

# Professional Liability

“A chambers that is noted for its thoroughly modern approach.”

Chambers UK

MODERN APPROACH

## “An impressive set” Professional Negligence section, The Legal 500

Our experience of professional liability litigation draws on our expertise in the underlying areas of practice of the professionals concerned. The range of work which Chambers undertakes in this field is wide. A significant proportion arises from mortgage lending and other property transactions, the conduct of litigation or advice given in relation to trusts, financial services transactions or the administration of pension funds. We act for and against solicitors, surveyors and valuers, planning consultants; financial practitioners, actuaries and pension consultants, accountants and auditors, barristers and other professionals.

We offer assistance at any stage in the progress of a claim from advising on the merits of potential proceedings or compliance with the Pre-Action Protocol through to advocacy at trial. We have considerable experience of the resolution of claims by mediation or arbitration. Several members of Chambers are qualified mediators.

Members' understanding of trust and fiduciary duties is of increasing importance in the litigation of claims against professionals, particularly those who handle client money. We also draw on our experience of regulatory law and the remedies such as those offered by the Financial Ombudsman Service and the Pensions Ombudsman.

Members of Chambers accept instructions from both defendants and claimants. In appropriate cases, certain members are happy to accept instructions under the Public Access Scheme.

In addition to litigating claims where the objective is to establish civil liability, various members of Chambers also have experience of regulatory and disciplinary proceedings before a variety of tribunals.

## Publications

David di Mambro is Senior Contributing Editor to The Civil Court Practice 2014 (The Green Book). Shantanu Majumdar is editor of the chapter on Limitation.

Shantanu Majumdar is editor of the chapters on Professional Negligence (as well as those on Contract, Latent Damage and Fraud) in the Law of Limitation (Bloomsbury)

## Cases of Note

**AIB v Redler** [2014] UKSC 58 - Solicitors' liability for breach of trust in security transaction (Jeremy Cousins QC)

**Jacobs v Sesame Limited** [2014] EWCA Civ 1410 - Limitation Act 1980, section 14A; whether the purchaser of an investment bond had constructive knowledge of the possibility that she had been badly advised (Peter Dodge)

**Ikbal v Sterling Law** [2013] EWHC 3291 (Ch) – Purchaser's solicitor liable for breach of trust where purchase monies misappropriated by purported vendor; whether to grant relief under Trustee Act 1925, section 61 (Peter Dodge)

**Horler v Rubin** [2012] EWCA Civ 4 - whether insolvency practitioner/trustee in bankruptcy misapplied assets of the bankrupt's estate (Keith Rowley QC, Peter Dodge)

**Green v Eadie & Ors** [2011] EWHC 824 (Ch) - claim against conveyancers who were alleged not to have advised properly on the boundaries of the property purchased by their client. (William Moffett, Nathan Wells)

**Thomas and another v BPE Solicitors** [2010] EWHC 306 (Ch) - Solicitors' negligence in completion of commercial transaction; also a landmark decision on contractual acceptance by e-mail (Jeremy Cousins QC)

Radcliffe Chambers

**Roberts v Gill and Co** [2010] UKSC 22 - claims of negligence against two firms of solicitors in the administration of an estate (Thomas Dumont)

**Scott v Kennedys Law LLP** [2011] EWHC 3808 (Ch) - method of assessment of loss on the no transaction basis (Simon Williams)

**Joyce v Bowman Law Ltd** [2010] EWHC 251 (Ch) - causation and computation of damages in claim against negligent conveyancers for loss of a chance to develop land (Simon Williams)

**Williams v Glyn Owen & Co** [2003] EWCA Civ 750 - the correct measure of damage suffered by the purchaser of a farm as a consequence of his solicitor's failure to advise about service of a notice to complete. (Katherine McQuail)

**Johnson v Gore Wood** [2002] 2 AC 1 - solicitors' negligence in relation to service of an option, raising issues of recoverable loss (Elizabeth Ovey)

**Babicki v Rowlands** [2001] EWCA Civ 1720 – limitation Act 1980 section 14A; whether purchaser of a hotel had constructive notice of absence of planning permission and Building Regulations approval (Keith Rowley QC)

**Longstaff v Birtles** [2001] EWCA Civ 1219 - solicitor owed paramount duty to observe fiduciary obligations in his personal dealings with current and former client, including duty to disclose and cause them to take independent advice; no scope for a further tortious duty of care (Ulick Staunton)

**Dent v Davis Blank Furniss** [2001] Lloyd's Rep. P.N. 534 – measure of damages where solicitor failed to discover defect in title (Keith Rowley QC)

**Portman Building Society v. Bevan Ashford** [2000] Lloyd's Rep PN 354 - measure of damages where solicitor failed to inform lender of borrowers' proposal to grant second charge; application of test in SAAMCO to solicitor's negligence action (Mark West)

**Worby v Rosser** [2000] PNLR. 140 – whether solicitor who prepared invalid will owed a duty of care to beneficiaries under an earlier invalid will (Keith Rowley QC)

**Finley v Connell Associates** [1999] Lloyd's Rep. PN 895 – solicitor advised creditor client to return title deeds to guarantor who had provided monetary guarantee instead, and whether second guarantee discharged liability under the first (Keith Rowley QC)

**Paragon Finance Plc v D B Thakerar & Co** [1999] 1 All ER 400 (CA) - landmark Court of Appeal decision that prevented lenders suing solicitors firms for fraud on stale claims (Thomas Dumont)

**Darlington Building Society v O'Rourke** [1999] PNLR 365 (CA) - no duty on solicitor acting for both borrower and lender in separate transactions to disclose confidential information to other client; application to amend appeal fraud after expiry of limitation period refused. (Ulick Staunton)

**Oates v Pittman** [1998] 5 PNLR 683 - the correct measure of damages for negligence. (Katherine McQuail)

**Portman Building Society v. Hamlyn Taylor Neck** [1998] 4 All ER 202 -whether a lender has a cause of action in restitution to recover money paid under a mistake of fact in the context of a solicitor's negligence action (Mark West)

**Acton v. Graham Pearce & Co** [1997] 3 All ER 909 - a landmark case in limiting the boundaries for what was then advocate's immunity (Jeremy Cousins QC)

**Gunns v Par Insurance Brokers** [1997] 1 Lloyds Rep 173 - whether brokers liable for non-disclosure causing policy to be avoided (Elizabeth Ovey)

**Tabarrok v E D C Lord & Co** [1997] PNLR 491 (CA) - accrual of cause of action on claim for professional negligence; whether claim statute-barred (Robert Pearce QC)

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## Areas of Expertise

Banking and Financial Services  
Charities  
Commercial Disputes  
Company  
Consumer Credit  
Court of Protection  
Insolvency  
Partnership and Joint Ventures  
Pensions  
■ **Professional Liability**  
Property  
Tax  
Trusts  
Wills and Estates  
Mediation and Arbitration  
International

## Members of Chambers practising in this area of law

Jeremy Cousins QC  
Keith Rowley QC  
Robert Pearce QC  
Gordon Nurse  
Michael Heywood  
Stephen Acton  
Elizabeth Ovey  
Thomas Dumont  
Ulick Staunton  
Simon Williams  
Piers Feltham  
Howard Smith  
Mark West  
Roger Mullis  
Katherine McQuail  
Peter Dodge

Shantanu Majumdar  
Marie-Claire Bleasdale  
Dov Ohrenstein  
Kate Selway  
Clive Moys  
Douglas Keel  
William Moffett  
Nathan Wells  
Gary Lidington  
Marcus Flavin  
Frances Ratcliffe  
Martin Ouwehand  
Tom Beasley  
Steven Barrett  
Christopher Buckley  
Mark Fell

Wendy Mathers  
Natalie Brown  
Daniel Burton  
Henry Day  
Nicholas Macklam  
Jonathan Edwards

