



Professional Negligence Claims in Scotland

Climbing the Mountain

Held at **NEW VENUE**

Upper Library, The Signet Library, Parliament Square, Edinburgh EH1 1RF

-Tel 0131 226 1064

3 May 2017 – 8.30 to 5.30



Introduction: Professional negligence and liability is a mountainous terrain and this conference will try to guide delegates through the approach to disputes from the different perspectives of each of the speakers. Like mountain climbing each dispute involves careful preparation and research, choosing the safest route, assessing the weather conditions and a lot of strenuous time and effort from all those involved to reach the chosen peak or terra firma.

Speakers:

Karen Cornwell – Legal Director, TLT (Chairman)
Craig Connal QC – Pinsent Masons (Keynote Speech)
Mark Leiser - University of Strathclyde & LSE
Roddy McIlvride QC - Terra Firma Chambers
Graeme MacLeod – Partner, CMS Cameron McKenna
Paul O'Brien – Axiom Advocates
Nicholas Davidson QC – 4 New Square
Ken Milliken – Forensic KPMG
Graeme Watson – Partner, Clyde & Co
Chris Paterson – Axiom Advocates

Agenda:

8.30 – 8.45 Registration and Refreshments

8.45 – 9.00 Chairman's address – Karen Cornwell - Legal Director - TLT LLP

9.00 – 9.45 Keynote Speech – Cinderella with Stilettos; fiduciary claims and professionals

– Craig Connal QC – Pinsent Masons

Craig is a Partner who is qualified in Scotland, England and Wales. As a solicitor-advocate in both jurisdictions he has rights of audience in all courts, civil and criminal, up to and including the Supreme Court of the United Kingdom. Craig has appeared in high profile and complex litigation in a wide variety of courts, inquiries and tribunals. His practice covers an equally wide range of areas, from planning to pensions, insolvency to IP, environmental to employment, regulatory to contracts and all points in between. He has a particular interest in judicial review. He was the first solicitor-advocate in Scotland to be appointed to the rank of Q.C. (Queens Counsel) and is Convener of the Law Society of Scotland Supreme Courts Training Course (Civil).

He has appeared in the Supreme Court. He sits as an arbitrator and is a NITA (National Institute for Trial Advocacy) accredited trainer in advocacy. He is registered to appear in the DIFC Court, Dubai. Craig won Solicitor Advocate of the Year category in The Law Society Excellence Awards 2012. Craig is Vice Chairman (Scotland) BICBA.

9.45 – 10.30 Mitigating the threat: how law firms can protect themselves from cyber hacking and other forms of criminality

– Mark Leiser – University of Strathclyde and the London School of Economics

Mark Leiser presently lectures Commercial Law, Internet Law, and Intellectual Property at the University of Strathclyde and the London School of Economics. His research areas are regulation/governance and behaviour in the online environment. He completed his BS in Communications in the US before returning to Scotland and completing his LLB at the University of Strathclyde. He wrote submissions for the Leveson Inquiry into culture and ethics of the media on the prevalence of phone hacking in Scotland. He wrote the tech law column for the Drum Magazine, briefly edited the Firm Magazine and has appeared on various media programs discussing various Cyber Law related issues and American politics. In addition to serving on the Scottish Advisory Board of the Open Rights Group, he is a member of the non-commercial constituency at Internet Corporation for Assignment of Names and Numbers (ICANN). He won the BILETA award for Best Paper in 2014 and has assisted on several modules at the LSE. For fun, he reads about heuristics and dabbles in behavioural economics.

10.30 – 11.15 Prescription – Roddy McIlvride QC – Terra Firma Chambers

Roddy McIlvride called to the Bar in 2005, talking silk in 2014. Prior to calling to the Bar, Roddy was head of litigation at a large firm of commercial solicitors in Glasgow, where he had also been a solicitor advocate and licensed insolvency practitioner. He was admitted to temporary membership of the California Bar when conducting litigation on behalf of corporate clients before the Federal Insolvency court. Roddy has appeared in the Supreme Court (including an appearance as leader when he was still junior counsel), the Inner and Outer Houses of the Court of Session, the Sheriff Court, the Lands Tribunal, and the First-tier and Upper Tribunals. He has also represented clients before various professional disciplinary bodies. Roddy appears on a regular basis in commercial actions in the Court of Session in a broad range of litigation which includes commercial contract, company, commercial property, intellectual property, professional negligence and insolvency matters. He was appointed a standing junior to the Advocate General for Scotland (Home Office) in 2009 and has considerable experience of appearing for the UK Government in proceedings before the courts. He is ranked by the Legal 500 for his commercial work, being described as 'A first-rate commercial litigator' (2015) and 'One of the best' (2014).

11.15 – 11.30 Refreshments

11.30 – 12.15 Breach of Trust – Graeme MacLeod – Partner – CMS Cameron McKenna LLP

Graeme MacLeod is a partner in the Disputes Team in CMS Edinburgh, which is recognised as a market leader in Scotland. He specialises in commercial litigation and professional negligence claims, and advises banks, corporates, public bodies, and insurers about a variety of disputes across both fields. A lawyer with the firm since 2002, Graeme acts for clients in high value commercial disputes in Scotland's Court of Session and Sheriff Courts, as well as in alternative dispute resolution processes such as mediation and arbitration. He is well regarded for his expertise in banking, regulatory, commercial contract and fraud-related matters, and for his knowledge of insolvency litigation. His wide-ranging practice encompasses claims ranging from judicial review of regulatory bodies to intellectual property infringement and from international asset recovery to defamation. His work in the professional indemnity sphere involves the defence of claims for professionals and their insurers across a broad spectrum of both traditional and emerging professions. He is particularly recognised for his expertise in claims against solicitors.

12.15 – 1 Saamco and solicitors: advice or information? – Paul O'Brien – Axiom Advocates

Summary - "The principles laid down in Saamco, which established limits on a surveyor's liability for negligent overvaluation, are also relevant to other professionals. But applying them is not straightforward. Paul O'Brien considers how the Saamco principles apply to claims against solicitors."

Paul practiced as a solicitor in Glasgow for several years as a commercial litigator before calling to the Bar in 2004. He has a broad practice primarily based around commercial and intellectual property law. Matters in which he has acted include contract disputes, trademark and patent litigation, restrictive covenants, professional negligence claims, warranties in the sale of businesses, and judicial reviews in areas including agricultural subsidies, fishing quotas and medical profession "alert letters". He appears regularly in the commercial and ordinary courts, and has appeared in the Inner House both alone and with senior counsel, and in the Supreme Court on several occasions.

1 – 2 Lunch

2 – 2.45 Interface of the principles between Scotland and England & Wales – Nicholas Davidson QC – 4 New Square

Nicholas is a commercial litigator and arbitrator who has been described in the Legal 500 as having "a charming manner, which puts clients at ease" (2016) and as "one of the leading trial lawyers of his generation with excellent client skills" (2015). He was a founding member, and in due course Chairman, of the Professional Negligence Bar Association. Recent cases include: Harlequin Property (SVG) Ltd v Wilkins Kennedy (A Firm) [2016] EWHC 3188 (TCC); Commodities Research Unit International (Holdings) Ltd & Or v King & Wood Mallesons LLP [2016] EWHC 727 (QB); Wright v Lewis Silkin LLP [2015] EWHC 1897 (QB); AIB Group (UK) Ltd v Mark Redler [2014] UKSC 58. He is a Deputy High Court Judge, authorised to sit in the Queen's bench and Chancery Divisions, including the Mercantile Court.

2.45 – 3.30 Quantum - Ken Milliken - Associate Partner, Forensic KPMG in the UK

Ken leads KPMG's Forensic practice in Scotland and has 15 years' experience of forensic accounting, including fraud investigations, expert witness, valuations, anti-bribery & corruption, fraud risk management, e-disclosure, data analytics, intellectual property and contract governance. He is a member of the Association of Certified Fraud Examiners and a Director of the Scottish Business Crime Centre. Ken heads the FairCall Ethics Line Service.

3.30 – 3.45 Refreshments

3.45 – 4.30 Surveyors' Negligence: Another brick in the wall – Graeme Watson – Partner – Clyde & Co.

Graeme specialises in professional indemnity with a particular focus on surveyors, financial professionals, clinical negligence and healthcare regulatory. He acts in complex disease litigation including historic abuse. Graeme is a Solicitor Advocate. Graeme represents professionals across a range of disciplines. He has lengthy experience in high-value and multi-party valuation claims. He has successfully defended multi-million pound lender claims. He acts for accountants, brokers and other financial professionals. He is an adviser to the RICS and sits as a legal adviser to the disciplinary tribunal panels of the Institute and Faculty of Actuaries. His practice covers litigation, arbitration and mediation.

4.30 – 5.15 What's hot in Professional Liability – Chris Paterson – Axiom Advocates

Chris has a broad commercial practice with a particular expertise in professional liability litigation. In the professional liability sphere he has extensive experience in acting for solicitors, surveyors, accountants, construction professionals, dentists and clinicians. He regularly represents healthcare professionals at fatal accident inquiries. He is ranked as a leading junior in clinical and professional negligence in Chambers and the Legal 500. Allied to his expertise in that sphere, Chris and is currently instructed as junior counsel for Johnson & Johnson in the mesh litigations.

Chris also advises in relation to professional disciplinary proceedings, and has a keen interest in public law with experience of judicial reviews, administrative law, and disciplinary and regulatory issues. Chris has extensive experience in commercial contract and property litigations. He is ranked by Chambers as a leading junior in commercial dispute resolution.

5.15 – 5.30 Chairman's Closing remarks - Question and Answer Session

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Competence:

This course can be recorded as 6.5 hours to show that professional negligence and liability as a learning and development need has been addressed.

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- Cost for the Edinburgh seminar:

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