

## Paul Mitchell

**Call year: 1999**

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Paul practices mainly in the field of professional negligence, with particular experience in document-heavy claims against lawyers, accountants and financial advisers (including coverage disputes). He also regularly acts in commercial/ chancery litigation with an international dimension and has broad experience of freezing orders (obtaining, varying, and discharging). He has a growing disciplinary practice, acting for and against solicitors, accountants and taxation advisers. He acts regularly for the Taxation Disciplinary Board as a case presenter and recently assisted the TDB in amending the Taxation Disciplinary Scheme Regulations. He is listed in Chambers and Partners 2010 as forging a "burgeoning reputation as his work attracts more and more interest".

## Practice Profile

### Professional Negligence

Paul has experience of claims against numerous types of professional (including insurance brokers, architects and surveyors), but with particular expertise in relation to claims against lawyers, accountants and financial advisers. His practice involves claims litigated in the High Court and County Courts as well as claims resolved in arbitration. He acts mainly for professional indemnity insurers but is also regularly instructed by claimants.

*Claims against lawyers.* Paul's experience includes:

- Claims arising from residential and commercial conveyancing (freehold and leasehold), a field in which Paul has particular expertise (he is the author of the chapter on conveyancing in the second edition of *Flenley & Leech on Solicitors' Negligence and Liability*), including:
  - o Lenders' claims
  - o *Etridge* claims
  - o Complex damages claims arising from nature of property acquired
  - o Claims for loss of protected business tenancies
  - o Claims for loss of Right to Buy discount
- All types of "lost litigation" claims (loss of chance/ alleged under-settlement/ alleged negligent preparation and conduct of trial), including contribution claims against counsel/ solicitors.
- Claims arising from the alleged negligent preparation of wills/ the administration of estates
- Limitation defences (Paul was for many years the editor of the chapter on limitation in LLP's *Professional Negligence and Liability* looseleaf).
- Disputes relating to the Minimum Terms and Conditions (successor practices, dishonesty issues, notification of circumstances)
- Wasted costs claims
- Partnership disputes (particularly in connection with claims made against a firm that have raised questions regarding the honesty of one partner)
- Disciplinary claims before the Solicitors' Disciplinary Tribunal

*Claims against accountants.* Paul's experience includes:

Claims against auditors arising from failure to detect fraud (including claims arising in connection with Law Society accounts)

Claims arising from negligent taxation advice (personal and corporate tax, including VAT, international taxation advice and corporate restructuring).

Claims against insolvency practitioners

*Claims against financial advisers.* Paul's experience includes:

Strategic advice to several insurers in connection with claims arising from advice to invest in "split cap" investments

Claims arising from the "Stax" investment scheme

Claims arising in connection with advice on pensions

Claims made in connection with investment advice (including film finance investment vehicles)

Paul has substantial experience of interim applications made in professional negligence litigation, e.g., applications for security for costs, specific disclosure, strike out/ summary judgment etc; and of preparing position statements for mediation/ other forms of ADR.

### **Commercial Litigation**

Paul has a growing chancery/ commercial practice, comprising mainly claims involving fraud and with a substantial amount of overlap with his professional negligence practice (e.g., acting for lender against fraudulent borrower; acting for BVI company allegedly defrauded by its English solicitors; acting for firm of accountants in £6m non-party costs action and subsequent recovery proceedings against director of former client which had brought unsuccessful bogus claim against them; acting for financier accused of defrauding investors; acting for accountant accused of dishonestly assisting in Ponzi-type fraud by making contribution claim against one of the fraudsters). He has substantial experience in obtaining, varying and discharging freezing injunctions in this field.

### **Mediation**

Paul is a fully-qualified mediator with training from the School of Psychotherapy and Counselling in Regent's Park in the use of psychological insights as an aid to dispute resolution.

### **Other**

Paul regularly accepts instructions from the Bar Pro Bono Unit, usually (but not always) in professional negligence cases.

## **Further Information**

**Year of call:** 1999

**Specialist areas:** professional negligence; commercial/chancery litigation

**Education:** 1990 King's College, Cambridge, BA(Hons). 1<sup>st</sup> class; 1993 School of Oriental and African Studies. MA; 1997 King's College, Cambridge, PhD; 1998 City University, CPE

**Prizes and Awards:** 2002 Pegasus Scholarship from the Inns of Court; 1999 Denning Scholarship from Lincoln's Inn; 1998 Mansfield Scholarship from Lincoln's Inn; 1997 Hardwicke Award and CPE Award from Lincoln's Inn; 1993 British Academy Research Award; 1991 School of Oriental and African Studies Bursary; 1990 Richards Prize for Oriental Studies from Cambridge University; 1990 Scholar of King's College, Cambridge; 1981 Caxton Scholarship to Sevenoaks School

**Committees:** In 2008, Paul sat for the first time on the panel of interviewers awarding major scholarships to student members of Lincoln's Inn

## **Recent cases**

*Williams v Thompson Leatherdale and Anor* [2008] EWHC 2574 (QBD - Field J): acted (with Oliver Wyse) for successful defendant solicitors in claim arising from alleged negligence in connection with ancillary relief proceedings which were settled just before a significant change in the law relating to "big money" divorces. Instructed by Beachcroft LLP.

*Chantrey Vellacott v The Convergence Group Plc & Ors (Fergana intervening)* [2008] EWHC 360 (Ch), Henderson J. Dismissal of application by allegedly affected party to vary Worldwide Freezing Order granted by Rimer J after judgment in July 2007. Instructed by Squire & Co.

*Wave Lending Limited v Batra* [2008] EWHC 1015 (QB), Royce J. Dismissal of respondent borrower's applications (1) to discharge worldwide freezing order and (2) for reverse summary judgment on proprietary claim made by applicant lender. Instructed by

Eversheds LLP.

*Chantrey Vellacott v The Convergence Group Plc & Ors* [2007] EWHC 1774 (Ch), Rimer J. With Richard Jacobs QC. Non-party costs order against director of the defendant company, which had brought a bogus £150m counterclaim against the claimant accountants. See also the judgment of Mann J dated 3 March 2008 (on Lawtel but with no neutral citation number). Instructed by Squire & Co.

*The Director of the Assets Recovery Agency v Szipietowski & Ors* (ongoing, Chancery Division). Acting for BVI company intervening in these proceedings asserting title to an asset sought to be seized by the Assets Recovery Agency. Instructed by Ahmud & Co.

*X & Y v Z Ltd.* (Arbitration, with Michael Pooles QC). Acting for professional indemnity insurers who have declined cover to two licensed insolvency practitioners facing multi-million pound claims alleged to arise from their dishonesty. Instructed by Kennedys.

*Williams v Thompson Leatherdale & Anor* (ongoing, QBD). Acting for defendant solicitors in claim made against solicitors and leading counsel arising from alleged negligence in conduct of ancillary relief proceedings in "big money" claim.

## Publications and lectures

Contributed the chapter on conveyancing in *Flenley & Leech on Solicitors' Negligence & Liability*, 2<sup>nd</sup> edition, London 2008.

Editor (with Simon Wilton and Luke Wygas) of Lloyds' Reports on Professional negligence

Edited chapter on limitation in *Professional Negligence and Liability* (LLP 2000, looseleaf)

Numerous lectures on professional negligence related topics, e.g., the assessment of damages in conveyancing claims, the assessment of damages in lenders' claims, etc.

## What others say

"Paul Mitchell continues to forge a burgeoning reputation as his work attracts more and more interest. His practice encompasses claims involving accountants, financial advisers and solicitors, and he recently worked alongside Spike Charlwood on GMAC v Watson & Brown. Other highlights include working on *Poels v Bank of Scotland Plc.*" *Chambers UK 2010*

"Paul Mitchell's growing professional negligence practice comprises claims against lawyers, accountants and financial advisers. He successfully defended Chantrey Vellacott in a £100 million professional negligence counterclaim against accountants, which collapsed mid-trial." *Chambers UK 2009*

"Paul Mitchell is also in possession of a burgeoning professional negligence practice, which includes large-scale cases, many of which are international in nature. For some time he has been defending Chantrey Vellacott against a counterclaim of USD150 million in the ongoing case of *Chantrey Vellacott v The Convergence Group PLC & Anor.*" *Chambers UK 2008*

## Personal info

Paul is a very practical and down-to-earth barrister, who quickly gets the ear of the court. He believes in meticulous analysis and a conversational style of advocacy and presentation. He is a dedicated opponent of patronising and (and/ or...) pretentious lawyering.

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