

John Ross KC

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John Ross KC's specialisms are professional liability and insurance-related claims, contract and commercial, public and regulatory law, PIL/cross-border and personal injury claims.

He also has considerable experience in regulatory, commercial arbitration, TCC and construction adjudication hearings. His work also takes him overseas to appear and advise in other jurisdictions, including the Cayman Islands where he has been admitted on an ad hoc basis to address the Court in specific cases.

He has been an advocacy trainer at Inner Temple and undertaken advocacy training abroad – Nigeria for University lecturers and Singapore.

He has sat as a Recorder from 1990 to 2022 and continues to sit as a Legal Assessor for the Royal College of Veterinary Surgeons, as he has done since 2006.

This experience has given him a solid perspective on the judicial process to aid his clients.

Areas of Expertise

Personal Injury

Reported in Chambers & Partners as someone who *“has tremendous experience in catastrophic head injury claims. He is noted for his specific expertise in acquired brain injuries, as well as cases involving foreign travel...”*.

In particular he has acquired specialist knowledge in personal injury cases involving acquired brain injuries of the most serious kind and the psychological consequences of those injuries. He also has expertise in cases involving industrial disease, third party Contribution Act claims and those with Private International Law aspects (i.e. extending into injuries sustained abroad & Foreign Travel claims – as to this type of issue he has appeared in four recent lead cases in the field during recent years – 1 in the Supreme Court, 1 in the Court of Appeal and in 2 leading first instance decisions).

He is regularly instructed by the leading claimant firms and, for defendants, by the major insurance companies, to whom he often

also provides coverage advice. This gives him a valuable perspective, which assists in the provision of sound, well-judged advice to his clients.

He has experience of Group Action Litigation and is currently instructed in a series of cases concerning noise induced hearing losses sustained by trainer pilot assigned to work abroad for a foreign State.

Notable Personal Injury cases

Lady Brownlie v Four Seasons Holdings Ltd [2019] EWHC 2533

Fatal accident abroad; holding company sued in the absence of co-operation and compliance with the Pre-Action Protocol; late discovery of identity of responsible subsidiary company within same group of companies; application to substitute correctly named Defendant company. This case is now the lead case on this issue of substitution of parties when the limitation period may have expired.

Campbell v Advantage Insurance [2021] EWCA Civ 1698

Whether contributory negligence fell to be assessed by a purely objective test where a passenger had drunk to excess, was unable to walk unaided and was taken to a car and assisted into the rear seat.

Professional Negligence

Recognised as a leading practitioner since before the Directories came into being (see 'Law Magazine 19.2.88 – recommended counsel), John Ross is recognised for his being “a very agreeable opponent – very good to deal with and appears in a lot of leading professional negligence cases.”

Throughout his long and respected career his practice has covered all the professions, but with an emphasis on insurance broker, solicitor, barrister, accountant and surveyor negligence claims. He acted in the lead accountancy negligence case of *Grimm v. Newman* [2003] 1 All E.R. 67, which confirmed the need for a claimant to prove that 'but-for' the advice complained of a financial loss would have been avoided. He also appeared in the lead barrister's negligence case of *Moy v. Pettman Smith* (concerning settlement decisions taken by a barrister at the court door immediately before the commencement of a trial and the nature and extent of the advice a barrister is required to give to a client at that stage). His appearances before the Court of Appeal have included the lead cases on the making of a wasted costs order against a legal adviser – *Dempsey v Johnstone* [2003] EWCA Civ 1134 – and the ability to assign the benefit of a building contract – *Stansell Ltd v Co-op (CWS)* [2006] 1 W.L.R. 1704

John Ross KC has a strong and broad Professional Negligence Practice, acting both for claimants and defendants/their insurers. He is instructed in a wide range of actions in this field including claims against solicitors, barristers, architects, valuers, surveyors, accountants and insurance brokers and regularly advises on indemnity policy issues associated with such claims. As will be appreciated many professional negligence policies contain arbitration clauses which mean that policy construction disputes can only be dealt with by arbitrators whose rulings are covered by confidentiality prohibitions. Accordingly, these important disputes are not reported or capable of being publicised (hence they are not included below). John Ross has been involved in some of these disputes.

He was elected Vice Chair of the PNBA for 2010-2011 and Chair for 2012-2013.

Reported Cases

There are a large number of these stretching back to 2001 – *Grimm v Newman* [2002] STC 84/[2002] EWCA Civ 1621 (accountant's advice on tax issue) *Moy v Pettman Smith* [2003] EWCA Civ 467 (barrister's settlement advice at court door), *Dempsey v Johnstone* [2003] EWCA Civ 1134 (grounds for wasted costs order against solicitor for unsuccessful claimant); *College Credit v. National Guarantee Corp Ltd & Anor* [2004] EWHC 978 (Comm) (broker's alleged negligence); etc.

Notable Professional Negligence cases

Islam v CLP & Bond Adams [2020] 6 WLUK 381

This case concerns negligent advice tendered to a client in relation to the creation of and terms of an Option Agreement. The claimants (husband and wife) were advised by the First Defendant firm to sign an Option Agreement. It was in improper form and contained terms which the claimants had instructed their solicitor they would not agree to. The document they signed contained only a signature page and so they were not aware of the terms contained in the rest of the body of the agreement. They were then advised to contest the validity of the Option Agreement on grounds which were designed to conceal from the clients (and the Court) their own negligence in the creation of the Agreement. Those proceedings in the Chancery Division (HC13D05396 and HC14D02376), which were conducted by the Second Defendant not surprisingly failed. The Second Defendant firm issued an application to strike out the claim and/or for the imposition of terms on the Claimants' right to proceed with the claim. That issue was fought out before Mr Justice Knowles. The application to strike out the claim failed. There were issues concerning the contemporaneity of attendance notes which were produced and the legal consequences of asking a client to sign a signature sheet which has been detached from the main body of an Agreement, having regard to the provisions of s.2 of the Law of Property (Misc. Provisions) Act 1989.

Lady Brownlie v FS Cairo (Nile Plaza) LLP [2019] EWHC 2533 (QB)

This is a widow's claim against a Four Seasons hotel company which operates or manages the Cairo Four Seasons hotel which offered her and her husband a safari excursion into the desert.

On the return journey the vehicle suffered tyre blow-out (it was defective and improperly maintained). Her husband (one of Britain's leading international law experts) and his daughter were killed. The driver was prosecuted in Egypt and convicted of manslaughter.

Proceedings were issued against the Four Seasons group parent company for the negligent implementation of its service contract duties and its breach of its duty of care. That company contested the decision to serve proceedings on it out of the jurisdiction and to have the claim tried in this country.

It has become a leading case on the right to sue for damages for breach of contract in this jurisdiction in relation to a contract for services which are to be performed in another country and for damages for tortiously sustained injuries where some damage has been suffered within this jurisdiction.

Notwithstanding the clear obiter dicta of the majority in their judgments which supported the Claimant's right to sue in this jurisdiction both in contract and in tort, when the Claimant's application for permission to substitute LLC as the correct Defendant, it used the opportunity to seek to re-argue that entitlement. Nicol J ruled against them on both those grounds. He also rejected the

defence that England was not the correct forum in which to litigate the claim.

This important judgment by Nicol J has also clarified the law on the circumstances in which a Claimant can substitute a new party as a Defendant even after a limitation period has expired, if the error arose from a mistake as to the correct identity of the other contracting party. This clarification follows a series of Court of Appeal and first instance decisions on a difficult area of procedural law.

It was John Ross' knowledge of procedural law that enabled him to persuade the Supreme Court to permit the application to substitute to be made pursuant to various provisions of the CPR and to persuade Nicol J to allow the substitution.

Travel & Cross Border Claims

Throughout his long and respected career he has always acted for both claimants and defendant insurers and the range of his practice has covered the fields of professional negligence and insurance related claims, contract and commercial disputes, and personal injury claims arising from industrial exposures and accidents abroad. He also appears and advises in jurisdictions overseas.

Recent highlights include a Supreme Court appearance and the ensuing important first instance decision, both of which have made new law in this field and are cited as determinative of many of the jurisdictional issues that arise in cross-border claim; a Court of Appeal hearing on the issue of an employer's duties when sending an employee to work abroad; and the development of a Reparation Mediation and Arbitral Scheme in Uganda for the adjudication of historic sex abuse claims against a Religious Order.

Feed-back on his capabilities include "He is a very strategic thinker and he knows the personal injury remit, he is second to none in dealing with major cases." "He takes a very sage, pragmatic approach and is very experienced."

Notable Travel & Cross Border Claims cases

Cassley v GMP Securities Europe LLP [2015] EWHC 722 (QB)/[2016 EWCA Civ 711

Plane crash in the Democratic Republic of the Congo; duties owed by an employer to an employee who was engaged in overseas travel organised by a third party; obligation to prove employer's breach of duty was causative of the loss sustained by the employee; this is now the lead case on these issues.

South West SHA v Bay Island Voyages [2015] EWCA Civ

Whether the time-bar in Article 16 of the Athens Convention 1974 operated to extinguish the cause of action or as a procedural bar to a remedy and its effect on the time limitation period which governs claims brought against one party against another under the provisions of the Civil Liability (Contribution) Act 1970.

L v Murphy [2016] EWHC 3102 (QB)

Permission to appeal to the Court of Appeal refused in July 2017 (whether Uganda's law of limitation offended the principles of public policy and caused the claimants undue hardship within the meaning of those terms as found in the Foreign Limitation Periods Act 1984; Held: No; This judgment is regarded as the leading modern review of the law on the applicability of foreign limitation provisions when the *lex causae* is found to be the law of a foreign country, as the prior case law is now of some vintage. The judgment also addressed the issue of when public policy might entitle the court to over-ride the limitation provisions of the governing foreign law).

Lady Brownlie v Four Seasons [2017] UKSC 80

This is now the lead case on the meaning of "damage" in CPR 6BPD para. 3.1(9) which sets out the conditions for permitting service out of the jurisdiction in tort claims; it establishes that it suffices to found jurisdiction if the claimant has suffered some continuing damage when returning to his/her country of ordinary residence in the UK, subject always to being able to satisfy the Court that this country is the *forum conveniens*.

Commercial, Chancery & Property

His appearances before the Court of Appeal have included the lead cases on the making of a wasted costs order against a legal adviser – *Dempsey v Johnstone* [2003] EWCA Civ 1134 – and the ability to assign the benefit of a building contract – *Stansell Ltd v Co-op (CWS)* [2006] 1 W.L.R. 1704

John Ross KC has a strong and broad Commercial Practice, acting both for claimants and defendants/their insurers. He is instructed in a wide range of actions in this field and regularly advises on indemnity policy issues associated with such claims. His professional liability practice regularly involves property law issues and errors.

His appearances before the Court of Appeal in this field have included the lead cases on the making of a wasted costs order against a legal adviser – *Dempsey v Johnstone* [2003] EWCA Civ 1134; the ability to assign the benefit of a building contract despite the existence of a non-assignment clause in the contract – *Stansell Ltd v Co-op (CWS)* [2006] 1 W.L.R. 1704; and the legal consequences of signing a signature page which has been detached from the body of an Option Agreement (s.2 of the Law of Property Act (Miscellaneous Provisions) Act 1989 – *Islam v CLP & Bond Adams* [2020] 6 WLUK 381.

Education

- LLB; LLM London (UCL)

Appointments

- Recorder 1990-2022
- Legal Assessor to Royal College of Veterinary Surgeons 2006 to date

- Vice-Chair and Chair PNBA 2010-2013
- Bencher Inner Temple 2006 to date
- Head of 1 Chancery Lane Chambers 2007-2017

Awards

- Corporate INTL Professional Negligence Barrister of the Year 2022

Accreditation Logos

