



Lionel Stride

Year of Call: 2005

Practice Areas

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

Public Access

Undertakes Public Access work

Email:

lionelstride@tgchambers.com

Awards

Experience

Lionel has a High Court and multi-track practice specialising in personal injury, clinical negligence and health & safety with complementary expertise in aviation and product liability (particularly in the context of aviation and light aircraft accidents), inquests, costs, 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 and Health & Safety

Lionel acts for claimants and defendants in all areas of personal injury, clinical negligence and health & safety, including inquests following hospital and workplace deaths; and representing duty-holders in prosecutions under the HSWA 1974 following both fatal and non-fatal accidents in the workplace.

He is regularly instructed in seven figure fatal and catastrophic injury cases, as well as those involving serious brain or head injuries, paraplegia/tetraplegia, loss of limbs/limb amputations, fusion surgery, hip replacement surgery and/or resulting in other significant disability. His general practice encompasses injury arising out of defective products; and he has developed a niche practice in aviation-related claims, including those arising out of serious bodily injury following domestic or



international aviation accidents, as well as fatal and serious injury claims arising out of light aircraft accidents. Recent work has also included representing families in claims arising out of the Shoreham Air Disaster (and advising on generic issues relating to potential group litigation); representing dependents of relatives killed in the Germanwings disaster in which there were significant disputes as to the applicable law, jurisdiction and quantification; and the High Court case of *Labbadia*, which clarifies the scope of the Court of Appeal decision in *Barclay v British Airways PLC* [2008] EWCA Civ 1419. In addition, as part of his cross-over health and safety/personal injury practice, Lionel is currently advising and representing a cohort of families in group litigation arising out of the Grenfell Fire; and he regularly acts on behalf of companies facing prosecution or civil claims arising out of breaches of health & safety legislation on construction sites and/or in other work environments. More generally, Lionel's regular practice extends to cases involving complex issues of causation arising from 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/somatic symptom disorders).

Lionel similarly has a High Court clinical negligence practice that 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 diagnose retinal detachment, failure to convey to hospital, surgical negligence (with particular expertise in cases that have resulted in permanent colorectal injury), general practitioner negligence in failing to refer or diagnose (such as meningitis, sepsis, encephalitis and suspected pulmonary embolism (resulting in death), negligent nursing care of vulnerable patients in hospital, failure correctly to advise of surgical risks or alternative treatment (application of *Montgomery*), and diagnostic and treatment failures following urgent admissions to hospital. Lionel regularly represents both individuals and the NHS/private practices at JSMs and Mediations. Recent trials include the case of *D v NSH CB & R* (six-day ophthalmological case before HHJ Walden-Smith (DC)).

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 regular 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 rheumatological or other chronic conditions, such as fibromyalgia).

Insurance and Civil Fraud

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.

Directories

Chambers & Partners 2021 (ranked for Personal Injury): -

- “He is extremely thorough and takes a forensic approach to evidence.”
- “He is really technical and very good at providing clear advice and courses of action.”

Legal 500 2021 (ranked for Clinical Negligence, Personal Injury, Industrial Disease and Insurance Fraud)

- “Very thorough and swiftly cuts through the case to identify the key issues. A practitioner whom clients instantly like and trust.”
- “A formidable advocate who takes no prisoners and is detailed yet concise on paper.”

Chambers & Partners 2020 (ranked for Personal Injury): -

- *“He is a persuasive advocate who takes no prisoners in court*

or at JSMs.”

- *“He has a keen eye for detail and finds solutions rather than problems.”*

Legal 500 2020 (ranked for Clinical Negligence, Personal Injury, Industrial Disease and Insurance Fraud)

- *“A very persuasive advocate who has a forensic approach to the evidence.”*
- *“Very thorough in conferences with experts.”*

Legal 500 2019 (ranked for Personal Injury and Insurance Fraud): –

- *‘He is a modern lawyer in every respect and brings real value to every case.’*
- *‘He is a passionate lawyer, who gets under the skin of a case...’*

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

K v M

21 July 2020

Barristers involved: Lionel Stride

Lionel Stride represented the Claimant (instructed by Michael Hardacre at Slater & Gordon) in a High Court case that settled at a

JSM for £1.6 million. The Claimant was involved in a high-speed collision that fatally injured his brother. He suffered multiple injuries, including compound splintered fracturing at the proximal end of the ulna bone (olecranon), with bone loss involving the articular surface of the ulna at the elbow; and displaced, comminuted fracturing at the shafts of the radius and ulna. The left elbow fracture had failed to unite, which meant that he would need complex surgery and, further in the future, an elbow replacement and revision procedures.

It was eventually conceded that the Claimant could not return to his job as an air conditioning engineer but there remained significant dispute as to his pre- and post-injury earning capacity. The claim ultimately settled at a pre-trial JSM on 21 July 2020 on the basis that he would need life-long care and assistance; is now only likely to be capable of part-time minimum wage employment; and should be considered fully (i.e., at least 'averagely') disabled for the purpose of calculating his claim for loss of earning capacity using the disabled Reduction Factors in the Ogden 8 actuarial tables.

MW v T

6 July 2020

Barristers involved: Lionel Stride

Lionel Stride represented the Claimant (instructed by Ken Brough at Slater & Gordon) in a High Court case that settled at a JSM for £600,000. Following a head-on collision, the Claimant suffered severe internal injuries that had made her infertile (unable to conceive by natural means) and which meant that she would need significant assistance with future childcare.

Amongst other losses, the settlement sum provided for the cost of up to five cycles of IVF per child (to give her the same prospects of pregnancy as pre-accident) and employing professional assistance for 'early years' care.

E v A (insurer) and S (gym, in administration)

19 June 2020

Barristers involved: Lionel Stride

Lionel Stride represented the Claimant (instructed by Michael Hardacre at Slater & Gordon) in a High Court paraplegia case that settled at a JSM for £1.525 million. The Claimant was injured whilst using a squat rack in a 'Free Weights' gym when he stumbled and fell, resulting in a crush injury to his spine from the barbell that he had been lifting. There were no safety bars on the squat rack at the material time and it was the Claimant's case that he had not been told of the need, or how, to use them. It was therefore alleged that the gym had failed to warn him of the need to use the safety bars with an induction or warning signs; and had failed to risk assess or provide health & safety training to its staff to enable an effective induction to take place.

The Claimant relied in part on three Improvement Notices that had been issued to the gym after the accident for breaches of S.2 and S.3 of the HSWA 1974. Liability remained firmly in dispute; the Defendant contended that the Claimant was an experienced user of the gym; and that it had discharged its duty by, amongst other things, providing safety bars and informing the Claimant that he should ask if unsure of how to use any lifting equipment. Further, although the full value of the claim was significantly higher (pleaded provisionally at £11.2 million), there was a 'costs and damages' indemnity limit on the public liability insurance policy of £2 million that would have served as a maximum cap on the amount of any judgment, although, if successful at trial, it was the Claimant's intention to seek a non-party costs order (or suitable equivalent) against the insurer for payment of costs in excess of the indemnity limit under CPR 46.2 and S.51 of the Senior Courts Act 1981 on the basis that they were, in reality, defending the claim in their own interests (in accordance with the principles in *T.G.A Chapman Ltd v Christopher* [1998] 1 W.L.R 12, CA; and *Palmer v Palmer* [2008] EWCA Civ 46). The insurer was also being pursued directly for a declaration of liability under S.2 of the Third Parties (Rights against Insurers) Act 2010.

A v T & Aviva

May 2020

Barristers involved: Lionel Stride

Lionel represented the Defendant (instructed by Daniel Jordon at DWF) in a High Court chronic pain case originally pleaded at £2

million. The Claimant contended that she had developed a permanent somatising condition that prevented her from working after suffering a fractured ankle.

There were serious credibility issues as a result of previous documented instances of dishonesty; and the Defendant disputed both the credibility of the Claimant's account, causation and the negative prognosis. The case also involved issues of how future earning capacity should be assessed where there is predisposition to similar disability. The matter settled for a confidential low six figure sum well below the pleaded value at a Joint Settlement Meeting.

T v C & Ors

Concluded 31.03.2020

Barristers involved: Lionel Stride

This was a High Court claim in which Lionel Stride (instructed by Rebecca Smith and Julie Straughan at Irwin Mitchell) acted on behalf of the dependants of a pilot and his wife who tragically died in light aircraft crash in 2015. The primary claim (pleaded at over £4 million) was brought against the constructor, kit and engine providers and Light Aircraft Association in negligence and/or under the CPA; with a secondary claim (adopting the defences of the primary defendants) in negligence (on behalf of the dependants of the wife) against the estate of the pilot.

Breach of duty, causation and quantum all remained in dispute, complicated by expert aviation, engineering and metallurgical evidence from the defendants challenging the conclusions of an AAIB investigation. Settlement was achieved after a 13-hour mediation. The contributing parties and amount of the settlement remain confidential.

L v BH NHS Trust

Concluded 19.03.2020

Barristers involved: Lionel Stride

High Court claim in which Lionel Stride (instructed by Joanne Warren at Irwin Mitchell) acted on behalf of an elderly claimant who lost a limb as a result of negligent treatment following cardiac arrest. Breach of duty and causation were admitted but there remained significant dispute as to life expectancy, care and equipment needs and use of prosthetics.

A high six-figure settlement was achieved at a remote mediation during the Lockdown. The contributing parties and amount of the settlement remain confidential.

S v Godwin

January 2020

Barristers involved: Lionel Stride

Lionel Stride represented the Defendant (instructed by Christine Winter at DWF) in a High Court brain and eye injury case pleaded at over £4 million. The Claimant, at the time a minor, was blinded by an airgun that misfired. It was alleged that he lacked capacity due to a brain injury sustained in the accident and an application for the appointment of a deputy was made to the Court of Protection.

The case was complicated by the Claimant's troubled history and behavioural issues related to family trauma: there was significant dispute as to the Claimant's likely trajectory absent his eye injury, as well as the extent to which his prospects had genuinely been limited by his condition. The Defendant also disputed that he suffers from a brain injury. The matter settled for a confidential six-figure sum well below the pleaded value at a Joint Settlement Meeting.

B v NW ANGLIA NHS FOUNDATION TRUST

Joint Settlement Meeting 16.09.19

Barristers involved: Lionel Stride

Lionel Stride represented the dependants of a deceased patient in a High Court claim arising out of an 18-20 month negligent delay in diagnosing cancer, which tragically resulted in the patient's premature death. The claim, which included significant claims for past and future loss of financial dependency, as well as grandparental childcare services, settled for £860,000 at a Joint Settlement Meeting.

Labbadia v Alitalia

[2019] EWHC 2103 (Admin)

Judgment handed down 30.07.19

Barristers involved: Lionel Stride

Lionel Stride successfully represented the Claimant in a High Court claim arising out of his fall whilst descending disembarkation steps at Milan Airport. The case focused primarily on the judicial interpretation of 'accident' under the Montreal Convention 1999 ("the 1999 Convention"), namely whether there had been an unusual, unexpected or untoward event, external to the Claimant, causing death or injury, on board an aircraft or in the course of embarkation or disembarkation.

Margaret Obi, sitting in her capacity as a Deputy High Court Judge, found that, against the standard practices at the airport, the stairs had not been cleared of snow by the time the first passenger disembarked the aircraft, causing compacted snow to form on which the Claimant would ultimately slip. Though there was nothing inherently unusual about the adverse weather conditions, she accepted that the use of aircraft stairs without a canopy was 'a positive decision on the part of the airport personnel'; and that the decision 'involved a series of actions and omissions culminating in the aircraft stairs being aligned to the aircraft and the authority being given for the passengers to disembark'. This in combination constituted an "event".

Accepting the arguments of Mr Stride, she also found that 'the event was unusual from the point of view of the Claimant ... he had no reason to expect that the stairs would be slippery due to compacted snow. Therefore, the event was unexpected and unforeseen from his perspective'. There is no other case precisely on all fours with this judgment, which helps to clarify the scope of the Court of Appeal decision in *Barclay v British Airways PLC* [2008] EWCA Civ 1419.

D v NHS CB & R

Six-day trial (Judgment handed down on 27.06.19)

Barristers involved: Lionel Stride

Lionel Stride successfully defended a claim brought against an ophthalmologist who was alleged to have failed to identify a posterior retinal detachment at two separate examinations, leading to sudden deterioration in vision, emergency surgery and permanent visual defects. Breach of duty, causation and quantum remained in dispute.

Evidence was heard from five different experts at trial. HHJ Walden-Smith, sitting in her capacity as a High Court Judge, found that the Second Defendant had not acted in breach of duty in respect of the first examination (there having already been a limited admission of breach of duty by the First Defendant in respect of the second examination); and that, in any event, the retinal detachment had occurred rapidly after both of his examinations.

Judgment can be viewed [here](#).

S v M & Tesco Insurance

Settled 30.04.19

Barristers involved: Lionel Stride

Claim on behalf of a man who suffered life-changing injury in a pedestrian road traffic accident. The claim settled for £540,000 at a Joint Settlement Meeting, including significant claims for loss of earning capacity (Ogden 7 calculation), silicon sleeves (to mask the

effects of scarring), aids/equipment and domestic and DIY assistance.

E v S & Octagon Insurance

Settled 11.03.2019

Barristers involved: Lionel Stride

High Court claim on behalf of dependents of a man tragically killed on Christmas Day 2015 in a hit and run accident. The First Defendant was later prosecuted and imprisoned. The claim settled at a Joint Settlement Meeting for £675,000, including significant sums for future loss of financial and service dependency on behalf of his widow, children and father.

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.

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.

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.

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.

Y v WHH NHS Trust

2018

Barristers involved: Lionel Stride

Obstetric/gynaecological case that settled at close to seven figures. 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 was left with debilitating colorectal symptoms that significantly reduced her earning capacity, having had to give up a lucrative job due to her inability to work in an office.

S v Secretary of State for Health

2018

Barristers involved: Lionel Stride

High Court claim that settled for a high six-figure sum. The claim arose out of surgical negligence resulting in a permanent frozen shoulder that had caused significantly impaired function. Causation remained in dispute but the claimant's medical evidence was that he was unlikely ever to return to full function.

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.

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.

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.

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.

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.

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.

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.

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.

Publications

Covid Risk And Reward: How To Mitigate The Risk Whilst Continuing To Trade

14/01/2021

Authors: Lionel Stride

With Covid-19 cases at their worst yet, it is critical that businesses remain alert to the necessity of managing health and safety in the workplace. Failing to do so risks both criminal and civil liability, as well as significant financial consequences. Lionel Stride discusses what steps can businesses taken in the 12th January 2021 issue of SME News.

You can view the publication at

<https://www.sme-news.co.uk/covid-risk-and-reward-how-to-mitigate-the-risk-whilst-continuing-to-trade/>

Back to Square One? New Law Journal - 8 January 2020

08/01/2021

Authors: Lionel Stride

Lionel Stride examines *P v Royal Wolverhampton NHS Trust*: more layers to the patchwork quilt in secondary victim claims in today's issue of New Law Journal. Please see link below for full article.

You can view the publication at <https://www.newlawjournal.co.uk/content/back-to-square-one->

TGC Costs Update - Vol 7 December 2020

17/12/2020

Authors: Matthew Waszak Richard Boyle Simon Browne QC Richard Wilkinson James Laughland Sian Reeves Anthony Johnson Lionel Stride Robert Riddell Ellen Robertson James Yapp Paul Erdunast

Please see link below to the latest TGC Costs newsletter.

You can view the publication at https://tgchambers.com/wp-content/uploads/2020/12/TGC064_Costs_Newsletter_Vol_VII_v2.pdf

TGC Podcast Covid - 19: RIDDOR Reporting and Causation in a Criminal and Civil Context

10/07/2020

Authors: Keith Morton QC Dominic Adamson QC Lionel Stride David R. White James Yapp

Members of the Health & Safety and PI teams at Temple Garden Chambers have recorded their second podcast in our Covid - 19 series. The podcast is essential listening on the implications for employers and employees in relation to the return to the workplace in the shadow of Covid 19. Please join ranked leaders in the field Keith Morton QC and Dominic Adamson QC along with Lionel Stride, David R White and James Yapp via the below link. The date of knowledge information as mentioned within the podcast can be obtained [here](#).

You can view the publication at <https://anchor.fm/tgc3>

Safeguarding your services during the COVID-19 crisis

11/06/2020

Authors: Lionel Stride

Lionel Stride (with assistance from his paralegal Philip Mathews) has considered some of the implications for care homes arising out of the pandemic to assist with preparedness. This ties in with the Podcast that he and other members of the Health & Safety team have considered for duty-holders trying to mitigate the risks from the Coronavirus and to avoid criminal, as well as civil, liability.

You can view the publication at https://issuu.com/thecarer/docs/the_carer_digital_10

TGC Podcast: Avoiding Criminal Enforcement Action & Civil Claims in the Shadow of Covid-19

26/05/2020

Authors: Keith Morton QC Dominic Adamson QC Lionel Stride David R. White James Yapp

Members of the Health & Safety team at Temple Garden Chambers intend to inform and assist in a topical podcast on the implications to employers on workers returning to the workplace in the shadow of Covid 19. Please join ranked leaders in the field Keith Morton QC, Dominic Adamson QC along with Lionel Stride, David White and James Yapp via the link below. More information on the speakers and the areas in which TGC can assist can be found at: www.tgchambers.com Or by contacting the clerks: 0207 583 1315 or clerks@tgchambers.com

You can view the publication at

Clinical negligence in the time of Coronavirus

14/04/2020

Authors: Lionel Stride

Lionel Stride outlines in Hospital Times how the current pandemic could expose medical professionals to clinical negligence claims and the guidance out there to help clinicians and health providers through this difficult period.

You can view the publication at <https://www.hospitaltimes.co.uk/clinical-negligence-in-the-time-of-coronavirus/>

TGC Costs Newsletter Vol V

10/12/2019

Authors: Simon Browne QC James Laughland Lionel Stride Anthony Johnson Richard Boyle Matthew Waszak Ellen Robertson Elizabeth Gallagher James Yapp Harriet Wakeman

Please see link below to the latest update from the TGC Costs Team.

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

TGC Fraud Newsletter Issue X - October 2019

23/10/2019

Authors: James Laughland Lionel Stride Anthony Johnson James Henry Ellen Robertson Elizabeth Gallagher Harriet Wakeman Keith Morton QC

Issue X of the TGC Fraud Newsletter, a publication we have set up with the stated aim of facilitating the sharing of information about decided claims involving issues of road traffic fraud and related matters, can be found at the link below.

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

Judicial interpretation of 'accident' under the Montreal Convention (Labbadia v Alitalia)

19/08/2019

Authors: Lionel Stride

This article was first published on Lexis@PSL Personal Injury on 15 August 2019.

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

TGC Costs Newsletter Vol IV

04/06/2019

Authors: Richard Wilkinson Lionel Stride Anthony Johnson Richard Boyle Matthew Waszak Ellen Robertson James Yapp Juliet Wells Harriet Wakeman Olivia Rosenstrom

Please see link below to the latest update from the TGC Costs Team.

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

TGC Costs Newsletter Vol III

10/12/2018

Authors: Simon Browne QC Mark James Richard Wilkinson Paul McGrath Richard Boyle Lionel Stride Ellen Robertson James Yapp Robert Riddell Matthew Waszak

Please see link below to the latest update from the TGC Costs Team.

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

TGC Costs Newsletter

17/05/2018

Authors: James Laughland James Arney Paul McGrath Lionel Stride Sian Reeves Richard Boyle Matthew Waszak Ellen Robertson Please see link below to the latest TGC Costs Newsletter.

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News

Covid Risk And Reward: How To Mitigate The Risk Whilst Continuing To Trade

14/01/2021

Barristers involved: Lionel Stride

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Secondary Victim Claims: Back To Square One?

08/01/2021

Barristers involved: Lionel Stride

Lionel Stride examines *P v Royal Wolverhampton NHS Trust*: more layers to the patchwork quilt in secondary victim claims in today's issue of New Law Journal. Please see link below for full article.

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We hope you find this an interesting and helpful read.

If you would like to be added to the mailing list please email events@tgchambers.com

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

How Covid-19 has impacted the personal injury landscape

06/08/2020

Barristers involved: Lionel Stride

Lionel Stride is quoted in this week's issue of *Insurance Times* discussing how Covid-19 has impacted the personal injury landscape. See link below.

You can view the publication at

<https://www.insurancetimes.co.uk/analysis/how-covid-19-has-impacted-the-personal-injury-landscape/1433994.article>

£1.6m settlement secured for claimant involved in high-speed collision

27/07/2020

Barristers involved: Lionel Stride

It was eventually conceded that the Claimant could not return to his job as an air conditioning engineer but there remained significant dispute as to his pre- and post-injury earning capacity. The claim ultimately settled at a pre-trial JSM on 21 July 2020 on the basis that he would need life-long care and assistance; is now only likely to be capable of part-time minimum wage employment; and should be considered fully (i.e., at least 'averagely') disabled for the purpose of calculating his claim for loss of earning capacity using the disabled Reduction Factors in the Ogden 8 actuarial tables.

TGC Podcast Covid - 19: RIDDOR Reporting and Causation in a Criminal and Civil Context

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The date of knowledge information as mentioned within the podcast can be obtained [here](#).

You can view the publication at <https://anchor.fm/tgc3>

£1.525 million settlement secured for an office worker who suffered a complete T12 fracture and spinal cord injury (rendering him a paraplegic), whilst squatting without safety bars at a 'Free Weights' gym

19/06/2020

Barristers involved: Lionel Stride

The Claimant relied in part on three Improvement Notices that had been issued to the gym after the accident for breaches of S.2 and S.3 of the HSWA 1974. Liability remained firmly in dispute; the Defendant contended that the Claimant was an experienced user of the gym; and that it had discharged its duty by, amongst other things, providing safety bars and informing the Claimant that he should ask if unsure of how to use any lifting equipment. Further, although the full value of the claim was significantly higher (pleaded provisionally at £11.2 million), there was a 'costs and damages' indemnity limit on the public liability insurance policy of £2 million that would have served as a maximum cap on the amount of any judgment, although, if successful at trial, it was the Claimant's intention to seek a non-party costs order (or suitable equivalent) against the insurer for payment of costs in excess of the indemnity limit under CPR 46.2 and S.51 of the Senior Courts Act 1981 on the basis that they were, in reality, defending the claim in their own interests (in accordance with the principles in T.G.A Chapman Ltd v Christopher [1998] 1 W.L.R 12, CA; and Palmer v Palmer [2008] EWCA Civ 46). The insurer was also being pursued directly for a declaration of liability under S.2 of the Third Parties (Rights against Insurers) Act 2010.

Safeguarding your services during the COVID-19 crisis

11/06/2020

Barristers involved: Lionel Stride

[Lionel Stride](#) (with assistance from his paralegal Philip Mathews) has considered some of the implications for care homes arising out of the pandemic to assist with preparedness. This ties in with the [Podcast](#) that he and other members of the Health & Safety team have considered for duty-holders trying to mitigate the risks from the Coronavirus and to avoid criminal, as well as civil, liability. Please see link below to his article.

You can view the publication at https://issuu.com/thecarer/docs/the_carer_digital_10

Care Homes must follow coronavirus guidelines or risk clinical negligence

27/05/2020

Barristers involved: Lionel Stride

[Lionel Stride](#) warns care home staff to always strive to follow the relevant guidelines. Due to the increasing pressure that care home workers are under 'mistakes will inevitably occur'. Please see link below to Lionel's full article published today in Care Home.

You can view the publication at

<https://www.carehome.co.uk/news/article.cfm/id/1626433/care-homes-coronavirus-guidance-clinical-negligence-barrister>

TGC Podcast: Avoiding Criminal Enforcement Action & Civil Claims in the Shadow of Covid-19

26/05/2020

Barristers involved: Keith Morton QC Dominic Adamson QC Lionel Stride David R. White James Yapp

Please join ranked leaders in the field Keith Morton QC, Dominic Adamson QC along with Lionel Stride, David White and James Yapp via the link below.

More information on the speakers and the areas in which TGC can assist can be found at:

www.tgchambers.com

Or by contacting the clerks:

0207 583 1315 or clerks@tgchambers.com

You can view the publication at

<https://anchor.fm/tgc3/episodes/AVOIDING-CRIMINAL-ENFORCEMENT-ACTION--CIVIL-CLAIMS-IN-THE-SHADOW-OF-COVID-19-eeggih>

Clinical negligence in the time of Coronavirus

14/04/2020

Barristers involved: Lionel Stride

See Lionel's full article in Hospital Times at the link below.

You can view the publication at <https://www.hospitaltimes.co.uk/clinical-negligence-in-the-time-of-coronavirus/>

TGC Costs Newsletter

10/12/2019

Barristers involved: Simon Browne QC James Laughland Lionel Stride Anthony Johnson Richard Boyle Matthew Waszak Ellen Robertson Elizabeth Gallagher James Yapp Harriet Wakeman

Please see link below to the 5th edition of the the TGC Costs Newsletter.

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

Labbadia v Alitalia [2019] EWHC 2103 (Admin)

02/08/2019

Barristers involved: Lionel Stride

The case focused primarily on the judicial interpretation of 'accident' under the 1999 Convention, namely whether there had been an unusual, unexpected or untoward event, external to the Claimant, causing death or injury, on board an aircraft or in the course of embarkation or disembarkation. There was no legal authority precisely on all fours with the claim. The Defendant contended that the accident was one of 'pure omission' (i.e. a failure to clear away snow from the disembarkation steps), which could not constitute an accident within the definition of the 1999 Convention. The Claimant submitted that there was a chain of events leading to his injuries, namely a combination of rain and snowfall prior to landing; the decision (against stated policy) to use uncovered steps despite the weather; the decision (against stated policy) not to clear the steps of snow prior to fixing them to the aircraft; and the compacting of snow on the steps by other passengers prior to the Claimant's disembarkation, all of which led to the Claimant's fall from the disembarkation steps. It was argued that the 'unusual event' was the positive decision by the airport to use uncovered stairs, without ensuring that they were free of contamination.

Delivering judgment in favour of the Claimant, the Judge agreed with Mr Stride's submissions that there was a chain of causes which led to the Claimant's injuries. Though there was nothing inherently unusual about the adverse weather conditions, the use of aircraft stairs without a canopy was 'a positive decision on the part of the airport personnel'; the decision 'involved a series of actions and omissions culminating in the aircraft stairs being aligned to the aircraft and the authority being given for the passengers to disembark'. This in combination constituted an "event". The Court found that, against the standard practices at the airport, the stairs had not been cleared of snow by the time the first passenger disembarked the aircraft, causing compacted snow

to form on which the Claimant would ultimately slip. Accepting the arguments of Mr Stride, she found that 'the event was unusual from the point of view of the Claimant ... he had no reason to expect that the stairs would be slippery due to compacted snow. Therefore, the event was unexpected and unforeseen from his perspective'.

The Defendant failed to beat the Claimant's previous Part 36 Offer and was ordered to pay enhanced interest and indemnity costs from the date of expiry of the offer.

De Roeper v NHS Commissioning Board and Ramsay (2019)

27/06/2019

Barristers involved: Lionel Stride

The claim was brought against the NHS Commissioning Board and the Claimant's treating ophthalmologist in respect of alleged negligence during two separate eye examinations conducted by the Second Defendant in 2012. The Claimant's case was that there was a failure on the part of the Second Defendant to conduct detailed retinal examinations, leading in turn to a failure to diagnose an inferior retinal detachment or perform immediate surgery. It was alleged that this had subsequently resulted in sudden loss of visual acuity, multiple operations, permanent reduction in colour vision and to her visual field, PTSD and an Adjustment Disorder.

Delivering **judgment** in favour of the Defendants, HHJ Walden-Smith agreed with Mr Stride's submissions that the Claimant had not suffered a retinal detachment that was capable of clinical diagnosis by the Second Defendant at the time of either of the two examinations that he had performed; and that his first examination had been appropriate in any event (the First Defendant had made an early limited admission of breach of duty in respect of the second examination without the Second Defendant's consent). She found that, whilst honest, the Claimant had mis-remembered the timing of onset of critical symptoms (such as the presence of a 'shroud') and preferred the evidence of the Defendants' experts that the lack of any evidence of chronicity suggested that the inferior retinal detachment had occurred rapidly after the examinations.

TGC Costs Newsletter

04/06/2019

Barristers involved: Richard Wilkinson Lionel Stride Anthony Johnson Matthew Waszak Ellen Robertson James Yapp Richard Boyle Juliet Wells Harriet Wakeman Olivia Rosenstrom

Please see link below for the 4th edition of the the TGC Costs Newsletter.

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

TGC Costs Newsletter

10/12/2018

Barristers involved: Simon Browne QC Mark James Richard Wilkinson Paul McGrath Richard Boyle Lionel Stride Ellen Robertson James Yapp Robert Riddell Matthew Waszak

Please see link below to the latest update from the TGC Costs Team.

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

TGC Costs Newsletter

17/05/2018

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

Please see link below to the latest TGC Costs Newsletter.

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

TGC Costs Newsletter

04/07/2017

Barristers involved: Simon Browne QC 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 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>

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.
