



## Lionel Stride

Year of Call: 2005

### Practice Areas

- Civil Fraud
- Clinical Negligence
- Costs
- Credit Hire
- Health & Safety
- Inquests
- Insurance
- Personal Injury
- Product Liability
- Professional Liability

### Public Access

Undertakes Public Access work

### Email:

[lstride@tgchambers.com](mailto:lstride@tgchambers.com)

### Awards

### Experience

Lionel has a multi-track practice specialising in personal injury, clinical negligence and costs with complementary expertise in product liability (particularly in the context of aviation), inquests, health and safety, insurance contracts and civil fraud. He combines robust advocacy where required with a focused 'team' approach to litigation, tactical insight for JSMs and mediations and the ability to manage clients in challenging cases or where difficult messages need to be delivered.

### Personal Injury & Clinical Negligence

Lionel acts for claimants and defendants in all areas of personal injury and clinical negligence.

He is regularly instructed in high value fatal and catastrophic injury cases, as well as those involving serious head injuries, limb amputations, fusion surgery, hip replacement surgery and/or resulting in significant disability. He is well versed in claims for serious bodily injury arising out of domestic and international aviation accidents and other claims with a foreign element, including complex dependency claims arising out of the Germanwings disaster in which there were significant disputes as to the applicable law, jurisdiction and quantification. Lionel's regular practice also extends to cases involving complex issues of causation arising from brain injuries, the aggravation or acceleration of pre-existing



rheumatological conditions and non-organic pain (including complex regional pain syndrome, chronic pain, post-traumatic fibromyalgia and somataform disorders).

Lionel's clinical negligence practice incorporates factually complicated claims arising out of obstetric and gynaecological injuries, including those resulting in maximum disability, diagnostic failures (such as compartment syndrome, as well as cancer and MCL cases), negligent treatment of post-surgical infections leading to kidney failure, negligent eye and laser surgery, failure to convey to hospital and surgical negligence (with particular expertise in cases that have resulted in permanent colorectal injury).

### **Costs and Professional Liability**

Lionel undertakes costs work in all areas of commercial and common law litigation. He has extensive expertise in costs management conferences, detailed assessments, appeals, enforceability challenges to CFAS, solicitor-own client assessments and drafting general points of dispute. He can also advise on costs budgeting, compliance and the application of, and exceptions to, QOCS (including where there are pre- and post- April 2013 funding arrangements in place). This work has in turn led to instructions in professional negligence claims against solicitors and barristers, including those arising out of negligent advice and omissions that have led to significant under-settlement of claims (for example failing to investigate or consider the effect of chronic conditions).

### **Insurance, Civil Fraud and Credit Hire**

In addition to his main practice areas, Lionel specialises in insurance advisory work (contracts, coverage and indemnity, incorporating discrete issues such as material non-disclosure, fraudulent misrepresentation, wrongful repudiation, declarations, waivers and the meaning and effect of warranties and conditions) and receives regular instructions in claims involving suspected insurance fraud. Acting predominantly for insurers, his experience covers the full spectrum of insurance fraud from exaggerated personal injury claims of significant value to staged/contrived accidents and phantom passenger claims. He has successfully defended numerous fraudulent claims through to awards of exemplary damages and costs sanctions against individuals and/or firms of solicitors. This ties in well with his expertise in the field of credit hire, dealing with six figure hire claims and those involving more difficult issues of enforceability, illegality and ex turpi causa defences.

## Directories

**Legal 500 2017** (ranked for Personal Injury and Insurance Fraud): -

'A tenacious advocate, who is up to date with the latest developments in the area.'

'Thorough with papers, pragmatic with his advice and a compelling advocate.'

## Education

BVC: Nottingham Law School (Very Competent - 2nd in order of merit)

GDL: College of Law (Distinction)

BSc: Aston University (First Class Honours - 1st in order of merit)

## Memberships

PNBA

PIBA

APIL

HSLA

## Languages

French

## Cases

### **P & Ors v Germanwings GmbH; and M & Ors v Germanwings GmbH**

12 and 14.12.2017

Barristers involved: Lionel Stride

Confidential settlements achieved in two separate High Court claims brought on behalf of dependents of two different families arising out of the Germanwings disaster. There were significant disputes as to jurisdiction, applicable law and quantification, all of which had to be resolved during the settlement negotiations. The terms of the agreements included non-disclosure provisions, which prevent publication of the nature of the settlement achieved.

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### **Gaten v Johnson**

11.12.2017

Barristers involved: Lionel Stride

£470,000 settlement achieved at Joint Settlement Meeting in which the Claimant had suffered permanent, or semi-permanent, cognitive deficit from a head injury and psychological symptoms arising out of a serious road traffic accident.

There were multiple experts on both sides and a significant dispute as to the diagnosis, cause and likely duration of the Claimant's condition. A trial was due to take place in January 2018. The compromise made allowance for both the risk of permanent significant disability, as well as the possibility of improvement with further treatment.

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## **Kaur v University Hospitals NHS Foundation Trust**

16.08.2017

Barristers involved: Lionel Stride

Confidential settlement achieved at mediation in a High Court claim on behalf of the dependants of a deceased patient whose Mantle Cell Lymphoma (MCL) had been diagnosed two years late after negligent analysis of a biopsy. He later developed a blastic variant of the disease that resulted in his early death. Causation and quantum remained in dispute.

The key issues related to the type of treatment that would have been offered; and whether, based on an a statistical analysis of the effect of treatment on the outcome of MCL, the late diagnosis made any material difference to the outcome. The case of Montgomery was useful to persuade the Defendant that the patient should have been offered the full range of treatment to enable him to make an informed choice. There were rival expert analyses of the statistical data but the claim settled on the basis that the patient was likely to have survived at least a further decade with earlier intervention.

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## **Keen v Ashford and St Peter's NHS Hospitals Trust**

02.06.2017

Barristers involved: Lionel Stride

Clinical negligence case that settled for a six-figure sum. The Claimant's sigmoid colon was injured whilst undergoing a hysterectomy, which the surgeon failed to notice. Consequently, the Claimant developed infection; required three additional surgical procedures; and needed to use a colostomy bag permanently after the failure of the final operation to reverse a loop colostomy due to anastomotic leakage. Breach of duty and causation remained in dispute. The claim was settled on the basis that the Claimant would not now risk any further surgery and would therefore have permanent disability.

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## **Y v WHH NHS Trust**

2017 (ongoing)

Barristers involved: Lionel Stride

Ongoing obstetric/gynaecological case pleaded at over £1,000,000. The claimant sustained a second or third degree tear to her anal sphincter as a result of the failure to perform an episiotomy or an operative delivery during the birth of the claimant's first child. She has been left with debilitating colorectal symptoms that significantly reduce her earning capacity.

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## **R v E&A NHS Trust**

2017 (ongoing)

Barristers involved: Lionel Stride

Ongoing High Court claim pleaded in excess of £500,000. This is a case involving negligent colorectal surgery and/or follow-up treatment. The claimant suffered an anastomotic leak due to an incomplete donut being formed when preparing the stoma during an anterior resection to excise her cancer. She required three further surgical procedures but has been left with extensive internal abdominal scarring, constant pain, significantly impaired bowel function and permanent need for a stoma. Breach of duty and causation currently remain in dispute.

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## **S v Secretary of State for Health**

2017 (ongoing)

Barristers involved: Lionel Stride

Ongoing High Court claim pleaded at over £600,000. The claim arises out of surgical negligence resulting in a permanent frozen shoulder that is causing significantly impaired function. Causation remains in dispute but the claimant's medical evidence is that he is unlikely ever to return to full function.

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## **R & Ors v C**

31.01.2017

Barristers involved: Lionel Stride

Confidential settlements negotiated at mediation on behalf of three dependents arising out of a death during the Shoreham Air Disaster. There were disputes between family members as to the existence and/or extent of the dependency of three of these dependents; and their right to be added as individual parties to proceedings. The matter was resolved in their favour during mediation with the conflicted parties separately represented; and individual damages and costs orders negotiated.

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## **Iddaoudi v London Ambulance NHS Trust & Central London Healthcare NHS Trust**

1 January 2016

Barristers involved: Lionel Stride

High Court case that settled for a six-figure sum. Breach of duty and causation remained in dispute. The claim arose out of the failure of both the London Ambulance Service and the claimant's local hospital to identify and treat pending compartment syndrome, resulting in permanent disability.

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## **D'Souza v West Middlesex University Hospitals NHS Trust**

1 September 2016

Barristers involved: Lionel Stride

High Court claim that settled for a six-figure sum. The (retired) claimant suffered a damaged popliteal artery during knee surgery that resulted in permanently reduced mobility and independence. Breach of duty and causation were both in dispute. The case settled on the basis that the claimant would, absent negligent surgery, have maintained his independence for the foreseeable future without the need for permanent assistance.

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## **Chatburn & Whitley v Whitley**

25.01.16

Barristers involved: Lionel Stride

£365,000 settlement negotiated at JSM on behalf of claimants whose mother tragically died in a plane crash. There were significant dependency claims for loss of child care services to her grandchildren that she had been expected to provide.

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## **Elliott v Light**

30/11/2015

Barristers involved: Lionel Stride

£382,500 settlement negotiated at JSM on behalf of claimant who suffered from life-changing disability due to the development of Chronic Pain Syndrome and Somatic Symptom Disorder. There was fundamental disagreement between the pain and psychiatric experts as to causation in light of the claimant's pre-existing medical history; and as to prognosis (whether and to what extent she would recover). The claim settled on the basis that there would only be modest recovery in future.

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## **Vasile v Ioan & AXA Insurance UK PLC**

17/11/2015

Barristers involved: Lionel Stride

Successful application to amend defence and strike out a claim as an abuse of process (applying *Summers v Fairclough Homes Ltd* [2012] UKSC 26; [2012] 1 W.L.R 2004) on grounds of fundamental dishonesty in a related but unissued personal injury claim.

The issued claim was for credit hire and motor-related expenses alone but there was clear evidence that the claimant had submitted a claim for personal injury through the RTA Portal despite later admitting that she had not been present in her vehicle at all. The Judge accepted that such dishonesty vitiated all elements of her claim because the evidence as to whether any collision occurred, as well as the extent of any loss, depended on the claimant's credibility. This had been fatally undermined by her dishonesty in the related claim, such that she had forfeited her right to a full trial.

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## **Shamansouri & Ors v Pistas & Advantage Insurance Company Ltd**

28-29/09/2015

Barristers involved: Lionel Stride

Two day fraud trial in which HHJ Collender QC found that the Claimants perpetrated a fraud by staging or contriving a collision at a junction. The key issue was whether the vehicle damage proved that the Claimants' vehicle was stationary on impact, which would have been wholly incompatible with their account. Both engineering experts gave oral evidence at trial, with the Judge preferring the Second Defendant's evidence. The claims were dismissed with indemnity costs awarded.

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## **El-Ech v Agha**

3-4/08/2015

Barristers involved: Lionel Stride

Two day housing disrepair fraud trial before HHJ Lamb QC in which the Claimant discontinued on the second day following cross-examination and to avoid express findings of fraud, as intimated by the Judge after hearing his evidence.

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## **Arif & Ors v Serdet**

2-4/1/2015

Barristers involved: Lionel Stride

Two day fraud trial before HHJ Simpkins QC in which the Claimants were found to have perpetrated a fraud by deliberately inducing a collision. The claims were dismissed, exemplary damages were awarded and costs were assessed on the indemnity basis.

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## **Keane, Stoke & Ors v Pika & Markerstudy Insurance Ltd**

2-4/12/2015

Barristers involved: Lionel Stride

Three day fraud trial before HHJ Seys Llewellyn QC in which multiple claims were brought by the alleged occupants of two vehicles. All claims were dismissed on grounds that no collision was likely to have occurred with a full award of costs in favour of the Second Defendant.

## Holland v Vose

13/11/2014

Barristers involved: Lionel Stride

£300,000 quantum settlement negotiated at JSM on behalf of claimant who suffered horrific leg injuries that prevented him from returning to his old work capacity. The settlement figure was reduced to reflect an agreed apportionment of liability.

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## Westcott v Quirke

19/03/2014

Barristers involved: Lionel Stride

£320,000 settlement negotiated at JSM on behalf of a claimant who lost her job as a teacher following the onset of symptoms from asymptomatic pars fractures after a serious motorcycle accident.

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## Philpott v RG Carter

13/03/2013

Barristers involved: Lionel Stride

£320,000 quantum settlement negotiated at JSM on behalf of claimant who suffered disabling ankle injuries and was likely to require full fusion operations on both ankles in the future. The final settlement was discounted to reflect an agreed apportionment of liability.

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## Publications

### TGC Costs Newslater

17/05/2018

Authors: James Laughland James Arney Paul McGrath Shaman Kapoor Lionel Stride Sian Reeves Richard Boyle Matthew Waszak Ellen Robertson

Please see link below to the latest TGC Costs Newsletter.

You can view the publication on our website <http://tgchambers.com>

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## News

### TGC Costs Newsletter

17/05/2018

Barristers involved: Shaman Kapoor Paul McGrath Richard Boyle James Arney James Laughland Sian Reeves Matthew Waszak Lionel Stride Ellen Robertson

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### TGC Costs Newsletter

04/07/2017

Barristers involved: Simon Browne QC Shaman Kapoor Paul McGrath Lionel Stride Sian Reeves Richard Boyle Matthew Waszak Piers Taylor Robert Riddell

2017 has already proved to be an extremely exciting year. We launched our sell-out one day costs conference in February which

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was attended by more than 250 delegates and presented on a number of critical topics: retainers, assignment, ATE premiums, proportionality, budgeting, Part 36, QOCS, fixed costs and assessment. We were particularly honoured to have speakers from the Court of Appeal, the SCCO, and the QBD. In case you missed it, the materials can still be found on our website at <http://tgchambers.com/news-and-resources/seminars/retainer-recovery-journey-modern-litigation/>.

We have had significant instructions in a high number of cases that continue to shape the future for the costs world. This newsletter aims to bring you the latest news (at the time of print) on the hottest topics including: how to hack through Article 10 and blag about additional liabilities (Flood/Miller/Frost), a review of New P in anticipation of BNM, substance not form on CFA retainers post-legal aid funding, a club-like search for logic in fixed costs, the Ps & Qs of QOCS, extension of pre-LASPO CFA and ATE to a post-LASPO appeal and assignment-lite (Plevin), the surviving power of set-off even in QOCS cases and, not least, the budget vs assessment battle (Harrison). In for a penny, in for a pound.

On the horizon is, of course, the long awaited Court of Appeal decision in BNM. I have prepared a skeleton argument in a parallel appellate case (Murrells) albeit at Circuit Judge level, but having had the paper fight, the parties have agreed to await the outcome of BNM. At the same time, the Court of Appeal shall be giving judgment on assignment of CFAs in Budana. No doubt those decisions will mark the trigger for our next publication.

Finally, I should take this opportunity to thank all of the contributors for their hard work, and my Associate Editors for all of their help and without whom this newsletter would not have taken off. Happy reading!

You can view the publication on our website <http://tgchambers.com>

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## **Insurer's admission in Moj Portal binding on insured in separate proceedings**

10/11/2016

Barristers involved: Paul McGrath Lionel Stride

Chimel v Chibwana and another, County Court at Brighton, 27 October 2016, HHJ Simpkins (DCJ Kent & Sussex Courts)

RTA 30 January 2014. C's case was that she emerged from a minor road with reduced visibility (due to the parked van owned by D2) and was struck by D1's vehicle. D1 said the RTA was C's fault. D1 issued a CNF and C's insurers admitted liability in the response to the CNF without any stated reservation. The claim was later settled. Then C sued D1 and D2 in negligence. D1 applied to strike out the claim on the basis that it was an abuse of process to sue D1 when liability had previously been admitted. D2 also applied to strike out, attempting to rely on the same admission but also seeking summary judgment on the basis that there was no real prospect of success in succeeding on the facts of the case.

The District Judge struck the case out and also gave summary judgment to D2. The Claimant appealed.

The Claimant had not disclosed her insurance policy but argued that whilst the insurer did have actual authority to make an admission in the Moj Portal, this authority was strictly limited to admitting liability in a claim made against her or her insurers and did not in any way affect any claim that she might have. The Claimant argued that this was so as an insurer had an implied obligation not to prejudice the insured's rights and, further, the context of the Moj scheme made it clear that an admission was so limited to the claim made against it in the CNF presented.

The First Defendant argued that in absence of the policy the Court should infer that the insurer had actual authority to make a full admission of liability. In any event, the insurer clearly had ostensible authority to make the admission. The First Defendant also submitted that the reference to 'defendant' in the insurer response form was to the insured driver (not the insurer). Further, that such an admission was not confined to one claim made against the insured and / or insurer but was binding in all respects as to the issue of liability just as if the admission was made by the insurer outside the Portal.

The Judge accepted the First Defendant's submissions and held that (i) the insurer had actual and ostensible authority to make the admission; (ii) the reference to 'defendant' in the RTA1 response form was to the insured driver (disagreeing with Malak); (iii) the fact that the admission was made within the Portal was irrelevant, the key question being what was the scope of the admission; and (iv) any admission made under the Portal can be withdrawn pursuant to CPR 14.1B (not 14.1A) unless there has been a settlement based on the admission and thereafter the admission may not be withdrawn because this would be inconsistent with the settlement agreement unless this had been expressly dealt with in the settlement (preferring Ullah over Malak on this point). Accordingly the appeal was dismissed and the claim remained struck out as against the First Defendant.



The Judge held that D2 could not rely on the admission or settlement, his not being a party to it, however, upheld the Judge's decision on the basis that the claim against a stationary vehicle stood no real prospect of success on the particular facts of the case.

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