

Roger Stewart QC

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He sees through to the heart of the issues in a very practical and pragmatic way.

- Chambers & Partners

JUDICIAL APPOINTMENTS

Recorder (TCC)

Roger has almost 30 years of experience working for every type of client in relation to disputes all over the world. He is regularly appointed as both Counsel and arbitrator in international arbitrations.

A "top-rate silk" who "prides himself on sorting the wheat from the chaff and identifying the issues that are worth pursuing", Roger has a pre-eminent reputation in the resolution of the most complex, high value and high profile disputes.

Winner of the 2020 'Professional Negligence Silk of the Year' award by Chambers & Partners, Roger has received numerous plaudits being described in the Directories as "a great cross-examiner who is absolutely razor sharp and has an amazing facility in court"; "another great example of sheer brilliance...his wide practice covers general professional negligence claims as well as construction claims, all of which he handles with 'natural ease and the greatest of style'"; "he is phenomenal and has cross-examination skills beyond compare"; "if something looks like it might turn into a fight he's your man"; "Every word he says counts"; "a modern silk: he's straightforward, courteous and clever" whose "top reputation has led to him being instructed on some of the highest-profile cases that have been fought"; as being able to "articulate the most complex concepts with simplicity and brevity"; "he prepares extremely well and has a very calming approach with clients. They feel very at ease with his advice"; "great choice for heavyweight matters"; "a deeply impressive performer"; "a razor-sharp and formidable opponent"; "tenacious"; "commercially savvy" and "an extremely able counsel, who is very attuned to what material will assist the tribunal."

He is one of the three general editors of *Jackson & Powell on Professional Liability* (Sweet & Maxwell, 8th Edition 2017) and has been an editor since the 3rd Edition (1992). He has won "Professional Negligence Silk of the Year" three times and was again short listed in 2019 by Chambers & Partners UK. He is a Recorder and appointed to sit in the Technology and Construction Court.

Privacy Policy

Click here for a **Privacy Policy** for Roger Stewart QC.

Areas of Expertise

Professional Liability

Roger has won 'Professional Negligence Silk of the Year' three times including at the recent 2020 Chambers & Partners UK Bar



Awards.

“Incredibly helpful on very knotty accountants’ negligence claims. Very responsive and provides terrific advice.” “He is as good as they come: extremely bright, very good with clients and highly forensic.” “He thinks of excellent points and counterarguments, and is so intelligent.”– *Chambers & Partners, 2021*

“He has fantastic knowledge of professional negligence law, and a very good approach to strategy – very user friendly and a top choice for leading professional service firms.” – *Legal 500, 2021*

“He’s one of the leading silks in professional liability and is very committed to cases. He is passionate in his advocacy, good at reading the judges, and is a very, very hands-on silk.” “He has a brilliant mind, great strategic vision and is very good with the client. Clearly someone at the very top of his game.” – *Chambers & Partners, 2020*

“A superb courtroom advocate, with a deft and commanding style.” – *Legal 500, 2020*

Roger is listed as a leading silk by both Chambers & Partners (**“True heavyweight barrister”** Roger Stewart QC **“is another great example of the sheer brilliance of silks at this set”**). His wide practice covers general professional negligence claims as well as construction claims, all of which he handles with **“natural ease and the greatest of style”**. Instructing Solicitors appreciate the clout that he carries, remarking **“If something looks like it might turn into a fight, he’s your man”**, peers attest to his status as an **“inventive and destructive cross-examiner of both factual and expert witnesses”** and Legal 500 (**“can articulate the most complex concepts with simplicity and brevity”**, **“he is absolutely charming and meticulous in his preparation”**). Roger has twice been the Chambers & Partners Professional Negligence Silk of the year in 2007 and 2010.

Roger is one of the 2 general editors of *Jackson & Powell on Professional Liability* and has been an editor since the 3rd edition in 1992. He originally personally edited the chapter on construction professionals and for the last two editions has edited the chapter on surveyors. The extent and breadth of his practice is shown in the individual professions.

Accountants, Auditors & Actuaries

Roger has acted for and against accountants, auditors and actuaries throughout his professional career. As well as acting following the collapse of large companies, he has particular experience of dealing with challenges to tax schemes and advice in relation to the same having acted in two successful appeals. The first is the high profile decision in *Mehjoo v Harben Barker*, [2014] EWCA Civ 358, where the Defendant accountants were exonerated having been held liable at first instance (where Roger was not instructed). The second is the successful appeal in *Capita v Drivers Jonas* [2012] EWCA Civ 1417 where the Court of Appeal determined that credit had to be given for the effects of tax incentives in an Enterprise Zone scheme. He has acted and is acting in a variety of different jurisdictions in relation to alleged negligence (eg *Barclays Trust Co v Ernst & Young* [2016] EWHC 869).

As examples the sort of work he undertakes, he is presently acting:

- In a claim against accountants arising from the allegedly negligent audit of investment schemes in the Caribbean;
- In a claim against a specialist tax adviser in relation to alleged failures of advice in relation to an EBT scheme;
- In relation to a number of claims arising out of challenges to film finance schemes;
- In a number of matters where HMRC have issued advance payment notices;
- In claims against valuers and other advisers in relation to tax mitigation schemes.
- In claims as to responsibility for tax advice where a number of profession advisers have been employed including barristers, general accountants and specialist tax advisers.

He also has extensive experience in relation to non-tax claims, particularly in relation to pension equalisation and the determination of adjustments in company sales.

He has acted for accountancy firms in relation to allegations of negligence in relation to the sale of assets in Eastern Europe; for corporations seeking indemnity in relation to negligent auditing. He has been instructed by the Trustees of pension funds seeking recourse from auditors and directors as well as for directors seeking to avoid allegations of wrongful trading. He has also acted in very substantial share sales with actions over against the advisers who provided due diligence as well as in the determination of



financial adjustments required as a result of cross-border sales.

Construction Professionals

Roger is one of the most experienced and sought after of silks in relation to claims against construction professionals. He has been consistently listed by the directories as one of the leading practitioners

‘He is well known for his niche expertise in technology and construction-related professional negligence work. “Excellent on his feet – he is clever at cross-examining and gets what he needs to out of witnesses in a very considered way.” “He is calm and excellent in terms of his analysis – someone you can rely on.”’ – Chambers & Partners, 2016

Typical instructions include:

- Acting on behalf of a major international contractor in claims against architects and services engineers in relation to one of London’s most prestigious developments
- Acting on behalf of an international engineering group in defending claims relating to the design of power station foundations
- Acting for the builders of Wembley stadium in seeking recompense from the professional team for substantial over-spend
- Acting for an employer seeking recompense for defects in an Australian tunneling system
- Acting for a contractor in relation to defective water infrastructure built under PFI contracts
- Acting for costs consultants alleged to be responsible for under-estimation on a major regeneration project
- Acting for the end user in relation to claims against consultants and contractors in defective hospital design.

Insurance Brokers & Agents

Throughout his career Roger has regularly acted for and against insurance brokers in relation to a wide range of underlying insurance. His familiarity with the insurance market and insurance disputes means that he has experience of the placing of risk (both insurance and reinsurance) on both the London and overseas markets for very substantial amounts. He is presently or has recently acted in relation to claims where there have been disputes as to the identity and roles of the placing brokers; as to whether insurers were bound; as to disclosure on renewal; as to the availability of cover and as to the rating of the insurers. Many of the disputes are and have been for very substantial sums. He has particular expertise in relation to the placing of professional indemnity insurance in relation to a number of different professions as well as Contractors’ all risk insurance, Employer’s Liability Insurance, Public Liability Insurance and Key Man Insurance within the financial services sector. By way of example only he has acted recently or is acting in relation to claims where the availability of non-standard cover for a large firm of solicitors is in dispute; in relation to the professional indemnity insurance of a larger contractor in relation to civil engineering works in Australia; in relation to the avoidance of cover for a very substantial fire. He has sat as sole arbitrator to determine a number of disputes as well as for a tri-party dispute between insured, insurers and brokers.

On a number of PFI projects, he has been asked to advise as to the nature and obligations of brokers in relation to the procurement of long-term insurance and has also advised as to the suitability of product liability insurance for a large international conglomerate. He has particular experience of claims where there are alternative allegations against insurers and brokers. 3 substantial disputes where Roger has acted for the Claimants have settled at the door of the Court in recent years.

Lawyers

It is only necessary to list some of Roger’s reported cases to see the depth of experience that he has in this area. Outside such cases, Roger has acted in numerous arbitrations concerning primary liability, apportionment and insurance coverage. He regularly conducts indemnity consultations. A particular high-light was the successful defence of a firm of solicitors arising out of the purchase of Fulham Football Club. Roger has undertaken numerous cases concerning the wasted costs jurisdiction on behalf of both barristers and solicitors.

Reported cases include:

- *BPE Solicitors & Anor v Gabriel [2015] UKSC 39 (17 June 2015)*

- *Kagalovsky & Anor v Balmore Invest Ltd & Ors* [2015] EWHC 1337 (QB) (13 May 2015)
- *Gabriel v Little* [2013] EWCA Civ 1513 Representing Defendant solicitors on successful appeal on basis that the loss claimed fell outside the scope of the retainer and there was no Quistclose trust or dishonest assistance in a breach of trust
- *Fulham Leisure Holdings v Nicholson Graham & Jones* [2008] EWCH Civ 84; [2006] EWHC 2016; [2006] EWHC 158
- *Pritchard Joyce & Hinds v Batcup* [2008] EWHC 20;
- *Baxendale-Walker v The Law Society* [2007] EWCA Civ 233; [2006] EWHC 643;
- *Kamar v Nightingale* [2007] EWHC 2982
- *Attorney General of Zambia v Meer Care Desai* [2006] EWCH 1179
- *McLoughlin v Jones* [2006] EWCA Civ 1167;
- *FS v JS* [2006] EWHC 2793
- *Talisman Property v Norton Rose* [2006] EWCA Civ 1104;
- *Clare v Buckle Mellows* [2005] EWCA Civ 1611;
- *Hatton v Chafes* [2003] EWCA Civ 341;
- *Persaud v Persaud* [2003] EWCA Civ 394;
- *Excelsior v Salisbury Hamer* [2002] EWCA Civ
- *Brown v Bennett* [2002] 1 WLR 713;
- *HF Pension Trustees v Ellison* [1999] PNL 894;
- *Williams v Attridge* LTL 9/7/97;
- *Gray v Richards Butler* LTL 24/6/97;
- *Sampson v John Boddy Timber* LTL 17/5/95

Patent Agents

Roger has acted in two of the very rare reported cases against patent attorneys – which demonstrates the considerable extent of his experience in this relatively small area. He is presently acting in relation to two substantial disputes in the field. His technical expertise makes him ideal for understanding the necessary concepts and complications in the field.

The reported cases in which he has acted are

- *Finecard International v Urquhart & Lord* [2005] EWHC 2481
- *Arbiter v Gill Jennings & Every* [2000] PNL 680

Surveyors & Valuers

Roger has edited the relevant chapter in *Jackson & Powell on Professional Liability* for the last 3 editions. As would be expected he has enormous experience in this field. He appeared in the House of Lords in one of the leading cases, *Swingcastle v Gibson* and has appeared extremely regularly in the courts ever since. He appeared at first instance in *BBL v Eagle Star* before the case was discontinued against his clients after many days.

His reported cases include:

- *Cheshire Building Society v Dunlop Heywards* [2008] EWHC 51
- *Preferred Mortgage v Bradford & Bingley* [2002] EWCA
- *Etam v Baker Arnold* [2001] EGCS 21
- *Royal & Sun Alliance Trust Co Ltd v Healey & Baker* LTL 19/10/2000
- *Ball v Banner & Healey & Baker* LTL 19/10/2000
- *Miskin v St John Vaughan* LTL 1/3/99
- *Cavendish Funding v Henry Spencer & Sons Ltd* [1998] PNL 122
- *Swingcastle v Gibson* [1991] 2 AC 223

Financial Services Professionals

Roger has acted on numerous occasions for and against financial advisers who have been sued in relation to pension advice, endowment contracts, draw-down mortgages and zero income bonds. He has particular expertise in consideration of claims against



the issuers of prospectuses for products involving tax incentives such as property enterprise zone unit trusts and film finance schemes. He has also acted for an against the professional advisers who have acted in relation to such schemes both in relation to their promotion and their implementation.

Qualifications & Memberships

M.A. LLM (Cantab)

Insights

Jackson & Powell on Professional Liability

1 December 2016

He is, with John Powell QC, one of the two general editors (7th & 8th ed.). He has been an editor since the 3rd Edition (1992).