

## 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:

*"My chosen counsel because of the depth of his experience – he's a polymath, has excellent investigation skills and has an interest in legal history, which helped in this case." "Incredibly easy to deal with, exceptionally bright and knowledgeable and a very effective negotiator." Chambers UK 2021*

*"Utterly charming with the mind of an arch-strategist. Exceptionally good at dealing with a very complicated set of facts and issues and magically making the case look simple and straightforward." Legal 500 2021*



*“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

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### Professional Liability

**“My chosen counsel because of the depth of his experience – he’s a polymath, has excellent investigation skills and has an interest in legal history, which helped in this case.” “Incredibly easy to deal with, exceptionally bright and knowledgeable and a very effective negotiator.”** – Chambers & Partners, 2021

**“Utterly charming with the mind of an arch-strategist. Exceptionally good at dealing with a very complicated set of facts and issues and magically making the case look simple and straightforward.”** – Legal 500, 2021

**“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 fuff 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)
- 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
- *Hazelhurst 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 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.

## Qualifications & Memberships

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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

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### **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.