

Professional Negligence and Liability Update: Focus on Fire

INTRODUCTION:

This conference is designed to give a review of the latest developments for those practicing in professional negligence and liability. The conference will also offer some guidance to those thinking about preparing for enquires/cases from the impact on occupants, landlords, Local Councils, insurers and construction professionals that are likely to arise after the tragic Grenfell Tower fire. It is foreseeable that many other buildings will be affected if they have similar cladding and/or fire safety issues, with complex legal and factual issues arising.

SPEAKERS:

Jeremy Cousins QC – Radcliffe Chambers
Joshua Munro – Hailsham Chambers
Paul Sachs & David Jackson
– Netmaster Solutions
Shantanu Majumdar – Radcliffe Chambers
Geoffrey Zelin – Enterprise Chambers
David Golten – Wedlake Bell
Jennifer Jones – Atkin Chambers
Ben Lynch – Fountain Court Chambers
Roger Flaxman - Flaxman Partners

MORNING AGENDA:

9.00 - 9.30 **Registration and Refreshments**

9.30 - 9.40 **PNLA Introduction**

9.40 - 10.00 **Jeremy Cousins QC - Radcliffe Chambers - Chairman's Keynote Address**

Jeremy has been recognised for his professional negligence expertise by Chambers UK and Legal 500 for many years. He has particular expertise in relation to solicitors' negligence. Cases and work of note:

- Dreamvar (UK) Ltd v (1) Mischoon de Reya (a firm) and (2) Mary Monson Solicitors Ltd [2016] EWHC 3316 (Ch);
- AIB v Redler [2014] 3 WLR 1367, SC. Solicitors' liability for breach of trust in conveyancing and security transactions.
- Thomas and another v BPE Solicitors [2010] EWHC 306 (Ch). Solicitors' negligence in completion of commercial transaction; also a landmark decision on contractual acceptance by e-mail.
- Acton v. Graham Pearce & Co [1997] 3 All ER 909 (HC). Solicitors' negligence; liability for damages following innocent solicitor's imprisonment for fraud where conviction later quashed; damages on loss of chance basis by reference to prospect of avoiding conviction if properly represented at original trial. A landmark case in limiting the boundaries for what was then advocate's immunity.

10.00 - 10.45 **Joshua Munro - Hailsham Chambers - Scope of duty issues and how to plead claims in the light of Gabriel v Little [2017] 2 W.L.R. 1029**

The Legal 500 says Joshua is: 'fiercely intelligent and pulls no punches with the opposition.' Joshua is very happy to provide solicitors with free and informal email and/or telephone advice in respect of potential new instructions. He regularly undertakes claims on CFA terms. Reported cases include:

- Denning v Greenhalgh Financial Services [2017] P.N.L.R. 19 Claim against IFAs in respect of pension advice, dealing with whether written retainer reflected the actual duty assumed by the IFA to his client.
- Fryatt v Preston Mellor Harrison (a firm) [2015] EWHC 1683 (Ch) Claim against solicitors regarding advice on option agreements. The main issue was causation of loss and whether the negligent advice made a difference to investment decisions.
- Joyce v Darby [2014] 3 EGLR 49. Court of appeal authority on the appropriate measure of damages in negligent conveyancing cases.

10.45 - 11.15 **Paul Sachs and David Jackson - Netmaster Solutions - Electronic Court Bundles**

Revolutionary technology from CaseLines to take the costs and pain out of evidence bundles and courtroom presentation. David and Paul (brother of prominent PNLA member Jonathan Sachs of Irwin Mitchell) will explain how it works.

11.15 - 11.30 **Refreshments**

11.30 - 12.15 **Shantanu Majumdar - Radcliffe Chambers - Professional Negligence and Liability Update**

Shantanu acts for and against solicitors, barristers, insurance brokers, financial advisers, accountants, insolvency practitioners, surveyors and engineers and has a particular expertise in associated questions of limitation. The 2013 edition of the Legal 500 identifies him as a leading junior in the field. His recent work includes the following:

- advising and acting in numerous claims against the investment banking arms of various well known banks in relation to their mis-selling of and negligent advice on interest rate hedging and other derivative products.
- defending a c £1.5m claim against professional trustees alleged to have negligently invested/failed to invest substantial funds.
- advising a major national firm on a £1m+ claim against it in relation to its advice on and drafting of a management buyout scheme.
- A "class" action in which Shantanu advises and acts for the purchasers of over fifty holiday properties at a development in southern Italy in a claim against their Italian lawyers and which involves various provisions of the Italian Civil Code and experts on Italian law. The Italian development has recently been seized by the Italian authorities in the course of their investigations of its links with organised crime

12.15 - 1.00 **Geoffrey Zelin - Enterprise Chambers / David Golten - Wedlake Bell - Schools, Lies and Property Information Forms - Lessons from the Orientfield Litigation**

Geoffrey and David are fresh from victory at first instance and upheld in the Court of Appeal in: Orientfield Holdings Ltd v Bird & Bird LLP [2017] EWCA Civ 348 (09 May 2017). Orientfield Holdings, a British Virgin Islands-based special purpose vehicle, had agreed to buy a property in St John's Wood, London, for £25.75m. Shortly before completion, the company pulled out of the sale when it found out that the local school a few doors up was going to be redeveloped as a six-storey academy. It lost its £2.57m deposit in the process. They will provide their thoughts on the implications of the decision and practical points as to case management.

1.00 - 2.00 **Lunch**

AFTERNOON AGENDA:

2.00 - 2.45

Jennifer Jones - Atkin Chambers - Fire Cases: Managing multi-party disputes

Jennifer is a commercial barrister specialising in the fields of construction and engineering, professional negligence and energy. She has developed a wide ranging practice with experience in domestic courts (in particular the TCC) and of mediation, adjudication and both domestic and international arbitration. Recent instructions include: acting for a shipyard in a dispute against a contractor; acting for a sub-contractor involved in the extension of a railway network; acting for the employer in a dispute about road construction in the Caribbean; and acting for project managers following a catastrophic fire in a retail park. Jennifer is recommended in the latest editions of Legal 500, Chambers and Partners and Chambers Global. She is described as: "listening to other points and then coming in with the real killer points she's been noting" and as having "absolutely first-rate legal knowledge".

2.45 - 3.30

Ben Lynch - Fountain Court Chambers - Fire and Insurance - the coverage perspective

Ben's experience in all forms of insurance claims, acting for private and corporate Claimants against Defendant insurers, as well as acting for Defendant insurers. Ben is one of the three Editors of MacGillivray on Insurance Law. Recent cases include:

- Very high value solicitors' professional indemnity insurance aggregation dispute [2017], led by Nigel Tozzi QC
- A v B [2017]: complicated D&O insurance dispute involving various issues, including the definition of "claim"
- A v B v C [2017]: complicated D&O insurance dispute involving various issues, including notification issues, dishonesty and attribution of knowledge
- AIG Europe Limited v OC320301 LLP (formerly The International Law Partnership LLP) [2017] UKSC 18; [2017] 1 W.L.R. 1168: Supreme Court – leading decision on solicitors' professional indemnity insurance aggregation (led by Colin Edelman QC)

3.30 - 3.40

Refreshments

3.45 - 4.30

Roger Flaxman - Flaxman Partners - Claims Advocates - Fire and Insurance Brokers' Advice - An "Expert" Perspective

Roger commenced insurance as a broker at Lloyd's 1969. Worked as a broker mainly in London, and international markets until December 1999, specialising for many years in PI and D&O and becoming adviser to professional bodies and trade associations. He set up Flaxman Partners in 2000 as independent advisors and troubleshooter for policyholders in insurance disputes. He is authorized and regulated by the FCA. Roger is an experienced expert to the courts in matters of insurance market practice and broker negligence.

Flaxmans is the country's first and leading Claims Advocacy service, providing policyholders and brokers with pre-litigation ADR. It is accredited by the British Insurance Brokers Association as adviser to its 2,500 member firms. Roger is an experienced speaker and author. Qualified 1981 CII - Chartered Insurance Practitioner 1995 - CEDR Accredited mediator 2009

4.30 - 5.00

Questions and discussion - Chairman's closing remarks

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Broadway House, Tothill Street, London, SW1H 9NQ
Wednesday 18th October 2017 – 9am - 5pm

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