

Darren Lewis

Deputy Head of Personal Injury team



YEAR OF CALL: 2004

INN: INNER TEMPLE

“ Darren is very approachable and always happy to discuss complicated cases in detail. Good written advice on wasted costs arguments.”

LEGAL 500, 2022
COSTS

Practice Overview

Darren specialises in personal injury and employment matters, and was called to the Bar in 2004. He is a leading junior on civil fraud, fundamental dishonesty, S57 defences as well as committal for contempt of court. He has extensive expertise in strategy, tactics and risks defending dishonest claims from their inception to stike out/dismissal and even committal for contempt of court. He has lectured extensively on all aspects of civil fraud for defendants.

Darren is one of the leading personal injury costs barristers in the South West, and ranked in tier 1 by The Legal 500. He has appeared in some of the leading cases following the recent rule changes arising from Jackson, QOCS and fixed fees.

He has extensive experience in industrial disease litigation and employers' liability, with an emphasis on emerging fields such as non-freezing cold injury claims and MoD claims as well as NIHL, asbestosis and upper limb disorders. His clients range from heavy industries, for example Tata Steel, to public services.

He works in all aspects of local authority liability ranging from highways, employers and occupiers liability, to very sensitive claims arising from secure units, specialist schools and respite centres. He has a loyal following among local authorities ranging from Walsall MBC in the West Midlands to Cornwall County Council in the South West. He also represents owners of privatised housing estates, housing associations and arm's-length management organisations.

Darren has specialist knowledge and is frequently instructed concerning accidents abroad, Rome II, jurisdictional disputes and choice of law. In addition he represents both claimants and defendants in Athens and Montreal Convention cases, and in Admiralty and aviation personal injury matters.

Darren also has a respondent employment law practice that complements his industrial disease and employers liability work. He specialises in the crossover between personal injury and employment law with an emphasis on stress at work and cases featuring whistleblowing, as well as and discrimination matters with a focus on disability.

Areas of Expertise

Personal Injury

Darren has over 17 years' experience specialising in personal injury matters, and is a leading junior on civil fraud, fundamental dishonesty, S57 defences as well as committal for contempt of court. He has extensive expertise in strategy, tactics and risks defending dishonest claims from their inception to stike out/dismissal and even committal for contempt of court. He has lectured extensively on all aspects of civil fraud for defendants.

Some exemplar cases include:

- ▶ *Johnson v Jeakins Weir* – before HHJ Murdoch. A case in which the claimant claimed he had initially lied about the locus accident "not to cause trouble" but later claimed it was on a building site controlled by the defendant. After cross examination there was evidence that some dangers were created by a subcontractor that the claimant worked for (who were not joined by the claimant and very confused evidence on mechanism). The court found the claimant and subcontractor's director had colluded to present a false story to the court. Claim dismissed. QOWCS disapplied and the claimant paid the defendant's costs.
- ▶ *Kabil v Walsall Council* – before HHJ Gregory. After extensive cross examination the Judge found the claimant to be "... a deeply unsatisfactory witness who, in my judgment, was quite prepared to make something up on the spur of the moment if it suited his case." Claim dismissed. QOWCS disapplied and the claimant paid the defendant's costs. Walsall went on to secure a committal for contempt of court with a 6 month prison sentence.
- ▶ *Plymouth City Council v Jones* – A committal for contempt of court for a woman who had both lied in legal proceedings by falsifying emails offering her ad hoc work in order to vastly inflate her loss of earnings claim. She had previously lied to the Council in terms of her housing benefits claim and already been punished for that. She was committed for contempt of court with a 6 month prison sentence suspended for 2 years.

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Some exemplar cases include:

- ▶ *Casseldine v The Diocese of Llandaff Board for Social Responsibility* (a charity) before the Regional Costs Judge Phillips in Cardiff – for some time the "leading" case on QOCS protections where a pre Jackson CFA is terminated before proceedings are issued and a post Jackson CFA is entered in to. (Overturned by the Court of Appeal in *Catalano v Espley-Tyas Development Group Ltd* [2017] EWCA Civ 1132)
- ▶ *Bruno Manuel Dos Santos Mendes v Hochtief Construction (UK) Limited* (2016) EWHC 976 (QB) against Nicholas Bacon QC in the High Court – On the recoverability of Trial Advocacy Fees in cases that settle at the Court door.
- ▶ *Wynne v Miller Foundations* – on the recoverability of VAT on the obtaining of medical records under the new rules.

He has extensive experience in industrial disease litigation and employers' liability, with an emphasis on emerging fields such as non-freezing cold injury claims and MoD claims as well as NIHL, asbestosis and upper limb disorders. His clients range from heavy industries, for example Tata Steel, to public services.

He works in all aspects of local authority liability ranging from highways, employers and occupiers liability, to very sensitive claims arising from secure units, specialist schools and respite centres. He has a loyal following among local authorities ranging from Walsall MBC in the West Midlands to Cornwall County Council in the South West. He also represents owners of privatised housing estates, housing associations and arm's-length management organisations.

Darren has specialist knowledge and is frequently instructed concerning accidents abroad, Rome II, jurisdictional disputes and choice of law. In addition he represents both claimants and defendants in Athens and Montreal Convention cases, and in Admiralty and aviation personal injury matters.

Employers Liability

Darren practises in all areas of employers' liability for both claimants and defendants. He regularly advises and appears in legacy 'Six Pack' regulations cases that commenced before direct effect ceased.

He advises and appears in complex cases involving vicarious liability/civil assault and alleged failure of care plan/safe working procedure in places such as secure units, specialist schools, respite care centres as well as prisons and young offenders' institutions for local and central government.

In addition to traditional employer's liability cases, Darren has a specialist Admiralty practice concerning work accidents at sea, merchant navy accidents and dockside regulation.

Recent work includes:

- ▶ *M v X & MOD* – an ongoing case concerning an RN officer injured after leaving her ship and suffering serious injury on the dockside. Complex issues relating to duties, ownership and maintenance between defendants.
- ▶ *Johnson v University of Bristol* – the claimant handyman was injured in the process of identifying and fixing a complained-of defect.
- ▶ *Passmore v Swansea City Council* – liability for a council employee standing on a traffic light inspection panel which collapsed. Liability attached as the inspection panel was work equipment for some council employees and so it was work equipment for this employee.

Industrial Disease

Darren has extensive experience in industrial disease litigation, with an emphasis on emerging fields such as non-freezing cold injury claims and claims against the Ministry of Defence. He frequently advises and appears in Court in claims relating to NIHL, asbestosis, mesothelioma and HAVS and other upper limb disorders. His defendant clients range from traditional heavy industries, for example Tata Steel in South Wales, to public services.

Darren undertakes appropriate claimant work on a CFA basis as long as there is no conflict with existing clients.

Darren's substantial costs practice and lengthy experience with disease litigation lends itself to frequent instruction in CCMC and Interlocutory matters where a detailed knowledge of both areas is essential.

Recent work includes:

- ▶ *Sharples v Fairclough* – preliminary issue hearing for the Claimant. Later date of knowledge established despite multiple OH records indicating NIHL but the claimant established that he would have acted if he had been informed of the same. Recording GP referral.
- ▶ *Malpas v Hitachi* – de minimis case for the defendant, but also relevant on the date of knowledge as, under lengthy cross-examination, the claimant admitted there were many solicitors who had required multiple instances of hearing tests.

Personal Injury Costs

Darren is one of the leading personal injury costs barristers in the South West, and ranked in tier 1 by The Legal 500. He has appeared in some of the leading cases following the recent rule changes arising from Jackson, QOCS and fixed fees. Some exemplar cases include:

- ▶ *Casseldine v The Diocese of Llandaff Board for Social Responsibility* (a charity) before the Regional Costs Judge Phillips in Cardiff – for some time the "leading" case on QOCS protections where a pre Jackson

CFA is terminated before proceedings are issued and a post Jackson CFA is entered in to. (Overturned by the Court of Appeal in *Catalano v Espley-Tyas Development Group Ltd* [2017] EWCA Civ 1132)

- ▶ *Bruno Manuel Dos Santos Mendes v Hochtief Construction (UK) Limited* (2016) EWHC 976 (QB) against Nicholas Bacon QC in the High Court – On the recoverability of Trial Advocacy Fees in cases that settle at the Court door.
- ▶ *Wynne v Miller Foundations* – on the recoverability of VAT on the obtaining of medical records under the new rules.

In addition to complex cases setting out the extent of the new costs rules, he undertakes regular detailed assessment work and costs budgeting.

Public Liability

Darren works in all aspects of public liability. In highways cases he has a loyal following among local authorities ranging from Walsall MBC in the West Midlands to Cornwall County Council in the South West. In occupier's liability he represents privatised estate owners, charities, housing associations and arm's-length management organisations.

He has particular experience in cases involving injuries due to snow and ice, as well as claims arising from agricultural/rural settings.

Given his regular instruction on behalf of privatised housing estate operators he frequently deals with arguments concerning the interpretation of complex transfers of land and assets, public rights of way, and liability arising out of an alleged failure to maintain.

Recent work includes:

- ▶ *Yew v Gloucestershire County Council* LTL 16/7/2014 A S41A – snow and ice case where the Court held that it was reasonable to have a policy of not gritting pavements in a small town when road traffic routes across a vast rural county were by necessity prioritised.
- ▶ *Eustace v Worcestershire* – there was no liability for repairing a defective highway and not installing drainage channels where rainwater had previously carved out drainage streams.

Travel Abroad

Darren has specialist knowledge and is frequently instructed concerning accidents abroad, Rome II, jurisdictional disputes and choice of law. In addition he represents both claimants and defendants in Athens and Montreal Convention cases, and in Admiralty and aviation personal injury matters.

Recommendations

- ▶ "Darren is an excellent advocate. He responds promptly to written instructions and is well organised. In court, he has a calm but effective approach. He is able to adapt the degree of intensity required on any given case. He communicates well with clients and in my own experience has a proven successful track record at trial."

LEGAL 500, 2021
PERSONAL INJURY

- ▶ "The go-to in the South West on costs issues. Down to earth, commanding presence in court."

LEGAL 500, 2021
COSTS

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LEGAL 500 , 2021
COSTS

- ▶ A great trial advocate."

LEGAL 500 , 2020
PERSONAL INJURY

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LEGAL 500 , 2020
COSTS

Recent Articles:

- ▶ Catalano v Espley-Tyas Development Group Ltd [2017] EWCA Civ 1132
- ▶ Evidential issues in alpine sports injury claims

Professional Memberships:

- ▶ Personal Injury Bar Association

Qualifications & awards:

- ▶ LLB (Hons) Warwick
- ▶ Duke of Edinburgh Entrance Scholarship (Inner Temple)

Additional Information:

In addition to his professional responsibilities he is Deputy Head of the Personal Injury team, and Chambers Wellbeing Officer.

Contact Darren:

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