigation friend KAR) v (1) Dr A (2) Dr B (ongoing). The claimant had poorly controlled hypertension. D2 was his GP who failed to advise C in relation to the risks of hypertension or how to achieve control. In February 2016, C presented at an urgent care clinic with symptoms of a stroke, and was examined, and negligently discharged by D1, also a GP. C then suffered a major stroke, causing a catastrophic brain injury. Liability was compromised in 2023 and approved. The claim continues on quantum.

K v An NHS Trust (ongoing): K was a young married woman who had a history of inflammatory bowel disease and a suspected diagnosis of Crohn's. She became unwell with fever, abdominal pain and diarrhoea, and ultimately attended hospital to rule out appendicitis. She was negligently discharged and suffered aspiration of vomit and bowel perforation with sepsis. Due to admitted negligence, she suffered cardiac arrest, but was resuscitated after three cycles of CPR. She consequently suffered a very severe hypoxic brain injury. Liability has been admitted in full and the claim proceeds on quantum.

BM v A University Hospitals NHSFT (ongoing: trial summer 2024). A claim involving the delayed diagnosis (with necessary imaging) by several orthopaedic consultants of cervical spinal cord compromise, leading to delayed surgery, resulting in tetraplegia. Breach and factual causation have been admitted but medical causation is in issue i.e. the nature and extent of the recovery that the claimant would have achieved but for the negligence. The trial will take place later this year.

DP v (1) LAS NHST and (2) Barts Health NHST (settlement approved October 2023). The claimant suffered catastrophic brain injuries as a result of clinical negligence in the delay in the diagnosis and treatment of a subdural haemorrhage. The case was proceeding towards a trial on liability and causation in October 2023 but shortly

beforehand a global settlement was agreed and approved.

L v An NHS Trust (settled): The claimant was rendered paraplegic (T8 Frankel B) due to a delay in imaging and then decompressing spinal epidural haematoma. Settled at a JSM several weeks prior to the start of the liability trial.

E v An NHS Trust (ongoing): concerning the failure to diagnose and treat appropriately a spinal epidural abscess at T6-9, resulting in incomplete paraplegia. Causation and quantum are in dispute.

G v Dr X and an NHS FT (ongoing): concerning the failure to investigate a deteriorating neurological condition following a fall, by performing a spinal MRI and a neurological assessment, a failure to diagnose spinal cord compression, leading to spinal cord injury and paraplegia. Liability, causation and quantum are in dispute.

AB v Salisbury NHS FT (2021): concerned negligent groin hernia repair surgery on a lady resulting in the puncturing of her left common iliac artery, catastrophic blood loss, hypoxic brain injury and multiple organ failure. Liability was admitted after the issue of proceedings and the case settled for a lump sum of £1.85 million and periodical payments of £319,500 pa for life. The settlement engaged some challenging issues, in particular the quantification of the cost of accommodation in a short life expectancy case.

X v An NHS Trust (settled): The claimant was rendered permanently blind due to a failure to treat raised intra-cranial pressure secondary to cerebral venous thrombosis. The claim settled at mediation for sum in excess of £4m.

Awards

Nominated for PI Silk of the year 2023 by both Chambers & Partners and Legal 500.

Award for Personal Injury/Clinical Negligence Junior Barrister of the Year in 2013

Memberships

Personal Injuries Bar Association

Professional Negligence Bar Association

European Circuit of the Bar

Pan-European Organisation of Personal Injury Lawyers

London Common Law and Commercial Bar Association

Publications

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

Cases

Nicholls v Mapfre; Woodford v Mapfre; Sedgwick v Mapfre [2024] EWCA Civ 7128. Important conjoined cases which determined that Spanish Penalty Interest was recoverable in personal injury claims brought in this jurisdiction where the applicable substantive law is Spanish law. The appeal determined that the penalty interest provisions are a matter of substantive not procedural law as a matter of EU law under Rome II and that it was recoverable. William led the appeals for Mapfre.

Ashton v Eurolife [2023] EWHC 2540 (KB). A High Court claim for catastrophic spinal injuries resulting from an accident when the claimant – a keen amateur road cyclist on a cycling holiday in Greece – collided at speed with a stationary car parked at the side of a rural road in the shade. The claim against the insurer of the driver of the car, which alleged breach of Greek Civil Code and Traffic Codes – the applicable law being Greek law under Rome II – was dismissed at trial after the Defendant's Greek law expert evidence was accepted. William represented the successful defendant.

Cooper v The Freedom Travel Group Limited [2022] EWCA Civ 1557: An important decision for the package travel industry following the liquidation of Thomas Cook concerning the limits of liability of a credit card company under the CCA 1974 where a package holiday was bought on the credit card belonging to the spouse of the claimant, but the claimant herself was not herself a party to the credit agreement. The claimant was not a "debtor" for the purposes of sections 75 and 189 of the 1974 Act.

X v Kuoni Travel [2021] UKSC 34 (in the Supreme Court) and EU:C:2021:213 (in the CJEU) concerning the liability in contract and pursuant to the Package Travel Directive 90/314 and the 1992 Pack Travel Regulations of a tour operator for a rape committed by a hotel employee abroad.

Dougan v Bike Events Ltd (High Court) (Manchester District Registry) (11 June 2021) (HHJ Platts). This claim for catastrophic brain injuries arose out of an accident which occurred in the course of a well-known cycling sportive called the Manchester 100. The organiser was sued for alleged failures in respect of risk assessment, signage and marshalling. William represented the successful defendant: the claim was dismissed at a trial and the claimant's application for permission to appeal was dismissed by the Court of Appeal.

Collins v Gotz [2021] EWHC 3282 (QB). Liability only trial.

Scumaci v Martin [2021] EWHC 2833 (QB). Liability only appeal.

Mustard v Flower [2021] EWHC 846 (QB), an important decision concerning the lack of a need to plead fundamental dishonesty.

Swift v Carpenter [2020] EWCA Civ 1295 in which the Court of Appeal delivered a landmark decision overturning *Roberts v Johnstone* and changing the law in relation to the quantification of claims for the capital cost of accommodation.

Swift v Carpenter [2020] EWCA Civ 165, an important decision concerning the unavailability of protective costs orders in private civil litigation.

Farah v Abdullahi & others [2020] EWHC 825 (QB), a trial of liability in a claim for catastrophic brain injuries involving interesting issues of factual and legal causation, as well as identification.

Mustard v Flower [2019] EWHC 2623 (QB), a decision concerning the admissibility of covert recordings of medical examinations and also the inadmissibility of lengthy Part 35 questions of experts which amounted to cross-examination.

Swift v Carpenter [2018] EWHC 2060 (QB). An assessment of damages in a claim for catastrophic injuries suffered by a trans-tibial amputee. The three-day appeal relating to the *Roberts v Johnstone* issues is due to be heard by the Court of Appeal in late June 2020.

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.