



Sam Way
Year of Call: 2016

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

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

Employment

Sam has a busy and varied practice in all areas of employment and discrimination law, representing both claimants and respondents in preliminary hearings, final hearings and on appeal. He is regularly instructed on multi-day Employment Tribunal hearings and in civil claims arising out of employment relationships. Sam is adept at handling complex, document-heavy cases either as sole counsel or as part of a team.

Recent work includes:

- Junior to Andrew Burns QC in *Thompson v Informatica Software Ltd*, an appeal to the EAT concerning the proper construction of Anti-Corruption policies and the limits of reliance on employee admissions.
- Junior to Akash Nawbatt QC in *Zarembok v BP and others*, a complex 26 day ET hearing involving whistleblowing allegations made by a commodities trader concerning the conduct of business in developing markets.
- *Thompson v City and Suburban Services Limited*. Acting for the claimant, Sam achieved a 15% uplift to the claimant's compensation after the respondent was found to have unreasonably failed to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures.
- *Esimaje v Mitie Aviation Security Limited*. Sam achieved dismissal of a complex claim for direct disability discrimination, discrimination arising from disability, wrongful dismissal and unfair dismissal following a summary dismissal for a claimant using her mobile phone while working as a security guard on the Eurostar terminal.
- *Irving v British Telecommunications Ltd*. Sam successfully achieved dismissal of a claim for discrimination arising from disability, failure to make reasonable adjustments and unfair dismissal on the basis that the Respondent's alterations to its normal absence process were reasonable and proportionate.
- Along with Bruce Carr QC, advising LawWorks on issues arising from furloughed employees volunteering under the Coronavirus Job Retention Scheme. The advice was published and is available [here](#).

Sam is an editor of the 'Maternity & Pregnancy' and 'Sex' chapters of Discrimination Law published by Bloomsbury Professional, contributes to the Devereux Employment Law blog and the PLC Practical Law blog and regularly speaks on Devereux Chambers webinars. He is a member of ELBA and ELA.

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 from 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. Sam assisted the FCA team in the Business Interruption test case litigation (*The Financial Conduct Authority v Arch and Others* [2021] UKSC 1).

Recent work includes providing assistance in arbitral proceedings relating to a major claim arising out of a contractors' all-risks policy. During pupillage, Sam also provided assistance to Richard Harrison in *R & S Pilling t/a Phoenix Engineering Limited v UK Insurance Limited* [2019] UKSC 16. Sam has a particular interest in business interruption insurance and notification issues.

Personal Injury

Sam is regularly instructed to advise and represent both claimants and defendants on fast and multi-track claims, and 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 road traffic accidents, employers' liability, occupiers' liability, highways act claims, travel claims and fatal accidents.

Recent work includes:

- Junior to Rob Weir QC 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 Devereux Settlement Update: Summer 2021.

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- *Russell v Kent County Council*. Sam succeeded in a contested trial regarding defects in a highway where the defendant claimed reliance on their highways repair policy.
 - A secondary victim claim involving complex issues of causation of mental health conditions. Successful settlement was obtained following service of Sam's pleadings.
 - Obtaining judgment and costs in excess of the fixed costs regime in CPR 45.29J due to the Defendant's non-engagement in the matter after agreeing settlement.

Sam provided extensive research support to Rob Weir QC in *X v Kuoni Travel Ltd* [2019] UKSC 37, both in the Supreme Court and in the forthcoming reference to the Court of Justice of the European Union. He is therefore particularly well placed to advise on claims under The Package Travel and Linked Travel Arrangements Regulations 2018.

Sam is a regular contributor to the Personal Injury Brief Update Law Journal. Recent articles include:

- *Griffiths v TUI UK Limited* [2020] EWHC 2268 (QB): The Court may not depart from uncontroverted expert evidence
- What is a 'highway maintainable at public expense'? Court of Appeal clarifies the tests in *Barlow v Wigan Metropolitan Borough Council* [2020] EWCA Civ 696
- Vicarious liability comes to a sudden stop: A return to principle over policy in *WM Morrisons Supermarkets plc v Various Claimants* [2020] UKSC 12 and *Barclays Bank plc v Various Claimants* [2020] UKSC 13

Sam is a member of PIBA.

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:

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

Tax

Sam welcomes instructions on behalf of both taxpayers and the revenue. He is a member of the Attorney General's 'Junior juniors' scheme and works well as part of a larger counsel team.

Recent work includes:

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Junior to Chris Stone in an appeal concerning the definition of “exceptional circumstances” in the Statutory Residence Test under Schedule 45 FA 2013.

- Junior to Joshua Carey in an appeal concerning a Gilt Strips scheme.
- Assisting in an appeal to the Upper Tribunal against a denial of specific disclosure application
- Instructed 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.

As pupil to Aparna Nathan QC, he gained extensive experience in a wide range of tax litigation, including *Beadle v HMRC* [2019] UKUT 0101 (TCC) concerning the FTT’s jurisdiction when considering an appeal against penalty notices for non-payment of Partner Payment Notices.

Sam also gained extensive experience of advisory work including; discovery assessments, business property relief, residence and domicile, interest in possession trusts, HMRC’s information gathering powers under Schedule 36 FA 2008, the reservation of benefit regime and the application of IR35 in a case concerning a high profile actor.

Sam is a member of the RBA.

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

PIBA, ELA, ELBA, RBA, 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.