



## David Peter

Year of Call: 2012

Available to accept instructions in all areas of Chambers' practice. Before coming to the Bar, he worked as a broadcast journalist for the BBC.

### Clinical Negligence

David is rapidly developing a specialism in clinical negligence. His busy practice is divided equally between claimant and defendant work. He is regularly instructed in matters of greater complexity and value than would be expected of a barrister his call. By way of example he is currently acting in several High Court claims with values between of up to £900,000, including claims concerning claims relating to deceased patients under the Human Rights Act 1998.

David appears in clinical negligence matters in the High and County Courts. His practice ranges from Fast-track trials factually detailed multi-week hearings concerning claims involving multi-disciplinary treatment, serious injury and complex questions of causation.

He is regularly instructed to settle pleadings and schedules and to advise on all aspects of cases from pre-trial disputes and correspondence through to interim applications, settlement negotiation and trial.

He also has experience of and is available to be instructed in costs proceedings.

He is happy to be instructed under a CFA and is always willing to assist instructing solicitors with a brief opinion on the merits of a potential claim.

Coming from a family of doctors, David has a good understanding of medical practice, an excellent grasp of clinical jargon and a relaxed and confident manner with experts.

In both his clinical negligence and personal injury practices David is developing a particular interest in claims involving pain disorders. His recent and current instructions include matters concerning the following areas of clinical practice:

- orthopaedics (including paediatric orthopaedics)
- neurology
- neurosurgery
- rheumatology (including compartment syndrome and complex regional pain syndrome)
- gastroenterology (including bariatric surgery)
- psychiatry (particularly cases concerning suicide following allegedly negligent psychiatric treatment)

- general surgery
- haematology
- cardiology
- pathology
- interventional radiology
- urology
- gynaecology
- oncology
- ENT
- hepatology
- obstetrics (both antenatal care and delivery)
- critical care medicine
- emergency medicine
- general practice
- tissue viability and infection control
- specialist nursing
- end of life care
- root canal surgery
- clinical trials

David's experience includes claims concerning allegations of negligence against the medical professionals including:

- consultants
- junior hospital doctors
- GPs
- dentists
- nurses
- midwives
- care workers

## **Professional Negligence**

David is rapidly bulding a professional negligence practice. His recent work includes:

- A multi-track claim against an IFA concerning pension advice (instructed by the defendant insurer)
- A multi-party claim concerning allegations of negligence against a survyor and resulting insurance coverage issues
- Acting for the claimant in a complex claim against their former solicitor resulting from the alleged under-settlement of a clinical negligence claim
- Acting for the claimants in a claim against their former architect
- Advising on and drafting pleadings in surveyors' and valuers' negligence claims

### **Insurance & Reinsurance**

David has a particular interest in insurance law. He contributed to the 2015 edition of *MacGilvray on Insurance Law* (Sweet & Maxwell), Chapter on Reinsurance, as well as the earlier second supplement. He has offered seminars to solicitors providing an update on top insurance cases.

His recent experience includes:

- Advising insurers on policy wording
- Advising insurers on the scope of the duty of utmost good faith
- Advising insureds and insurers on coverage
- Advising on notification and aggregation issues in the context of professional indemnity insurance
- Assisting Nicholas Bard on a claim relating to fire insurance

### **Commercial Litigation**

David is instructed in a broad range of commercial disputes. Recent experience includes:

- Sole counsel for the defendant in a High Court proprietary estoppel action valued at £500,000
- Appearing in a claim for breaches of a loan agreement and a hotel and apartment complex management agreement worth £2.1m, involving allegations of fraud, impersonation and email hacking
- Acting for the claimant in a claim to set aside a property sale as a fraud on a creditor under section 423 of the Insolvency Act 1986 alternative on the grounds of undue influence and unconscionable bargain
- Acting in a claim for relief under TOLATA 1996 relating to a joint property purchase by members of the same family
- Instructed to advise on the recoverability of several unsecured loans to a protected party
- Instructed in a claim concerning the validity of the assignment by a liquidator of a claim for breach of directors' duties
- Assisted Robert Weir QC on a claim concerning the enforceability of an indemnity given in a share purchase agreement by a subsequently dissolved company

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- Assisted Nicholas Randall QC on a claim concerning the enforceability of promissory notes
  - As pupil to Akash Nawbatt, assisted on a claim concerning the assessment of fees payable to the Health and Safety Executive under the Control of Major Accident Hazard Regulations 1999
  - As pupil to Shaen Catherwood, assisted in a High Court action to recover sums payable under a settlement agreement, involving allegations of fraudulent misrepresentation, breach of fiduciary duties and alleged diversion of commissions

## Personal Injury

David is building a personal injury litigation practice. He has experience of infant settlements, small claims and fast-track trials.

As pupil to Robert Hunter, David gained exposure to personal injury litigation in the following areas:

- RTAs
- Fatal accidents
- Catastrophic injury claims
- Accidents at work
- Occupiers' liability
- International travel litigation

During his first six, David assisted Robert Weir QC in the leading case on combat immunity: *Smith and others v Ministry of Defence* [2013] UKSC 41; [2013] 3 WLR 69, which concerned claims in negligence and under the Human Rights Act in relation to members of the armed forces killed in Iraq.

David has also assisted Colin Mendoza on personal injury claims involving allegations of fraud and exaggeration, particularly in relation to loss of self-employed earnings.

## Employment

David is building a strong practice in all areas of employment law. He advises and appears on behalf of claimants and respondents in preliminary, one-day and multi-day Employment Tribunal hearings, as well as contractual disputes in the civil courts. He is regularly instructed to draft pleadings and witness statements (including statements in complex and high-value claims) in employment matters.

David also has considerable experience of advising on and drafting employment and employment-related contracts.

Examples of recent cases and matters include:

- *T v A Hotel* - successfully represented the respondent in a multi-day unfair dismissal and indirect race and age discrimination claim
- *G v M Ltd* - successfully resisted claimant's application for disclosure against the respondent, a financial services company

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- L v A Retailer - successful application for unless orders at a preliminary hearing in the claimant's absence, in circumstances where it was accepted by the Tribunal that this absence resulted from non-delivery of the Notice of Hearing to the claimant.
  - Re: A Union - advising on and drafting standard terms and conditions for union members who supply their services via service companies
  - M v X LLP - advising the respondent on an unusual claim for loss of benefits as a result of alleged errors in filling out the claimant's statutory sick pay form

David has a broader experience of Employment Tribunal litigation than would normally be expected of a junior tenant, having appeared in a considerable number of full hearings as a Free Representation Unit representative, including several multi-day hearings. These include:

- *Hibbett v The Home Office and Others* – 10 day hearing of a claim by a senior civil servant for unfair dismissal, wrongful dismissal, disability discrimination (including breach of the duty to make reasonable adjustments) and victimisation, Successfully appealed to the Employment Appeal Tribunal on the reasonable adjustments claim. Reported in The Telegraph
- *Thomas v Bridging Gaps Limited* – successfully represented the claimant, the manager of a fostering agency, in a claim for unlawful deductions from wages and unfair dismissal (2 day hearing)
- *M v N* – protected disclosures, race discrimination and victimisation. Successfully resisted a strike out and deposit order application and achieved a settlement for the claimant on the final day of a 4 day hearing
- *Weirich v Lartey* – successfully represented the claimant, a care home cleaner, in a claim for constructive dismissal by reason of making protected disclosures
- *Taylor v Trustees of the Tate Gallery* – claim by a gallery assistant for wrongful dismissal, unfair dismissal and age discrimination. Succeeded on unfair dismissal. (4 day hearing). Reported in The Independent

During pupillage David has gained experience of employment litigation alongside Shaen Catherwood and Akash Nawbatt, assisting on the following appellate and High Court matters:

- *Crossland v OCS Group Ltd and Another* [2014] EWCA 576 - appeal against ET's decision, upheld by the EAT, to make a deposit order against the claimant in disability discrimination proceedings and as a result of his failure to pay the claims had been struck out. Appeal dismissed.
- *Fox v British Airways Plc* [2013] EWCA Civ 972; [2013] IRLR 812 - claim for compensation relating to a death in service benefit by deceased (and dismissed) employee's estate
- *Lockwood v Department for Work and Pensions* [2013] EWCA Civ 1195 - comparators and justification in age discrimination claim relating to Civil Service pension scheme
- *Hunter v McCarrick* [2013] ICR 235; [2013] IRLR 26 - no service provision change under TUPE where there is a change of client as well as a change of contractor
- *Earthworks Environment & Resources Ltd v Beale* (2013) - High Court injunctive proceedings against former employee
- *London School of Economics v Lindsay* [2012] UKEAT 0440/11/JOJ; UKEAT 0441/11/JOJ - victimisation

## Tax

David is rapidly building a tax practice. Recent experience includes:

- being instructed by HMRC as a junior to Akash Nawbatt in a domicile case
- being instructed to assist Christopher Stone in a case concerning the corporation tax treatment of civil penalties
- advising a taxpayer on the validity of surcharges and penalties levied on a taxpayer lacking capacity and on the effect of article 6 ECHR for such a taxpayer's appeal to the FTT.

As a pupil to Akash Nawbatt, David assisted on a number of cases concerning residence, discovery assessments and CGT in the First-tier Tribunal, the Upper Tribunal and the Court of Appeal, including:

- *Mertrux v Revenue and Customs Commissioners* [2013] EWCA Civ 821; [2013] STI 2469 - leading case on the sale of goodwill
- *Glyn v HMRC* [2014] STI 630 - first residence case following the Supreme Court judgment in *Gaines-Cooper* involving the application of the distinct break test
- *Wright v HMRC* [2013] UKUT 481 (TCC); [2014] STI 249 - case concerning the application of the test in the FTT for proceeding in the absence of an appellant due to ill-health

## **Appointments**

2012-13 Secretary, Free Representation Unit Management Committee

## **Memberships and Associations**

ELA, ELBA, & BILA

## **Awards and Scholarships**

2012 Barstow Scholarship (for overall performance on the BPTC)

2012 Busfield Prize (awarded for the best performance in Opinion Writing on the BPTC)

2012 Wolfson Scholarship

2012 Buchanan Prize (for performance on the BPTC)

2011 Lord Denning Scholarship

2011 Hardwicke Entrance Award

## **Education**

2012 City Law School – Bar Professional Training Course – Outstanding (3rd highest mark in a year of 360)

2011 The College of Law – Graduate Diploma in Law – Distinction

2000 Peterhouse, University of Cambridge – BA (Hons) Social and Political Science

### **Languages**

French (conversational)

### **Personal Interests**

Dogs, especially border terriers. Electronic music, particularly UK garage and its offshoots. Tennis. Walking, ideally with dogs.