



Sam Way
Year of Call: 2016

Sam accepts instructions in all of Chambers' core practice areas, including employment, personal injury, clinical negligence, commercial litigation, insurance and tax. He is praised by clients for his efficient, responsive style and takes a practical, strategic approach to his advice and advocacy.

Sam is ranked as a rising star in employment by Legal 500. He is often instructed to appear against more senior counsel at both first instance and on appeal.

Before coming to the Bar Sam worked for the Royal British Legion as a War Pensions and Armed Forces Compensation Adviser.

Recommendations

"Sam is a pleasure to work with. He is pragmatic and very user friendly; an astute and clear advocate." - Rising Star: Employment, Legal 500 2024

Employment

Sam has a busy and varied practice in all areas of employment and discrimination law, representing both employees and employers across the full range of statutory employment rights, commercial employment claims in the civil courts and those arising from industrial relations disputes.

Recent work includes:

Statutory employment claims

- *Rojha v Zinc Media Group PLC*. Represented the respondent in resisting an appeal against the making of unless orders which resulted in the striking out of the claimant's case in its entirety.
- *Marangakis v Iceland Foods Limited*. Represented the claimant/appellant before the EAT in the first appellate authority concerning the requirements for an employee to withdraw from an internal appeal against dismissal. See press coverage [here](#) and [here](#).
- *Shield v Secretary of State for Department for Work and Pensions (Formerly BPDTS Limited)*
. Represented the Claimant/Appellant before the EAT in an appeal against a finding that the Claimant was not disabled.
- *Thompson v Informatika Software Ltd*. Represented the claimant (junior to Andrew Burns KC) in an appeal to the EAT concerning the proper construction of Anti-Corruption policies and the limits of reliance on employee admissions.
- *Zarembok v BP and others*
. Represented the respondent (junior to Akash Nawbatt KC) in, a complex 26 day ET hearing involving

whistleblowing allegations made by a commodities trader concerning the conduct of business in developing markets. See press here: [CityAM](#), [Financial Times](#).

Industrial relations

- *Olsten (UK) Holdings Limited v Adecco Group European Works Council*
Acting for Olsten (junior to Andrew Burns KC) in appeals to the Employment Appeal Tribunal and the Court of Appeal regarding alleged breaches of a European Works Council agreement under The Transnational Information and Consultation of Employees Regulations 1999. See press coverage [here](#) and [here](#).
- Advising on section 140B TULCRA claims concerning allegations of breaches of collective bargaining agreements.
- Advising on the effect of section 240 TULCRA on strikes in the healthcare sector.

Civil employment claims

- *Advanced Bacterial Sciences Limited v No Chem Limited and others*. Acted for the Claimant in a multi-party High Court claim for breach of restrictive covenants, breach of tortious duties of confidence, breach of fiduciary duty and unlawful means conspiracy.
- Advising an employee concerning a proposed claim for breach of confidentiality and for unjust enrichment.
- Sam regularly advises on the scope of restrictive covenants, both for departing employees and businesses concerned about the use of confidential business information.

Sam is editor of the 'Maternity & Pregnancy', 'Sex', 'Sexual Orientation' and 'Marriage and Civil Partnerships' chapters of *Discrimination Law* published by Bloomsbury Professional, contributes to the Devereux Employment Law blog and the PLC Practical Law blog and regularly speaks in Devereux Chambers seminars. He is a member of ELBA and ELA.

Personal Injury

Sam has a substantial personal injury practice and welcomes instruct. He is also instructed in cases concerning complex issues of substantial and procedural law, often on appeal.

Sam has extensive experience in drafting pleadings and schedules of loss in high value claims, and of resisting allegations of fundamental dishonesty brought against claimants.

His work spans the full range of injury claims, including road traffic accidents, employers' liability, occupiers' liability, highways act claims, travel claims and fatal accidents.

Recent work includes:

- *Rabot v Hassam & Briggs v Laditan*. Representing the Interveners (junior to Robert Weir KC) in the two test cases leapfrogged to the Court of Appeal to determine the method of valuing mixed injury claims which include an award under the whiplash tariff. See press coverage [here](#), [here](#) and [here](#).
- *Stait v Cosmos Insurance Limited Cyprus*. Representing the Claimant (junior to Rob Weir KC and Sarah Prager) in applying permission to appeal to the Supreme Court regarding the Claimant's domicile Article 62 of Regulation (EC) No 1215/2012 (Brussels Recast).

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- DSF (a child by his litigation friend BAE) v Goold & UK Insurance Limited. Representing a minor Claimant (junior to Stephen Killalea KC) in an extremely high value claim arising out of a moderate to severe traumatic brain injury.
 - Bull v Aigbefoh. Representing the Defendant (junior to Christopher Walker) in a high value claim arising from alleged mild traumatic brain injury.
 - Advising a Claimant on the prospects of challenging CRU certificates which designate all of the Claimant's payments of Universal Credit as recoverable.
 - Junior to Robert Weir KC in a case brought by a young child who suffered meningitis whilst on a cruise holiday in the Caribbean. The claimant issued in Florida and the defendant responded by obtaining an anti-suit injunction in England. The claim was settled prior to the substantive hearing of the anti-suit injunction. See Settlement Update: Summer 2021.
 - Russell v Kent County Council. Succeeded at a liability trial regarding defects in a highway where the defendant claimed reliance on their highways repair policy. The claim was settled in June 2022 for a confidential sum.
 - Acting for the Claimants in secondary victim claims involving complex issues of causation of mental health conditions. Successful settlement was obtained following service of Sam's pleadings.

Sam is a member of PIBA and APIL.

Clinical Negligence

Sam accepts instructions on behalf of claimants and defendants in all areas of clinical negligence. He is experienced at drafting pleadings in cases raising complex issues of causation requiring multi-disciplinary expert evidence. He is also experienced at advising on the complex issues of causation and quantum that arise in clinical negligence disputes.

Sam contributes to the Personal Injury Brief Update Law Journal on a regular basis on matters arising out of clinical negligence claims. Recent articles include:

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- *Whittington Hospital NHS Trust v XX* [2020] UKSC 14: Damages are recoverable for foreign commercial surrogacy arrangements.

Commercial Litigation and Disputes

Sam has a growing practice in high-value commercial disputes beyond his level of call, and has a particular interest in claims arising for breaches of directors' duties, shareholder disputes, and professional negligence claims.

Recent work includes:

- *Leeway Services Limited v Amazon Payments (UK) Limited & Ors*. Pleading a claim for breach of contract and breaches of the Online Platforms Regulation against Amazon companies which had suspended and limited the claimant's business.
- *Tinkler v Soanes*, a claim for breach of directors' duties and unlawful means conspiracy against a former

director of Stobart Capital Limited.

- Advising on a non-party disclosure application in *Tinkler v Stobart Group and others*, a claim to set aside the judgment in *Stobart Group v Tinkler* [2019] EWHC 258 (Comm) for fraudulent non-disclosure in the original proceedings.
- Advising on a section 994 claim arising from alleged misappropriation of company funds to lower corporation tax liabilities.
- Advising on claims for breaches of a directors' ongoing duties following solicitation of the company's clients after his resignation.

Sam is a member of COMBAR.

Insurance & Reinsurance

Sam accepts instructions in all areas of insurance and reinsurance work for both insurers and policyholders, including both general insurance issues and those arising from COVID-19 related issues.

Recent work includes:

- Advising an amusement arcade as to coverage and quantum of a proposed claim under its Business Interruption Insurance cover, including consideration of methods of providing the presence of Covid-19 as required by an 'at the premises' clause.
- Advising a law firm concerning the scope of their Professional Indemnity Insurance coverage.
- Assisting in arbitral proceedings relating to a major claim arising out of a contractors' all-risks policy.
- Assisting the FCA team in the Business Interruption test case litigation (*The Financial Conduct Authority v Arch and Others* [2021] UKSC 1).

Tax

Sam welcomes instructions on behalf of both taxpayers and the revenue. He has particular experience where allegations of fraud are made in the FTT, most commonly in cases concerning the application of the principles from *Kittel* and *Ablessio*.

Recent work includes:

- *HMRC v Murphy*. Appeared in the Court of Appeal (junior to Joshua Carey), concerning whether success fees and ATE insurance in a claim for unlawful deductions of wages were sums which should be deducted in calculating the net profit received from employment.
- *HMRC v A Taxpayer*. Appeared in the FTT and UT (junior to Chris Stone) in the first appeal concerning the definition of "exceptional circumstances" in the Statutory Residence Test under Schedule 45 FA 2013.
- *Minstrell Recruitment Ltd v HMRC*. Representing HMRC (junior to Joshua Carey) in appeals concerning denial of input tax on the *Kittel* basis, and refusal to register phoenix companies on the *Ablessio* basis.
- *Tasca Tankers Ltd v HMRC*. Representing HMRC in an application to strike out an appeal on the basis that the appellant had no reasonable prospect of rebutting an inference that the appellant should have known that their transactions were connected with fraud.

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- Representing HMRC in an appeal concerning denial of input tax on the Kittel basis.
 - Instructed for a taxpayer to defend County Court proceedings for the enforcement of sums alleged to be due following the issue of Accelerated Payment Notices.

Sam has spoken on the Devereux Chambers Elevenses webinar series on the Transfer of Assets Abroad, and the Junior Tax webinar series on the Jurisdiction of the FTT.

Academic

BA (Hons) Philosophy; Queens' College, Cambridge

GDL; City University London

BPTC; City University London (Outstanding)

Awards & Scholarships

Inner Temple GDL Exhibition Award

Inner Temple BPTC Exhibition Award

Memberships & Associations

ELA, ELBA, PIBA, APIL, COMBAR

Personal Interests

When time allows, Sam enjoys watching and playing all sport. He has come to terms with the fact he is better at the former than the latter.