

Spike Charlwood

Call year: 1994

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Spike specialises in professional negligence and insurance law, has been consistently recommended as a leading junior for professional negligence in The Legal 500, Chambers UK and Legal Experts and was rated as one of the "Best of the Bar" in that field by Legal Week (9/2/06). He has recently appeared twice in the House of Lords (in *Farley v Skinner* and *Dubai Aluminium v Salaam*) and has wide experience of managed and group litigation, including *GMAC v Watson & Brown* (a lenders claim), *Nationwide v Balmer Radmore* (part of the 1990s mortgage lender litigation), *Hobson v Ashton Morton Slack* (an application for a Group Litigation Order) and the mediation of a further group of lender claims.

Academically, Spike is the joint author of the chapter on barristers' negligence in *Professional negligence & Liability*, the assistant editor of that work, writes a regular update on professional negligence for the *Solicitors Journal*, has been a supervisor in tort at Queens' College, Cambridge and speaks and writes widely on professional negligence issues.

Practice Profile

Professional Indemnity

Professional indemnity is Spike's principal specialism. Within that sphere, his main areas of practice are claims arising out of the legal (solicitors and barristers), financial (accountants, auditors, IFAs and insurance brokers) and property-related (surveyors and valuers) professions, together with related insurance and disciplinary matters.

In addition to the specific matters referred to by profession below, he has particular experience of cases involving limitation, dishonesty, equitable claims, claims for contribution and vicarious liability. Further, he has wide experience of managed and group litigation and is regularly instructed as sole counsel in large value claims.

Lawyers

Spike has acted in numerous solicitors' negligence cases, generally for defendants (both for SIF and the new market insurers). He co-authors the chapter on barristers' negligence in *Professional negligence and Liability* (LLP, looseleaf, 2000) and has dealt with a number of cases for and against barristers. Cases and issues with which he has dealt include:

lenders' claims, including the managed claims by Nationwide Building Society and Abbey National plc and the managed mediation of a further group of claims in the last round of lenders' claims and *GMAC v Watcon & Brown*, a group of managed claims in the present round of lender litigation.

claims involving allegations of dishonesty, both in the context of lenders' claims and vicarious liability (in particular, in *Dubai Aluminium*)

claims arising out of the alleged misconduct of litigation, including loss of a chance claims, claims alleging failures properly to conduct criminal cases and alleged failures properly to advise as to payments into court, evidence, etc

claims involving alleged breaches of trust and/or fiduciary duty, both in the context of alleged misappropriation or misdirection of client monies and as between partners

claims for allegedly negligent advice in both commercial and residential property transactions and landlord and tenant matters (especially relating to the Landlord and Tenant Act 1954)

claims raising limitation issues, including issues as to the accrual of damage, constructive knowledge and the construction of the Limitation Act 1980

claims arising out of the taking of security, including *Royal Bank of Scotland v Etridge*-type cases

contribution claims, including claims against barristers, surveyors and valuers

interim applications arising out of delay, breach of the rules and abuse of process
legal professional privilege, including the scope of the implied waiver of privilege when a solicitor is sued and the continuing duty of solicitors to assert their clients' privilege
claims arising out of alleged bank instrument / advance fee frauds
partnership disputes
article 6 of the European Convention on Human Rights (the right to a fair trial)
immunity from suit and collateral attack
land registration and other property related issues, including claims relating to the effect of forged
property transfers, appropriate advice in right to buy cases and cases where property is to be transferred within a family and resulting / constructive trust issues
wills cases
claims arising out of share / business sales

Property professionals

Spike acts for and against surveyors and valuers of residential and commercial property and is presently involved in a multi-million pound claim against valuers. He also has experience of the RICS arbitration scheme and claims against estate agents.

Financial professionals: accountants and auditors, insurance brokers and IFAs

Spike has been involved in a wide range of claims against financial professionals, including:

claims against IFAs for the alleged mis-selling of pensions and other investments
claims against auditors
claims against accountants arising out of tax advice and share / business sales, including the presently ongoing *Innovator* litigation
claims against insurance brokers in relation to the insurance of, amongst other matters, businesses, commercial and residential property, yachts and personal possessions

Insurance

Spike has wide experience of insurance issues. Cases and issues with which he has dealt have included:

coverage disputes, including three way cases involving insurance brokers
the avoidance of liability in cases of fraud
aggregation
notification
the construction of insurance policies, including policies based on the solicitors' minimum terms
the Third Party (Rights Against Insurers) Act 1930
non-disclosure and the duty of good faith
business interruption policies
claims arising out of household and travel insurance
recovery actions, in particular on behalf of insurers of tree root subsidence and in cases where dishonesty is alleged
conflicts of interest between insurers and insured
the extent of subrogation

General commercial and contract law

In addition to the insurance matters referred to above, Spike has experience of claims involving the sale and supply of goods and services and banking. Cases and issues with which Spike has dealt have included:

vicarious liability and claims for contribution in the context of a large commercial fraud
pre-action disclosure in a multi-million pound breach of contract claim
sale of goods, including photocopiers, waste incinerators and formula 1 car chasses
guarantees
the validity of security
mortgages
subrogation

Further Information

Year of call: 1994

Specialist areas: Professional negligence and insurance law

Education: Queens' College, Cambridge (MA (Hons) in law (Double First)); Bar Vocational Course

Recent and ongoing cases

Numerous lenders' claims against solicitors and valuers

GMAC v Watson & Brown (2009) - managed lenders' litigation

Wave v Shah (2000 ChD) - a lenders' claim raising issues concerning contributory negligence and breach of trusts (settled on day 2 of trial)

Queen of Malaysia v Luttery & Dean (2008 ChD)

Solicitors' negligence, conveyancing (adjourned on day 4 of trial)

Zurich v Karim [2006] EWHC 3355 (QB) - solicitors' professional indemnity insurance

Hobson v Ashton Morton Slack [2006] EWHC 1134 (QB) – Group Litigation Orders

Walker v Chruszcz [2006] EWHC 64 (QB) – barrister's negligence, settlement at the door of the court

Foender v Bond Lewis (BLD1402030543, Etherton J, 12/5/04) - bankruptcy, wasted costs, civil restraint orders.

Bhaktiar v Keoshgerian (3/12/03), QBD - vicarious liability, conversion.

Ali v Hudson [2003] EWCA Civ 1793 - solicitors' negligence, procedure.

Sutton v Mishcon de Reya [2003] EWHC 3166 (Ch), (2004) *The Times* 28/1/04 - solicitors' negligence, illegal contracts.

Polley v Warner Goodman & Streat [2003] PNLR 40, CA - the accrual of causes of action in solicitors' negligence cases.

Vincent v Blomstrand [2003] EWHC 1313 (Ch), ChD - solicitors' negligence, conveyancing.

Dubai Aluminium v Salaam [2002] UKHL 48, HL – vicarious liability and claims for contribution in the context of a large commercial fraud

Farley v Skinner [2001] 3 WLR 899, HL – surveyors' negligence, availability of distress damages

Brocklesby v Armitage & Guest [2001] 1 All ER 172, CA – solicitors' negligence, Limitation Act 1980 s.32

UCB v Carr [2000] Lloyd's Rep PN 754, QBD – solicitors' negligence, breach of trust, Limitation Act 1980

Abbey National v Sayer Moore [1999] EGCS 114, ChD – solicitors' negligence, lenders' claims, Limitation Act 1980 s.14A

Nationwide v Balmer Radmore & others [1999] Lloyd's Rep PN 241, ChD – solicitors' negligence, lenders' claims, managed litigation

Miller v Eyo [1998] NPC 95, CA – landlord & tenant, rights of tenants in multiple occupation

City Electrical Factors v Hardingham [1996] BIPR 541, ChD – bankruptcy, setting aside statutory demands

Publications and lectures

Publications

Contribution and professionals: an overview of the 1978 Act, alternatives to it, and its relationship with contributory negligence (2007) *Journal of Professional negligence*, vol.23, no.2, p.82

Assistant Editor, *Professional negligence and Liability* (LLP, looseleaf)

Joint author, chapter on barristers' negligence in *Professional Negligence and Liability*

Contributing editor, *Lloyd's Reports: Professional negligence*, 1999 - 2003

Editor, *Cordery on Solicitors* (Butterworths, looseleaf) (to 2007)

Regular updates on professional negligence for the *Solicitors Journal*

Articles on *Platform Home Loans v Oyston Shipways* and *Twinsectra Ltd v Yardley* for the *Solicitors Journal*

Seminars/talks:

Spike has lectured widely on professional negligence on topics including dishonesty, expert evidence, limitation, solicitors' negligence, barristers' negligence, lawyers' immunity, vicarious liability and costs. These talks have been given directly to solicitors and insurers and at conferences organised by bodies such as Informa, CLT and Eurolegal.

Teaching:

Part time supervisor in Tort, Queens' College, University of Cambridge, 1993 – 1995

What others say

Spike is recommended as a leading junior for professional negligence in *The Legal 500*, *Chambers UK* and *Legal Experts*.

"Tipped for great things, is Spike Charwood. Commentators feel that it 'won't be too long until Charwood takes silk' such is the strength of his reputation as a leading junior. He acts for a number of insurers and is particularly active when it comes to claims involving solicitors. Recent highlights for him include his involvement in *GMAC v Watson & Brown*, a multiple lenders' claim against a firm of solicitors." *Chambers UK 2010*

"Spike Charwood is 'a very accomplished courtroom advocate'." *Legal 500 2009*

"Spike Charwood is 'academically brilliant and has a sensible approach to the law.' He acts for a number of major insurers and has been instructed in numerous lenders' claims in the past year, including two cases of multiple claims against firms of solicitors." *Chambers UK 2009*

"Spike Charwood, who is 'good at controlling the court'." *Legal 500 2008*

"The likeable Charwood has an excellent practice in solicitors' negligence claims; *Zurich (Assigned Risks Pool) v Karim* being one unique example." *The Legal 500 2007*

"Spike Charwood offers 'very practical advice' in professional indemnity cases and is much sought out by solicitors. Significant cases for Charwood include *Hobson & others v Ashton Morton Slack & others*. In this matter he acted on behalf of two solicitor defendants in an application for a Group Litigation Order arising out of the ongoing miners' compensation claims." *Chambers UK 2008*

Previous editions of *The Legal 500* and *Chambers UK* have described Spike as "extremely knowledgeable", as winning backing for his "true dedication" to his cases and as praised for his "initiative and imagination" and a "great tactician" who "works as part of the team".

He was rated as one of the "Best of the Bar" in the field of professional negligence by *Legal Week* (9/2/06).

Professional negligence & Liability, of which Spike is the assistant editor and to which he contributes, has been reviewed as, "Extremely well-written, easy to use, authoritative and up-to-date".

Four of Spike's skeleton arguments appear in *Influencing the Judicial Mind – Effective Written Advocacy in Practice* (Goodman, 2006).

Personal info

Away from work, Spike's main interests are his young twins, wine, walking and England Rugby.
