



Alexander Macpherson



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"He is a skilful and thorough cross-examiner. A phenomenally talented individual."
(Chambers & Partners, 2021)



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Alexander Macpherson specialises in a number of areas of common law and commercial litigation.

Frequently his cases have an insurance angle, and he is regularly instructed by major national insurers to advise on and defend claims. Alex is flexible as to his role in resolving disputes, and is prepared to provide succinct informal advice at short notice, as well as advising in a more traditional manner in writing or in conference. He is accustomed both to handling his own cases (often of substantial value) and to being part of a counsel team.

Personal Injury

Alex is recommended as a leading junior in personal injury (Tier 2) and industrial disease (Tier 1) by the Legal 500.

Alex has a wide experience of acting for both claimants and defendants in personal injury litigation. He particularly enjoys cases which involve contested expert evidence, or issues of credibility or fraud. He welcomes the opportunity to get involved in claims at the earliest opportunity and he regularly attends at mediations and joint settlement meetings. His areas of expertise include:

- Fatal accident cases
- Catastrophic injury claims
- Employers' liability
- Highway and public liability claims
- Road traffic & fraud
- Sports-related injuries
- Chronic pain syndrome and other related conditions
- Psychiatric injury and 'vicarious trauma'
- Claims with a travel or international dimension
- Claims for 'acoustic shock'
- All areas of industrial disease (see separate section)

Complementary to his personal injury practice, Alex also has extensive experience of related insurance,



costs and procedural issues.

Selected Cases

- Alex is currently instructed to defend a ground-breaking claim arising out of the Grenfell Tower tragedy involving vicarious trauma.
- Alex is also currently instructed to defend a claim involving severe injuries sustained on an extreme downhill mountain bike trial.
- *Needle v Swallowfield* [2020] EWHC 2749 (QB) – Alex successfully defended (before HHJ Gore QC) a high value claim brought under the Manual Handling Regulations relating to a hand injury which caused a chronic disabling pain condition. The appeal heard by Lambert J was also successfully resisted.
- *Goldscheider v Royal Opera House* [2019] EWCA Civ 711 – Alex was instructed by the Royal Opera House (led by David Platt QC) in a ground-breaking claim brought by a viola player alleging acoustic shock caused during a Wagner rehearsal. One of The Lawyer's Top 20 Cases of 2019. The Court of Appeal overturned the trial judge's finding that hearing protection was mandatory at all times in the orchestra pit.
- *Smith v Alaway* (April 2018, HHJ Harington, Gloucester CC) – Alex successfully represented a contractor in a multi-party claim arising out of an accident on a construction site. Claim dismissed after two-day trial.
- *Graham v Morgans* (November 2016) – Alex represented an exclusive London spa which was sued by a customer alleging that a Swedish massage was carried out with excessive force, causing a neck injury. At trial and after cross-examination of the Claimant and the masseuse, the judge concluded that the massage had not been carried out negligently and that the Claimant's neck pain was probably caused by a constitutional condition.
- *Edwards v Ford* (March to October 2016) – Alex represented the Defendant in a high value case arising out of an arm injury sustained at work on a construction site. The case raised extremely complex issues of medical causation and quantum. Alex advised insurers, drafted pleadings and attended at a Joint Settlement Meeting following which a compromise was reached.
- *Houghton v DX Network Services* (Norwich CC, HHJ Moloney QC, April 2015) – Alex advised and represented the well-known national delivery service at a trial of a claim for a back injury after lifting at work. After two days of detailed oral evidence, the judge concluded that no significant injury had occurred and dismissed the claim.
- *Alexander v Freshwater* [2012] EWCA Civ 1048 (LTL 27/7/12) – Alex appeared in the Court of Appeal in a high value claim brought by a celebrated jeweller whose finger was severed by a defective door.
- *Esdale v Dover DC* [2010] EWCA Civ 409 (LTL 7/10/13) – Alex succeeded in the Court of Appeal in an important case establishing that the failure to follow intervention criteria is not determinative of breach of duty in tripping claims under the Occupiers' Liability Act 1957.

Industrial Disease

Alex is recommended by both Chambers & Partners (Band 1) and The Legal 500 (Tier 1) as a leading junior for industrial disease.

Alex's practice encompasses the full range of conditions caused by work. He has a busy workload including advising in conference, attending settlement meetings and trial work. He enjoys the technical issues which



disease cases frequently involve, both as to liability and causation of injury, and he frequently litigates cases involving contentious expert evidence.

He has experience of the strategic issues arising from litigating group actions and test cases.

Alex has a particular interest in claims involving asbestos-related disease and regularly appears against silks defending such claims at JSMs or in the High Court. He has extensive experience of the High Court show cause procedure and taking evidence on commission.

Alex's disease practice also includes:

- Occupational stress and vicarious trauma
- Spread of infectious diseases at work
- Work-related upper limb disorders
- COSHH & poisoning claims
- Dermatitis
- Occupational asthma
- Cumulative back injuries
- Toxic mould claims
- HAVS & vibration-related CTS
- Noise-induced hearing loss and 'acoustic shock' claims

Selected Cases

- Alex is currently instructed on the defence of a number of claims for occupational stress involving secondary school teachers.
- Alex is also currently instructed to defend a ground-breaking claim arising out of the Grenfell Tower tragedy involving vicarious trauma.
- *Goldscheider v Royal Opera House* [2019] EWCA Civ 711 – Alex was instructed by the Royal Opera House (led by David Platt QC) in a ground-breaking claim brought by a viola player alleging acoustic shock caused during a Wagner rehearsal. One of The Lawyer's Top 20 Cases of 2019. The Court of Appeal overturned the trial judge's finding that hearing protection was mandatory at all times in the orchestra pit.
- *Smallwood v Shenton* (HHJ Rawlings, Stoke on Trent CC, October 2018) – Alex successfully defended a claim for asbestos-related lung cancer involving highly complex issues of diagnosis and medical causation.
- *Hawkes v Warmex* [2018] EWHC 205 (QB) – Alex successfully defended a historic mesothelioma claim at trial against leading counsel. Involved detailed analysis of the statutory and regulatory duties on an employer
- *SB v V* (QBD, 2017) – Alex represented the Defendant in a high value mesothelioma claim against leading counsel. Complex quantum issues arose as to the lost opportunity to advise the government as to Brexit-related issues.
- *Ellis v Haworth Castings* (Southampton CC, 2014) – Alex successfully defended a claim for an upper limb disorder involving repetitive movements. Case dismissed, with the judge commenting in his judgment on Alex as follows: "if he will allow me to say so I have found his submissions illuminating and refreshing".
- *Gray v Dolling* (QBD, 2012) – Alex was instructed (led by David Platt QC) on a £5.5m claim for asbestos-related mesothelioma by owner of a construction company. Settled following service of

skeletons on the day before the High Court trial.

- Price v Isotemp (HHJ Curran QC, Cardiff County Court, 2011) – Alex successfully defended a claim for NIHL at a three-day trial on medical causation. Case involved complex audiological evidence and the interpretation of the Coles-Lutman-Buffin Guidelines.
- Secretary of State for Business, Innovation & Skills v Stuntbrand (2010 – 2011) – Alex was instructed (led by Simon Rainey QC) in relation to the asbestos liabilities of the National Dock Labour Board. The litigation involved interesting insurance and contribution issues and was settled shortly before trial in autumn 2011.
- Horsley v Cascade [2009] EWHC 2845 (LTL 18/11/09) – Alex appeared against leading counsel in the High Court successfully defending a substantial ‘lost years’ claim in an asbestosis claim.

Property Damage

Alex has a broad experience of litigation arising out of damage caused to property, and he has a particular interest in fire and flood claims.

In 2018 Alex was instructed (led by Paul Reed QC) by the owner of a substantial property in Lancashire which was damaged by a fire causing losses of £5m. The claim against the property insurers was compromised in 2019 following the issue of TCC proceedings and a mediation.

From 2012 to 2015 Alex was instructed (with Roger ter Haar QC) in the litigation arising from a catastrophic flood at the Greenwich Millennium Village in London. The trial was heard over five weeks in the TCC in summer 2013. Alex was also instructed in the appeal pursued in front of the Court of Appeal in relation to indemnity clauses.

From 2008 to 2010, Alex was instructed by Total UK Limited in relation to the Buncefield incident. He advised and appeared in around 40 of the high value property damage claims, which proceeded in the TCC and the Commercial Court, both alone and with leading counsel. These claims ranged in value from £500,000 to many millions, and all were successfully compromised before trial.

In the last few years, Alex has advised on / appeared in cases involving:

- A fire at a leading London restaurant.
- A fire caused by hot works at a school.
- A claim for the pollution of a fishing lake by a water company.
- A flood arising from the poor maintenance of drainage gullies by a local council.
- Issues of public nuisance arising out of a fire at a restaurant in Bury St Edmunds.
- Subsidence caused to four properties by excavation in the course of a development on a Welsh hillside.

Construction & Engineering

Alex enjoys claims of a technical nature, frequently involving extensive expert evidence. He has a broad experience of litigation arising out of damage caused to property, and he has a particular interest in fire and flood claims.



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From 2008 to 2010, Alex was instructed by Total UK Limited in relation to the Buncefield incident. He advised and appeared in around 40 of the high value property damage claims, which proceeded in the TCC and the Commercial Court, both alone and led by senior counsel. These claims ranged in value from £500,000 to many millions, and all were successfully compromised before trial.

In the last few years, Alex has advised on / appeared in cases involving:

- A fire at a leading London restaurant.
- A dispute as to electrical works at Hammersmith Underground station.
- A fire caused by hot works at a school.
- The collapse of residential property in the course of demolition works.
- The failure of a cofferdam in the course of development at a sewage works.
- Subsidence caused to four properties by excavation in the course of a development on a Welsh hillside.

Over the last few years, Alex has given in-house seminars in relation to:

- Concurrent delay.
- Damage to property caused by tree-roots.
- Indemnity clauses.
- Withholding notices.

Commercial

Alex has advised and litigated in a range of different areas, including sale of goods, fraudulent and negligent misrepresentation, agency agreements, guarantees and partnerships. He has experience of applying for injunctions in the County Court and the High Court.

Alex has developed a particular specialisation in franchising disputes, and has acted for both franchisors and franchisees in relation to such issues as termination, restrictive covenants, misrepresentation and interim injunctive relief. In recent years he has advised on and appeared in cases relating to franchise agreements in such diverse areas as snack-vending-machines, driving instruction, dog-training, pizza delivery, kitchen refurbishment and the operation of a gym.



Insurance & Reinsurance

Alex advises on and litigates all insurance-related disputes, including avoidance of cover (non-disclosure, fair presentation, notification, moral hazard etc); subrogated recovery claims; and issues of scope of cover.

He is currently instructed on coverage disputes involving variously: a catastrophic flood at a West London property, an arson attack on mobile plant, the negligent design of building cladding, and a fire caused to a fast food outlet.

In 2018 he was instructed to advise the owner of a property which had suffered a catastrophic fire in relation to a £5m claim for an indemnity from the property's insurers. Following directions being given by the TCC, the claim was compromised at a mediation.

Qualifications

- Astbury Scholar, Middle Temple
- Diploma in Law, City University
- English Literature, Oriel College, Oxford

Memberships

- PIBA
- PNBA
- TECBAR

Recommendations

"He is able to identify and navigate through challenging causation issues in an effective and pragmatic way."

Legal 500, 2022

"He is a skilful and thorough cross-examiner."; "A phenomenally talented individual."

Chambers & Partners, 2021

"Able to navigate through difficult issues in an effective and pragmatic way."

Legal 500, 2021

"He's really good – the quality of his drafting is excellent."

Chambers & Partners, 2020

"He's a very, very good advocate."

Chambers & Partners, 2020



"He has an impressively deep understanding of areas stretching beyond asbestos diseases, offering enviable expertise in cases involving noise-induced hearing loss and hand-arm vibration syndrome."
Chambers & Partners, 2020

"He excels in cases involving challenging quantum issues and contested expert evidence."
Legal 500, 2020

"His practice encompasses the full range of conditions caused by work."
Legal 500, 2018

"His advice is very thorough and practical."
Legal 500, 2017

"Particularly experienced in defending fraudulent PI claims."
Legal 500, 2017

"He provides very good response times, and is clear and to-the-point."
Legal 500, 2017

"He is thorough, calm, professional and has a great attention to detail. He's a very good courtroom advocate."
Chambers & Partners, 2016