

Professional
Negligence and
Liability

“Getting inside
the case”

Introduction:

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:

Mark Cannon QC – 4 New Square – Chairman
Sir David Foskett – 39 Essex Street – Keynote Speaker
Ben Patten QC – 4 New Square
Sian Mirchandani QC – 4 New Square
Carlo Taczalski & Nicola Atkins – Crown Office Chambers
Patrick Lawrence QC - 4 New Square
Kelly Whittaker & Justin Briggs – Burges Salmon LLP
Ben Lynch QC – Fountain Court Chambers

temple
legal protection



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London, SW1H 9NQ



20 May 2021
9.00am to 5.00pm

0900–0925 Registration and Refreshments

0925–0930 PNLA Introduction

0930-1000 Chairman's Keynote Address

Mark Cannon QC – 4 New Square - Head of Chambers

Described in the directories as “superb”, “extremely solid and punchy” and “technically excellent”, Mark Cannon QC is a well-established commercial silk, whose practice is mainly focused on the areas of professional liability in a commercial context, insurance and reinsurance and construction.

He is an experienced and highly effective advocate in trials, arbitrations and appellate courts and has appeared in numerous leading and reported cases. Much of his work involves the preparation of cases for trial. He also has a strong advisory practice and accepts appointments as an arbitrator. <https://www.4newsquare.com/barristers/mark-cannon-qc/>

1000-1030 Keynote Address

Sir David Foskett – 39 Essex Street

Until his retirement as a judge in 2019, David was a “highly respected” first instance High Court judge (the Supreme Court in *Mandalia v 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/>

1030-1045 Questions and discussion

1045-1100 Refreshments

1100-1145 Design Liability & Professional Negligence: The Cladding Problem and Architects' Liabilities post Grenfell
Ben Patten QC– 4 New Square

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/>

1145-1200 Litigation Funding Update

Nicholas Ellor Senior Underwriter (speaker) and Andy Lyalle Temple Legal Protection

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/>

1200-1245 **Design Liability & Professional Negligence: Limitation, Contribution and the Likely Shape of Claims**

Sian Mirchandani QC – 4 New Square

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

Sian 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, Sian was recognised as a Leading Junior by the directories for Construction, Professional Negligence and Disciplinary.

In Legal 500, 2019 Sian 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, Sian 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: “Sian Mirchandani QC is recognised for her superb professional negligence practice.” <https://www.4newsquare.com/barristers/sian-mirchandani/>

1245-1300 **Questions and discussion**

1300-1400 **Lunch**

1400-1445 **Limitation – latest developments**

Carlo Taczalski and Nicola Atkins– Crown Office Chambers

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/>

1445-1455 **Introduction to Pensions Claims**

Patrick Lawrence QC – 4 New Square

Former Chambers & Partners Professional Negligence QC of the year, Patrick has appeared in many leading cases at appellate level.

[Chambers]. “He is a brilliant lawyer with a real appreciation of the ‘human’ side of cases”, “a superb advocate, who always manages to engage the court and present arguments in a compelling fashion”, “highly persuasive” and “can make complicated arguments understandable” [Legal 500]. “He has a fantastic manner and outstanding judgement”, “Inspires great confidence and tackles problem with the minimum of stress” [Legal 500].

Many of his recent professional negligence cases have been in the commercial and company law sectors. This work fits well with his expertise in auditors’ negligence and his involvement in claims against investment/pensions advisers, tax advisers, and other financial services professionals. He is numerate (as barristers go). He is retained in cases where effective cross-examination is considered critical. Many of his cases involve allegations of fraud or other impropriety in the commercial world, and he is prepared to read closely large amounts of material in order to find out what really went on, and then – if necessary – to go to court to prove it. <https://www.4newsquare.com/barristers/patrick-lawrence-qc/>

1455-1540 **Anatomy of a Pensions Claim**

Justin Briggs – Partner and Kelly Whittaker – Associate – Burges Salmon LLP

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. <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>

1540–1555 Refreshments

1555–1640 Third party costs orders and the joint retainer after Travelers v XYZ

Ben Lynch QC – Fountain Court Chambers

Ben is a highly regarded junior in commercial litigation. Ben has a specialist practice in the fields of insurance / re-insurance and was the winner of the Chambers and Partners 2017 Insurance Junior of the Year award, being described in the directories as “most highly regarded junior counsel in insurance and reinsurance”. Ben is highly regarded and ranked in the fields of Commercial Dispute Resolution, Professional Negligence and Telecommunications, described as (amongst other things) “A barrister with a frighteningly astute mind, who doesn’t leave any stone unturned.”

Ben also has particular expertise in Competition Law, Cyber Issues, Fraud, Injunctions, International Commercial Arbitration, Regulatory Law, Professional Discipline and Shareholder Disputes.

Ben has recently acted in a number of landmark cases, including 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 in the Supreme Court (the leading case on aggregation of claims in solicitors’ professional indemnity insurance).

Ben is an Editor of MacGillivray on Insurance Law. <https://www.fountaincourt.co.uk/people/ben-lynch/>

1640-1700 Questions and discussion – Chairman’s closing remarks

Terms and conditions in relation to courses, seminars and conferences ('events') provided by The Professional Negligence Lawyers' Association (PNLA) and organised by PNLA Training Ltd. (PNLA Training)

1. The full fee invoice for the event is payable unless a cancellation is received in writing at least 21 working days before the event, when the fee will be credited less a £75 administration charge. Substitutions are welcome at any time subject to any variation in price that might be payable if the substitute is not entitled to a discount as a PNLA member or specialist.
2. The booking constitutes a legally binding contract. The delegate and/or employer are jointly and severally liable for payment of all the fees due.
3. The PNLA and PNLA Training reserve the right to vary or cancel an event where the occasion necessitates.
4. The PNLA and PNLA Training accept no liability if, for whatever reason, the event does not take place.
5. Large print versions of the hand outs can be made available by prior request. If sufficient notice is not received, it will be provided as soon as possible after the event.
6. If there are insufficient rooms in the hotel to accommodate all delegates who require one when an overnight stay is involved, we will try to arrange for rooms of a similar quality in a nearby hotel, but the organisers cannot be held responsible if such rooms are not available. Any additional cost will be invoiced to the delegate.
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