David Rivers

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Overview

David is a specialist in personal injury work mainly on behalf of claimants. He has a particular focus on complex quantum work. He is the author of the chapters on *Contributory Negligence*, *Employer's Liability Insurance, The Health and Safety at Work Act 1974* and *Reporting and Enforcement* in the Seventeenth edition of Munkman on *Employers Liability* (2019). He has been recommended by both *Chambers & Partners* and *The Legal 500* since he was eight years call.

Over the last twenty years he has acted for many thousands of claimants. His highest settlement, being led by **Paul Rose KC**, was a lump sum award of £17.9 million. He has acted for a Deputy High Court judge who is now a Lord Justice of Appeal; a professional footballer; a senior police officer and an actor from *EastEnders* in his claim for injuries suffered whilst shopping in Selfridges.

He has appeared in a number of high-profile inquests. He appeared for the family in the inquest into the death of Amelia Flight which returned a neglect finding against her local GP's out of hours service, and a two day inquest into the death of a patient caused by her inappropriate discharge from hospital described by the coroner as the last of an accumulation of failures and omissions by the NHS Trust. He was led by Barry Cotter KC (now Mr Justice Cotter) on behalf of the prison officers in the inquest into the death of Harold Shipman.

Most recently he appeared in *Damian Grzegorz Tylus v Froneri Limited (2023) EWHC 1584 (KB)* successfully setting aside judgment in a quantum assessment where the recorder (Mr Recorder Jackson) found that the Claimant, who has suffered an amputation injury when his finger became caught in a machine, could not claim the lifelong costs of a cosmetic prosthetic that he was already wearing because the effect on his was marginal and the six figure claim was excessive given that the Claimant could wear gloves or hide his hand when is company. Richie J gave permission to appeal on all eleven grounds and Mr Justice Sweetings final judgment was emphatic in its rejection both of the main conclusion of the trial judge to disallow the claim and additionally his finding that there should be a set off of the Defendants costs against the Claimant's damages. The case has been remitted back for a new trial. Since then this case settled at three times the judgement sum.

David successfully appeared for the Claimant in a decision of Mr Justice Foskett in *Wright v First Group PLC EWHC 297 (QB) [2018]* to allow an adjournment and give permission for the Claimant to change his accident reconstruction expert the day before a High Court trial on liability in a head injury road traffic accident claim. The Claimant's reconstruction expert had collapsed in his joint statement such that the Defendant withdrew all of its offers and the Claimant was left facing a trial with both experts agreed that there was nothing that the Defendant could have done to avoid the collision. The High Court judge found that the decision was a difficult one but that on balance the trial should be adjourned and a new expert instructed for the Claimant. He ordered the Claimant to pay the Defendants costs of the application but not the trial as they could not demonstrate what loss they had suffered. Permission was given by Sharp LJ on paper for an appeal despite it being a case management decision, with permission to appeal the costs order to be considered once a transcript had been obtained. Jonathan Watt-Pringle KC was instructed for the Defendant. By the date of the Court of Appeal hearing a new expert had been instructed by the Claimant and a new joint statement completed in which all issues were not agreed. The Defendant made a six-figure offer which was accepted by the Claimant.

David succeeded by a majority in the Court of Appeal on behalf of the Defendant in the case of *Iqbal v Home Office [2009] EWCA Civ 1310* (led by Michael Beloff

Expertise

- Costs
- Inquests & Public Inquiries
- Personal Injury

Recommendations

"He is very strong on his feet and very good at knitting together medical expert evidence to make sure it is coherent." Chambers & Partners 2025

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"David is very strong on his feet and has good tactical awareness." Chambers & Partners 2024

"David is very bright with great attention to detail." The Legal 500 2024

Key contacts

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KC) which has restated the law on both the tort of false imprisonment and nominal damages.

He graduated from Jesus College Cambridge in 2001. Whilst at Cambridge, he was awarded the ECS Wade Prize for the top first in administrative law, elected to a Squire Scholarship by the university for his exam performance, awarded the Lovells Prize for the top first in the college, and a College Scholarship for obtaining a first. He obtained a masters degree (LLM) from Cambridge in 2003. Grays Inn awarded him its top (Bedingfield) scholarship for the BVC and an award for pupillage as well as a prize for best speech from the floor in a debate on law reform. He was awarded the Joseph Petty Law Student Prize in 1998.

Personal Injury

David acted for the Claimant in the reported High Court case of *Fuk Wan Hau v Shusing Jim & Anor [2007] EWHC 3358* in which he successfully obtained a global freezing order, summary judgment and an interim payment. It proceeded to trial and is cited in *McGregor on Damages* (18th Edition 2009) as the first higher court authority to consider the new approach to aggravated damages in assault cases after the change in approach directed by the Court of Appeal in 2004.

He appeared in *Wright v First Group PLC EWHC 297 (QB) [2018]* where Foskett J. allowed an adjournment and gave permission for the Claimant to change his accident reconstruction expert the day before a high court trial on liability in a head injury road traffic accident claim. The Claimant's reconstruction expert had collapsed in his joint statement such that the Defendant withdrew all of its offers and the Claimant was left facing a trial with both experts agreed that there was nothing that the Defendant could have done to avoid the collision. The High Court judge found that the decision was a difficult one, but that on balance the trial should be adjourned and a new expert instructed for the Claimant. He ordered the Claimant to pay the Defendants costs of the application but not the trial as they could not demonstrate what loss they had suffered. Permission was given by Sharp LJ on paper for an appeal despite it being a case management decision, with permission to appeal the costs order to be considered once a transcript had been obtained. Jonathan Watt-Pringle KC was instructed for the Defendant. By the date of the Court of Appeal hearing a new expert had been instructed by the Claimant and a new joint statement completed in which all issues were not agreed. The Defendant made a substantial six-figure offer which was accepted by the Claimant shortly before the hearing.

Examples of recent trial successes for the Claimant include:

- *Turk v SW Blackburn Buildings Contractors LTD [2020]* where HHJ Simpkiss, DCJ for Kent, found for a Claimant who had no recollection of how his brain injury must have been sustained but was working as a plasterer on the first floor of a landing when he fell through a barrier erected by his employer. The court found that although he could not recall what had happened due to his brain injury on the balance of probabilities, he was not doing anything wrong and/or overreaching and absent a risk assessment or proper testing of the barrier liability was established. The case was interesting because it applied the Supreme Court decision in *Kennedy v Cordia (Services) LLP [2016] UKSC 6* to hold that the common law standard for risk assessments was a similar one to the regulatory duty under s.3 of the Management of Health and Safety at Work Regulations 1999 this being a post Enterprise Act case and also for the finding that there was no contributory negligence by the Claimant despite the fact that he must have leant against the barrier with some force for the accident to have occurred applying the comments set out in my chapter on Contributory Negligence in *Munkman* (17th Edition 2019) and in particular the decision of Buxton LJ in *Toole v Bolton MBC [2002] EWCA Civ588* setting out how rare significant findings are.
- *Barakov v Higgins [2019]* Recorder Barakov sitting in the Central London County Court found for the Claimant pedestrian in a liability trial (the Claimant having suffered significant brain injuries) and made a reduction of 20% contributory negligence to reflect the fact that he had walked backwards into the road without looking when the Defendant, driving slowly at 15MPH, failed to respond appropriately to his presence in the road and drove into him. Counsel was instructed late in the case and far too late to seek accident reconstruction evidence; previous counsel had turned the case down as unlikely to succeed given the foolishness of his decision to walk backwards into the path of the car and the limited time the driver had to respond. The Claimant recovered indemnity costs and interest having beaten his own offer of 70/30; the Defendant's lump sum offer was beaten by some margin. The case is of interest because the Claimant had no idea what had happened to him; there were no witnesses in attendance and no permission had been sought for reconstruction evidence. A plan of the location was agreed with the Defendant on counsel's advice which allowed the court to be satisfied that the Defendant could have avoided the accident the Defendant

having been extensively cross-examined. Until the Defendant was cross-examined, the Claimant's case amounted to; I was hit in the road in circumstances I cannot explain. The case applied *Bruma v Hassan [2017] EWHC 3209,* a relatively little-known decision of Patrick Curran KC sitting in the High Court that interprets Eagle and Sabir (well-known pedestrian vehicle RTAs with findings of 60/40 and 75/25) in a way that is generous to most pedestrians where both parties have acted foolishly.

- *Billen v TGM Group [2018] HHJ.* Freeland KC awarded the Claimant a three-year handicap award despite his earnings having increased since the date of the accident and the suggestion from Jackson LJ in *Billet v MOD [2015] EWCA CIV 773* that these awards should be limited to two years because of the severe nature of his back pain and the young age of the Claimant.
- *Budd v South Devon Healthcare NHS Trust Foundation [2016]*: On the 3rd May 2016, HHJ Salomonsen has assessed damages in the four lead claims brought by employees of the Defendant NHS trust for exposure to an irritant gas (a low–level exposure to Chlorine) in the course of their employment with the Defendant leaving the way clear for the stays to be lifted on the remaining claims and judgment to be being entered for damages to be assessed. In this long-running claim, liability has been in dispute for three years since the issue of proceedings; the Designated Civil Judge stayed a large set of claims pending determination of the first four cases to proceed to trial. Liability was finally admitted in March 2016 and the five-day trial was reduced down to a single day assessing the general damages to be awarded. A framework for future awards was set down by the court and in one of the four cases the Claimant beat her own offer, triggering the new automatic provisions of Part 36 introduced by Jackson LJ to empower Claimants to make offers that carried a greater sanction. The hope is that by having the court's guidance in respect of these unusual injuries, the other Claimants who still work for the Defendant trust will be spared the ordeal of giving evidence at trial.
- *Topsom v Carillion PLC [2016]*: At the end of a three-day trial on the 6th April 2016 at Southend County Court HHJ Moloney KC held the Defendant entirely to blame for the Claimant's serious depressive disorder and severe OCD. His condition had been sufficiently serious that the Defendant who was his employer had dismissed the Claimant from his employed. At the date of trial, the Claimant was 47 and both experts agreed that his chances of returning to work in the near future were limited. Although the Defendant accepted the severity of his condition, they disputed causation based on entries in his occupational health records and in his employment records describing a meltdown that led to him going off work and never returning when he was told about the extent of his prior exposure to asbestos. The Claimant accepted that was an immediate cause of his breakdown; however, his capacity to cope with further stressors had been fatally undermined by the accident which was the trigger for this claim. The Claimant instructed Dr Webb as his psychiatrist and the Defendant instructed Dr Latcham. This was an unusual case in that the experts were so far apart. Quantum was agreed at the trial subject to the Defendant obtaining instructions at £400,000; had the Defendant's expert been accepted the claim has a value that was less than £20,000. A JSM had failed with the Defendant, represented throughout by James Murphy, offering £100,000. Under cross-examination, the Defendant's expert came very close to conceding the claim before rallying and maintaining his position that it was the news of exposure to asbestos which had caused his condition. HHJ Maloney KC found for the Claimant on the basis that although the news of the extent of his asbestos exposure was the immediate trigger of his mental collapse, his resilience had been fatally weakened by the earlier accident. He had no hesitation in preferring Dr Webb's explanation of how his mental health had been impacted to that of Dr Latcham. Following on from the trial, the Defendant took so long to confirm the informal agreement as to damages that the offer to agree was withdrawn by the Claimant and a new offer to agree them at £400,000 net of the significant CRU liability and an interim payment was made and has been accepted by the Defendant.
- The case is a good example of the continuing need to fight some cases where the experts are far apart and the consequences of losing are very severe. Whilst the Claimant was understandably very worried about the risk that the Defendant's expert would be believed and the consequences of that on his future life the only offer they were willing to make limited the claim to a value that was a fraction of its true worth.
- A two-day trial revolving around the disputed evidence of the neurosurgeons; the claim was brought as a Part 20 claim by the Defendant arising from an RTA in which the Claimant recovered damages on a 50/50 basis and the Defendant (through his estate having died before trial) claimed £170,000 for serious spinal and neurological injuries allegedly sustained due to the accident. Their claim was dismissed and the neurosurgeon, whose evidence they relied upon, was heavily criticised after his evidence fell apart under cross examination.
- A two day employer's liability trial in which the Claimant had suffered severe shoulder injuries when she fell over in a nursery; causation and

breach were in issue because her medical notes appeared to demonstrate that immediately after the accident, she has not known what caused her to fall and because what she was relying upon as having caused her fall was an entirely standard feature of the equipment that she was using, which had been supplied globally for several decades without any reported problems. The Judge found her reconstruction of what must have occurred to be correct; he found the Defendant in breach of numerous statutory duties, and also to have been negligent. Because of the high value of the claim (she was at the start of her career and has suffered a significant loss of earnings) and their assessment of the prospects of success (no offers had ever been made in any form) the Defendant appealed to the Court of Appeal which was refused by Smith LJ on paper and by the full court on a renewed oral application.

- A liability trial for an employee, alleging a sharp edge on a coffee machine must have caused a thin cut to his finger that resulted in infection, widespread necrosis and permanent disfigurement. The machine had been inspected after the accident was reported and the Defendant's witnesses asserted there was no defect.
- A three day fraud trial against very senior well known Counsel, who has acted in most if not all of the Court of Appeal authorities in this area, after which indemnity costs and interest were recovered against the Defendant.
- A trial in which a Deputy High Court judge's credibility was in issue.
- A trial against Selfridges brought by a well-known EastEnders star who was injured in their Manchester store.
- A three-day, four-party, split employer's liability action, before HHJ Harris KC; at which the Claimant had succeeded on liability by the end of the first day with judgment accordingly the quantum part of which settled the day before trial when the Defendant offered £135,000.

A flavour of David's recent cases which have settled include:

- *RE M [2020]* lump sum settlement of 17.9 million with provisional damages for the risk of further surgery to her ankles approved by HHJ Freedman KC in the High Court in a catastrophic injury case in which the Claimant required lifelong around the clock two to one care with a significant accommodation and assistive technologies claim. The Claimant was young and had a modestly reduced life expectancy but lacked capacity to litigate or manage her own affairs. David was led by **Paul Rose KC** and was brought in specifically to consider the issues surrounding a Peters undertaking where the CCG was providing the full care package recommended by the Claimant's care expert but she wished to claim the future costs on a private basis sparing the NHS a very substantial burden. This was successfully achieved at the second JSM the first having collapsed due to our unwillingness to consider entering a reverse indemnity that would have meant we claimed first from the NHS and only if they declined to fund would the Defendant be liable.
- *Zou v County of Swansea [2016]*: On the 25th April 2016 HHJ Vosper has granted approval to the settlement reached in a Fatal Accidents Act claim from the widow of a cyclist who hit an alleged defect in the highway causing his death. This was an extensive piece of litigation that arose out the deceased's tragic death. The circumstances of his death achieved significant prominence in the local and national press. At an inquest the coroner was satisfied that the cause of his death was due to one or other of the defects in the highway. These were initially measured at a significant size by the police who instructed the CPS to consider corporate manslaughter charges against the highway authority. However, it became common ground between the experts that the police had measured the defects in a way that was inaccurate and that the true readings were much lower. Because the Deceased travelled at the back of a series of cyclists nobody witnessed his accident. He fell off his high-performance bike in the vicinity of a number of defects of varying sizes many of which were acknowledged not to pose a danger. Additionally, there was a suggestion that the chain on his bike may have been defective or that he simply lost control and fell into the path of a car travelling in the opposite direction. The claim was at its strongest in respect of s.58 of the Highways Act (the so called "due diligence" defence) by which the council seeks to set up its system of inspection to show that it has exercised all due care to avoid dangerous defects being in existence. Regrettably, due to a change in computers, they had not followed the guidance and had not inspected the road as they ought to have done on a monthly basis. However, the hardest part of the claim lay in respect of the duty on the widow to show that her husband was killed by a dangerous defect. At its worst, the experts agreed that one, and possibly two of the defects required a level 2 repair notice to have been issued. None of the defects were, however, sufficient as to justify a level 1 urgent repair. The acceptance by the Defendant's own expert that at least one of the defects required repair added strength to the Claimant's case; however, this was a case with a number of areas of risk. Fortunately, after many hours' negotiation at a JSM, settlement of

the claim was achieved on the basis of a 70% recovery of her damages against the Defendant and an award of £225,000 which HHJ Vosper described at the approval, having read counsel's advice, as a good result for the Claimant.

- A claim for a 56 year old cleaner at a bus depot who suffered an apparently minor injury when a piece of metal penetrated her work boot that resulted in the wound becoming infected; necrosis setting in and ultimately, after all other treatment methods failed, a below the knee amputation. Her claim had gone to trial on liability and damages had been recovered on a 100% basis. An earlier Part 36 offer of £500,000 having been rejected, the claim settled at a JSM for £980,000.
- A claim for a 49 year old catering assistant who developed complex regional pain syndrome (CRPS) in her right dominant arm after an electrocution injury at work that resulted in her being medically retired. She recovered provisional damages with an immediate award of £475,000 and an entitlement to return to court to claim further damages in the event that he condition resulted in her arm being amputated. The immediate award included loss of earnings to retirement age 67, a pension loss claim and a six-figure sum for commercial care and the input of a support worker to help her do more outside the house.
- A claim for the widow, and family, of the head gamekeeper who over-turned his quad bike and trailer, whilst ascending a muddy bank on his employer's estate. He had selected the equipment he was using, and was responsible for the safety of his system of work; however, there was evidence that he had been overworked at the time of his death, and that he had insufficient support given the size of the estate. The claim settled shortly before trial for £225,000 which equated to 70% of full value.
- A claim for a man with significant back pain as a result of a fall from the top of a car transporter. Following which, he was unable to continue in his old employment and retrained as a plumber. A split trial was ordered. The Defendant conceded liability the day before the trial was due to start, subject to contributory negligence. He did well in his new occupation as a plumber but recovered damages of £145,000 based on a disability multiplier reflecting his impaired future health and the uncertainty of his new self-employed business.
- A claim for a man who worked in a milk processing plant, who suffered a knee injury that will require a total knee replacement at an earlier stage than he would have needed to otherwise, had it not been for the trauma to his knee when it was struck in this accident. The Claimant's expert believed this to be a 10-year acceleration, whereas the Defendant's expert believed it to be a 1-year acceleration. The knee had already been the subject of a complete reconstruction in 1984, and the treating orthopaedic consultant had already opined to his employer that the accident brought his symptoms forward by between 1-2 years. The claim raised interesting questions of causation, because he was in late middle age at the time of the accident, and so it was arguable that had the injury occurred 10 years later as the Claimant's expert believed he would still have suffered exactly the same period of loss (4.5 years) with the knee replacement still taking place within his working lifetime. The expert's view was that although a knee replacement would not completely restore function, he would be fully fit for manual employment after he had been operated upon. Settled for £157,500.
- A claim for a man in his sixties, who suffered a whiplash injury that contributed to his suffering a stroke from which he made a good but not complete recovery, and resulted in his stopping work aged 65. The claim settled for £181,000, with causation being accepted, and the claim quantified on the basis that he would have been able to keep working until he was 70 but for the accident.
- A post-traumatic stress disorder (PTSD) claim for an employee, who suffered delayed onset of life changing symptoms that rendered him suicidal and unfit for employment requiring significant commercial care. The Defendant sought to rely on privilege to avoid disclosure of its first, unfavourable, psychiatric report resulting in a successful appeal by the Claimant to HHJ Stuart KC; the Claimant's condition deteriorated significantly in the months before the first trial date resulting in an ultimately successful but staunchly resisted application to vacate and rely on a substantially increased new care report before HHJ Alan Gore KC. After that increase in value leading counsel was brought into the claim which settled shortly before trial for £830,000.
- A High Court HAVS case in which the Claimant developed acute Reynaud's disease, seriously restricting his ability to continue in manual labour and ultimately resulting in his resignation from his employment, due to the issues raised in the witness evidence served by his colleagues on behalf of the Defendant. The Claimant instructed leading counsel, Michael Rawlinson KC, throughout the claim, and applied to withdraw their admission of breach and for permission to rely upon engineering evidence, which concluded that the level of exposure in his workplace was below the actionable threshold; both applications were dismissed by HHJ Denyer KC sitting as a Deputy High Court judge, on the basis judgment having been entered the court had no jurisdiction to entertain it under Part 14, and that once breach was dealt with the

engineering evidence on apportionment was disproportionate. The Defendant relied on a professor of vascular surgery whose evidence was that the Claimant did not have HAVS at all. The claim settled for a six-figure sum.

- A fatal accident claim for the girlfriend and son of a man killed when electrocuted at work. There was a real issue over whether she could establish the requisite 2-year period to qualify as a dependant under the Act, absent any documentation or other witness evidence to support her contention they had been living together for two and a half years; whether his earnings had been lawfully obtained and could be proved; whether he would have been able to remain in employment given the subsequent bankruptcy of his employer and whether the child was in fact his son. The claim settled for £275,000 which was described by the Judge at approval as a very good result.
- A fatal accident claim on behalf of the widow of a passenger in a motor vehicle who was alleged to have been the cause of the accident by directly interfering with the driver immediately prior to his losing control (he grabbed the steering wheel) in which there was a three-party dispute on indemnity insurance; a major issue about ex turpi causa given the alleged joint enterprise to speed and a sustained challenge to causation, and a significant dispute about contributory negligence.
- A fatal accident claim against Ipswich docks in which he acted for the widow of the designer of a system of access to a ship undergoing repair, who had fallen over the top of the access platform whilst leaning over the edge to measure to distance from the platform to the dry dock.
- A fatal accident claim where the claim was limited to the son of the deceased born shortly before his death which settled for £90,000.
- A four-party fatal accident act claim for the widow of a van driver employed by one of the defendants killed by a train when attempting to cross an unmanned user worked rail crossing with no barriers or warnings. Liability was strongly contested with leading counsel being brought in for the Claimant following receipt of the defences drafted by silks for much of the litigation which settled for a six-figure sum at a JSM.
- A claim for a professional footballer whose chance of promotion to the Premier League from a first division team was lost due to a car accident.
- A claim for a teenager who suffered injury to his eye during the course of an experiment at school which has left him with impaired vision to one side and which was successfully argued to have impaired the chance of his entering any careers requiring him to have full binocular vision. The claim settled for £125,000.

David has a high success rate in appealing decisions of first instance judges at trial and in summary judgment cases, especially on appeal to the circuit judge. This has resulted in him being instructed for the first time at the appeal stage in a number of recent cases.

Examples include:

- *Daniel v Wincanton Logistics [2016]:* HHJ Charles Harris KC on the 14th March 2016 has dismissed an unusual appeal brought by the First Defendant in respect of a costs order that had been made by the DDJ in the court below on what would traditionally have been formulated as an audi alteram partem appeal. The DDJ had indicated in the morning that he would deal with the main issue in dispute first and after that deal with the cost questions. Unfortunately, when he returned to court having retired over an extended lunch-time adjournment, he dealt first with the substantive issue and then proceeded without hearing submissions from the First Defendant to deal with costs as well. Not unreasonably Counsel objected at the end of the judgment and sought permission to appeal at which point the DDJ having heard the ground realised his error and offered to hear further submissions notwithstanding his earlier judgment. Counsel declined and persisted in seeking permission to appeal which was refused by the judge. HHJ Harris KC also refused to interfere. In his view the appeal, which was brought under 52.11(3) only required the appellant to show that the decision was “unjust because of a serious procedural or other irregularity in the proceedings in the lower court”. Where the judge had specifically recognised his error and had offered to hear the point again it was not open to the appellant to insist on relying on the error in a higher court rather than make the submissions sought in the court below. The circuit judge took particular account of the nature of modern litigation before the district judge and the expectation that firm counsel should assert themselves to prevent error rather than seek to rely upon it in overturning the decision. Whilst there is a lot of common sense to that decision it does raise questions that are hard to answer. Judgments should not be interrupted part way through. Had the judge simply dismissed the application for leave to appeal and not offered the chance to make submissions it would be hard to resist the appeal since the appellant would not have been heard at all. By offering to re-hear the disputed item the judge did the best he could to deal with the situation that had resulted from his error; however if the First Defendant still lost the argument it is hard to see how they would have been left with anything other than a lingering sense of doubt

that the judge had simply endorsed his judgment as he had already given it. Equally had he changed his mind as a result of the submissions the Claimant would have felt legitimately aggrieved.

- An appeal against the refusal of summary judgment by the District Judge in a case in which the Claimant had been injured by a defect in work equipment that was harmless until he chose with knowledge of the danger to activate the system and carry out his own repair by placing a part of his finger into a hole in a hydraulic pipe. The DJ had held that there was a real prospect of the court finding the true cause of his injury was his decision to activate the hydraulics and insert his finger into the hole in the pipe; HHJ Cryan accepted that the defect having arisen distinct from the Claimant's actions and it not being possible to make a finding of 100% contributory negligence summary judgment on primary liability was appropriate.
- An appeal against the striking out of a claim as having no real prospect to HHJ Denyer KC; he replaced previous counsel after the appeal. The claim succeeded in full.
- An appeal against the dismissal of the Claimant's estate's claim against the Highway Authority for injuries suffered before his death from unrelated causes when he tripped on a defect in the pavement (HHJ Rutherford; the DJ applied the wrong test to dangerousness in requiring the Claimant's estate to prove that the part of the defect he tripped on was a danger rather than looking at the defect as a whole; the DJ's reasoning in respect of the factors taken into account in assessing dangerousness did not make sense and the judgment could not stand). A retrial was ordered but the Defendant settled the claim before trial.
- An appeal of the dismissal of a claim for injuries sustained in a highway tripping accident and substitution of judgment for the Claimant (HHJ Hughes KC: judge had confused objective test for dangerousness with a partly subjective hybrid; having erred in law below it was open to the Appeal Court to make its own finding and although marginal he would have found the defect dangerous; the defence of reasonable system would have failed as the inspector accepted he may have missed the defect).
- An appeal against the dismissal of a work at height claim on the basis that the Claimant could not prove injury (HHJ Neiligan: judge below perverse to have rejected the weight of evidence in claimants favour; high standard to differ from trial judge but duty of judge to do so on appeal when plainly wrong; low value of claim no reason not to interfere).
- An appeal against the assessment of damages by the judge below where he had assessed them on a basis that was clearly wrong by the date of the appeal (HHJ Griggs: Defendant relied on an inconsistency in history given to the expert and that given to the court by the Claimant; if the basis for the expert's conclusions at trial were capable of challenge at trial it was absolutely clear by the appeal hearing that the Claimant's injuries were attributable).

He accepts instructions on behalf of Defendants believing in the necessity of free choice of counsel.

Recent and current work

- *Kilyafov v Sinclair* (2024) Mayor and City Court: won a liability trial in a major brain injury case where the Claimant had sprinted into the path of a car driving on a straight road in the third lane of seven on the North Circular Road travelling (so the judge found) at 35MPH when the speed limit was 30 MPH. The accident happened at 4.50am when the Claimant accepted, he had drunk 5 shots of vodka and a beer, near a pedestrian crossing, and with no obvious motive. To succeed the Claimant had to show that the driver should have been travelling under the speed limit as a precaution because a driver driving at the speed limit would not have been able to stop in time. HHJ Hellman found that the driver should have been driving at 28 MPH, that the Defendant should have foreseen the remote possibility that the driver would sprint run into the north circular and should therefore have been more attentive. However, inevitably, he found that despite the high duties imposed to protect pedestrians, the Claimant was 60% to blame. The Defendant, who denied liability in its entirety, has not appealed.
- Tylus v Fronteri Limited (2023) Leeds High Court : successfully setting aside judgment in a quantum assessment where the recorder (Mr Recorder Jackson) found that the Claimant, who has suffered an amputation injury when his finger became caught in a machine, could not claim the lifelong costs of a cosmetic prosthetic that he was already wearing because the effect on his was marginal and the six figure claim was excessive given that the Claimant could wear gloves or hide his hand when is company. Richie J gave permission to appeal on all eleven grounds and Mr Justice Sweetings final judgment was emphatic in its rejection both of the main conclusion of the trial judge to disallow the

claim and additionally his finding that there should be a set off of the Defendants costs against the Claimant's damages. The case has been remitted back for a new trial.

- Gul v McDonagh [2021] EWHC 97 (QB) Junior counsel in this very significant brain injury trial both at first instance and in the court of appeal; a very rare example of a finding of 10% contributory negligence which was held onto by the Defendant for what was a very minor misjudgment in a 13 year old pedestrian which would usually have palled into nothing when measured against the serious criminal conduct of the Defendant. This is the latest guidance on contributory negligence in respect of children.

Professional Recommendations

"Friendly, knowledgeable, tactical and committed. Good on his feet and good at getting the judge on side, David anticipates the mood of the court and the flow of the evidence."

The Legal 500 2025

"He is really bright and very good procedurally."

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"He is very strong on his feet and very good at knitting together medical expert evidence to make sure it is coherent."

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"David is very strong on his feet and has good tactical awareness."

Chambers & Partners 2024

"David is an effective advocate who does a good job for his clients."

Chambers & Partners 2024

"David is very bright with great attention to detail."

The Legal 500 2024

"He is fearless."

Chambers & Partners 2023

"David is an excellent advocate."

Chambers & Partners 2023

"David is formidable on his feet and has good tactical awareness."

Chambers & Partners 2023

"David's strengths are his skills in delivering first-class client care and ensuring that the clients are in the safest of hands."

Chambers & Partners 2023

"David is a bold and fearless advocate."

The Legal 500 2023

"He is a bold and tactically shrewd advocate who is willing to stand his ground."
"A strong negotiator, who is excellent at teasing out the finer detail, and not afraid of a fight."

The Legal 500 2022

"A fearless advocate who is also a good tactician. He knows how to make sure to

push for clients and get the best results.” “He is very confident and good with clients, excellent on legal points and loves a fight.” “He makes sure to push for his clients to get the best results.”

Chambers & Partners 2022

“Incredibly bright and very good with clients. He’s a technical barrister, so he’s very good on the rules and is able to advise on tactical steps on the way forward.” “Very good tactically and a strong negotiator.”

Chambers & Partners 2021

“Tactically shrewd and not scared to run cases to trial.” “His advocacy skills are second to none; he is firm yet pragmatic and always has the client at the centre of his advice. Mr Rivers has a very warm approach with clients which engenders trust at an early stage.”

The Legal 500 2021

“He’s cool, calm and collected – a forensic operator.” “He’s well organised, always up to date, and able to provide intelligent insight into difficult cases.” “Very tactically astute.” “Extremely impressive on his feet.”

Chambers & Partners 2020

“He identifies strengths and weaknesses immediately and brings courtroom insight.”

The Legal 500 2020

“He’s really, really impressive on his feet and holds his own against far more senior barristers. he really stands out as an advocate.”

Chambers & Partners 2019

“His technical knowledge of statutes, regulations and case law is excellent. he is willing to fight the most complex of cases and is popular with clients.”

Chambers & Partners 2018

“Excellent grasp of detail, inspires confidence in his clients, not afraid of a fight.”

The Legal 500 2018