



NEW SQUARE

## Graham Eklund QC

### Education

B.A., LLB Hons (Auckland)



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Year of Call: 1984

Year of Silk: 2002

## Profile



Undertaking Claimant and Defendant work, Graham continues to represent major insurers, both in the Company and Lloyd's markets. He is regularly engaged to advise on policy and coverage issues, including construction of policy terms, the application of conditions and warranties, issues relating to non-disclosure and misrepresentation of material facts and fraudulent claims. In 2010 he successfully conducted four trials involving issues of fraud and moral hazard, involving different unusual situations and factors relating to moral hazard. These included (1) an insured who secretly set up his own project management company with the intention of the company project managing the repairs and recovering project management fees from the insurers, (2) an insured who had earlier defrauded another insurer, by submitting a claim and asserting damage at a date after inception but which damage had in fact happened before inception, (3) an insured who had submitted a falsely concocted invoice to a finance house in support of an application for finance and (4) an insured who had suggested through a fictitious contact with an agent that a particular house would be suitable as alternative accommodation, without revealing to insurers or loss adjusters that he in fact owned the house being put forward.

His work also regularly involves representing insured defendants in a wide range of product liability, professional indemnity and catastrophic personal injury claims. He has long been recommended in Chambers UK and Legal 500. Cases of his are frequently reported. He has a client orientated approach, recognising that finding the right solution to his clients' problems requires a team approach.

### Directory Recommendations

Chambers 2012 notes that he undertakes both Claimant and Defendant work, regularly representing insurers and insured defendants in a wide range of product liability, professional indemnity and catastrophic personal injury claims. It records that sources say he is "very reliable and tenacious" and a "very good operator."

Also recommended for his insurance work, Chambers records that clients appreciate him for his "direct, no-nonsense approach and sound judgement" and note that he is renowned for his work in insurance fraud cases in which the insurer's conduct is questionable.

In the field of professional negligence, Chambers states that he maintains a varied practice that gives him access to high calibre work. It states "A master of the insurance world, his "no-nonsense approach and judgement" wins plaudits from both peers and clients."

Legal 500 (2012) noted in the professional negligence section that he is "extremely intelligent" and in the insurance section, that he is "one of the leading Silks in property insurance matters". In the field of product liability, it stated he is highlighted for the "reliable quality of advice, excellent paperwork and skilled advocacy".

Chambers 2011 described him as "another strong silk" (the Product Liability section) who is "incredibly calm – unflappable even when faced with the most horrendous problems." (the Professional Negligence section) with a wide practice, encompassing insurance, professional negligence, product liability and catastrophic personal injury work.

In 2010 Chambers said in the UK Product Liability section, that he was touted as a "solid, reliable and tenacious silk".

In Professional Negligence 2009 Chambers UK said that he: "... is praised for his "willingness to go beyond the call of duty. He specialises in insurance-related work, and has a leaning towards cases involving product failure." (Product

liability) "*User-friendly team player*".

In 2008 Chambers UK commented that he "... *is highly regarded by other QCs and is particularly noted for his work dealing with technical product liability issues.*" (Product liability) "... *continues to have an ever increasing practice bolstered by his "client friendly approach".* (Professional negligence)

Chambers UK 2007 said: "*Concentrates on commercial product liability and has a particular strength in insurance-based work.*" (Product liability) "... *is recognised for his high-quality, broad-ranging professional negligence practice.*" Chambers UK 2006: "*Described as "very switched on" and notes "has undertaken an increasing amount of product liability during the year".*

#### **Further Information**

PNBA; Combar; PIBA

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## **Property Damage**

Members of chambers regularly act for companies, individuals and their respective insurers in relation to claims arising out of damage to property caused by fire, flood, explosion, storm, impact, subsidence, heave or water penetration. We act for insurers in subrogated recovery claims, and for defendants (and their insurers) in defending claims and/or passing liability on to other parties. Many of us were involved in the litigation arising out of the Buncefield explosion.

Members are experts in the issues of negligence, nuisance, Rylands v Fletcher, ignis suus and vicarious liability which typically need to be considered and applied in property damage claims.

The combination of specialisms found at 4 New Square makes us perfectly suited to property damage work. The claims commonly raise insurance questions, they frequently occur in the construction or product liability context, and they often involve claims against construction and other professionals. We have expertise in each of the fields of insurance, construction, product liability and professional liability.

Property damage claims typically require the involvement of expert witnesses in relation to liability (forensic scientists like Burgoynes and Hawkins, as well as experts on the standards to be expected of professionals and contractors). The claims also usually require the involvement of experts to deal with quantum (forensic accountants to assess financial losses, quantity surveyors and valuers to assess the cause and extent of property damage losses). Our leading expertise in the field of professional liability means that we are experienced in managing teams of experts, understanding and presenting the evidence of those experts, and undermining the evidence the opposing sides experts through skilled cross-examination.

Members of chambers are recommended in Chambers & Partners in the field of Property Damage.

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