



Discovery

Professional Negligence & Liability
January Update 2022



“A Conference for professional negligence and liability practitioners to explore the direction of travel over recent months.

The speakers will seek to direct us to the issues for consideration now while looking ahead to the way the Courts will be assessing this type of dispute.”

Speakers:

Anneliese Day QC (Chair) - Fountain Court Chambers
Alexandra Marks CBE - BBRS
Howard Elgot - Park Lane Plowden Chambers
James Hall - Gatehouse Chambers
Charles Holbech - Radcliffe Chambers
Alex Laing - Coram Chambers
Andrew Foyle - Shoosmiths LLP
Philippa Hill - Grant Thornton
Sean Gibbs - Hanscomb Intercontinental
Pradeep Oliver - Cripps Pemberton Greenish LLP

Available to book until

6th April 2022 @ 12 noon
(closing group Zoom Meeting)

Online

- stream or download the talks

Conference Pack download
from website

– networking via event
WhatsApp group and group
chat

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 at:

https://www.pnla.org.uk/event/discovery-online-conference/?utm_source=mcemail&utm_medium=email&utm_campaign=discovery%2022

- 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)

CPD: 6 Hours 47 mins

- 4 Hours 17 mins – Filmed talks
- 1 Hour – Conference Pack Review
- 1 Hour 30 mins – Questions & Answers via WhatsApp Group and Zoom Wrap Party

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PNLA Introduction

39 mins Chairman's Keynote Address – Anneliese Day QC – Fountain Court Chambers

Anneliese is a “leading lawyer of her generation” and a “standout genius” who is frequently instructed in high-value and complex cases both nationally and internationally. She is ranked both as a Leading Silk in six practice areas in the legal directories (commercial litigation, international arbitration, professional negligence, energy, construction and insurance/reinsurance) and as an Arbitrator.

She was recently described as “an absolute Rockstar at the top of her game”, who operates at the highest level in her areas of expertise dealing with courts and tribunals as both Lead Counsel and Arbitrator not only in the UK but also in Asia Pacific, the Middle East and the Caribbean (including the DIFC and the SICC). She also regularly appears at appellate level. She is known for being a “charming, intelligent and ruthlessly brilliant advocate”, “stupendously talented” and a “good leader for the 21st century”.

In 2020, Anneliese was named ‘International Arbitration Silk of the Year’ at the Chambers Bar Awards where she was also shortlisted as ‘Professional Negligence Silk of the Year’. She has previously been named ‘Construction and Energy Silk of the Year’ three times, ‘Barrister of the Year’ in 2014 by The Lawyer and one of the 500 most influential people in the UK by Debretts. She is a fellow of the Chartered Institute of Arbitrators. <https://www.fountaincourt.co.uk/people/anneliese-day/>

19 mins Alexandra Marks CBE – Chief Adjudicator – The Business Banking Resolution Service – “Alternative Dispute Resolution For Business Banking Complaints”

Alexandra Marks has been a solicitor for over 35 years. She was an equity partner in one of the world’s leading law firms, Linklaters, before stepping down to build a portfolio of public, judicial and third sector roles.

For the past 15 years, she has sat as a part-time judge in the Crown Court, High Court and First-tier Tribunal and for several years was an Adjudicator for the Solicitors Regulation Authority.

Alexandra has served terms as a Commissioner at the Judicial Appointments Commission and the Criminal Cases Review Commission. She is currently Statutory Reviewer of Access and Participation Plans for the Office for Students. An accredited mediator, she was also Chair of CEDR (the Centre for Effective Dispute Resolution) before taking on the role of Chief Adjudicator for the Business Banking Resolution Service.

She continues to be actively involved in human rights and social justice organisations. She was Chair of Amnesty International Charity Limited for 10 years, and has been a Council Member of JUSTICE since the 1980s.

Alexandra was awarded the Law Society’s Lifetime Achievement Award 2016, was made a CBE in The Queen’s Birthday Honours list in June 2017 and is an Honorary Fellow of Brasenose College, Oxford.

28.5 mins Howard Elgot – Park Lane Plowden Chambers – “Undersettlement claims – Personal Injury”

Howard Elgot is one of the very few provincial barristers to have been shortlisted as Barrister of the Year by the Law Society.

He has acted as both leading and junior counsel in many cases of national importance in the High Court, Court of Appeal, House of Lords and the Supreme Court. He practices principally in the fields of clinical and professional negligence, and personal injury litigation. He is accredited as an adjudicator by the Professional Negligence Bar Association. He previously practised at 3 Paper Buildings, Temple, London.

Independent guides refer to Howard as a “well-prepared, fearsome cross-examiner and negotiator”, a “marvellously innovative thinker”, who is “admired for his client-friendly demeanour and sympathetic attitude

Howard is Counsel in the recent case on this topic *Evans v Betesh Partnership & Ors* [2021] EWCA Civ 1194 (30 July 2021)
URL: <http://www.bailii.org/ew/cases/EWCA/Civ/2021/1194.html>

<https://www.parklaneplowden.co.uk/our-barristers/howard-elgot/>

28 mins Charles Holbech – Radcliffe Chambers – “Professional Negligence and Wills”

specialises in private client work, both contentious and non-contentious, and increasingly involving technical advice on tax, trusts and estates. Whether advising in conference, on paper, or in court, Charles applies a detailed, but clear, analysis to complex issues. Charles is recognised by Chambers UK Bar, Chambers HNW and The Legal 500 UK Bar as a leading junior for Chancery and private client work. Charles is regularly instructed in reported cases and writes extensively on estate planning, Inheritance Tax and trusts. He has also edited Halsbury’s Laws of England on Inheritance Tax.

<https://radcliffechambers.com/profile/charles-holbech/>

49 mins James Hall – Gatehouse Chambers**- “Solicitors’ liability: rectification and aggregation; two recent sources of aggravation”**

James specialises in professional negligence, commercial litigation and property disputes. His professional negligence work relates primarily to the financial services and property sectors though he also deals with a wide variety of claims arising from transactions, projects and misconduct of litigation. He deals with a variety of commercial claims with a focus on disputes connected with his professional negligence practice, such as insurance disputes, conspiracy claims and FS sector work including claims against the FSCS. His property work generally relates to title issues, land registration issues, mortgages and trusts issues and often overlaps with his professional negligence practice.

James is instructed in many high-value and complex matters. He understands the need not only for technical excellence but also the commercial imperatives of his clients, which range from large lending institutions and professional indemnity insurers to self-insured businesses, other businesses and high net worth individuals. He focuses on strategy and cost-benefit analysis as well as legal finesse.

Earlier in his career he spent several years as an employed barrister in an international law firm, developing and leading a team of specialist lawyers, giving him invaluable insight and understanding of the workings of solicitors’ firms and their clients.

He has regularly contributed to leading texts and had many articles published in industry periodicals and peer-review journals. He has also spoken at the CML Fraud Conference; The Legal Week Banking Litigation and Regulation Forum and the Legal Business Financial Regulation and Disputes Summit as well as having been quoted in the Times and insurance sector magazine Post.

In his talk James will review *Ralph v Ralph* [2021] EWCA Civ 1106 (22 July 2021) URL:

<http://www.bailii.org/ew/cases/EWCA/Civ/2021/1106.html>

and *Baines & Anor v Dixon Coles & Gill (A firm) & Ors* [2021] EWCA Civ 1211 (06 August 2021) URL:

<http://www.bailii.org/ew/cases/EWCA/Civ/2021/1211.html>

<https://gatehouselaw.co.uk/barrister/james-hall/>

21.5 mins Alex Laing - Coram Chambers**- “Forum shopping – Family Law”**

Alex specialises in children and finance law, particularly cases with an international element.

He is the current Family Law Awards: Junior Barrister of the Year (2020), which is the top category under QC, having been the only member of the Family Bar ever twice to have won the Family Law Awards: Young Barrister of the Year (2018 and 2016).

Alex is the only lawyer to appear in the four UK Supreme Court cases about family law over the past two years, including the current Family Law Awards: Case of the Year (2020).

He is the only ‘Rising Star’ at the UK bar for both finance and children in Legal 500, 2021 and was the most junior family barrister to be ranked in Chambers and Partners, 2020.

Alex is co-author of the leading book, Hershman and McFarlane: Children Law and Practice. He is also co-author of three further books on family law: Laing and Jackson: Public Children Law: Contemporary Issues (1st edn., 2018); Child Protection and the Family Court: What You Need to Know (3rd edn., 2019); and Family Law Precedents Service (46th edn., 2020).

Alex is Counsel in the recent Supreme Court case on this topic *Villiers v Villiers* (Rev 1) [2020] UKSC 30 (01 July 2020)

URL: <http://www.bailii.org/uk/cases/UKSC/2020/30.html>

<https://www.coramchambers.co.uk/alex-laing/>

16 mins Andrew Foyle – Partner - Shoosmiths

– “Covid-19, economic downturns and the market outlook for professional negligence lawyers”

Andrew is a Partner and joint head of our dispute resolution and litigation team based in Edinburgh. His clients are primarily financial institutions for whom he acts in a range of litigation matters, including contractual disputes, general banking litigation, recoveries and the pursuit of professional negligence actions. Andrew also acts for a range of commercial clients and insolvency practitioners. Recent examples of his work include successfully defending a lender in a multi-million pound claim for damages raised against them by a former customer where it was claimed that they had acted negligently in their approach to realisation of securities, strategic advice to a lender in relation to a major remediation project, and a reported case which further clarified the law relating to pre-action requirements under the Home Owner & Debtor Protection (Scotland) Act 2010.

Andrew joined Shoosmiths as a partner in 2013 following more than a decade at an Edinburgh firm where he latterly managed their banking litigation team. Prior to that, Andrew was a researcher at the Scottish Law Commission where his projects included the Report on Poindings and Warrant Sales, and the Report on Diligence.

Andrew is a solicitor advocate with rights of audience in the Supreme Courts in Scotland and is a ranked lawyer for Banking Litigation in the Chambers UK Guide, where he is described as being “steady, sensible and pragmatic” as well as having “a breadth of knowledge on litigious matters”. Commentators described him as “very approachable, dedicated to his client and provides very clear and concise legal advice”. Andrew is regularly called upon to speak at external events and conferences on his areas of expertise, and is a regular contributor to publications such as the Journal of the Law Society of Scotland on topics including insolvency and commercial litigation.

<https://www.shoosmiths.co.uk/people/cvdetails/andrew-foyle>

18 mins Philippa Hill – Partner – Grant Thornton

– “The Accountant’s Perspective”

As a chartered accountant, Philippa has been specialising in accounting disputes and investigations since 2001. Prior to this, she spent four years as an auditor of a variety of businesses. She is experienced in accounting integrity and conduct matters, including alleged accounting irregularities and fraud, professional negligence and disciplinary matters relating to accountants, and associated professional indemnity claims. She has particular experience advising in professional disciplinary enquiries led by the Financial Reporting Council, which investigates matters affecting the public interest. <https://www.grantthornton.co.uk/people/philippa-hill/>

tbc 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/>

34 mins Pradeep Oliver – Partner - Cripps Pemberton Greenish LLP

– “Financial Services Group Litigation”

Pradeep works as professional negligence lawyer, he has particular expertise in financial services negligence involving the mis-selling or mismanagement of a financial product or service leading to financial loss.

“a careful litigator who goes to great lengths to assess the genuine strengths and weaknesses of the case.” -

Chambers UK Guide 2020 / Leading individual in Legal 500 ‘2022 <https://www.crippspg.co.uk/profile/pradeep-oliver/>

4 mins Katy Manley – President – PNLA/Manley Turnbull Solicitors

- “Conference Closing Remarks”

Total 257 mins (4hrs 17mins) Questions and discussion – PNLA WhatsApp +44 7930251578

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 conference ticket is payable.
2. For conferences taking place at a venue on a fixed date, if cancellation is received in writing at least 21 working days before the event 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.
3. For virtual conferences the ticket(s) purchased are for the individual delegate(s) named in the booking. If a delegate gives access to the recorded speaker programme to others then they agree to pay for a ticket at the full fee for all those delegates who watch the programme deriving from such access.
4. The booking constitutes a legally binding contract. The delegate and their employer/partnership/other practice entity are jointly and severally liable for payment of all the fees due.
5. The PNLA and PNLA Training reserve the right without prior notice to vary or cancel an event where the occasion necessitates including changing the password for virtual conference programmes.
6. The PNLA and PNLA Training accept no liability if, for whatever reason, the event does not take place or access online is not possible.
7. 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.
8. 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.
9. To the extent permitted by law, it is agreed that the PNLA, PNLA Training Limited presenters and speakers will not be liable by reason of breach of contract, negligence or otherwise for any loss or consequential loss occasioned to any person acting, omitting to act or refraining from acting in reliance upon the course material or presentation of the event, or, except to the extent that any such loss does not exceed the price of the event, arising from or connected with any error or omission in the material or presentation of the event. Consequential loss shall be deemed to include, but not limited to, any loss of profits or anticipated profits, damage to reputation or goodwill, loss of business or anticipated business, damages, costs, expenses incurred or payable to any third party or any other indirect or consequential losses.
10. The personal information provided by you will be held on a database and you may be contacted from time to time by The PNLA and PNLA Training with details of events and services that may be of interest to you. If you do not wish your details to be used for this purpose, please write to: The Database Manager, PNLA, PO Box 1685, Congresbury, Bristol, BS 49 5WQ or email: yvonne.fairbrother@pnla.org.uk

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Costs for PNLA Online Conference

PNLA Members/Specialists: £400 plus VAT
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payment and reserve your place.

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