hailshamchambers

Clerks: **020 7643 5000**

Stephen Bailey

Call: 2006



Overview

Stephen specialises in professional liability, insurance, costs, and commercial matters, acting for Claimants and Defendants in all of those contexts. In the professional negligence sphere, he acts for and against a wide variety of professionals, including lawyers, brokers, surveyors and financial professionals, amongst others.

Stephen is ranked as a leading junior in Professional Negligence by Legal 500 who say he is “very precise and thorough”, “articulate and always well prepared.”

Stephen prides himself on providing practical, commercial advice and being approachable and sensitive to his clients’ needs. He is a robust advocate with broad experience, both at first instance and on appeal.

Professional liability

Stephen has advised and appeared in cases involving all kinds of professionals, but his work has a particular focus on claims against lawyers. He acts for claimants as well as many of the major professional indemnity insurers.

Stephen has experience of a wide variety of complex claims arising out of lawyers’ alleged negligence, including claims surrounding conveyancing and other property related disputes, lost litigation and allegedly under-settled claims, claims arising out of criminal prosecutions and claims concerning wills and estates. He has also acted in a number of claims by lenders, dealing with allegations of breach of trust, breach of fiduciary duty and breach of warranty of authority, alongside allegations of negligence and breach of contract.

Recent work relating to lawyers includes:

- acting for a lender in a claim against both a firm of solicitors and a valuer

which raised interesting SAAMCo issues
- advising a defendant firm of solicitors in respect of a claim alleging a failure to give Etridge compliant advice
- acting for a firm of solicitors alleged to have failed to advise as to the meaning and effect of a user covenant in a lease allegedly preventing holiday letting
- appearing for a defendant in a claim alleging a failure by the firm to take adequate steps to take instructions through a medium resistant to hackers

Stephen has acted for and against surveyors and valuers in respect of a variety of claims. He acted for the defendant firm of surveyors in *Venus Asset Management Ltd v Matthews & Goodman*, where it was alleged that the defendant had given negligent advice in respect of the claimant's compulsory purchase claim against the LDA. He has also dealt with a number of cases of alleged overvaluation or failure to report material defects.

Stephen has also acted for financial advisers, insurance brokers and accountants amongst others.

Costs

Stephen has been a member of Chambers' Costs Group for several years. He advises on all aspects of costs, including inter-partes and solicitor-client costs disputes, whether arising out of litigation or non-contentious work. He has appeared for both paying and receiving parties at detailed assessment hearings (including challenges to provisional assessments), applicants and respondents to applications for non-party and wasted costs orders, and regularly appears at CCMCs, when he can combine detailed knowledge of costs with an appreciation of the issues in the litigation. Stephen has experience of advising on various costs issues, including: the application of fixed costs rules, costs budgeting, proportionality, assignment of CFAs and Part 36 offers. Recent work includes appearing for a defendant successfully resisting an application by the claimant to amend his costs budget for an 8 day trial and acting for a receiving party at a costs mediation.

Commercial law and insurance

Stephen has been instructed in respect of a variety of commercial disputes. He also advises insurers and insureds as to construction of insurance contracts, coverage issues, misrepresentation and non-disclosure amongst other issues. Recent work includes:

- advising a professional indemnity insurer as to whether a claim made arose out of a circumstance notified
- advising on the construction of a lineslip agreement between an ATE insurer and a firm of solicitors
- acting for a defendant in a dispute as to whether VAT was payable on the

purchase of a property
- acting for the defendant in a dispute between an estate agent and a property owner about the level of commission payable pursuant to an oral agreement

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Personal injury and credit hire

Stephen has considerable experience of personal injury claims and claims arising out of road traffic accidents, and regularly appears for both claimants and defendants in multi-track and fast track trials, quantum assessment hearings and interlocutory applications.

His experience includes:

- occupiers' liability claims
- work-place accidents, including catastrophic injuries
- injuries sustained in road traffic accidents
- credit hire claims. He regularly appears in higher value credit hire disputes in which respect he has been instructed by a number of the major insurers
- claims for contribution and indemnity

He recently appeared in the Court of Appeal for EUI in the conjoined appeals in *McBride v UK Insurance and Clayton v EUI Ltd* [2017] EWCA Civ 144, a case concerning the correct approach to assessing damages in credit hire claims.

Notable cases

Paper Mache Tiger Ltd v Lee Mathews Workroom Pty Ltd [2023] EWHC 338 (Comm)

An application for a non-party costs order against the sole director of an Australian company, in which John Kimbell KC, sitting as a Deputy High Court Judge, applied the "real party" test and followed the decision of the Court of Appeal in Goknur v Aytacli.

Devonshires Solicitors LLP v Elbishlawi & Anor [2021] EWHC 173 (Comm).

Stephen acted for the Defendant client in respect of this claim under the Solicitors Act 1974, a recent application of the Court of Appeal's decision in Turner v Palomo, which recognises the right of a client to challenge the reasonableness of a gross sum bill, even in general and unparticularised terms, if no breakdown of the bill has been supplied.

Waraich & Anor v Ansari Solicitors (a firm) [2019] EWHC 1038 (Comm).
A solicitors' negligence claim, one of the first to apply the decision of the Supreme Court in Perry v Raleys. Stephen acted for the solicitors in successfully defending the claim. The judge concluded that the first claimant was such an unreliable witness that the underlying claim would have ended in failure, because any damages recovered would have been "swallowed by their own irrecoverable costs or

conceivably an adverse costs order”.

Clayton v EUI Ltd [2017] EWCA Civ 144.
A recent decision of the Court of Appeal providing essential guidance on the correct approach to assessing damages in credit hire claims. Stephen acted for EUI, the successful defendant/respondent, both at first instance and on first and second appeals. The outcome was a major victory for road traffic insurers.

Venus Asset Management Ltd v Matthews & Goodman (2014-2016).
Led by Simon Wilton. Defending a surveyor accused of negligence leading to what were alleged to be very large losses referable to the compulsory purchase of premises for the London Olympics.

Adelle Challinor & 20 Ors v Juliet Bellis & Co and Geoffrey Egan [2013] EWHC 347 (Ch).
Led by Francis Bacon, Stephen acted for Geoffrey Egan, the second defendant and part 20 defendant, in successfully defending a claim in misrepresentation and part 20 claim for dishonest assistance, breach of trust and breach of warranty of authority in respect of various investment schemes.

What others say

"Stephen is an assured and persuasive advocate with a perfect understanding of how to make his submissions to maximum effect. His written work is second to none, and his knowledge of costs law is encyclopaedic. His advice is always pragmatic and tailored to obtaining the best outcome for his client." *Legal 500, 2027*

"Stephen is technically excellent and commercially astute. He provides very clear advice." *Legal 500, 2027*

"He is very quick, responsive to the tribunal and prepared to keep going even when under fire." *Legal 500, 2026*

"Stephen is a specialist in costs and litigation funding. He is pragmatic and easy to work with. He is a confident and clear advocate." *Legal 500, 2026*

"Stephen is precise and thorough. He is a robust and confident advocate." *Legal 500, 2025*

"Stephen is excellent at advising on complex costs and procedural issues. He is very user friendly and his advice is clear and practical. He is a go-to for costs work, and in particular wasted costs cases" *Legal 500, 2025*

"Very precise and thorough, and able to think laterally. Stephen is a good advocate, articulate and always well prepared." Legal 500, 2024

"Stephen’s advice is very useful." *Legal 500, 2023*

”He inspires confidence in the clients.” *Legal 500, 2021*

Further information

Education

- 2006 – 2007: LLM (University College London)
- 2005 – 2006: Bar Vocational Course (BPP)
- 2002 – 2005: LLB (University of Sheffield)

Awards & scholarships

- Leonard Sainer Foundation Award 2005
- Simon Ball Memorial Prize for Contract 2002
- Scholarship to the Royal Hospital School 1999-2001

Memberships

- Professional Negligence Bar Association
- London Common Law and Commercial Bar Association

Personal: Stephen's interests include travel, music, film and theatre.

ICO Data protection registration number: **Z1931117**.

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