



Anthony Johnson

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Anthony Johnson specialises in multi-track claims involving a personal injury, Fatal Accidents or clinical negligence element.

He acts for both Claimants and Defendants, and does his best to split his practice between the two as close to 50:50 as possible over the medium-term, believing that each side can derive many practical benefits from using Counsel that act for both sides. He has experience of the whole gamut of claims within these fields, and has dealt with many high value claims involving significant disputes of fact and law, including appellate litigation. He is prepared to act under a Conditional Fee Arrangement in appropriate cases.

He is the General Editor of the 16th Edition of *Binghams' Personal Injury and Motor Claims Cases* (2023) and a member of LexisNexis' Consulting Editorial Board for the LexisPSL Personal Injury & Clinical Negligence module.

His expertise in personal injury litigation ties in with his practice in costs and litigation funding. As well as dealing with several cases involving distinct legal issues related to costs recovery, ATE insurance premiums, recoverability of disbursements etc, he is particularly equipped to deal with the costs issues that invariably arise in the course of PI and related litigation, not least in Costs and Case Management Conferences.

Anthony is an enthusiastic exponent of the benefits of Alternative Dispute Resolution. He is accredited as a Mediator and has extensive experience of acting for both sides in different ADR settings, with a high degree of success. He believes strongly in looking ahead towards the future of litigation, which has led to him developing a particular interest in AEV Law.

Expertise

Personal Injury

Anthony specialises in Multi-Track matters involving a personal injury or fatal accident element. He has extensive experience of higher value litigation, having brokered favourable settlements in six and seven-figure claims on several occasions for both Claimants and Defendants. He is on numerous panels and is willing to act under a Conditional Fee Arrangement in appropriate cases.

His roles as General Editor of *Binghams* and on LexisNexis' Consulting Editorial Board mean that he can be relied upon to be at the forefront of all recent developments in law and practice in the field.

He is often sought out for his particular expertise in Fatal Accidents Act claims (on both sides). He has recent experience of cases involving, inter alia, issues of employers' liability, occupier's liability, Highways Act, asbestos exposure and sports law. He acted for the Claimant in the Court of Appeal in *Lawrence v Kent CC* [2012] and for the Defendant in *Seabrook v Adam* [2021].

He regularly acts in cases involving complex medical evidence, including chronic pain, brain injury and mesothelioma claims, and factual complexity (e.g. cases involving surveillance evidence and allegations of fundamental dishonesty).

Notable Personal Injury cases

Seabrook v Adam [2021] EWCA Civ 382

Anthony acted for the successful Defendant/Respondent in the Court of Appeal in this case which sought to explore the correct interpretation and the validity of a Claimant's Part 36 offer for the purposes of determining whether the costs consequences set out in CPR 36.17 should apply. Their Lordships agreed with both judges below that the Claimant had not beaten two 90:10 split liability offers in a situation where primary liability/breach of duty had been admitted but where the Defendant's insurers sought to dispute the causation of the Claimant's alleged injuries, successfully establishing at trial that the most serious of the two injuries that he had allegedly sustained could not be causally linked to the index accident.

Lawrence v Kent CC [2012] EWCA Civ 493

Anthony acted for the Claimant/Appellant in the Court of Appeal in this case in which their Lordships gave guidance upon the approach the appellate courts should take to appeals on questions of contested fact that have been determined by the trial judge, as opposed to matters of discretion. The case started life as a minor Fast-Track claim brought pursuant to the Highways Act 1980.

Bourne Leisure v Shakespeare [2012] QBD

Anthony acted for the successful Respondent who had been involved in a slipping accident at the Defendant's holiday resort. *Butterfield J.* upheld the trial judge's imposition of liability on the basis that the Defendant's inspection regime was insufficient and that it could have taken some minor steps to change its policies without ruining the atmosphere in its nightclub venue. He rejected the Appellant's case that the trial judge had imposed too high a duty on the Defendant that amounted a counsel of perfection and that, in any event, improvements in the Defendant's system would have made no real difference in practice.

Broad v LB of Bromley [2021] Central London CC

Anthony represented the Defendant in its successful dismissal of its appeal against a case management decision not to allow him to rely upon expert evidence from a Highways Engineer in relation to the correct



categorisation of a highway for the purposes of the National Code of Practice for Well Maintained Highways. HHJ Baucher accepted that such evidence was not reasonably required pursuant to CPR 35.1 on the basis that categorisation was properly a question of fact for the trial judge.

Jones v TUI [2020] Portsmouth CC

Anthony represented the Claimant in his successful dismissal of the Defendant's appeal against a determination that a General Surgeon's evidence in relation to causation in a travel sickness claim was not inadmissible in spite of the Defendant's criticism of its contents. HHJ Barkley accepted Anthony's fundamental contention that issues of the type that had been raised by the Defendant went to the weight that could be attached to the evidence rather than to its admissibility. Any issues with the expert's evidence could properly be dealt with at trial in the ordinary fashion.

Hodgson v Kinley [2013] Preston CC

Anthony acted for the successful Claimant in appeal against a trial judge's decision to dismiss her claim, notwithstanding that it had been found that she had suffered some injury, albeit that the medical evidence did not distinguish that injury from injuries she had suffered in a previous accident. HHJ Butler accepted that this approach was illogical and contrary to law, and that the judge should have made a 'rough and ready' assessment based upon whatever limited evidence was available: it being difficult to quantify damages is not the same as it being impossible.

Motor Insurance Fraud

Anthony has been at the forefront of this rapidly developing field of law, having been involved in numerous cases where Defendants have sought to push the boundaries of the existing law in the area. Recognised as a Tier 1 junior in the Legal 500, he has carved out a formidable reputation in this niche field and is particularly sought out in appellate cases and first instance 'test' cases.

He is known for providing robust advice, as well as fearsome and fearless advocacy, which is often necessary when claims of this nature reach trial. He has dealt with some extremely complex and significant cases over the past few years. He has experience of cases raising issues including, but not limited to, fraud rings, fundamental dishonesty, wasted costs, tort of deceit, exemplary damages and Committal for Contempt of Court.

He has provided guidance to insurers at an industry-wide level and has spoken at various events on fraud and related issues. He founded and was first editor of the TGC Fraud Update.

Notable Motor Insurance Fraud cases

Seabrook v Adam [2021] EWCA Civ 382

Anthony acted for the successful Defendant/Respondent in the Court of Appeal in this case which sought to

explore the correct interpretation and the validity of a Claimant's Part 36 offer for the purposes of determining whether the costs consequences set out in CPR 36.17 should apply. Their Lordships agreed with both judges below that the Claimant had not beaten two 90:10 split liability offers in a situation where primary liability/breach of duty had been admitted but where the Defendant's insurers sought to dispute the causation of the Claimant's alleged injuries, successfully establishing at trial that the most serious of the two injuries that he had allegedly sustained could not be causally linked to the index accident.

Dadalto v Zurich Insurance [2021] Central London CC

Anthony acted for the successful Defendant at this appeal where upheld the trial judge's decision to disallow two sizeable credit hire claims in a situation where the Claimant has been put to proof in relation to the factual causation of the claim. HHJ Lethem was particularly persuaded by the fact that the Claimant had concealed the fact that he had another vehicle available to him at the time of the hire. The judgment is widely applicable in motor insurance fraud cases, which invariably include a credit hire element).

Clinical Negligence

Anthony has developed a successful practice in this field, acting largely for Claimants although he would be willing to act for Defendants. His experience includes numerous high value and complex claims, some of which involved significant amounts of complicated medical evidence. On multiple occasions he has been successful in claims where previous representatives had not been willing to act under a Conditional Fee Arrangement.

He has been involved in cases involving delay and misdiagnosis, mismanagement, failure to refer and errors in treatment. He has particular experience of arguments surrounding 'Montgomery' informed consent. He has been involved in litigation concerning failed cosmetic surgery.

He has written extensively on clinical negligence topics for the TGC Clinical Negligence newsletter.

Costs & Litigation Funding

Anthony has extensive experience of costs work, ranging from Detailed Assessments to Costs Management hearings to arguments over discrete points of recoverability of costs, validity of CFAs, ATE insurance premiums etc. He has been commended by solicitors and clients alike for providing them with sensible and commercial advice. He has also written extensively on matters relating to this area of litigation.

He represented the Defendant in the case of Seabrook v. Adam [2021] where he was successful at every level of judiciary from the Regional Costs Judge up to and including the Court of Appeal. He also dealt with the costs arguments in the Court of Appeal in the case of Lawrence v Kent CC [2012] alone and without a Leader, successfully preventing the Respondent from recovering its costs in relation to the pursuit of points in respect of which it had not succeeded.

Notable Costs & Litigation Funding cases

Seabrook v Adam [2021] EWCA Civ 382

Anthony acted for the successful Defendant/Respondent in the Court of Appeal in this case which sought to explore the correct interpretation and the validity of a Claimant's Part 36 offer for the purposes of determining whether the costs consequences set out in CPR 36.17 should apply. Their Lordships agreed with both judges below that the Claimant had not beaten two 90:10 split liability offers in a situation where primary liability/breach of duty had been admitted but where the Defendant's insurers sought to dispute the causation of the Claimant's alleged injuries, successfully establishing at trial that the most serious of the two injuries that he had allegedly sustained could not be causally linked to the index accident.

Lawrence v Kent CC [2012] EWCA Civ 493

Anthony successfully persuaded their Lordships that the Defendant should not be entitled to its costs of the appeal on the basis that it had not succeeded on any of the grounds of appeal that it raised (albeit that it managed to succeed in respect of a new argument that had been raised for the first time from the Bench).

ADR & Mediation

Anthony is an enthusiastic exponent of the benefits of Alternative Dispute Resolution in cases that lend themselves to such an approach. He has recently been advising numerous clients of the opportunities, as well as the pitfalls, that can arise from adopting such an approach, particularly against the backdrop of the Civil Justice Council concluding that mandatory ADR is both legal and desirable for some types of claims.

As well as extensive experience of acting for both sides in different ADR settings (e.g. mediations, early neutral evaluations and Joint Settlement Meetings), he is an Accredited Mediator himself, which enhances his ability to represent clients involved in mediation or other similar processes.

Automated & Electric Vehicles

Anthony has developed a significant interest in the law related to advanced, automated and electric vehicles, which it is anticipated will be a rapidly burgeoning area of law over the next few years. He believes that the particular focus of his personal injury practice will allow for a smooth transition into cases arising from accidents involving AEVs as they become increasingly prevalent.

He is particularly interested in the interplay between the Automated and Electric Vehicles Act 2018 and the existing provisions and procedure in personal injury cases deriving from RTAs featuring two traditional vehicles, e.g. contribution claims pursuant to CPR 20 and contributory negligence. He wrote about this topic for the inaugural edition of the TGC AEV blog.



Education

- MA Jurisprudence, Trinity College, University of Oxford

Languages

- Spanish (Intermediate)
- French (Basic)

Memberships

- Personal Injury Bar Association
- APIL
- London Common Law and Commercial Bar Association
- South Eastern Circuit
- Middle Temple

Recommendations

- “Anthony has a reputation for fearless and forceful advocacy, persuading courts to make findings of fundamental dishonesty on a regular basis.” (Legal 500)
- “He always has an eye on practical realities.” (Chambers and Partners)
- “Anthony is an effective barrister.” (Chambers and Partners)
- “A strong junior with an analytical approach”. (Legal 500)