

## Simon Wilton

**Call year: 1993**

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Simon Wilton has a wide-ranging civil practice with particular experience in professional negligence. He has acted for and against various professionals including barristers, solicitors, surveyors, architects, accountants, financial advisors, insurance brokers, and professional trustees sued for breach of trust. He acts in regulatory and disciplinary disputes and also undertakes commercial litigation including contract disputes and insurance litigation, construction work and employers' liability claims. He has wide experience of interlocutory, trial and appellate advocacy.



## Practice Profile

### Professional negligence

Acting for and against professionals of all kinds. Simon is instructed by both claimants and defendants/their professional indemnity insurers. He has been instructed by and has experience of working with most of the leading professional indemnity insurers and specialist solicitors active in this field. That work has extended to advising on professional indemnity insurance issues including 'successor practice' and coverage disputes. He is equally at home with advisory work and with advocacy. He particularly relishes document-heavy cases or cases involving technical matters.

*Lawyers:* Simon has wide experience of solicitors' negligence litigation and also barristers' negligence cases as well. The majority of instructions are for defendants and their insurers but Simon also acts for claimants. Typical cases have arisen out of mishandled litigation (including negligent advocacy), conveyancing errors leading to claims by lenders or private individuals, dishonesty and breach of trust cases, and poorly drafted commercial agreements.

*Surveyors and valuers:* acting principally for defendants and their insurers but also for claimants in claims brought by both private individuals and institutional lenders. Claims have typically involved the acquisition of defective property, both domestic and commercial, and also incompetent valuation.

*Architects:* acting for both claimants and defendants in cases arising out of negligent design and negligent supervision of construction work.

*Accountants and financial advisors:* acting for both claimants and defendants in claims arising out of a broad range of circumstances including negligent accounting services, negligent tax-planning, pension mis-selling, and professional inefficiency generally.

*Insurance brokers:* acting for and against insurance brokers in claims typically arising out of unsuitable or avoided policies.

*Professional trustees:* acting for and against professional trustees in breach of trust claims.

### Commercial litigation

Commercial contract disputes and construction litigation (particularly claims against 'professional' sub-contractors). Also a wide range of insurance disputes involving points of construction, coverage issues, double insurance problems, misrepresentation, non-disclosure and alleged breaches of the insured's duty of good faith.

### Contentious trust work

Acting for and against professional trustees sued for breach of trust.

### General tort

Acting for claimants and defendants in personal injury claims (particularly employers' liability cases). Simon also has a particular interest in nuisance claims following his involvement in the landmark House of Lords decision of *Delaware Mansions Ltd v Westminster City Council* [2001] 3 WLR 1007

### **Personal Injury**

Acting for claimants and defendants with a particular interest in employers' liability work and Fatal Accident cases.

### **Regulatory & Disciplinary**

Simon has wide experience of representing professionals involved in regulatory disputes including providing representation in disciplinary inquiries both before the professional's regulatory body and on appeal or judicial review to the High Court.

### **Mediation**

Simon is well aware of the potential benefits of mediation and has been instructed to attend numerous mediations. As a result he has considerable experience of the mediation process. He is conscious of the particular skills which are required to achieve a successful outcome in such a forum.

### **Other**

Simon has a particular interest in the law of nuisance.

## **Further Information**

**Year of call:** 1993

**Specialist areas:** professional negligence, commercial including insurance litigation, general tort, regulatory & disciplinary.

**Education:** University of Sussex/Universite de Montpellier. BA English with French (1<sup>st</sup> class).

**City University.** Diploma in Law (Commendation); Bar Vocational Course. Inns of Court School of Law (Very Competent)

## **Recent cases**

*Coomber v Alan Bloom (& Ors)* (2010): Acting for LPA receivers in multi-party action brought by property developers arising out of the collapse of 'The Icelandic Bank'. Claim struck out after 3-day hearing before Lewison J.

*Nationwide BS v Barnes Kirkwood Woolf v Hiscox* (2010): Led by Christopher Symons QC, acting for insurer defending declinature on grounds of dishonesty of a valuer's claim for an indemnity with respect to a lender's £2.5m negligence claim. Valuer's claim withdrawn on the eve of trial with indemnity costs payable.

*Bonham v (1) Fishwick; (2) Fenner* [2008] EWCA Civ 33: acting for accountant trustee sued for breach of trust. Case struck out by Evans-Lombe J in 2007. Appeal dismissed by Court of Appeal.

*Leonard v Byrt & Ors* [2008] EWCA Civ 20. Acting for solicitors. Court of Appeal upholds summary judgment in a 'lost litigation' claim.

*CHRE v (1) NMC; (2) Kingdom* (2007). Administrative Court. Beatson J. Acting for nurse defending statutory appeal brought by the CHRE. The case establishes there is a judicial discretion whether or not to remit a case 'under-prosecuted' by the NMC.

*Jessup v Wetherell* [2007] PNLR 10. High Court. Silber J. Successful application for summary determination of solicitors' negligence claim on limitation grounds.

'Successor Practice' Arbitration – (2006). 5-day arbitration conducted by Stephen Hofmeyr QC. Led by Michael Pooles QC.

*Bonham v (1) Blake Laphorn; (2) Fishwick; (3) Fenner* (2006). Acting for professional trustee facing first round of breach of trust claim. Claim struck out.

*Vause v MacClarron* (2006). Commercial Court. Acting for insurance broker in £300,000 negligence claim.

*Hendy v Coodes* (2005). High Court. Swift J. Solicitors' negligence claim involving 7-figure claim settled on 1<sup>st</sup> day of trial listed for 20 days.

*Sinclair v Woods of Winchester Ltd & Anor* (2005) 102 Con LR 127. TCC. HHJ Coulson QC. Appeal from construction arbitration. Successful defence of application to remove the arbitrator.

*Sangster v Biddulphs* [2005] PNLR 33. High Court. Etherton J. Solicitors' negligence. Preliminary issue whether claimant relied on solicitor held out as partner.

*Kessler v Moore & Tibbits* [2005] PNLR 17. Court of Appeal. Solicitors' negligence. Claimant suing successor practice. Issue was whether the correct defendant could be substituted after limitation had expired.

*Aldi, B&Q, Grantchester v Holmes Building Ltd & Ors* (2004). TCC. HHJ Seymour QC. Multi-party construction litigation. Acting for specialist sub-contractor in one of the largest construction cases to come to court in 2004. Arising out of the subsidence of 2 supermarkets on reclaimed land.

*Taylor v Anderson and Another*, *The Times* 22 November 2002, (2003) RTR 21. Court of Appeal. Personal injury claim. Issue was whether a fair trial was possible in an apparently stale claim brought by a claimant under a disability.

*Griffiths v Last Cawthra Feather* [2002] PNLR 27. High Court. Solicitors' negligence. Issue was the date and method the court should adopt in assessing loss in a case arising out of the acquisition of property with an onerous repairing obligation.

*Choksi v Choksi*. December 2001. High Court. Blackburne J. £1/2 million international trade dispute involving two Indian brothers. £¾ million CICA award to a brain-damaged professional. September 2001.

*Delaware Mansions Ltd v Westminster City Council* [2001] 3 WLR 1007. Successful appeal to the House of Lords. The leading case on nuisance by tree roots.

*Segnit v Cotton* (1999). Court of Appeal. Issue was whether a joint venturer's entitlement to a share in the venture's profits was conditional upon the performance of the entirety of the obligations he had assumed.

*Tilley v Booker Food Service Group Limited* (1999). Court of Appeal. Late service of originating process. Successful appeal overturning first instance decision.

*Tilley v Booker Food Service Group Limited* [1998] PIQR P431. Late service of originating process.

## Publications and lectures

Editor of the *Lloyds Reports (Professional negligence)*

Editor of the damages chapter of *Professional Negligence and Liability* (Informa looseleaf).

Author of various articles which have appeared in the *Solicitors Journal*

Frequently lectures to various audiences including the Professional Negligence Lawyers' Association.

## What others say

"Quick-thinking Simon Wilton is 'astoundingly good on his feet' and impresses sources by constantly winning his cases. His practice covers a wide range of professions, including solicitors, surveyors, insurance brokers and accountants. He recently successfully defended an appeal to the Court of Appeal in a 'lost litigation' case against solicitors, a barrister and an expert witness." *Chambers UK 2010*

"Simon Wilton is 'dependable, reliable and a safe pair of hands,' agree clients. He has appeared in a number of important professional negligence cases in the County Court, High Court and Court of Appeal." *Chambers UK 2009*

Simon Wilton has been recommended as a leading junior in the field of professional negligence by *Chambers UK, 2008*

"Simon Wilton has been achieving increasing recognition for his practice, which encompasses professional negligence claims and defences for a wide range of professions including solicitors, surveyors, architects, insurance brokers, accountants, and veterinary surgeons" *Chambers UK 2008*

"Wilton has dealt with an increasingly high-value set of cases which mark out confidence in himself and his leaders in him." *The Legal 500 2007*

## Personal info

Simon lives in London with his wife and 3 young children. At home one of his principal occupations is to sit as the highest domestic court entertaining appeals by his children from decisions of their mother, and to dismiss them, latterly (since the Human Rights Act) with reasons. His interests include English and French literature and history, the cinema (nowadays via DVD), and architecture – particularly ecclesiastical buildings and evocative ruins. Away from London he is most at home in the countryside, especially the remoter parts of Shropshire.

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