

Paul Mitchell QC

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“A brilliant advocate. Very tenacious but clear thinking... He gives very robust advice and is prepared to think out of the box.”

- Chambers & Partners

Paul Mitchell has a chancery/ commercial practice, with particular specialities in claims involving the liability of professionals, especially solicitors and barristers, accountants, tax advisers, fund managers and surveyors; disputes regarding professional indemnity insurance; claims arising from the economic torts, notably malicious prosecution of earlier claims and conspiracy; and claims arising from and in connection with the conduct or effect generally of earlier litigation (e.g., wasted costs applications, loss of chance claims). He acts in a broad variety of general commercial claims, frequently where some problem has arisen, either from the facts of the case or the way it is being handled, that needs a creative solution to break a deadlock. Paul is also regularly instructed to deal with costs issues arising out of high value Commercial disputes.

Paul is particularly sought out for cases requiring an imaginative leap of analysis. He is a good team player and leader whose calm approach under pressure is often commented upon. His advocacy is seen as good humoured, courageous and very effective. His strong academic background and intellectual curiosity make him particularly effective in the testing of expert evidence ranging from company and property valuations to foreign law.

His clients say that he *“often pulls things out of the hat”* *“you can ring him up and he will give you really good advice on very difficult points. He is fantastic and really commercial”*. *“I will take him work on things that are likely to go to trial”* *“He is extremely bright, clear, concise, commercially astute and to top it all – a lovely guy to deal with”*. *“He is very strong on tactics and strategy and a great team player.”*

Paul’s recent work includes:

- Acting for the successful defendants to the first case in English legal history of alleged malicious prosecution of civil proceedings since the recognition of the tort in 2016
- Acting for claimant suing offshore corporate trustees and various other parties in connection with multi-million pound thefts from the trust fund
- Acting for claimant in complex claim against fund manager arising from FM’s investment strategy
- Acting for defendant solicitors in claim brought by commercial lender against various parties relating to the granting of charges and the conduct of subsequent litigation
- Advising in connection with very substantial professional negligence action founded on conduct of widely-reported earlier



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litigation

- Acting for various claimants against tax advisers and accountants in relation to losses flowing from offshore tax planning scheme
- Acting for defendant tax advisers in claim brought by former client alleging negligent tax advice in respect of the settling of an offshore trust
- Acting for African company seeking to bring conspiracy claim against English company arising from the awarding of certain licenses
- Acting for the French employees of Marks & Spencer France Limited in a claim against the company brought in England but suing on rights arising under French law
- Retained by offshore firm to assist Cypriot-registered claimant in multi-million pound claim against Manx company;
- Retained by Singaporean firm to assist the respondent to an appeal in Singapore's first case of alleged malicious prosecution of civil proceedings
- Acting for defendant Iranian businessman in fraud claim brought by an Iranian state-owned oil industry company

Recent reported cases include:

- *Willers v Joyce & Nugent* [2018] EWHC 3424 (Ch)
- *Financial Conduct Authority v Da Vinci Invest Ltd* [2018] EWHC 3789 (Ch)
- *Williams v HCB Solicitors Ltd* [2017] EWCA Civ 38
- *Bank of Ireland v Watts Group Plc* [2017] EWHC 1667 (TCC), [2017] TCLR 7, 173 Con LR 240;
- *Bank of Ireland v Watts Group Plc* [2017] EWHC 2472 (TCC), [2017] BLR 626, 174 Con LR 84, [2017] Costs LR 899
- *Financial Conduct Authority v Da Vinci Invest Ltd* [2017] EWHC 2220 (Ch)
- *Willers v Joyce & Nugent* [2016] UKSC 43, [2016] 3 WLR 477, [2017] 2 All ER 372
- *Willers v Joyce & Nugent* (Practice: precedent) [2016] UKSC 44, [2016] 3 WLR 534, [2017] 2 All ER 383
- *LSREF III Wight Limited v Gateley LLP* [2016] EWCA Civ 359, [2016] PNLR 21
- *Healey v Shoosmiths* [2016] EWHC 1723 (QB)

Recent quotes from the Directories include:

“Very personable, gets to the nub of the issue quickly and doesn't fuff around the edges. He's incredibly calm and cool as an advocate.” “Very bright and becomes part of the team.” Chambers UK 2019

“A brilliant advocate. Very tenacious but clear thinking. He set out sensibly and clearly a technically secure, well-thought-out, compelling piece of advocacy. He gives very robust advice and is prepared to think out of the box.” Chambers UK 2018



“A very good advocate, who is able to hammer home the strong points of case.” Legal 500 2017

“Charming and incisive, with a real knack for thinking on his feet.” “Phenomenally bright and the advice that he provides is very commercial.” Chambers UK 2017

“He unfailingly gets the answer right and is incredibly easy to get on with.” Legal 500 2016

“He makes light work of hard cases and is excellent on his feet. He is a delight to work with and is very good at coming up with pragmatic solutions.” “His main strengths are his attention to detail, legal knowledge and interpersonal skills.” Chambers UK 2016

“He delivers clear advice, is commercially aware, and has strong personal and diplomatic skills.” Legal 500 2015

Privacy Policy

Click here for a [Privacy Policy](#) for Paul Mitchell QC.

Areas of Expertise

Professional Liability

“He is very thorough and very much on top of his cases. He’s good at identifying opponents’ weaknesses and key points in the case.” “He’s a great advocate who has extremely good judgement. He has a really great instinct for the good and bad points and for how things will turn out.” – *Chambers & Partners, 2020*

“Has an encyclopaedic knowledge of the law.” – *Legal 500, 2020*

“Very personable, gets to the nub of the issue quickly and doesn’t faff around the edges. He’s incredibly calm and cool as an advocate.” “Very bright and becomes part of the team.” – *Chambers & Partners, 2019*

Paul’s professional liability work involves allegations made against solicitors, barristers, accountants (especially tax advisers), fund managers and financial advisers (giving bespoke advice and recommending tax mitigation schemes). He is particularly experienced in questions of scope of duty, causation, the recoverability of losses claimed, and mitigation. In addition to his trial experience, Paul is frequently actively involved in assisting at mediations leading to settlement. He is instructed by both claimants and defendants, and is often asked by both sides to provide a written opinion on the merits to assist with settlement negotiations. He is on the PNBA’s approved list of adjudicators authorised to adjudicate professional liability disputes pursuant to the current Pre-Action Protocol on Professional Negligence claims.

Paul is currently on the executive committee of the Professional Negligence Bar Association.

Cases

- Financial Conduct Authority v Da Vinci & Ors [2017] EWHC 2220 (Ch) and [2018] EWHC 3789 (Ch)
- Bank of Ireland v Watts Group Plc [2017] EWHC 1667 (TCC) and [2017] EWHC 2472 (TCC)
- Williams v HCB Solicitors [2017] EWCA Civ 38
- Healey & Anor v Shoosmiths [2016] EWHC 1723 (with Imran Benson)

- LSREF III Wight Limited v Gateley LLP [2016] EWCA Civ 359 (with Michael Pooles QC)
- Swain v (1) Swains (2) Kirby (3) Berry [2015] EWHC 660 (Ch); [2015] EWHC 1183 (Ch); [2015] EWHC 2585 (Ch).
- E.Surv v Goldsmith Williams [2015] EWCA Civ 1147 (with Annelise Day QC)
- John Williams v HCB Solicitors Ltd [2015] EWHC 2064
- E.Surv v Goldsmith Williams [2014] EWHC 1104 (Ch), [2014] PNLR 25
- Harrison v Technical Sign Co Ltd v Ors [2013] EWCA Civ 1569, [2014] PNLR 15 (with Michael Pooles QC)
- Herrmann v Withers [2012] EWHC 1492 (Ch), [2012] PNLR 28 (with Michael Pooles QC)

Solicitors and Barristers

Paul has very wide experience of claims against solicitors and barristers (particularly QCs) arising from their conduct of both non-contentious and contentious business. In the field of non-contentious business, he has advised and represented claimants and defendants in many claims arising from:

- the drafting of share sale and purchase agreements
- the drafting of standard form documentation for use by a large retail bank to communicate with its customers
- the conduct of retainers to convey real property (residential and commercial, especially commercial leases) instructions to renew commercial leases
- the conduct of leasehold enfranchisements and the extension of fag-end leases
- the taking of security in the form of charges, guarantees and debentures in support of investments in a wide range of sectors, including residential lending, buy-to-let lending, agriculture and fisheries, light industry, the gaming industry and super-yachts
- an alleged failure to notice fraud, including allegations of dishonest assistance
- the conduct of executorships
- conduct as professional trustees

As to claims arising from the conduct of contentious business, Paul has advised and represented claimants and defendants in claims arising from:

- Litigation against local authorities
- Various claims arising from litigation conducted under Group Litigation Orders
- Planning enquiries, including a very substantial planning enquiry in Liverpool
- Opposition to Compulsory Purchase Orders
- Personal injury litigation
- Litigation arising from whistleblowing
- The conduct of unfair prejudice petitions
- Claims where the lawyers are alleged not to have had their ostensible client's authority to act
- Criminal proceedings
- Matrimonial disputes (in particular applications for financial orders)



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- Wet and dry shipping disputes, where English lawyers have provided a “team captain” service for litigation in other jurisdictions

Notable reported cases involving lawyers include:

- *Financial Conduct Authority v Da Vinci Invest Ltd* [2018] EWHC 3789 (Ch)
- *Williams v HCB Solicitors Ltd* [2017] EWCA Civ 38
- *LSREF III Wight Limited v Gateley LLP* [2016] EWCA Civ 359, [2016] PNLR 21
- *Healey v Shoosmiths* [2016] EWHC 1723 (QB)
- *E.Surv v Goldsmith Williams* [2015] EWCA Civ 1147, [2016] 4 WLR 44, [2016] 4 All ER 229, [2016] PNLR 11
- *DB UK Bank Ltd v Sinclair Solicitors Ltd* [2015] 12 WLUK 607
- *Khan v Cranbrook Solicitors* [2015] EWHC 2746 (QB)
- *Swain v Swains Plc & Ors* [2015] EWHC 660
- *Swain v Swains Plc & Ors* [2015] EWHC 2585
- *E.Surv v Goldsmith Williams* [2014] EWHC 1104 (Ch), [2014] PNLR 25
- *Herrmann v Withers* [2012] EWHC 1492 (Ch), [2012] PNLR 28
- *Hazellhurst v Solicitors Regulation Authority* [2011] EWHC 462 (Admin)
- *West Wallasey Car Hire v Berkson & Berkson* [2010] PNLR 14
- *Byrnell v British Telecommunications & Ors* [2009] EWHC 727 (QB)
- *Williams v Thompson Leatherdale* [2008] EWHC 2574, [2009] PNLR 15
- *Leonard v Byrt* [2007] EWHC 529 (QB)

Accountants

Paul acts for or against accountants in a wide variety of claims, from failure to detect fraud on audit to negligent advice regarding corporate structure and restructuring, pensions, taxation (personal and corporate), or investment (including investments as part of tax-mitigation).

Cases

- *Convergence Plc v Chantrey Vellacott* [2007] EWHC 1774 (Ch)
- *Convergence Plc v Chantrey Vellacott* [2007] 7 WLUK 927
- *Convergence Plc v Chantrey Vellacott* [2008] EWHC 360 (Ch)
- *Convergence Plc v Chantrey Vellacott* [2008] 3 WLUK 23

Financial Advisors

He acts in claims arising in connection with complex financial schemes designed, promoted or recommended by financial advisers, e.g. split cap investments, the Stax investment scheme, the Innovator investment scheme, film finance schemes, enterprise zones, multi-currency mortgages, forex trading, futures trading, derivatives trading.

Surveyors & Valuers

During the post financial crisis wave of lender claims between 2008 and 2017, Paul acted in dozens of claims against surveyors, instructed by claimant banks, defendant surveyors, solicitors seeking contribution from surveyors and surveyors defending contribution claims brought by solicitors. He has also acted in several claims involving the valuation of unusual properties, such as fish farms, business parks, amusement arcades, caravan sites, nursing homes, hotels and student accommodation, as well as more



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standard valuations of commercial property such as leases in shopping centres, office blocks, new build apartments and of course residential property. His extensive experience of lender claims has covered all aspects of lender contributory fault as well as defences such as limitation, scope of duty, date of accrual of loss, mitigation etc. He has also acted in more unusual claims against surveyors alleging extensive duties of care: see in particular *Harrison v Technical Sign Co Ltd & Ors* [2014] EWCA Civ 1569; and claims involving alleged fraud by surveyors.

Cases

- *LSREF III Wight Limited v Gateley LLP* [2016] EWCA Civ 359 (date of accrual of lender's loss)
- *E. Surv v Goldsmith Williams* [2015] EWCA Civ 1147 (lender entirely responsible for loss)

Insolvency Practitioners / LPA Receivers

Paul acts in claims where IPs or LPA receivers are alleged to have failed to raise the true value of assets following bankruptcy or insolvency. He also has substantial experience of coverage disputes between IPs and their insurers, including in cases where dishonesty is alleged against the insured.

Cases

- *Nautch v Mortgage Express* [2012] EWHC 4136 (Ch)
- *Rawnsley v Weatherall Green & Smith North Ltd* [2009] EWHC 2482 (Ch), [2010] BCC 406, [2010] PNLR 6

Insurance Brokers

He acts in claims against insurance brokers by clients alleging that the broker failed properly to ascertain the full nature of the risk to be insured; or failed adequately to explain to the client the limitations on coverage.

Coverage Disputes and Arbitrations

Paul acts in connection with disputes regarding the scope of coverage of policies of professional indemnity insurance, and in particular coverage questions under the Minimum Terms and Conditions for solicitors' PII. He has substantial experience of arbitrations of such coverage disputes, with particular expertise in questions involving dishonesty, reimbursement, and the application of the Successor Practice rules contained in the MTC.

Commercial Law

Paul acts in a wide variety of commercial disputes, both in England and offshore. He has particular experience of freezing injunctions, shareholder disputes, company valuation disputes, professional negligence claims (in particular against lawyers and tax advisers) and fraud (alleged Ponzi schemes, SDLT avoidance schemes, money laundering and sanctions avoidance schemes). He speaks Russian, Italian, French and Farsi has a particular interest in cases with connections to countries where those languages are spoken.

Paul has a growing practice involving claims about claims: where a party alleges that his or her opponent in earlier litigation brought that litigation maliciously and without reasonable and probable cause; and/ or that the earlier litigation was an abuse of process on the basis that it was brought for a collateral purpose to obtaining the relief claimed in the pleadings. Paul is particularly well-placed to advise on such claims following *Willers v Joyce* [2016] UKSC 43, a case in which he remains instructed. He has also provided advice and assistance in relation to malicious prosecution claims overseas.



Paul has assisted in the resolution of several family disputes over money where, regardless of the pleaded causes of action, the dispute has been far more concerned with powerful emotions such as betrayal, pride and the desire for vengeance.

Paul is experienced in claims arising from the sale at auction of works of art, mainly involving allegations of misrepresentation but he also has experience of the ecclesiastical law of faculties, having represented an art dealer before the Chancellor of the Diocese of Gloucester in the Consistory Court in connection with a painting acquired at auction in the absence of a faculty.

He advises regularly in connection with litigation on the Isle of Man, including at present a claim made by one of the world's largest property companies and involving litigation being conducted across several jurisdictions as well as various pieces of litigation arising from a family dispute. He is instructed to advise in a major and high-profile piece of litigation on foot in Singapore; and has recently represented the Works Council of Marks & Spencer France in an action against that company arising from its decision to make its entire workforce redundant. He has recently been advising in connection with a significant potential investor-state arbitration.

Cases

- Willers v Joyce & Nugent [2016] UKSC 43, [2016] UKSC 44 (with Bernard Livesey QC)
- Healey & Anor v Shoosmiths [2016] EWHC 1723 (with Imran Benson)
- Swain v (1) Swains (2) Kirby (3) Berry [2015] EWHC 660 (Ch); [2015] EWHC 1183 (Ch); [2015] EWHC 2585 (Ch).
- Bank of Scotland v Watson [2013] EWCA Civ 6
- Eminence v Heaney [2010] EWCA Civ 1168, [2011] 2 All ER (Comm) 223 (with Bernard Livesey QC)
- Wave v Batra [2008] EWHC 1014 (QB); [2008] EWCA Civ 914

Arbitration & Mediation

Paul is frequently instructed as an advocate in arbitration proceedings, and is an accredited mediator trained at the Regent's School of Psychotherapy and Counselling under the late Dr Freddie Strasser. He is often invited by clients to attend mediations as he is an active and constructive contributor to obtaining satisfactory resolution of the dispute at hand. He has chaired numerous committees over the course of his career, including almost every year one of Lincoln's Inn's major scholarship award panels, and has a low-friction, respectful but firm style of leading panels to well-reasoned, soundly-evidenced decisions supported by all members of the committee or panel.

Regulatory & Disciplinary

Paul's experience of professional negligence claims is a critical component of his practice in regulatory and disciplinary work, whether acting for the complainant before the Taxation Disciplinary Board (the disciplinary body for the Chartered Institute of Taxation and the Association of Taxation Technicians) or defending before the ICAEW Disciplinary Tribunal or the Solicitors' Disciplinary Tribunal. He is often asked to advise solicitors and accountants regarding complaints and disciplinary investigations, and has been instructed on several occasions by the Taxation Disciplinary Board to make amendments to the regulations governing its disciplinary procedure.

Information Technology

Paul was junior counsel in the £100 million *Convergence v Chantrey Vellacott* claim ([2007] EWHC 1774 (Ch); [2008] EWHC 360 (Ch); various other decisions without neutral citation numbers) in which a telecoms company alleged that its business in Greece had been destroyed by the negligence of its advisers; the case mainly revolved around detailed expert analysis of the relevant technology and its associated licensing regime. Since then his work in this field has mainly concerned cases involving cyber-fraud, in particular where solicitors' client accounts have been targeted by fraudsters via hacked email accounts and/ or fake emails purporting to come from clients or counterparties.

In 2017 Paul was invited on to the board of a lawtech company currently sandbox-testing a product designed for use by solicitors, barristers and insurers. The company is working in close collaboration on this with a major firm of solicitors, and beta-testing ???is beginning at the beginning of Q3 2018. As a result, Paul has a growing involvement with lawtech, has lectured on lawyers' liabilities arising from the use of AI.

Costs

Paul's extensive experience in claims arising from earlier litigation, particularly claims against lawyers, has given him particular insight into the handling of disputes connected with legal costs. In recent years, besides being involved in many cases where a principal head of damages has been in respect of costs incurred in earlier proceedings (see in particular *Herrmann v Withers* [2014] PNLR 15, the leading case on how costs awarded as damages should be assessed, indemnity or standard basis; and *Willers v Joyce* [2018] AC 843, the leading case on the recovery of "extra" costs, i.e., the difference between what a client received on detailed assessment and the actual sum paid to his or her lawyers), Paul has also been instructed:

- To advise in a claim arising from a firm of solicitors' failures to understand the effect of the costs regime in a case subject to a Group Litigation Order;
- To assist applicants for litigation funding in preparing their term sheets for potential funders
- To obtain costs against non-parties (see in particular *Convergence v Chantrey Vellacott* [2007] EWHC 1774 (Ch) and *Willers v Joyce*, forthcoming).

Qualifications & Memberships

Paul is an executive committee member of the Professional Negligence Bar Association. He is also member of the Russia CIS Arbitration Network, RusFor, and the British Ukrainian Law Association.

Before coming to the Bar, Paul read Oriental Studies at King's College, Cambridge, graduating with a First in 1990. He then studied for an MA in Middle Eastern politics, law and economics at the School of Oriental and African Studies before returning to Cambridge for his PhD in the life and works of a twentieth-century Iranian poet.

Languages: Farsi, French, Italian, Russian, Spanish. In 2010 he was editor and co-translator into English of the Catalan novel "Stone in a Landslide", one of Peirene Press's first publications.

Paul has two daughters.

Insights

Expert Evidence on Share Valuations: When to use hot tubbing in unfair prejudice petitions

22 July 2019

A critical part of any unfair prejudice petition is the valuation of the minority shareholding. Paul Mitchell QC and Nigel Burroughs of 4 New Square were counsel on different sides in *Swain v Swains Plc*, a case in which the expert share valuation evidence was taken concurrently. They look at the pros and cons of hot tubbing, and offer practical advice on how to approach the way experts should give their evidence.



Civil liability of non-medical professionals for personal data breaches

4 May 2018

Civil liability of non-medical professionals for personal data breaches. Will the new rules alter the traditional relationship between professional and client as the balance of power over personal data shifts in favour of the client? Paul Mitchell QC, Stephen Innes and Helen Evans examine:

Professionals, their regulators and personal data breaches: who is in charge of policing the GDPR?

1 May 2018

The spotlight on the consequences for professionals of data or confidentiality breaches will only intensify once the GDPR comes into force. Paul Mitchell QC, Stephen Innes and Helen Evans of 4 New Square examine what those consequences are likely to be from a professional regulatory perspective.