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Scott Allen

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He shows huge attention to detail and had a fantastic grip on the issues of the case, despite their complexity.

- Chambers & Partners

Named the ‘Professional Negligence Junior of the Year’ (2018) by Chambers & Partners UK.

Scott Allen is a recommended junior in the Legal 500 and Chambers & Partners for professional liability claims. He is committed to providing practical, commercial advice and advocacy of the highest quality, complemented by an approachable and client-friendly service.

Scott is instructed regularly in professional liability work involving solicitors, barristers, accountants/auditors, surveyors/valuers (including rights to light surveyors), insurance brokers, independent financial advisers, and administrative receivers, acting for claimants as well as defendants. The litigation from the last recession saw Scott develop a particular specialism in claims involving administrative receivers (e.g. *Bell v Long & PKF* [2008] EWHC 1273 Ch, [2008] 2 BCLC 706), as well as claims brought by lenders against solicitors and surveyors. He has also been involved in much of the litigation in respect of unsuccessful tax avoidance structures, including film finance, conditional share award, and BPR schemes. In recent years, much of his time has been spent defending solicitors and accountants in proceedings before the SDT and FRC Disciplinary Tribunal respectively. Scott is also ranked as a leading Professional Discipline and Regulatory Law junior by Legal 500.

Recognised for being “outstanding”, “a fantastic junior – hardworking, intelligent and easy to deal with” (Legal 500, 2019), “he gets it, and he gets it quickly” (Chambers & Partners, 2019). “Completely on top of absolutely everything”, “very bright, sensible and accessible” (Chambers & Partners, 2016), Scott “acts for claimants and defendants, and is known for the strength of his solicitors’ and surveyors’ negligence practice.” “He is a talented advocate who has a nice, concise way of expressing himself in clear and understandable language.” “Very approachable and absolutely sound on all aspects” (Chambers & Partners, 2015). “Personable, easy to engage with, perceptive and very bright” who “delivers quick response times, is very measured and gives clear advice that clients can easily digest” (Legal 500, 2015). His “‘sharp intellect and well thought-through opinions’ have made him a junior of choice on a range of professional negligence claims” (Chambers & Partners, 2013).

Recent cases of note include, *Griffith v Gourgey* [2018] 3 Costs LR 605 (an important case in respect of solicitors’ warranty of authority), *Hughes-Holland v BPE* [2018] AC 599 (with Roger Stewart QC – the most important professional negligence case since SAAMCO), *Williams v SRA* [2017] EWHC 1478 (with Patrick Lawrence QC, an important disciplinary case in the Divisional Court in which a solicitor’s dishonesty conviction was overturned), *Herring v Shorts Financial Services LLP* [2016] W.T.L.R. 1203 (in which Scott successfully resisted the extension of *White v Jones* liability to financial advisors assisting with a Will), and appearances in the Court of Appeal for solicitors in *Clydesdale Bank Plc v Workman* [2016] P.N.L.R. 18 (with Roger Stewart QC) and *Newcastle International Airport v Eversheds LLP* [2014] 1 WLR 3073 (with Ben Patten QC).



He appeared with Roger Stewart QC in the Supreme Court in *BPE Solicitors v Hughes-Holland* [2017] UKSC 21, in which the Supreme Court provided clarification of the extent to which the SAAMCO principle is to be applied to solicitors and other professionals. The court restated and provided further explanation of the SAAMCO principle, including distinction between the provision of “information” and “advice”. It overruled a series of cases which had been the source of much confusion about how the principle was to be applied to cases involving solicitors. Click here to read an article looking at the implications of the case’s decision, written by Roger Stewart QC and Scott Allen.

In addition to his professional indemnity work, in which he is often instructed for insurers, Scott is also instructed in subrogated recovery actions and specialist insurance disputes including policy wording/coverage issues and allegedly fraudulent insurance claims.

As well as his disciplinary work in the Solicitors Disciplinary Tribunal and FRC Disciplinary Tribunal, he has also advised or appeared in proceedings involving the Council of Licensed Conveyancers Disciplinary Committee and the Chartered Institute of Public Finance and Accountancy. Scott has also been able to combine his work with his love of all things involving sport, and to represent the Motor Sports Association successfully in Motor Sports Council Investigatory Tribunal proceedings against Mitsubishi Motors UK.

Scott advises and appears in construction disputes (including Party Wall Act proceedings), appearing frequently in the Technology and Construction Court in construction litigation (e.g. *Bromley LBC v Heckel* [2015] EWHC 3606 (TCC)), as well as advising and appearing in arbitration and adjudication of construction disputes.

Scott also has a considerable Chancery-based practice involving partnership disputes, international trust disputes (Cayman Islands), declarations of beneficial interest in property, general banking and mortgage work, and applications under the Trusts of Land and Appointment of Trustees Act 1996.

A major part of Scott’s practice is general commercial litigation, with a particular focus on telecommunications and information technology disputes. Scott frequently appears for telecommunications providers, and previous cases include a multi-million pound recovery action involving a wavelength capacity agreement and indefeasible rights of use. Scott has undertaken some energy work, and appeared successfully in a major commercial court trial (*Dalkia v Cetech* [2006] 1 Lloyd’s Rep 599) involving a complex contractual dispute in relation to an electricity generating turbine. Scott has also advised on a number of commercial agency cases dealing with issues of actual and ostensible authority, and the ‘effective cause’ requirement in respect of an agent’s entitlement to success-based commission fees.

Scott’s commercial work has seen him advise on pre-action and third-party disclosure applications, and successfully obtain orders pursuant to the Norwich Pharmacal jurisdiction against third parties.

Privacy Policy

Click here for a **Privacy Policy** for Scott Allen.

Areas of Expertise

Professional Liability

“He never disappoints: he is fantastic in communicating and keeps us updated. He is a rare breed in that he is good at putting people at ease if they are a bit nervous.” “He is tenacious and determined. He works as a team with us, is easy to deal with, and is great on his feet as well.” – *Chambers & Partners 2020*

“Very friendly, professional and approachable.” – *Legal 500, 2020*

“He is outstanding.” – *Legal 500, 2019*



“He is particularly good for solicitor negligence claims arising out of property issues.” “A good drafter and his written work is precise. He gets it, and he gets it quickly.” – Chambers & Partners, 2019

Named the ‘Professional Negligence Junior of the Year‘ (2018) by Chambers & Partners UK.

Scott is instructed in all areas of professional liability work. He has a wealth of experience in claims against solicitors, barristers, auditors, accountants, valuers, surveyors, architects, construction professionals, recruitment professionals, insurance brokers, independent financial advisors and administrative receivers. He is recommended by the Legal 500 and Chambers and Partners in the sphere of professional liability work.

A core part of Scott’s practice is solicitors’ negligence work, and he appeared (with Roger Stewart QC) in the Supreme Court in *BPE Solicitors v Hughes-Holland* [2017] UKSC 21, the most important case in the entire professional negligence field since SAAMCO itself, in which the Supreme Court provided clarification of the extent to which the SAAMCO principle is to be applied to solicitors and other professionals. The court restated and provided further explanation of the SAAMCO principle, including distinction between the provision of “information” and “advice”. It overruled a series of cases which had been the source of much confusion about how the principle was to be applied to cases involving solicitors.

Scott has appeared in solicitors’ negligence cases throughout the entire range of solicitors’ work, from matrimonial proceedings, to complex tax advice, and everything in between. Scott has extensive experience in claims involving tax avoidance structures, including numerous pieces of litigation involving film finance schemes, as well as other schemes such as conditional share award structures and corresponding deficiency relief on life assurance policies. Scott has acted for claimant investors, as well as defendant IFAs, solicitors, accountants and tax advisers, in what is a particularly strong and well-developed area of his practice.

Scott successfully defended administrative receivers in the case of *Bell v Long & PKF* [2008] EWHC 1273 Ch, [2008] 2 BCLC 706, [2008] BPIR 1211; [2008] 25 EG 172 (C.S.), in which an important and widely reported judgment was given by Patten J. about the duties of receivers and the timing and method of sale of property portfolios. He is routinely instructed in respect of cases involving the appointment of LPA and administrative receivers.

Scott successfully defended financial advisers in *Herring v Shorts Financial Services LLP* [2016] W.T.L.R. 1203 (resisting the extension of *White v Jones* liability to financial advisors assisting with a Will), and solicitors in *Newcastle International Airport v Eversheds LLP* [2014] 1 WLR 3073 (with Ben Patten QC). He appeared with Roger Stewart QC in the Court of Appeal for solicitors in *Clydesdale Bank Plc v Workman* [2016] P.N.L.R. 18. The last economic recession saw a proliferation of lender claims against solicitors and surveyors, and Scott was heavily involved in this litigation, acting on behalf of lenders but more usually for the solicitors or the surveyors, often in cases in which multi-million pound damages claims were pursued. Such claims can also involve a breach of undertaking claim against solicitors, and Scott has extensive appearance in advising on the interpretation and method of enforcement of solicitors’ undertakings.

The representation of accountants and auditors constitutes a large part of Scott’s practice, and (in addition to his disciplinary practice) he has recently defended a big four firm of accountants in respect of advice provided in tax litigation, has been instructed in numerous cases involving negligent tax advice (including various tax avoidance schemes, and domicile advice), and was recently retained in a case in which it was alleged that payments to an Employee Benefit Trust should not have been recognised in a company’s accounts. Scott has advised auditors about the scope of their liability in a number of large cases, and is one of the ‘go to’ counsel for any litigation involving allegations against accountants.

A developing part of Scott’s practice is the representation of professionals involved in the provision of information technology services. Scott is an assistant editor of the current edition of *Jackson & Powell on Professional Negligence* and was for many years the co-author of the chapter on IT Professionals; in the 8th edition of the book he is the author of the chapter on Patent Attorneys and Trade Mark Attorneys, which is another area of interest to Scott and in which he practices.

Accountants, Auditors & Actuaries

Claims against accountants and auditors forms a fundamental part of Scott’s professional indemnity practice. His many disciplinary cases involving the profession have enabled him to have a deep-rooted understanding of the issues faced by accountants in their working lives, and he brings this expertise to the wealth of litigated cases in which he has been instructed, involving issues



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including:

- advice given in relation to Capital Gains Tax,
- advice given on inheritance planning,
- advice given and representations made in respect of tax avoidance schemes (including film finance schemes),
- advice given on the taking of income as dividends rather than salary,
- the recognition in a company's accounts of a payments into an Employee Benefit Trust;
- advice given in respect of an offer by HMRC to settle a tax investigation,
- the failure to give advice in respect of non-UK domicile status,
- the scope of the duty (if any) owed to third parties where accounts are audited and the company is later purchased, and
- advice given in relation to figures to be included in the warranties within a Sale and Purchase Agreement.

Scott was recently instructed by a big four accountancy firm to defend a claim involving advice given in film finance tax litigation, and has an intimate knowledge of a number of the film finance schemes, having defended various professionals involved in the establishment and promotion of such schemes. He also successfully obtained an order in the High Court that a case against accountants be summarily dismissed, in the case of *Murfin v Ford Campbell* [2011] EWHC 1475 (Ch).

Scott enjoys the technical challenge of familiarising himself with the relevant accounting standards, and arguing with his brother (who is a chartered accountant) about their interpretation and application.

Construction Professionals

Scott has been instructed in many cases involving construction professionals, bringing claims against (and defending) architects, contract administrators, mechanical and electrical engineers, structural engineers and numerous skilled sub-contractors.

He appears regularly in the Technology and Construction Court (including in *Bromley LBC v Heckel* [2015] EWHC 3606 (TCC), in which a claim against a project manager was successfully struck out), and has a healthy following amongst solicitors specialising in construction work, both in London and in the regional centres. Scott's ability to digest the technical aspects of heavy construction claims is valued highly by those who instruct him, and his practice in this area continues to grow.

Recent cases include claims against architects in relation to numerous defects in a West End refurbishment project, insufficient design/monitoring of piling works (structural engineers), a defective specification and testing regime for a passive cooling system (M&E engineers), defective advice about the electrical requirements of a commercial development (M&E engineers), defective design of an executive property (structural engineers), and the construction of a commercial extension over a high pressure water main (architects).

Insurance Brokers & Agents

Scott receives regular instructions to represent insurance brokers, including a successful appearance in a trial involving the apportionment of liability between successive brokers where cover was not obtained in relation to burglary of a commercial premises.

Scott has also advised upon a number of cases involving defective fire damage cover, each with their own non-disclosure issues, as well as numerous cases involving allegations that adequate advice about coverage and/or disclosure issues was not provided by the insurance brokers.

Claims against insurance brokers are often linked to or arise from Scott's practice in relation to coverage advice, and he is a respected port of call whenever a claim against an insurance broker is contemplated.

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Financial Services Professionals



Scott has been instructed in a number of cases involving the advice provided by financial services professionals. These have involved a range of investments and issues, including:

- equity-release mortgages,
- foreign exchange mortgage products,
- investment advice for charities and pension funds, and
- inadequate investment advice for private individuals in relation to global, higher risk funds.

A recent trial in this area involved the successful defence of an IFA who provided information to a client which was used, incorrectly, by a solicitor, when drafting the client's Will. Scott resisted the extension of *White v Jones* liability to IFA's in this situation, and the claim was dismissed – *Herring v Shorts Financial Services LLP* [2016] W.T.L.R. 1203.

Lawyers

Scott has a wealth of experience in claims against solicitors and barristers, covering the vast range of work (both litigious and non-litigious) which lawyers undertake. Claims in which Scott has been instructed, involving claims against solicitors, include:

- the construction of and claims upon solicitors undertakings,
- negligent advice on and drafting of Share Purchase Agreements,
- negligent advice on VAT election in the sale of commercial property,
- negligent conveyancing (including breach of duty to lenders, breach of trust, failure to conduct drainage search, failure to advise upon covenants and easements, failure to advise upon adverse ground conditions),
- negligent advice on and drafting of: commercial leases, share purchase agreements, employee remuneration agreements,
- negligent advice/representation in matrimonial proceedings (including drafting of consent orders and advice on pension sharing orders),
- negligent advice/representation in employment proceedings (drafting of consent orders, advice as to merits), and
- negligent advice/representation in commercial proceedings (advice as to merits, acting without authority, drafting of consent orders) .

Scott has brought successful claims against barristers and has also defended successfully senior members of that profession. He ranks claims against lawyers as one of his core areas of specialism and it is an area of his practice that he particularly enjoys. Cases of note include:

- *BPE Solicitors v Hughes-Holland* [2017] UKSC 21 (with Roger Stewart QC)
In this case the Supreme Court provided clarification of the extent to which the SAAMCO principle is to be applied to solicitors and other professionals. The court restated and provided further explanation of the SAAMCO principle, including distinction between the provision of "information" and "advice". It overruled a series of cases which had been the source of much confusion about how the principle was to be applied to cases involving solicitors. Click here to read an article looking at the implications of the case's decision, written by Roger Stewart QC and Scott Allen.
- *Clydesdale Bank Plc v Workman* [2016] P.N.L.R. 18 (with Roger Stewart QC) (representing solicitors in breach of trust case against other firm of solicitors)
- *Newcastle International Airport v Eversheds LLP* [2014] 1 WLR 3073 (with Ben Patten QC) (defending solicitors in claim involving drafting of executive remuneration agreements).
- *Walsh v Needleman Treon*[2014] EWHC 2554 (Ch) (striking out claim against solicitors involving alleged loan agreement)
- *Amalgamated Metal Corporation Plc v Wragge & Co* [2011] EWHC 887 (Comm). (with Ben Hubble QC)(successful claim against solicitors who settled claim beyond the scope of their authority)

Surveyors & Valuers

Scott has very extensive experience of claims involving surveyors and valuers. He has represented surveyors in a number of cases involving multi-million pound claims and the valuation of large mixed use developments, as well as smaller residential developments and single property valuations (including the largest private property loan ever made by a well-known private bank, in relation to a luxury property in Monaco). He has advised upon the whole range of issues in this area of law including



- the correct measure of loss (applying the SAAMCO 'cap', cost of cure v diminution in value, ancillary recoverable heads of loss, distress and inconvenience),
- the existence and scope of duties to third parties, scope of inspection duties, the application of the margin of error,
- limitation of liability clauses and UCTA,
- the effect of refinancing/further loans on a lender's claim (per Preferred Mortgages and Tiuta)
- remoteness issues and
- a wide variety of fact-specific issues on breach of duty.

Claims against surveyors and valuers form a large part of Scott's practice and the post 2008 economic climate saw this area of his core work grow significantly.

Qualifications & Memberships

B.A. (Oxon.)

Member of COMBAR and ARDL