

## Carl Troman

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*Gives good robust advice, sticks to his guns, and is very thorough and very helpful.*

- Chambers & Partners

**Carl Troman is a commercial litigator, with particular expertise and experience in disputes involving insurance, professional liability, classic and super cars (including motorsports), property damage and costs. He is also a formally accredited mediator and acts as an arbitrator.**

Carl is recommended as a leading junior in the fields of both insurance and professional negligence by Chambers & Partners having been described in the following terms:

*"Super-intelligent with great interpersonal skills."*

*"He provides excellent advice and is always thinking of innovative ways to get the best possible result for the client."*

*"Very user-friendly and good on tactics."*

*"A really good choice for complex insurance litigation."*

*"Approachable, friendly and incredibly helpful on complex cases. His advice is very clear and he is great with clients."*

*"He's very bright and I like the style of his advice, which is detailed but not overly so. He is good at getting to the nub of a case and he has a very good understanding of the commercial factors in play and what is driving the decisions of insurers."*

*"He's extremely approachable, easy to deal with and has a good rapport with solicitors and clients."*

*"He has an impressive knowledge of the law, and applies it with impressive efficiency to tactical decisions. He also just seems to know how judges will deal with things, such that you never feel like anything that happens is a surprise."*

*"He is very approachable and very user-friendly."*

*"An excellent senior junior."*

*"Very good technically."*

*"At trial, he is well mannered and entirely unflappable. His performance is exemplary."*

*"Go-to junior for professional indemnity."*



*"User-friendly and intelligent."*

*"He has an intelligent, measured approach and a calm manner that clients find reassuring."*

*"Gives clear reasoning and exudes charm and confidence."*

*"Gives good robust advice, sticks to his guns, and is very thorough and very helpful."*

*"He's extremely approachable and a very charming individual who has a good touch with clients."*

*"Tremendous experience dealing with property-related professional negligence matters."*

*"He is very good at drafting and very good on his feet."*

*"A popular choice with clients and good in difficult situations. He's good at putting people at ease and getting the best out of them."*

Carl is also ranked in the Legal 500 and has been described as follows:

*"Outstanding."*

*"He exudes a confidence and charm, which puts clients at ease."*

*"An accomplished advocate."*

*"He is approachable and provides advice in a sensible way"*

Carl provides a service of the very highest quality and practical commercial solutions to even the most difficult or intractable of problems. He is always customer focused, user-friendly and responsive with a keen grasp of all relevant detail.

Carl read law before finishing sixth on the Bar Vocational Course at the Inns of Court School of Law winning the Stephen Seabrooke Memorial Prize, the Everard Ver Heyden Foundation Prize and the Buchanan Prize as well as being awarded the Wolfson Scholarship by Lincoln's Inn. Before joining chambers in 2003 Carl taught law to undergraduates at the University of Reading.

## **Privacy Policy**

Click here for a **Privacy Policy** for Carl Troman.

## **Areas of Expertise**

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### **Professional Liability**

A prominent part of Carl's practice sees him advise and act in claims for and against a wide range of professionals, including solicitors, accountants, barristers, surveyors and valuers, insurance brokers, architects, engineers and financial advisers.

As well as the specific types of case identified below, Carl is regularly instructed in cases involving:

- The scope of the duties of a professional. For example Carl was instructed in the Court of Appeal in the case of *Lyons v Fox Williams* [2018] EWCA Civ 2347.
- Complex issues of limitation. For example, Carl acted for the successful firm of solicitors and their insurers in the case of *Green v Eadie* [2012] Ch 363 concerning the accrual of causes of action arising from a voidable contract.
- Procedural and technical matters. For example, Carl acted for the successful firm of solicitors and their insurers in the case

of *Planetree Nominees Ltd v Howard Kennedy LLP* [2016] EWHC 2302 (Ch) concerning the validity of service of a claim form.

## Lawyers

Carl has extensive expertise in dealing with claims against solicitors and barristers across a broad range of areas from conveyancing to family law, from crime to corporate transactions and lost litigation. Examples are as follows:

1. Numerous claims against solicitors and barristers in relation to failed litigation of all types:
  - a. For example:
    - i. Commercial litigation.
    - ii. Claims against other professionals.
    - iii. Real and intellectual property disputes.
    - iv. Personal injury claims.
    - v. Matrimonial proceedings.
    - vi. Contested probate.
    - vii. Actions against the police.
    - viii. Unfair prejudice petitions.
  - b. A wide range of issues arise including:
    - i. Missed limitation periods.
    - ii. Inadequate advice on merits, procedure, strategy and costs risks.
    - iii. Failures to comply with unless orders.
    - iv. Failures to make applications.
    - v. Failures to comply with ATE and BTE policies.
    - vi. Omissions to adduce factual and expert evidence.
    - vii. Delay.
    - viii. Failures to follow instructions.
    - ix. Failures to obtain instructions.
    - x. Acting contrary to instructions.
    - xi. Reliance upon counsel.
2. Numerous claims against solicitors and licenced conveyancers in relation to commercial and residential conveyancing involving issues such as:
  - a. Identity fraud.
  - b. Breach of trust.
  - c. Breach of fiduciary duty.
  - d. Breach of warranty of authority.
  - e. Undue influence and *Etridge* principles.
  - f. The drafting and interpretation of leases.
  - g. Landlord and tenant disputes.
  - h. Planning permission.
  - i. Building regulations approval.
  - j. Structural defects.
  - k. Rights of way and other easements.
  - l. Boundary disputes.
  - m. Defective searches.
  - n. Ransom strips.
  - o. Title defects.
  - p. Overage clauses.
3. Numerous claims, often of very high value, against solicitors arising out of corporate transactions relating to matters such as:
  - a. The drafting of sale, loan and guarantee documentation.
  - b. Warranties.
  - c. Financial assistance.
  - d. Share transfers.
  - e. Bankruptcy and insolvency.

- f. Tax computation and planning.
- g. Corporate governance.
4. Various fraud claims against solicitors by their own professional indemnity insurers for recoupment of money paid out by those insurers to third parties making claims against the solicitors.
5. Numerous disputes growing out of will, probate and trust transactions, including claims based upon *White v Jones* [1995] 2 AC 207.
6. Numerous claims (including allegations of dishonesty) against many solicitors (and surveyors) arising out of mortgage fraud.
7. Claims against solicitors in respect of criminal convictions.
8. Complex litigation involving many firms of solicitors stemming from the collapse of the Composite Legal Expenses after-the-event insurance scheme and a number of other claims arising out the collapse of litigation funding insurance schemes, including The Accident Group. Carl has acted for both professionals and insurers.
9. *Lopes v Howard Kennedy*, a substantial claim in the Commercial Court against a firm of solicitors and a barrister stemming from the demise of significant commercial litigation.
10. Numerous wasted costs applications in a wide range of courts.

Carl also has experience acting and advising in relation to the financial and professional conduct of lawyers including matters such as the operation of the solicitors' accounts rules and the exercise of liens.

## Accountants

In relation to claims against accountants, Carl has substantial experience of high value claims in the Commercial Court and other courts growing out of the provision of auditing services and taxation advice to both companies and individuals. For example he:

1. Is instructed in multi-million pound litigation involving accountants and solicitors arising out of a share sale agreement.
2. Is instructed in a multi-million pound claim against accountants in respect of cross-border tax advice.
3. Was instructed for the defendant accountants in a case where a former partner in the firm was accused of colluding with a dishonest employee in the company audited by the firm.
4. Has extensive experience of claims based upon the failure of complex tax schemes including film finance schemes.
5. Is instructed in a claim against accountants where they gave erroneous advice regarding the withdrawal of funds from a company with the result that unnecessary tax was paid.
6. Is instructed by insurers in relation to coverage under a D&O policy where the company (and investors) have suffered multi-million pound losses arising out of the way the business was operated which, arguably, two of the big four should have spotted when advising the company.
7. Has been instructed by another of the big four in relation to a potential claim arising out of insolvency proceedings in foreign jurisdictions in which one of their former clients was involved.

## Construction and Other Professionals

Carl has extensive experience of a wide range of claims against surveyors, especially in relation to overvaluation allegations whether by mortgage lenders or others concerning both residential and commercial property. Carl regularly acts for both claimants and defendants and is often instructed in large claims involving dozens or scores of linked property valuations which can also give rise to professional indemnity insurance issues. Carl was instructed in *Barclays Private Clients International Limited v Savills Finance Limited* which was such a case.

Carl is regularly instructed in claims against engineers of various different specialisms including structural and geo-technical engineers and has acted in a number of substantial claims following the discovery of extensive problems on large estates and other construction projects.

Carl has experience of a number of claims against architects, especially involving the provision of design and construction supervision services.

Carl often acts in claims against financial services professionals for claimants and defendants and is regularly instructed in claims involving allegations of mis-selling, failures to advise and failures to recommend and review suitable investment portfolios. Carl was recently instructed in relation to a multi-million pound dispute against nationally known wealth managers arising out of advice



concerning a short term investment in a film. The case focused upon allegations of misrepresentation against the wealth managers and included a claim over by the wealth managers against solicitors involved in the transaction. Other claims in which Carl has been retained have arisen out of mortgages, pension schemes and onshore and offshore tax schemes. Carl has particular expertise and experience in the law of limitation relating to claims against financial services professionals.

Carl is frequently retained in claims against insurance brokers concerning matters such as advice upon limits of indemnity, exclusion clauses, average and the extent of business interruption cover. This aspect of Carl's practice often overlaps with his insurance coverage work.

Carl has recently been instructed in a number of cases involving claims against expert witnesses, including a single joint expert, following the decision of the Supreme Court in *Jones v Kaney* [2011] 2 AC 398 removing their immunity.

## Commercial Dispute Resolution

Commercial litigation is and always has been the core of Carl's practice. It embraces not only the specific areas of insurance, professional liability, classic and super cars and property damage listed separately but also includes cases involving banking and finance, civil fraud, corporate collapse, credit agreements, bailment, agriculture, product liability and, more generally, the sale of goods and the supply of services (and associated costs matters). Examples of such cases are:

- Event cancellation at the Manchester Arena following its closure resulting from the 2017 terrorist bombing atrocity.
- Cross border insolvency litigation arising out of:
  - The collapse of Kaupthing hf.
  - The bankruptcy of Nortel.
- Litigation in foreign jurisdictions involving letters of request (letters rogatory).
- Claims arising out of interest rate swaps.
- Various cases involving applications for interim injunctions both with and without notice in a wide variety of different contexts.
- A dispute arising out of corporate fraud of over a hundred million US dollars.
- A claim arising out of the collapse of a plc as a result of alleged fraud on the part of directors.
- A dispute concerning the rights of a former CEO of one of the UK's largest companies against their erstwhile employer.
- The quality and fitness for purpose of products as diverse as amino acids, a Range Rover and corrosion test chambers.
- Agricultural disputes involving:
  - Copper toxicity in dairy cattle.
  - Defective seed drilling.
  - The escape of slurry over a pheasant farm.
- Substantial claims for business interruption and material damage losses arising out of the explosion at the Buncefield Oil Storage Depot.
- *Townends Group plc v Cobb* [2004] EWHC 3432 (Ch), a case involving an application for an interim injunction arising out of a dispute over confidentiality and contractual clauses in restraint of trade.

## Insurance & Reinsurance

Carl has considerable experience in insurance law, particularly in relation to:

- policy construction
- coverage
- the minimum terms of professional bodies
- misrepresentation and non-disclosure
- types of damage including destruction of property, business interruption and increased costs of working
- remedies including reinstatement and damages

Carl recently acted for insurers in the case of *Niramax Group Ltd v Zurich Insurance Plc* [2020] EWHC 535 (Comm) who successfully defeated a claim for an indemnity in respect of the destruction of bespoke waste recycling machinery for over £4m arising from a fire.



Carl was instructed in the Court of Appeal in the case of *Lyons v Fox Williams* [2018] EWCA Civ 2347 which included an application for permission to cross-appeal upon a complex insurance policy construction issue.

Carl was instructed on behalf of the successful insurers in the case of *Palliser Ltd v Fate Ltd*\_\_\_\_\_

Carl acted in the case of *Various Claimants v Giambrone & Law* [2019] EWHC 34 (QB) where Foskett J made a non-party costs order against professional indemnity insurers.

Carl acted for insurers at first instance in the case of *AIG Europe Ltd v OC320301 LLP* [2016] Lloyd's Rep IR 147 concerning the aggregation of claims under the Minimum Terms for the Insurance of Solicitors which ultimately reached the Supreme Court.

Carl acted for the successful insurers in *Sharon's Bakery (Europe) Ltd v (1) Axa Insurance UK plc (2) Aviva Insurance Ltd* [2011] EWHC 210 Comm, a trial in the Commercial Court which concerned non-disclosure to insurers of prior dishonesty regarding a third party financial institution and the employment by the insured of fraudulent means and devices.

Carl has been instructed in a number of cases involving internet gaming. He represented the successful party in *Venturi v Eurobet UK Ltd* (2012 HC unreported) and was retained in multi-million pound litigation in the Commercial Court involving a dispute over a policy of prize indemnity insurance relating to a win on the German Lotto. The case involved a number of issues, including foreign law, coverage, misrepresentation and non-disclosure.

Carl is presently instructed of behalf of insurers in a number of high value cases in the Commercial and Mercantile Courts involving questions of non-disclosure, misrepresentation and policy coverage.

Carl has recently been instructed in a number of coverage disputes between professional indemnity insurers.

Carl also acts and advises in disputes between professional indemnity insurers and their insureds.

Carl is also retained in a number of disputes between insurers and insurance brokers arising out of delegated authority schemes.

He was seconded for several months to the insurance and reinsurance team at Mayer, Brown, Rowe & Maw LLP. Carl has also acted and advised in professional indemnity insurance arbitrations.

## Sports Law

Carl specialises in disputes relating to motorsports and regularly acts in cases involving circuit racing, rallying, karting and hill climbs.

He has extensive experience in relation to matters before the Motor Sports Council National Court including enquiries, appeals and disciplinary hearings. Carl has acted for the Royal Automobile Club Motor Sports Association. Recent cases have included the following issues:

- The safety and the adequacy of communications at a rally.
- Unauthorised access on to a circuit during a live race.
- Whether a circuit race was started in unsafe conditions.
- Compliance with technical engine specifications.
- The accuracy of information provided to competitors by an organising club.
- The organisation of a motorsports event without permission from the MSA.
- Whether penalties were imposed in a fair matter by a clerk of a course and stewards.
- Speeding in the paddock.
- Overtaking under yellow flags.
- The conduct of officials at race events including allegations of dishonesty.
- The appropriateness of the imposition of penalties upon competitors.
- Fighting between parents of karting competitors.



Carl is instructed in relation to civil claims (including claims for personal injuries and property damage) arising out of racing incidents and has acted for British Automobile Racing Club Ltd the Speedway Control Bureau. He has also acted for Mark Webber the former Red Bull Formula 1 racing driver.

## Mediation

Carl has been a formally accredited mediator for many years, has mediated scores of disputes and has extensive experience acting in mediations in a broad spectrum of cases from the small to the very large. Carl is regularly instructed in mediations involving two or three parties and has also acted in a very complex mediation involving some six different parties.

With his specialist practice in automotive litigation Carl is uniquely placed to act as a mediator in disputes involving cars and racing.

In 2017 Carl appeared in the directory of Who's Who Legal, having been nominated by his peers as one of the world's leading practitioners in the field of mediation.

Recent mediations include:

- A multi-million pound dispute between a leading and high profile motor racing team and a commercial agent.
- Claims against solicitors acting in matrimonial proceedings relating to financial settlements including pension sharing.
- A claim against structural engineers and geotechnical experts arising out of a substantial property development.
- Claims against a variety of parties including contractors, sub-contractors and professionals involved in a failed construction project.
- A significant commercial dispute concerning commissions and agent's fees with respect to advertising
- A claim against an insurance broker in relation to specialist commercial property.
- A breach of warranty of authority claim against a solicitor.
- A claim against an architect in relation to design and supervision.
- A claim arising out of flood damage.
- A claim against the vendor of property with a related claim against a solicitor in respect of conveyancing work.
- A claim against an accountant and a solicitor with regard to tax structuring advice.
- A dispute arising out of works of renovation to a classic car.

Carl participated in a mediation seminar which focused on approaching "Cultural Differences in Mediation". Please click here to view the digital version of the mini-magazine for this seminar.

Please click here for a copy of Carl's draft mediation agreement.

## Costs

Carl has extensive experience of costs work. He regularly acts and advises in relation to applications for security for costs, non-party costs orders and wasted costs.

Carl acted in the case of *Various Claimants v Giambrone & Law* [2019] EWHC 34 (QB) where Foskett J made a non-party costs order against professional indemnity insurers.

He represented one of the firms of solicitors from whom costs were sought in *Griffith v Gourgey* [2018] 3 Costs LR 605.

Carl has particular expertise in the court's jurisdiction to make non-party costs orders under s51 of the Senior Courts Act 1981. Recent examples include disputes as to non-party costs orders against professional indemnity insurers and in favour of recipients of letters of request (letters rogatory).

A considerable part of Carl's practice involves the assessment of costs in the SCCO and County Courts. He was instructed in relation to a substantial multi-party dispute involving the recoverability of an ATE premium and allegations of fraud in relation to costs. He has also been involved in a number of disputes concerning costs budgeting. Carl's costs work also overlaps with his



professional liability practice particularly in relation to disputes between solicitors and their clients with regard to fees.

Carl has been instructed in a number of cases involving disputes over ATE insurance policies concerning issues of breach of warranty, misrepresentation, non-disclosure, estoppel and dishonesty.

## Property Damage

A significant part of Carl's practice involves cases concerning damage to property whether as the result of breaches of duty in the supply of services, defective products or otherwise. This area of Carl's work includes:

1. Considerable experience of claims based upon the destruction of high value property by fire. Examples of current cases of that type are the destruction of a large paper storage warehouse and extensive damage to specialist industrial premises. Typically these cases involve complex technical and forensic expert evidence and difficult arguments concerning breach of duty, causation and quantum.
2. Specialist expertise in cases involving the doctrine in *Mark Rowlands Ltd v Berni Inns Ltd* [1986] QB 211. Recent cases in that regard have included the destruction of railway infrastructure at a London market and damage to industrial premises from welding works.
3. A cross-over with claims against professionals such as surveyors in relation to failures to identify and advise upon a myriad of property defects from subsidence to Japanese knotweed.
4. Regularly acting in subrogated insurance recovery claims which often give rise to complex legal and evidential issues. Such cases have included:
  1. The destruction of residential premises through the explosion of a hot water storage tank.
  2. Damage to a building and its contents as a result of asbestos contamination.
  3. Water penetration to sensitive building materials through specialist weatherproofing.
  4. Flooding to commercial premises following plumbing works.
  5. The contamination of land as a result of the escape of heating oil.
  6. The destruction of a building project by a fire allegedly caused by self-heating oil.
  7. Damage to industrial machinery as a result of component failure.

## Classic and Super Cars

Carl is a leading barrister in the field of automotive litigation encompassing a broad range of disputes involving vintage, classic and supercars.

At the interface between commercial litigation and motorsport, Carl acts and advises in relation to disputes arising out of racing contracts between, for example, drivers, teams and sponsors.

Disputes involving high value unique property like classic cars can involve urgent applications for injunctions and Carl has extensive experience in that regard.

The types of issue which often arise and of which Carl has extensive experience are:

- Breach of contract in relation to:
  - The sale of a car involving some failure on the part of the buyer or seller to do what they promised.
  - Repair or restoration work, which typically relates to the quality of the work or the price which should be paid.
  - Race support services involving disputes about the quality of the services provided and the price to be paid for them
- Misrepresentation where a car transpires not to be what a seller told a buyer, whether in terms of provenance or quality.
- Personal injuries and property damage as a result of accidents whether on the road or at sporting events.
- Disputes with agents acting for a buyer or a seller (or both) who are alleged not to have behaved as they should.
- Disputes as to who has title to a particular car whether because two or more people claim to own a single car or because two people each claim that a car they own is a car with a particular provenance.
- Disputes as to whether a car should be registered with a particular number plate.
- Disputes arising with auctioneers where something has gone wrong in the auction process.



Recent cases in which Carl has been involved have included:

- *Hrabalek v Hrabalek* [2015] EWHC 1456 (QB), a case which went to trial in the High Court concerning the ownership of a unique and valuable Lancia Stratos collection
- Disputes between sellers and buyers as to the provenance and quality of:
  - An ex-works group A Lancia Delta Integrale rally car.
  - A classic Rolls Royce.
- Multi-party disputes over the ownership of:
  - A Pagani Zonda F C12 Coupe Clubsport.
  - A pre-war chassis.
  - A replica of a vintage car.
- A dispute between a vendor and an auctioneer over the circumstances in which a car was sold.
- Disputes of over the quality of restoration works and/or the price to be paid for restoration works in relation to:
  - A classic Alfa Romeo.
  - An Aston Martin DB5.
  - Various E-type Jaguars.
- A registration problem in relation to an Aston Martin DB4.
- A dispute over the ownership of a classic racing Porsche.
- Personal injury claims and associated insurance disputes arising from circuit racing and speedway accidents.
- A claim against an expert with respect to a report he provided concerning the quality of a car.
- An insurance dispute in relation to cover for a high specification Range Rover.

## Qualifications & Memberships

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LL.B. (First Class) Dip. PLS

## Insights

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### COVID-19 DISPUTE RESOLUTION – Applying the Principle of Frustration to Cancellations Caused by the Virus

2 April 2020

What happens where a contracting party no longer wishes to perform their obligations because of COVID-19? This is likely to be a major source of disputes in the near future as contracts become uneconomic or difficult to perform because of the virus and the unprecedented disruption it is causing. What are the rights of the parties where an event has been cancelled because of COVID-19 but one of the parties has paid a deposit and the other has spent money preparing for it? A look back to the principle of frustration, first developed in the 19th century but out of fashion for a long time, provides the litigator with a vital tool when advising and assisting their client. Here are some key points...

### Four Fundamentals of Limitation Periods in Contract and Tort Claims

25 October 2018

Four key points for the limitation period for contract and tort claims. Limitation is fiendishly complex – these are some fundamentals for an ‘all-or-nothing’ defence affecting every claim.

### Service Can Be A Right Hassle

24 October 2018

A short note on a recent Supreme Court case concerning the circumstances in which a Court will order alternative service under CPR 6.15

### Ten Top Tips for Service of Proceedings

24 October 2018

Service of proceedings continues to be a fertile ground for disputes. Meritorious and valuable claims can fail on a technicality given how hard it is to obtain a retrospective extension of time for service of a claim form. Here are ten top tips for avoiding the pitfalls



NEW SQUARE

and ascertaining whether your opponent has fallen into one.