

OUR PEOPLE

## Paul Parker

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“He’s a wonderful advocate: tenacious, brave and prepared to roll his sleeves up. You feel very confident in his services.”



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## Paul Parker is a specialist in professional liability claims involving accountants, financial services professionals, lawyers, insurance brokers and construction professionals.

He advises on professional regulatory matters and has substantial experience of appearing before disciplinary tribunals and in the higher courts on appeal. He does a variety of general commercial and chancery commercial work, with particular emphasis on insurance law.

Paul relishes the challenge of advocacy and is known for his tenacity, working hard to attain the trial barrister’s ideal: complete mastery of a brief, control of the evidence and the ear of the court. He revels in difficult cases where there are obstinate witnesses or dogmatic experts to be cracked.

In a climate in which mediation has become the dispute resolution method of first choice, Paul has developed a considerable level of experience, guiding lay and professional clients through the mediation process, drafting mediation position papers, devising negotiation strategies and handling mediation advocacy.

“Excellent at pleadings”, “very diligent, very thorough and offers detailed forensic analysis. He is very good at intricate legal arguments” (Chambers & Partners) and “consistently well thought of,” Paul Parker is recognised as a leading recommended junior in the fields of professional negligence and professional discipline. Legal Week has reported Paul to be “fantastic with clients and you get excellent advocacy every time”. And “great fun to work with” as well! The Legal 500 has time and again over recent years listed him amongst its highly regarded juniors and Paul has also been selected for inclusion in the Legal Business publication Legal Experts in the field of professional indemnity litigation every year since 2001.

## Privacy Policy

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## Expertise

### Commercial Chancery

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Much of Paul's work in this area overlaps with other aspects of his practice. His current and recent caseload includes:

- advising a charity on potential claims arising out of a failed land development
- acting in tax planning negligence claims brought by beneficiaries and/or executors in cases following *Rind v Theodore Goddard* [2008] EWHC 419 (Ch); [2008] PNL 24, in which he had acted for the defendant solicitors
- representing insurers in a substantial action to trace money and assets lost through breach of trust and fraud
- representing the trustees of a pension fund in claims involving knowing receipt and dishonest assistance
- advising and acting in breach of warranty of authority claims where companies' ownership is disputed

### Corporate and Commercial

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Paul's practice involves a wide range of spheres of corporate and commercial activity, including:

#### Sale and Supply of Goods and Services

Current and recent cases include:

- advising in a catering supplies dispute between contractors and an education authority
- acting in connection with a defects claim relating to a consignment of reconnaissance helicopters
- representing a further education college in a large claim by an educational services provider
- advising on distribution agreements concerning the DSS estate
- advising on breaches of agreements in the gas and electricity supply industries
- acting for the suppliers of window fittings and furniture in a claim brought by a local authority concerning the refurbishment of council flats and houses
- advising on taxi franchises at a UK airport
- acting in product liability dispute concerning complex programmable industrial machinery
- acting in a fine art theft case

#### Confidentiality

A considerable proportion of Paul's lawyers' liability, disciplinary and regulatory work relates to issues concerning actual or potential conflict of interest and other aspects of confidentiality. He has been actively involved in a series of cases concerning the disclosure of solicitors' files to lenders.

Paul successfully barred a firm of solicitors from acting in construction litigation in *Re a firm of Solicitors* [1999] PNL 950 (conflicts of interest and "chinese walls").

#### Computer Contracts & Information Technology

Paul has acted in complex and lengthy computer software disputes tried in the London and provincial TCC. Issues have included:

- the extent to which the customer had provided an adequate specification for the provision of bespoke and modified standard software
- the customer's competence to operate the system
- the nature and quality of training provided by the supplier
- the distinction between bugs and defects
- the applicability of the supplier's exclusion clauses
- the quantification of the customer's loss of profits claim

Cases include *BIT Group Ltd v. Housing Units Ltd* (1999) TCC unreported, and others settled on confidential terms.

Paul is the author of the chapter on IT Professionals in Jackson & Powell: Professional Liability Precedents.

## Construction & Engineering

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Paul's construction practice currently focuses to the greater extent on the liability of construction professionals. This and his reported cases include:

- acting for the defendant quantity surveyors in *Dhamija v. McBains Cooper* [2010] EWHC 2396 (TCC), a leading case deciding that the scope of the quantity surveyor's duty to make interim valuations does not extend to having to bring defective works to the contract administrator's attention
- advising on potential claims against the professional team in connection with the design and construction of a vocational ballet school
- acting for the employer in a substantial claim against engineers regarding the foundation design of a major London hotel
- defending engineers in connection with the foundation and floor slab design of a warehouse complex in the North East
- *Cheal v. Hale Allen* (1997) 59 Con LR 156: use of expert evidence in an engineers' negligence action
- *Wilson v. Le Fevre Wood & Royle* [1996] PNLR 107: date of knowledge (Limitation Act 1980 s.14A) in an architects' liability action
- led by Anthony Thornton QC (now HHJ Thornton QC) in a long geotechnical engineers' negligence action in 1994

Paul also has lengthy experience of a considerable range of construction disputes, litigating and arbitrating for and against employers, contractors and sub-contractors.

Past cases include:

- involvement in actions concerning property developers such as Charles Church and Barratt Homes; past clients include Higgs & Hill/HBG Construction
- representing the design engineers in a substantial action concerning a pipeline in south Atlantic
- acting in contaminated land claims and m&e engineers' negligence actions
- acting for the employer in an £8 million claim against an architect and the contractor concerning the refurbishment of office and residential space in central London
- defending the suppliers of window fittings and furniture in a claim brought by a local authority concerning the refurbishment of council flats and houses
- numerous claims concerning residential refurbishments, extensions and rebuilds

### Featured Construction & Engineering cases

- *Dhamija v. McBains Cooper* [2010] EWHC 2396 (TCC); Acting for the defendant quantity surveyors in this leading case deciding that the scope of the quantity surveyor's duty to make interim valuations does not extend to having to bring defective works to the contract administrator's attention.
- *Cheal v. Hale Allen* (1997) 59 CON LR 156; Use of expert evidence in an engineers' negligence action.
- *Wilson v. Le Fevre Wood & Royle* [1996] PNLR 107; Date of knowledge (Limitation Act 1980 s.14A) in an architects' liability action.

## Disciplinary

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***"Paul has a forensic approach to unpicking the regulator's case."*** – Legal 500

***"Paul is a reassuring presence and his advice is always concise and sensible."*** – Chambers & Partners

***"A very experienced and extremely knowledgeable barrister. His preparation is incredible, his cross-examination is great and he achieves amazing results." "Very well respected in accountancy disciplinary cases. A robust advocate with a very technical and tactical approach."*** – Chambers & Partners

***"His advice is concise and he clearly has great experience in this field. He puts clients at their ease and was very helpful in persuading a difficult client to accept our advice."*** – Legal 500

*“An exceptional advocate before accountancy disciplinary hearings and committees. Outstanding case preparation.”* – Legal 500

*“He’s not a fence-sitter. He took an early view of the case and was right. He also produces excellent drafting.”* – Chambers & Partners

*“Concise, considered and pragmatic.”* – Legal 500

*“He has great insight into how accountancy firms work, how to navigate their issues and how to respond to regulatory investigations.” “He has a commercial and practical approach to accountancy disciplinary work and risk management.” “A bold defence advocate. His robust but client-friendly approach has secured many successful outcomes for accountants and insolvency practitioners.”* – Chambers & Partners

*“He has unflappable forensic technique, even in the face of difficulty.”* – Legal 500

*“Very technical and ferocious on his feet.”* – Chambers & Partners

A large amount of Paul’s advisory work in this area concerns professional conduct: telling professionals, especially lawyers, what they can and cannot do in private professional practice, with a view to avoiding referrals to regulators.

But of course Paul also regularly advises in connection with conduct-related complaints, particularly to the LCS and the SRA. He has advised extensively on regulatory and disciplinary issues concerning breaches of SARs – both fraudulent (including advisory involvement in the Marrache scandal in Gibraltar) and non-fraudulent – separate business structures, introductions and referrals, publicity, and proper standards of work in private client, conveyancing and litigation matters.

He has substantial recent experience of defending in proceedings particularly before the Solicitors’ Disciplinary Tribunal and the disciplinary committees of the Association of Chartered Certified Accountants and the Institute of Chartered Accountants in England & Wales.

Issues with which he is most familiar have included:

- inadequate keeping of accounts
- dishonesty in falsifying evidence
- conflict of interest and duty
- secret profits
- giving professional undertakings
- failure to keep up to date with professional guidance
- inadequate professional services
- restoration to the Roll

Forthcoming hearings concern block conveyancing abroad / costs information / compliance with LCS adjudications / fee sharing / referral issues in accident claims.

Paul’s recently contested cases in the SDT include:

- Thakerar 10693-2011; Restoration to the Roll; absence of exceptional circumstances.
- Thompson, Khan & Khan 10438-2010; Proper standard of work issues in an immigration practice.
- Hardman & Sgoluppi 10341-2009; Conveyancing practice / fee sharing / referrals.
- Hodgson & Hartley 9658-2007; Miners’ compensation claims.
- Lewis 9708-2007; SAR issues.
- Moon 9599-2006; Licensed conveyancer, s.43 order.

## Financial Services Regulation

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Paul is regularly instructed in claims involving financial services consultants. He has particular experience of home income plans and similar, as well as life assurance and pensions mis-selling.

He is familiar with regulatory matters under the FSMA 2000 (and its predecessors).

Current and recent cases include:

- advising insurance intermediaries as to statutory regulation/ approval
- advising investors caught up in a viatical scheme fraud
- involvement in numerous cases relating to pensions mis-selling
- challenge to the vires of a pensions review award made by the Personal Investment Authority Ombudsman: *R. v. P.I.A Ombudsman Bureau Ltd., ex parte Davies Walters & Associates Ltd.* [2001] EWHC Admin 1159
- brief involvement in the Equitable Life litigation prior to its settlement

## Insurance

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Paul regularly advises as to coverage and exclusions in policies of insurance which arise in three contexts:

- straight insurance claims – in particular fire, business interruption claims and D&O (directors and officers) policy issues
- insurance brokers' negligence actions – he has a thorough familiarity with the underlying insurance obtained by the broker: recent examples of the types of insurances covered in this context are E.L. (employers' liability), P.I. (professional indemnity), E&O (errors and omissions), D&O and Business Interruption
- general professional indemnity work – his recent cases include issues arising out of conveyancing fraud and title protection, non-disclosure in an engineers' case, late notification by architects/engineers, definition of insured perils in a valuers' case and making fraudulent claims in an engineers' case

His specific recent experience of insurance coverage issues includes:

- advising a world leader in advanced aftermarket automotive diagnosis as to D&O policy interpretation, notification and non-disclosure issues, aggregation, and the applicability of exclusions in the context of accessory liability, vicarious liability and joint liability for alleged infringement of intellectual property rights
- acting for brokers in *Yecheil v Kerry London Ltd* [2010] EWHC 215 (Comm) successfully upholding insurers' declinature
- representing solicitors at indemnity conferences
- advisory work for both insurers and professional insureds in connection with:
  - successor practice issues
  - insurable interests of ex-partners and ostensible partners
  - aggregation
  - late and non-notification issues
  - exclusions relating to the nature of the business insured
  - cooperation clauses
  - misrepresentation and non-disclosure on renewal and during the life of the policy
  - moral hazard
  - fraud and *ex turpi causa*
  - interpretation of clauses relating to critical illness cover
  - fortuity

## Professional Liability

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***“Paul Parker provides concise, well-written and researched advice on complex issues.”*** – Chambers & Partners

***“Paul is hugely experienced and a calming presence in conference. His advice is always lucid and well-reasoned.”*** – Legal 500

***“Paul is a reassuring presence and his advice is always concise and sensible.”*** – Chambers & Partners

***“His written advice is concise and well-reasoned. He is also very good with clients as he has the necessary gravitas to put them at their ease.”*** – Legal 500

***“He is one of the safest pairs of hands I’ve worked with. Intellectually hugely strong, and you feel extremely confident in his judgement.”*** ***“Very helpful and easy to work with.”*** – Chambers & Partners

***“Extremely knowledgeable and experienced.”*** – Legal 500

*“He is very experienced and is good on his feet. When he gets into court, he’s brilliant.”* – Chambers & Partners

*“He is good on his feet and very thorough.”* – Legal 500

*“Highly experienced senior junior whose practice in professional liability encompasses claims against virtually all non-medical professions.”* – Chambers & Partners

## Accountants, Auditors & Actuaries

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Paul is regularly instructed in claims against accountants and financial services consultants, covering topics as diverse as taxation matters, enterprise zones, audit responsibilities, business and incorporation advice, and life assurance and pensions mis-selling. He has a good understanding of audit and familiarity with IFRS, ISA etc. Current and recent cases include:

- acting for claimants against auditors who failed to detect substantial defalcations by a rogue director
- advising in a claim against accountants in connection with their design and implementation of EBT and other offshore trust vehicles
- representing accountants in the defence of claim by international celebrity regarding business incorporation advice
- pre-action and non-party disclosure by accountants in
  - a potential action concerning share sale and tax advice: *Moresfield Ltd v. Banners & KPMG* [2003] EWHC 1602 (Ch)
  - high net worth ancillary relief proceedings
- advising an international charity with regard to tax advice from a leading accountancy firm
- appeal from refusal to grant pre-action disclosure in a potential action concerning overseas business acquisition, due diligence and advice: *Medisys plc v. Arthur Andersen* [2002] Lloyd’s Rep PN 323
- acting in claim against accountants for negligent corporate re-organisation and tax planning advice
- substantial auditors’ liability claim arising out of credit note fraud perpetuated on client company (principal issues: standard of care relating to audit planning and risk assessment; performance of audit)
- representing a leading accountancy firm in defence of a £60 million-plus claim by a FTSE 100 company with regard to tax planning
- acting for accountants in an action concerning the administration of members’ and proprietary clubs.

## Construction Professionals

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- acting for the defendant quantity surveyors in *Dhamija v. McBains Cooper* [2010] EWHC 2396 (TCC), a leading case deciding that the scope of the quantity surveyor’s duty to make interim valuations does not extend to having to bring defective works to the contract administrator’s attention
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- advising investors caught up in a viatical scheme fraud
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## Insurance Brokers & Agents

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Paul has also been involved in substantial cases concerning:

- business interruption insurance, including issues of underinsurance and average
- cover notes and interim insurances in a Lloyds context
- *Yechiel v Kerry London Ltd* [2010] EWHC 215 (COMM); Paul acted for the brokers, successfully establishing on the evidence and in cross-examination that the insured had failed to give notice to the brokers of certain requirements as to cover.

and his recent advisory work has focused particularly on the scope of the broker's duty to advise and to elicit material information at inception and upon renewals.

## Lawyers

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Paul has an extensive lawyers' liability practice including claims relating to commercial disputes, finance and investments, property transactions, and lost and mishandled litigation cases arising out of a wide range of original disputes including landlord and tenant, commercial, planning, contentious chancery, corporate and personal insolvency, matrimonial and childcare, and personal injury. He has considerable expertise in wasted costs applications.

Paul has over the years appeared in and advised in lawyers' liability cases in every division of the High Court including

- acting for software owners in a claim against their former solicitors for the failure of substantial patent litigation
- advising a P & I club in connection with potential claims arising out of a charterparty arbitration
- representing a Cypriot charterer in dispute with English shipping firm
- defending barristers in claims arising out of insurance disputes, conflicts of laws and developing areas of medical science
- representing solicitors in claims by beneficiaries and personal representatives concerning the administration of estates
- acting for a barrister in defence of a claim alleging negligent deployment of evidence at a criminal trial
- representing solicitors alleged to have mishandled defamation proceedings
- acting and advising in numerous claims involving suretyship transactions of the type exemplified by *Barclays Bank plc v O'Brien* and/or *Royal Bank of Scotland plc v Etridge (No.2)*

He has also been instructed to appear in Scotland as an expert witness in English barrister's negligence law.

### Reported cases

- *Cannon v Hart Brown* [2010] EWHC 1974 (CH); Acting for solicitors successfully defending an allegation that they had been instructed to renegotiate the terms of an overage clause in a contract for the purchase of a property for redevelopment.
- *Guy v Pannone LLP* [2009] EWCA Civ 30; (2009) 7 EG 90 (CS); Representing solicitors caught up in the Lexi Holdings fraud in a successful summary judgment appeal.
- *Angel Solicitors v Jenkins O'Dowd & Barth* [2009] EWHC 46 (CH); [2009] 1 WLR 1220; [2009] PNLR 19; Solicitors' undertakings in conveyancing transactions.
- *Ross Solmon & Co v Jenkins O'Dowd & Barth* (2009) CHD, UNTRANSCRIBED; Solicitors' undertakings in conveyancing transactions.

- Morgan & Co v Jenkins O'Dowd & Barth [2008] EWHC 3411 (CH); Solicitors' undertakings in conveyancing transactions.
- First Property Finance Ltd v Martin & Haigh [2006] PNLR 29; Solicitors' undertakings in conveyancing transactions.
- Rind v Theodore Goddard [2008] EWHC 419 (CH); [2008] PNLR 24; Acting for the solicitors arguing duty of care and limitation points on a summary judgment application concerned with a failed IHT avoidance scheme.
- Vaughan v. Emmott Harrison [2005] PNLR 8
- Adrian Alan Ltd v. Fuglers [2003] PNLR 14; Damages awarded where it transpired that an ex-employee had misrepresented himself as a practising solicitor.
- Green v Hancocks [2001] LLOYD'S REP PN 212 (CA); Action for lost opportunity to make £43 million out of residential property development in the Midlands; issues relating to reliance on counsel, effect of legal advice given before more recent change in the law, and the viability of claims for misfeasance in public office.
- Alpha Credit Bank AE v. Stephenson Harwood [2002] ALL ER (D) 415; Lender's action against solicitors, scope of duty, contributory negligence. Paul acted for the successful bank.
- Majdabadi v Trustees of London Clinic [2008] EWHC 3664 (QB), [2008] ALL ER (D) 18
- Marsh v Sofaer [2006] EWHC 1217 (CH), [2006] PNLR 35
- Re a firm of solicitors [1999] PNLR 950 (TCC); Breach of confidence; Chinese walls; firm prevented from acting for party in litigation. Represented the successful applicant.
- Paul Successfully defended the salaried partner in this case about whether salaried partners are liable for the firm's breaches.

## Surveyors & Valuers

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Paul's experience covers a broad spectrum of residential and, in particular, commercial valuation claims. His recent and ongoing work includes

- acting for a bank in a £17 million claim against a well-known international firm of chartered surveyors in respect of the investment valuation of a shopping centre in Essex
- defending a £1.1 million claim against valuers in respect of a going concern valuation of a commercial fishery in the Midlands
- defending a £2.8 million claim made by a bank for losses incurred following a valuation of a nightclub, bar and restaurant complex along the south coast

Other cases in which he has acted have included:

- defending a well-known international firm of chartered surveyors in a claim concerning the valuation of substantial commercial property portfolio arising out of a corporate takeover
- acting in a substantial residential valuer's negligence action tried over four weeks in the QBD
- representing a building surveyor in a substantial claim brought by a well-known firm of City solicitors regarding the design and construction of their office accommodation
- claims against lenders exercising their power of sale as mortgagees in possession

## Costs

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Paul has over a decade of experience appearing in the SCCO on detailed assessments and other applications on behalf of both paying and receiving parties. Moreover, he:

- has a substantial practice and numerous reported cases in the wasted costs jurisdiction, in both the civil and the criminal courts
- advises and acts in connection with Solicitors Act assessments
- has a wide knowledge of the provisions and application of the Solicitors Accounts Rules
- regularly appears in costs management hearings
- has broad experience of security for costs applications, non-party costs orders and relief from sanctions

## Awards



## Qualifications

Paul is a former editor of the *PNBA Professional Negligence Law Review* and has edited and written chapters on solicitors, appeals and IT professionals for *Jackson & Powell: Professional Liability Precedents* (Sweet & Maxwell, looseleaf).

He is a member of COMBAR, LCLCBA, the ChBA and the PNBA (having served on its executive committee for many years). He is an ex-chairman of governors at a school in Oxfordshire, and is the current vice-chairman of an Oxford charitable trust.

### Education

M.A. (Cantab.)

### Languages

Serbian and French.