

## DEREK SWEETING QC

Year of call 1983    Silk 2001



Derek Sweeting QC's practice is focused on contentious civil litigation, and advisory work in the High Court and the Court of Appeal as well as arbitration.

It includes cases relating to maximum severity personal injury and clinical negligence work, commercial contracts, product liability, insurance, construction, information technology, professional negligence and civil fraud. He is regularly instructed by the Attorney General; in recent years, in particular, in relation claims arising from the Iraq war.

Derek is listed as a leading silk in Clinical Negligence, Personal Injury and Information Technology in The Legal 500. Derek is a regular and popular lecturer on his areas of practice. He is a co-author of the chapter in Fraud: Law, Practice and Procedure dealing with the overlap between civil and criminal claims. Derek has a keen interest in sports law. He has advised in relation to contractual and negligence issues in disputes relating to individuals, agents, sports organisations and venues.

Derek is described as "fantastic with clients, very effective at explaining matters. Concise in court where he can turn the evidence well". He is also a Bencher of Middle Temple and Chairman of the Legal Services Committee of the Bar Council.

Derek is qualified to accept instructions directly from clients and is registered under the Bar Council's Public Access Scheme, meaning that members of the public who seek specialist advice can come direct to him. In addition, he welcomes instructions from solicitors, in-house law departments, qualified foreign lawyers, and clients licensed by the Bar Council to give instructions direct to barristers under the Bar Council's Licensed Access Scheme. For more information please visit our Direct Access page [here](#).

## LEGAL EXPERTISE

---

## Clinical Negligence

Derek undertakes clinical negligence cases involving difficult issues of causation and consent, maximum severity injuries, injuries at birth, medical product liability (including vaccine damage) and fatal accident claims. Although he generally appears for claimants, he is instructed by the Attorney General in claims against the Ministry of Defence. He appeared in the leading causation case of *Bailey v The MOD*.

### Selected Cases

#### [Border v Lewisham & Greenwich NHS Trust \[2015\] EWCA Civ 8](#)

Bolam test; Breach of duty of care; Clinical negligence; Consent to treatment.

#### [Kadir v Mistry & Others \[2014\] All ER \(D\) 247 \(Mar\)](#)

Proper approach to damages for mental suffering under the Administration of Justice Act 1982 s.1(1)(b).

#### [Thomas v Curley \[2013\] EWCA Civ 117](#)

The role of *res ipsa loquitur* in clinical negligence claim.

#### [Pople v Birmingham Women's NHS Trust \[2012\] EWCA Civ 1628](#)

Cerebral palsy, negligent failure to spot the signs of foetal distress.

#### [Collis v Welsh Ambulance Service \[2012\]](#)

Negligence in transportation in presence of a prolapsed cord.

#### [Spradbury v Humber NHS Foundation Trust \(2011\)](#)

Negligence by a consultant psychiatrist and nurses at a psychiatric unit leading to patient's escape and suicide.

## Commercial

Derek's commercial work is principally focused on contractual disputes but also involve claims arising from fraudulent and negligent misrepresentation, economic torts and civil fraud. He often advises in relation to breach of duty claims against company directors (and officers) and increasingly in those areas involving an overlap with regulatory and criminal obligations.

### Selected Cases

#### [Financial Conduct Authority \(A Company Limited By Guarantee\) v Capital Alternatives Ltd & 15](#)

### Ors [2014] EWHC 144 (Ch) (appeal pending)

The correct test for deciding whether property was “managed as a whole” for the purposes of the Financial Services and Markets Act 2000.

### Yafai v Muthana [2012] EWCA Civ 289

Construction of joint venture partnership deed.

### Glen Dimplex v Smith [2011] EWHC 3392 (Comm)

Dishonest assistance and knowing receipt.

### Greene Wood Mclean LLP (In Administration) v Templeton Insurance Ltd [2010] EWHC 2679 (Comm)

An insurer liable to the solicitors up to the policy limit to where the solicitors had discharged the insurer’s liability to the claimant insureds under the policy.

### Templeton Insurance Ltd v Motorcare Warranties Ltd & 6 Ors [2010] EWHC 3113 (Comm)

An insurance company was entitled to be paid outstanding premiums where its agent, and the agent and two of its representatives had dishonestly represented the loss ratio in a prospective agreement.

### Carpwright Plc v George S Hall Ltd [2007] EWHC 3297 (QB)

Construction of energy supply agreements.

## Financial Crime

Derek is well known for work involving allegations of civil fraud. He recently represented the Claimant in obtaining summary judgment (*Glen Dimplex v Smith* [2011] EWHC 3392 (Comm)) in dishonest assistance and knowing receipt claims against the husband of a woman who had defrauded her employer of £2.8 million. He represented the insurer in *Templeton v Motorcare* [2010] EWHC 3113 (Comm) (miss-selling and failure to account). He is a co-author of the chapter in *Fraud: Law, Practice and Procedure*, dealing with the overlap between civil and criminal claims.

## Offshore & International

Derek has been instructed in international arbitrations in a number of areas.

## Personal Injury

Derek has wide experience of acting in fatal accident and personal injury cases involving maximum severity

claims for both claimants and defendants as well cases involving allied issues of vicarious and employers' liability, insurance policy points and statutory liability. He has been instructed in some of the largest group litigation in this area.

## Selected Cases

### [Iraqi Civilian Litigation v Ministry of Defence \[2015\] EWHC 116 \(QB\)](#)

Foreign proceedings; Iraq; Lawfulness of detention; Limitation periods.

### [Rahmatullah v Ministry of Defence \[2014\] EWHC 3846 \(QB\)](#)

Torts; Conflict of laws; Human rights.

### [Iraqi Civilians v Ministry of Defence \[2014\] EWHC 3686 \(QB\)](#)

International law; Damages; Armed forces; Human rights; Conflict of laws.

### [Ali Zaki Mousa v Secretary of State for Defence \[2014\] EWHC 783](#)

Stay of civil personal injury claims arising from the deaths of Iraqi civilians.

### [Robert Lee Uren v \(1\) Corporate Leisure \(2\) Ministry of Defence \[2013\] EWHC 353 \(QB\), \[2011\] EWCA Civ 66](#)

Risk assessment liability for personal injury where a failure to assess; application of the social utility test.

### [West Sussex County Council v Russell \[2010\] EWCA Civ 71](#)

Ambit of the obligation of a highway authority to maintain verge and carriageway.

## Product Liability

He has been involved in a wide variety of claims in this area, usually (although not exclusively) for manufacturers or importers. His work has ranged from toxic paint on imported toys to automotive control systems. He represented a vehicle manufacturer in claims by the London Fire Brigade in respect of bursting vehicle door locks (*London Fire & Emergency Planning Authority v Meritor Light Vehicle Systems* [2003] EWHC 2411 (TCC)). He has been instructed in litigation on behalf of the German motor manufacturer Audi/Volkswagen and in relation to the catastrophic lift failure at the Broadgate Centre. He is presently involved in vaccine damage litigation.

## Regulatory & Professional Discipline

Derek is regularly instructed in financial services litigation. He has been instructed in recent years relation to a

market abuse/manipulation claim involving the London Stock Exchange, investment fraud actions in Cayman and claims a large European insurer in relation to miss-selling and its relationship with regulators.

Derek appeared in the Tribunal against the FSA representing Wills & Co (as well as in associated Judicial Review proceedings) and most recently in *Financial Conduct Authority (A Company Limited By Guarantee) v Capital Alternatives Ltd & 15 Ors* [2014] EWHC 144 (Ch) (appeal pending) – concerning the correct test for deciding whether property was “managed as a whole” for the purposes of the Financial Services and Markets Act 2000.

## Sports Law

Derek has advised in relation to contractual and negligence issues in disputes relating to individuals, agents, sports organisations and venues.

## Appointments

---

- Deputy High Court Judge in the Queen’s Bench Division (2008)
- Recorder in the Crown and County Courts (2001)

## Memberships

---

- AVMA
- BASL
- FA’s list of Authorised Agents
- Personal Injury Bar Association
- Professional Negligence Bar Association