

Getting Inside the Case

Professional Negligence and Liability



The law continues to develop with another new crop of recent judgments. Legal principles are developing not only in a linear fashion according to the type of professional or area of law, but also in ways which can be applied thinking laterally to many other situations. Is there a scenic outcome to your case?
– this conference will help you to find out.

Speakers:

David McIlroy - *Chairman - Forum Chambers*
Peter Lees - *Squire Patton Boggs*
Sir David Foskett - *Keynote Speaker - 39 Essex Street*
Ben Patten QC - *4 New Square*
Sian Mirchandani QC - *4 New Square*
Ben Lynch QC - *Fountain Court Chambers*
Paul Marshall - *Cornerstone Chambers*
Nicholas Ellor – *Temple Legal Protection*
Adam Grant - *KE Costs Lawyers*
Sean Gibbs - *Hanscomb Intercontinental*
Ian Mackie FRICS - *Berkeley Research Group*
Carlo Taczalski & Nicola Atkins - *Crown Office Chambers*
Simon Wilton - *Hailsham Chambers*
Justin Briggs & Kelly Whittaker - *Burgess Salmon LLP*

This is a PNLA Online conference.

You can view this conference on a date at your convenience and it will continue to be available over the coming weeks.

This conference includes speakers with accompanying notes in the Conference Pack downloaded [here](#)

Total talk time – 5 hrs 50 mins
Conference Pack Review - 1 hr
Q & A via WhatsApp Group +44 7930251578
Zoom Wrap Party - 1 hr 30 mins

CPD – 8 hrs 20 mins

- This is a recorded programme with talks accessible via a download link sent when ticket(s) are purchased
- Join the event: send your name and practice to PNLA WhatsApp +44 7930251578
- Download your Feedback Form to complete and use as your CPD development record – send it to yvonne.fairbrother@pnla.org.uk (certificates of attendance can be provided on request)

Available to book until

5th October @ 5pm
(closing group Zoom Meeting)

Online

- stream or download the talks

Conference Pack download from
website

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21 mins David McIlroy – Head of Chambers – Forum Chambers

- *“Chairman’s Keynote Address - The shape of professional negligence after Manchester MBS v GT”*

David specialises in banking and financial services law, commercial law, and professional negligence. His combination of experience and insight enables him to identify persuasive arguments and to see where the law might be developed in the future. David is Visiting Professor in Banking Law at Queen Mary University of London.

Chambers and Partners 2020:

“He is a super chap who is very committed to clients and highly pragmatic in his approach.”

“He has very detailed knowledge of his subject and comes back to you very quickly.”

<https://www.forumchambers.com/our-people/david-mcilroy/>

27 mins Peter Lees – Director – Squire Patton Boggs

- *“How has the scope of duty test for professional negligence claims been reformulated by the MBS v GT judgment?”*

Peter Lees is a director in the Litigation team in Manchester. Peter advises on a wide range of commercial disputes, with a particular focus on defamation and professional negligence claims.

Defamation: Peter has considerable experience of advising clients on defamation matters, as part of the firm’s wider reputation management expertise. Peter’s commercial and strategic approach is informed by his background; prior to joining the firm, Peter worked in advertising and media for companies including the Telegraph Group, Viacom and Carat.

Professional negligence: Peter advises numerous financial services and commercial clients on negligence claims against professionals including accountants, solicitors, surveyors and patent attorneys. Peter advised Manchester Building Society in its successful Supreme Court appeal against Grant Thornton (Manchester Building Society v Grant Thornton UK LLP [2021] UKSC 20).

Commercial litigation: Peter also advises on a wide range of commercial disputes. In particular, Peter has advised numerous clients on the enforcement of restrictive covenants, building on experience gained acting for the successful franchisor in Pirtek (UK) Limited v Joinplace Ltd & others [2010] EWHC 1641 (Ch).

<https://www.squirepattonboggs.com/en/professionals/l/lees-peter>

12 mins Sir David Foskett – 39 Essex Street

- *“Keynote Address – I’m Sorry but I can’t Apologise”*

Until his retirement as a judge in 2019, David was a “highly respected” first instance High Court judge (the Supreme Court in *Mandaliav SSHD* [2015] UKSC 59). He presided over a number of high profile cases and dealt with a wide spectrum of disputes including commercial and employment matters, education, sporting and leisure-related cases, planning and public law cases (many involving human rights issues) and significant clinical and other professional negligence and personal injury cases. He case-managed and tried substantial multi-party litigation and engaged in significant fact-finding exercises in many cases.

Following his retirement as a full-time judge, David joined 39 Essex Chambers as an arbitrator/mediator and accepts appointments in those capacities or as early neutral evaluator, both domestically and internationally, and is also available to conduct independent inquiries, chair disciplinary proceedings or appeals therefrom within corporate and/or public, sporting, educational or similar bodies.

Prior to his appointment as a judge in 2007 he had a distinguished career at the Bar with a broad common law practice, but specialising in professional negligence and general commercial matters. He has been a Fellow of the Chartered Institute of Arbitrators since 1992 and is a member of the LCIA and the ICC. He is also a member of the Court of the Worshipful Company of Arbitrators. He was Treasurer of Gray’s Inn in 2018.

As from 1 June 2019 he has been Chair of the Civil Mediation Council in the UK.

His interest in and identification with dispute resolution began with the publication in 1980 of the 1st edition of ‘The Law and Practice of Compromise’, now known as ‘Foskett on Compromise’. This book is seen as the primary reference point for all issues concerning settlement and is used by practitioners and judges both in the UK and in other common law jurisdictions across the world. The 9th edition was published early this year.

<https://www.39essex.com/barrister/sir-david-foskett/>

23 mins Ben Patten QC – 4 New Square

- “Design Liability & Professional Negligence: The Cladding Problem and Architects’ Liabilities post Grenfell”

Ben Patten QC’s expertise lies in a range of commercial work, including construction disputes, professional liability claims, commercial litigation and insurance and reinsurance disputes.

Described as “calm under pressure and always willing to stick his neck out on a case” he acts for both claimants and defendants in the TCC, Commercial and Mercantile Courts, Queen’s Bench Division, Chancery Division and Arbitrations. He also appears in the Court of Appeal and in expert determinations, mediations and other ADR hearings.

Chambers and Partners has described Ben as greatly respected for his effective manner in court, “he has a very nice way of presenting an argument which appeals to judges hugely,” and his ‘good commercial instincts’. ‘Peers are impressed by his skills as an advocate generally, and particularly note his strength in solicitor negligence cases’ as well as the “incredibly calm,” “persuasive” approach he demonstrates in his construction and professional indemnity work for a client base of developers, contractors and insurers. Previous editions says of him “You can throw anything his way and he will deal with it.” “He has a mild and gentle manner with clients, but is determined and clear in his advice. He is also very effective as an advocate, as he’s calm but good at focusing on the right issues and directing judges’ attention to them.” “Technically he’s one of the best around. He is also highly responsive.” Ben is also rated as a leading Silk by the Legal 500.

Ben has also been described in the Directories as being “really at the top of his game”, “a top performer who has a very concise and effective drafting, advisory and advocacy style” and “a star of the future”.

<https://www.4newsquare.com/barristers/ben-patten-qc/>

22 mins Sian Mirchandani QC – 4 New Square

- “Design Liability & Professional Negligence: Limitation, Contribution and the Likely Shape of Claim”

Siân Mirchandani QC has established a broad commercial practice encompassing construction/engineering, professional liability claims, insurance and disciplinary claims in court proceedings, arbitrations and adjudications.

Siân has a particular interest in disputes involving construction, IT, technical and scientific elements and this has led to a strong construction/engineering practice and wide ranging experience in regulatory and experimental product testing claims.

Prior to her successful first application for silk in 2018, Siân was recognised as a Leading Junior by the directories for Construction, Professional Negligence and Disciplinary.

In Legal 500, 2019 Siân is described by her clients as “an excellent advocate – tenacious and extremely detailed, identifying potential problems and arguments even before they arise” and “tremendously bright, has a tenacious eye for detail, and brings a new level of strategic thinking to the table”.

In Chambers & Partners, 2019, Siân has been commended for her approach to her cases: “She is very competent and thorough and hits the right points in the right places”, “extremely responsive wherever she is and whatever the time zone. She has a very reassuring demeanour that instils confidence all round”, “proactive, helpful” and “someone who prepares the case very well”. Who’s Who Legal, 2019 says: “Siân Mirchandani QC is recognised for her superb professional negligence practice.” <https://www.4newsquare.com/barristers/sian-mirchandani/>

32 mins Ben Lynch QC – Fountain Court Chambers

- “Business Interruption Insurance”

Ben is a highly regarded commercial silk, who has been described in the directories as “a barrister with a frighteningly astute mind, who doesn’t leave any stone unturned”. Ben has a specialist practice in insurance and reinsurance, acting in various landmark cases and being heavily involved in recent business interruption issues (including The FCA Test Case and Rockliffe v Travelers). Ben is also an editor of MacGillivray on Insurance Law.

Ben’s practice encompasses all aspects of commercial dispute resolution; over the years he has developed a strong reputation in the fields of professional negligence, telecommunications disputes, competition law, cyber, fraud, injunctions, international commercial arbitration, regulatory law, professional discipline, group actions and shareholder disputes.

Ben is commended for his “great work ethic, who has a fantastic eye for detail, excellent technical ability and superior client-handling skills”, won the Chambers & Partners ‘Insurance Junior of the Year’ award in 2017 and is ranked in the legal directories across a number of practice areas.

Ben has recently acted in a number of landmark cases, including The FCA Test Case [2021] UKSC 1, Rockliffe Hall Ltd v Travelers Insurance Co Ltd [2021] EWHC 412 (Comm), Travelers Insurance Co Ltd v XYZ [2018] EWCA Civ 1099, Redman v Zurich Insurance Plc [2017] EWHC 1919 (QB); [2018] 1 W.L.R. 280 and AIG Europe Limited v OC320301 LLP [2017] UKSC 18; [2017] 1 W.L.R. 1168. <https://www.fountaincourt.co.uk/people/ben-lynch/>

53 mins Paul Marshall - Cornerstone Chambers

- *"The Post Office Scandal - A Study In Judicial Failure"*

Paul Marshall has the distinction of having been threatened by the Court of Appeal, over five months, with never-formulated allegations of contempt of court, threats that caused him to withdraw from acting for his clients. After being diagnosed with stage-4 cancer in 2017, he largely ceased ordinary practice. By 2020 leisure enabled him to volunteer to assist three victims of Post Office prosecutions with their appeals, on referral by the CCRC, and by December 2020 he had undertaken over a thousand hours (unpaid) work on Post Office issues. In the face of opposition from every other criminal lawyer in the appeals, Paul was responsible for the Court of Appeal agreeing to entertain 'category two' abuse of process as a discrete ground of appeal, despite unfair trial being conceded by the Post Office, in the largest number of conjoined criminal appeals in living memory (possibly, ever). That led to the April 2021 devastating finding that the Post Office had subverted the criminal justice system. (This resulted in the Williams inquiry being put on a statutory footing.) He was responsible for eliciting from the Post Office the now infamous "Clarke Advice" (that he provided to the Metropolitan Police). In August 2020 he was invited by the Under Secretary of State to submit a paper on procedural recommendations for disclosure of computer-generated material, recommendations now being considered by the Attorney General and the Chair of the Criminal Procedure Rule Committee. He is writing a book on the Post Office prosecutions and another on vicarious liability and corporate attribution. <https://cornerstonebarristers.com/barrister/paul-marshall/>

12 mins Nicholas Ellor - Senior Underwriter - Temple Legal Protection

- *"Litigation Funding Update"*

Nicholas has recently joined Temple as a Senior Underwriter to provide support to the commercial underwriting team.

Nicholas brings with him twenty years' worth of experience working as a solicitor in London on both contentious and non-contentious company commercial and corporate matters. Having been a practitioner, he is fully aware of the pressure and time constraints a commercial litigator has to operate under and will be able to bring his insights to the table and provide a fast and professional service. <https://www.temple-legal.co.uk/about-us/our-people/>

28 mins Adam Grant - Costs Lawyer - KE Costs Lawyers

- *"Costs Budgeting: Pitfalls to Avoid"*

Adam is a Costs Lawyer and member of the senior management team at KE Costs Lawyers. He has over ten years of experience in Legal Costs acting for a wide variety of clients. He specialises in catastrophic personal injury and clinical negligence actions but also has a growing commercial practice, ranging from dispute resolution to insolvency proceedings.

A qualified Costs Lawyer with merit, Adam is an active member of the Association of Costs Lawyers (ACL). He is an elected member of the Association's governing Council and has served as their Policy Officer since 2018. He works extensively with regulators and other public bodies representing the Costs Lawyers' profession. He is also a regular contributor to several legal publications.

Having served on ACL's electronic bill committee Adam is adept at drafting complex 'electronic' bills of costs for detailed assessment and is an enthusiastic proponent of costs budgeting (when done right!). Adam has developed a loyal client base over the past ten years and prides himself on going 'the extra mile' for them, with no job being too big or too small. <https://kecosts.co.uk/our-management-team/adam-grant/>

15 mins

Sean Gibbs BSc LLB (Hons) PG Dip Arb LLM MICE FCIQB FRICS FCIARB - Hanscomb Intercontinental
- *"The role of an Expert Witness"*

Sean has held directorships and senior commercial positions with contracting and consultancy firms in the United Kingdom and Internationally. With over 30 years' experience in the global onshore and offshore construction and engineering industries Sean has worked across the continents of Europe, Asia, Middle East, Africa and the Americas. He has acted as quantum expert before various dispute resolution tribunals including adjudication, dispute board, expert determination and arbitration.

Sean holds a current Cardiff University Bond Solon accreditation and is a practising member of the Academy of Experts.

Project experience includes major airport developments, industrial process plants, commercial developments, military and police installations, heavy engineering in respect of onshore and offshore oil & gas facilities and pipelines, highway interchanges, tunnels, leisure resorts, nuclear, water treatment and desalination plants, waste to energy, biomass, onshore and offshore windfarms, renewables, mines, ports, hospitals and rail/metro projects. Projects have been based on numerous standard and be-spoke Conditions of Contract, including the NEC/ECC Suite of Contracts, JCT Suite of Contracts, ICE Suite of Contract, FIDIC Suite of Contracts, I Chem E Suite of Contracts, ICC Suite of contracts and other EPC / Split EPC /EPIC/ FEED/ EPCM/ LSTK forms.

He is actively involved with construction law institutes and organizations including The Adjudication Society, Society of Construction Law (UK), The International Bar Association, The Dispute Resolution Board Foundation, Construction Industry Council ADR Board, UK Adjudicators and HK Adjudicators. Sean also sits as an arbitrator and adjudicator and through this experience better understands what the tribunal expects from those giving evidence.

Sean is a Liveryman of the Worshipful Company of Arbitrators and a Freeman of the City of London.
<https://www.hanscombintercontinental.co.uk>

27 mins

Ian Mackie FRICS – Managing Director - Berkeley Research Group
- *"Valuation services for real estate and fixed-asset investments"*

Ian Mackie is a managing director at BRG who has over twenty-five years of experience providing valuation services for real estate and fixed-asset investments in contentious and non-contentious matters. He has advised on the valuation of significant assets in the United Kingdom and internationally, ranging from commercial property investments, large hotel, and leisure portfolios, to retail, healthcare, and oil and gas assets & has advised the Chartered Institute of Taxation, Royal Institute of Chartered Surveyors (RICS), and HM Treasury on real estate taxation and valuation matters. He is both a RICS Fellow and RICS Registered Expert Witness.
<https://www.thinkbrg.com/people/ian-mackie/>

40 mins

Carlo Taczalski and Nicola Atkins – Crown Office Chambers
- *"Practice and procedure in PN claims 2021"*

Carlo specialises in commercial, construction, insurance, and professional negligence matters. He has been recommended in the Legal 500 as a leading individual in a number of his core practice areas since 2017.

He is regularly in court both on trials and interlocutory matters, for both claimants and defendants as sole counsel and in both leading and led capacities. He has appeared before a wide range of tribunals including in the Privy Council, High Court, arbitral tribunals and in adjudications. The regularity of his court work means that he is very good on his feet, and is praised for his meticulous and forceful cross examination and preparation. Carlo is also a TECBAR and PNBA accredited adjudicator. <https://www.crownofficechambers.com/barristers/carlo-taczalski/>

Nicola specialises in professional negligence, construction and property related disputes. She has a particular interest in professional liability claims involving construction professionals and frequently represents architects, engineers, surveyors and contractors both as sole counsel and with a leader. She is ranked in Chambers & Partners 2019 as an "up and coming" junior in the field of Professional Negligence (TCC). Nicola is also recommended by the Legal 500 where she is described as "exceptional". Nicola is an experienced advocate and regularly appears in the County Court, High Court and in arbitrations and has been led in the Court of Appeal.
<https://www.crownofficechambers.com/barristers/nicola-atkins/>

14 mins Simon Wilton – Hailsham Chambers – Accredited PNBA Adjudicator
- *“ADR by Adjudication-update”*

Simon is a highly experienced junior barrister specialising in professional negligence, professional regulatory matters, and commercial disputes particularly in the insurance field. He has wide experience of interlocutory, trial and appellate advocacy, arbitration work, and all kinds of alternative dispute resolution.

Simon was short-listed by Chambers & Partners as professional negligence junior of the year in 2014 and 2016.

Since 2016, Simon has been head of the Professional Negligence Group at Hailsham Chambers.

“He offers a technically brilliant, commercial approach and he’s excellent with clients, as well as robust in court” “A very solid performer. He really understands his cases and he’s very thorough and effective.” Chambers UK, 2018
<https://www.hailshamchambers.com/barrister/simon-wilton/>

18 mins Justin Briggs – Partner and Kelly Whittaker – Associate – Burges Salmon LLP
- *“Pensions Professional Negligence Claims”*

Justin is a partner in Burges Salmon’s dispute resolution team, specialising in pensions disputes; private and commercial trust disputes; and professional negligence relating to pensions, trusts and tax.

Justin has specialised in both claimant and defendant pensions and trusts disputes since 1997 and professional negligence disputes since 1995.

Justin is a member of the Association of Pensions Lawyers (APL) and the Association of Contentious Trusts and Probate Practitioners (ACTAPS). He holds the Bristol University Certificate in Pensions Law and is recognised as an expert in pensions litigation in both the Legal 500 and Chambers legal directories.

Justin has acted on some of the leading pensions case including: Univar UK Ltd v Smith & Ors [2020] EWHC 1596 (CH); Safeway Ltd v Newton & Or [2020] EWCA civ 869 and in the professional negligence claim element of the Gleeds litigation (Briggs & Ors v Clay & Ors [2019] EWHC 102 (Ch)) in which Kelly assisted him as lead associate.
<https://www.burges-salmon.com/our-people/Justin-Briggs>

Kelly is an associate in Burges Salmon’s dispute resolution team and acts for commercial clients and financial institutes in complex multi-party disputes often with a professional negligence and/or pensions related basis. Kelly primarily acts on behalf of claimants in claims against actuaries, solicitors and surveyors/valuers.

Kelly’s experience includes High Court, Court of Appeal and Supreme Court proceedings as well as advising clients on alternative forms of dispute resolution, including arbitration and mediation. <https://www.burges-salmon.com/our-people/Kelly-Whittaker>

6 mins Katy Manley – President – PNLA/Manley Turnbull Solicitors
- *“Conference Closing Remarks”*

Total talk time 5 hr 50 mins Questions and discussion – PNLA WhatsApp +44 7930251578

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