

Hugh Evans

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He is very efficient, provides commercial advice and quickly gets to the real issues.

- Legal 500

Hugh Evans's practice centres on professional liability, with particular emphasis on claims against lawyers and accountants, commercial litigation, particularly insurance and fraud claims, and costs.

His litigation philosophy is: (1) to give the clients clear and practical advice on how best to resolve their legal difficulties; (2) to succeed at trial by the use of ingenuity, tactical thinking, detailed preparation, and experience, particularly in cross examination; and (3) to be a friendly, accessible and helpful member of any legal team.

Hugh has been listed as a leading professional negligence junior by the directories for many years. He has been described as "fantastically clever" and "... highly recommended especially for solicitors' professional negligence cases." It is said that he has a "logical approach and likeable manner", that he is "bright, commercial and efficient", that he is "witty and academically sound", and even that he "makes the litigation process as painless as possible." He has been "praised for his ability to clarify the most complex legal issues, and sources deem him "uncannily accurate" in his advice" and described as "...extremely bright and very good tactically" and "...excellent and very persuasive on his feet." "Hugh demonstrates wit and energy, and is tremendously likeable too", "Hugh knows professional negligence inside-out, and is great to work with", and "He is phenomenally bright and gives very practical advice." (Chambers). The 2019 directories say that "he picks the right points and has very good judgement." "He is very bright, has a pleasant manner with clients and is a good negotiator." (Chambers), "he really gets to grips with the most complex of issues" (Legal 500).

Hugh writes extensively on professional liability. He is the editor of the chapters on solicitors and barristers in *Jackson and Powell on Professional Liability* (Sweet & Maxwell 8th edition 2017), and has been since 1992. He is the author of *Lawyers' Liabilities* Sweet & Maxwell 2002 (2nd edn, new edition in preparation), and nearly thirty articles in a variety of academic journals, particularly Professional Negligence.

Hugh's trial work has taken him to all divisions of the High Court, particularly the Chancery Division, as well as the County Court, and many arbitrations. He also has extensive experience of ADR, and has taken part as advocate in over fifty mediations. He is very comfortable with a wide variety of complex technical evidence, from medical to engineering, including statistical analysis.

Privacy Policy

Click here for a **Privacy Policy** for Hugh Evans.

Areas of Expertise



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Professional Liability

“He doesn’t pull his punches when a robust approach is needed.” – *Legal 500, 2020*

“He is my number one choice for solicitors’ negligence: very clever, very responsive and very specialised in these claims.”
“He is a very able advocate and doesn’t pull his punches when a robust approach is needed.” – *Chambers & Partners, 2020*

“He picks the right points and has very good judgement.” **“He is very bright, has a pleasant manner with clients and is a good negotiator.”** – *Chambers & Partners, 2019*

“He really gets to grips with the most complex of issues” – *Legal 500, 2019*

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Lawyers

Hugh has an extensive practice in lawyers’ liability work, and acts for defendants and claimants. He particularly relishes cases with complex and difficult facts and law, but he also enjoys courtroom rough and tumble, and in particular cross-examination. He applies tactical thinking, including to mediations, of which he has extensive experience.

Most cases are won or lost on issues of causation and damages. Hugh applies ingenuity to problems of causation. On quantification of damages, he enjoys working with accountants and other experts, and he is very comfortable with scientific and mathematical concepts.

Hugh brings to his practice his extensive knowledge and reflection on the law. He edits the chapters on solicitors and barristers in *Jackson and Powell on Professional Liability*, and has done since 1992, he is the author of *Lawyers’ Liabilities* (2nd edn 2002, new edition in preparation) and some thirty articles, mostly on lawyers’ liabilities. In the wasted costs case of *Medcalf v. Mardell* Lord Bingham, giving the leading speech, said: *“This House is grateful for the perceptive commentary on the weaknesses of this jurisdiction made by Hugh Evans, “The Wasted Costs Jurisdiction” (2001) 64 MLR 51?, and Lord Hobhouse described the article as “valuable“.*

Hugh’s experience and practice covers almost the entire range of lawyers’ liability work, including, for instance, bungled matrimonial and criminal cases, defective wills, errors in agricultural law, liens, and wasted costs. However, the major part of his lawyers’ liability work is in four areas:

- Defective commercial agreements, particularly with a chancery flavour. This includes: failures to comply with company law requirements in various respects such as in the purchase of the company’s own shares; tax-inefficient structuring of agreements in a wide variety of ways; defective sale and purchase agreements, such as failures to include appropriate warranties and due diligence, and insecure future consideration; failures to analyse the collective effect and working of suites of agreements; failures of advice to clients as to the effect of contractual provisions; failures to ensure that contracts were binding by reason of lack of authority or negligent drafting; failures to advise on the wisdom of transactions; and duties owed to third parties.
- Claims of fraud against solicitors or claimants in a wide variety of contexts, including lenders’ claims against allegedly fraudulent solicitors, and the insurance repercussions of fraud.
- Conveyancing negligence in claims brought by lending institutions, commercial clients, and individuals. These include: the full range of lenders’ disputes, of which he has done many in the last wave of such claims; many claims by individuals in relation to fraudulent gifted deposit schemes; claims in relation to shared equity schemes; claims concerning allegedly negligent advice given to spouses; failures to check title and planning permissions; negligence in relation to contaminated land; failures to advise properly on break clauses; failures to advise on capacity; failures to advise on the worth of guarantors; claims concerning escalating ground rents, defective leasehold enfranchisements, and a number of claims

involving conveyancing fraud.

- Lost or bungled litigation of all types, including failed professional liability claims, chancery and commercial disputes, and even boundary disputes. In bungled medical negligence and personal injury cases (including VWF and fibromyalgia), Hugh is able to bring to bear his knowledge and experience of the underlying areas of litigation, in which he continues to practice.

Cases include the following:

- Represented the Defendants in a successful strike out application for abuse of process where the claimant sought damages for wrongful conviction for murder after an unsuccessful appeal to the Criminal Court of Appeal in *Workman v Deansgate 123 LLP* [2019] PNLR 18.
- Represented the claimant lender in a claim against allegedly dishonest solicitors in two successful applications for disclosure and amending the Particulars of Claim in *Mortgage Services Limited Number One v Cripps Harries Hall* (2015, and [2016] EWHC 387 (Ch)), and (led by Ben Hubble QC) at trial, [2016] EWHC 2483 (Ch).
- Represented the partly successful claimants in an application to strike out the claim for abuse of process by paying too small an issue fee in *Lewis v Ward Hadaway* [2016] 4 WLR 6, and several similar subsequent cases.
- Represented the successful defendant in a claim by a lender as to whether she was held out as a partner and whether the lender relied on such representations, in *UCB Home Loans v Soni*, at first instance and in the Court of Appeal [2013] EWCA Civ 62.
- Represented the successful defendant in October 2011 on a preliminary issue on limitation in *Boycott v RWPS Solicitors* [2012] PNLR 25, a claim by a former cricketer complaining that property was held with his former partner on a joint tenancy.
- Represented the successful claimant in *Youlton v Charles Russell* [2010] Lloyd's Rep PN 227, where solicitors failed to take steps to ensure that agreements between a company and its pension scheme trustees were not open to challenge on grounds of want of authority and conflict of interest.
- Represented the successful insurer in *Goldsmith Williams v Travelers Insurance Co Ltd* [2010] Lloyd's Rep IR 309, a claim under the Third Parties (Rights against Insurers) Act 1930 which failed because the insured company's directors engaged in or condoned mortgage frauds.
- Represented the solicitors in *Mishcon de Reya (a firm) v Barrett* [2007] 1 BCLC 153, a partly successful strike-out application concerning the appointment of provisional liquidators.
- Represented the successful solicitors in *Miller v Garton Shires (a firm)* [2007] PNLR 273, a claim concerning bungled personal injury litigation.
- Represented the successful claimant in *St Pauls Travelers Insurance Company Limited v. Okporuah* [2006] EWHC 2207 (Ch), a mortgage fraud claim.
- Represented the successful solicitors at first instance in *Fulham Leisure Holdings v. Nicholson Graham & Jones* [2006] EWHC 158 (Ch), [2006] 2 All ER 599, [2006] P.N.L.R. 23 (on waiver of privilege); and [2006] EWHC 2017 (Ch), [2006] 4 All ER 1397 (Note) , (2007) PNLR 5, which concerned the drafting of a shareholders' agreement.
- Represented the unsuccessful solicitors in *Ball v. Druces & Attlee (A Firm)* [2002] P.N.L.R. 23 and [2004] P.N.L.R. 39 (failure to protect founder's rights in the Eden Project).
- Represented the barrister in *Hansom & ors v E Rex Makin* [2003] EWCA Civ 1801, an appeal on relief from sanctions.
- Represented the defendant, losing at first instance but succeeding in the Court of Appeal against Leading Counsel and thus disposing of the claim on a preliminary issue in *Haq v. Singh* [2001] 1 WLR 1594, which concerned the meaning of change of capacity in CPR rule 17.4(4).
- Represented the unsuccessful barrister in the wasted costs case of *B v. B (Wasted costs: abuse of process)* [2001] 3 F.C.R. 724.
- Represented the successful claimant at first instance on a limitation preliminary issue, to be overturned by a majority of the Court of Appeal, in *Havenledge Ltd. v. John & Partners* [2001] Lloyd's Law Rep PN 614 and [2001] Lloyd's Law Rep PN 223.
- Represented the successful claimant in *Bacon v. Howard Kennedy* [1999] PNLR 1, a disappointed beneficiary case.

Accountants, Auditors & Actuaries

Hugh is regularly instructed in claims against accountants and auditors. Claims include topics as diverse as taxation matters (particularly failed tax avoidance schemes of many sorts), audit responsibilities such as the treatment of goodwill and the detection of fraud (particularly involving thefts by trusted members of staff), and the duties of accountants retained by trusts. Hugh acts both



for the defendant professionals, and for claimants. Although his two 'A' levels in mathematics are a distant memory, Hugh is very comfortable with figures.

Cases include:

- audits using the wrong lists of debtors and defective advice given to the company's owners to invest in it
- many claims against accountants for failures to detect fraud
- claims against an accountant for failing to advise on remunerating directors by repayment of loan accounts leading to large tax losses
- the successful defence at trial of a claim against an accountant for negligent advice on tax relief in relation to the Enterprise Investment Scheme
- several claims against accountants for failures to advise on CGT and other tax liabilities, BES relief and potential tax mitigation, incorrect advice about the tax consequences of non-residents purchasing property in the UK, and claims in relation to failed tax avoidance schemes
- claims relating to accountancy work on company sales and takeovers
- the successful defence of a claim at arbitration by an accountant against his insurers on the basis of fraudulent nondisclosure.
- a claim against an actuary for failure to advise trustees properly in relation to levies by the Pension Protection Fund.

Clinical Practitioners

Hugh works principally for claimants in a wide range of clinical negligence cases which include: failures to diagnose or treat cancers, tumours, heart disease and fistulas; negligent eye, bowel, laparoscopic and cosmetic surgery; neo-natal injuries; negligent treatment of psychiatric illness; and viral infections from blood transfusions and other treatment. Current claims include a number of radiology cases, where he represents the third party who provided radiological services. He enjoys getting to grips with complex medical issues and epidemiological evidence, and has a specialist expertise in multiparty litigation. Hugh also undertakes personal injury litigation, principally for claimants. This includes accidents at work and road traffic accidents, and he has a particular interest in fibromyalgia and chronic pain.

Construction Professionals

Hugh's construction work centres on claims against architects, engineers and surveyors. He is comfortable with scientific and mathematical concepts. He has fought a number of architects' negligence cases at trial and in arbitration, mostly relating to allegations of negligent design, and negligent supervision and administration of works, and he has several ongoing cases. Engineers' cases include several in relation to leaking basements and roofs. Surveyors' work includes past and present claims of negligent valuations, mostly by lenders (such as the successful defence of a surveyor in *Paratus v Countrywide* [2012] PNL R 12), failing to notice defects in property valuations, and maladministration of building contracts.

Financial Services Professionals

Hugh is regularly instructed in claims against insurance brokers, and also in claims against insurers. Claims include failures to bring material clauses to the attention of the insured, failures to inform insurers of material facts, and claims revolving around dishonesty. While mostly acting for the defendant professionals, Hugh also acts for claimants.

Insurance Brokers & Agents

Hugh is regularly instructed in claims against insurance brokers, and also in claims against insurers. Claims include failures to bring material clauses to the attention of the insured, failures to inform insurers of material facts, and claims revolving around dishonesty. While mostly acting for the defendant professionals, Hugh also acts for claimants.

Recent cases include:

- An ongoing claim for the failure to inform insurers of commercial property owners of the insolvency of companies where one of the owners had been a director
- A contribution claim brought by a retained broker against a third party broker for failure to advise on advance loss of profits

cover for a hotel which was damaged by fire.

- A claim for failure to advise construction professionals about their fidelity insurance.
- A claim in the Commercial Court against a broker for failing to obtain effective insurance or notify insurers timeously in relation to deprivation of goods by a foreign government.
- Claims against insurance brokers for failing to obtain any or any effective insurance, or to pass on information from the insured to the insurer, leading to avoidance of cover after fire or other loss.

Surveyors & Valuers

Hugh acts for claimants and defendants in actions brought against surveyors and valuers. He has extensive experience of lenders' claims on both sides, and has been heavily involved in the recent round of lenders' litigation. He is familiar with the principles of commercial property valuations, including hotels and public houses, and allegations of contributory negligence. Recent cases include many claims concerning the purchase of buy to let properties, claims of defective structural surveys, and the successful defence of a claim brought against a valuer with an obiter finding of 60% contributory negligence in *Paratus v Countrywide* [2012] PNLR 12. He acted for JD Wetherspoon in a claim for fraud and breach of fiduciary duty against their former property finders, which was successful after a two month trial, see [2009] EWHC 639 (Ch), and reported at an interlocutory stage at [2007] PNLR 555, and related litigation reported at [2013] EWHC 1088 (Ch).

Hugh acts for claimants and defendants in actions brought against surveyors and valuers. He has extensive experience of lenders' claims on both sides, and has been heavily involved in the last round of lenders' litigation. He is familiar with the principles of commercial property valuations, including hotels and public houses, and allegations of contributory negligence. Recent and current cases include many claims concerning the purchase of buy to let properties, and claims of defective structural surveys. He was the advocate at trial of a successful defence of a claim brought against a valuer with an obiter finding of 60% contributory negligence in *Paratus v Countrywide* [2012] PNLR 12. He acted for JD Wetherspoon in a claim for fraud and breach of fiduciary duty against their former property finders, which was successful after a two month trial, see [2009] EWHC 639 (Ch), and reported at an interlocutory stage at [2007] PNLR 555, and related litigation reported at [2013] EWHC 1088 (Ch).

Insurance & Reinsurance

Hugh's practice includes extensive experience of insurance law, particularly coverage disputes in relation to professionals, and insurance issues in insurance brokers' cases.

Hugh has extensive experience in professional indemnity policies, most of which have been the subject of arbitration. Recent disputes which did not settle and concluded in awards have concerned whether a relationship between lawyers amounted to a partnership, the application of the successor practice rules, the successful defence of a claim by an accountant on the basis of fraudulent nondisclosure, and (in 2013, which settled during the arbitration) the defence of a claim in relation to construction professionals on the basis of fraudulent nondisclosure. Hugh also represented the successful insurer in *Goldsmith Williams v Travelers Insurance Co Ltd* [2010] EWHC 26 (QB), a claim under the Third Parties (Rights against Insurers) Act 1930 which failed because the insured company's directors engaged in or condoned mortgage frauds.

These claims are typical of Hugh's practice and experience. Hugh is very familiar with solicitors' policies and the Minimum Terms and Conditions, and his experience includes dealing with aggregation issues, most recently after the Supreme Court ruling in *AIG v Woodman*, and dishonesty.

Outside professional liability policies, Hugh has dealt with a variety of insurance disputes. Cases include: disputes about ATE policies; fire and flood damage claims concerning domestic and particularly commercial property, fraud claims especially in relation to fire damage; late notification misrepresentation and nondisclosure issues in a wide variety of policies (including the successful defence at trial of a fire claim on the basis of fraudulent nondisclosure); and subsidence claims.

Commercial Dispute Resolution

Hugh acts for claimants and defendants in a variety of commercial disputes concerning insurance, fraud, or those with a professional liability dimension. He represented J D Wetherspoons in a two month trial in a successful claim against their former property finders for fraud and breach of fiduciary duty by [2009] EWHC 639; reported at an interlocutory stage at [2007] PNLR 555.



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Construction & Engineering

Hugh's construction work centres on claims against architects, engineers and surveyors. He is comfortable with technical, scientific and mathematical concepts. He has fought a number of architects' negligence cases at trial, mostly relating to allegations of negligent design, and negligent supervision and administration of works. Engineer's cases include an arbitration against the builders of a garden centre which has spawned continuing claims against the foul and surface water drainage engineers, a number of claims in relation to leaking basements and roofs, and a £17m claim against structural engineers in relation to the Regent Quarter development at King's Cross. Surveyors' work includes claims of negligent valuations and surveys, mostly by lenders, and maladministration of building contracts. Current cases include a claim against architects in relation to the conversion of a large HMO property in London.

Product Liability

Hugh has experience of multi-party litigation relating to product liability, and has acted for the claimants in a number of cases, including the HIV Haemophilic Litigation case (see *Re HIV Haemophilia Litigation* [1996] PNLR 290) and the Hepatitis C Litigation (see *A v. National Blood Authority* [2002] Lloyd's Rep. P.N. 487, where Hugh successfully used the provisions of the CPR to circumvent provisional damages requirements). He has a particular interest in complex epidemiological issues, and in the tactics and organisation of group litigation. He also has extensive experience of clinical negligence claims and personal injury litigation. He was author of the section on group litigation in Jackson and Powell on Professional Liability.

International Arbitration

Hugh has experience of arbitrations, predominantly coverage disputes in relation to professional indemnity policies. Claims which did not settle and concluded in awards have concerned whether a relationship between lawyers amounted to a partnership, the application of the successor practice rules, and fraudulent nondisclosure by an accountant.

Costs

Hugh has a significant practice in costs work, which naturally fits with his primary expertise of solicitors' liability claims. His experience includes (among other things):

- many costs management hearings in a wide variety of cases, including clinical negligence and multiparty litigation
- the making and appeal of costs orders
- Detailed assessments and the challenge to provisional assessments
- formation and termination of retainers
- advising on CFAs and DBAs.
- the interrelationship between claims for costs and negligence
- non-party costs orders
- wasted costs applications
- relief from sanctions post *Mitchell* and *Denton*

Mediation

Hugh has been instructed as an advocate in about sixty mediations starting in 2002. They have covered a broad spectrum of cases, the majority of them concerning professional liability, and many involving several parties. He has a good understanding of mediations, and a belief in the value of the process for achieving a good result for his clients. He has seen a wide variety of techniques deployed by a range of mediators, and sees the need for a flexible approach depending on the parties and the issues. He believes that personal skills and a sympathetic manner are often as important as legal skills in achieving a successful result. Hugh is qualified as a mediator, and accepts instructions to act as a mediator.

Qualifications & Memberships

MA (Cantab). BCL (Oxon).



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Insights

Valuing Bungled Litigation, Edwards V Hugh James Ford Simey

18 June 2018

Edwards v Hugh James Ford Simey has largely reestablished orthodox principles of how to value bungled litigation, but it may be difficult to apply the exception to those principles which it has derived from the authorities.

Mediations as an advocate

20 April 2018

Mediations are commonly undertaken by solicitors, without assistance from Counsel. Many barristers have limited experience of mediation, or certainly used to, and many barristers are temperamentally unsuited to it, or so experienced mediators tell me. There is a tendency to be far too aggressive and confrontational, which is often entirely appropriate in cross examination, but rarely so in mediations. Solicitors are often much better adapted temperamentally to mediations, where an appearance of gentle friendliness and persuasion is often very helpful.

Costs Budgeting

4 April 2018

Costs budgeting is plainly important, as I will amplify later, but it is rarely thought to be interesting. However, there is now a fair body of law and practice, and there is some craft in producing, developing and attacking budgets. I will start at the beginning. Costs budgeting started, after some pilot schemes, in April 2013, and the rules have been revised since. They are now a familiar part of the litigation landscape. However, problems and issues remain, many of which are inherent in cost budgeting.

Jackson & Powell on Professional Liability

1 December 2017

Hugh is the editor of the chapters on solicitors and barristers in the 7th ed.

Lawyers' Liabilities

4 April 2002