



Mark Armitage



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Mark Armitage specialises in personal injury, industrial disease and inquest work.

His industrial disease practice focuses on asbestos litigation; asthma claims; cancer; COSHH claims; dermatitis; HAVS claims; NIHL claims and all aspects of upper limb disorders/repetitive straining injury claims.

Mark undertakes all aspects of personal injury litigation arising out of accident claims with a particular emphasis on accidents at work and claims arising as a result of road traffic collisions. He deals with claims of maximum severity for both claimants and defendants.

Over the last 10 years, Mark has undertaken an increasing volume of inquest work on behalf of: families; NHS medical and ambulance trusts; care homes and care staff; insurers in road traffic accidents and employers in relation to accidents at work. He is well versed in dealing with all issues arising as a result of Article 2 and has appeared before many juries in cases lasting for up to 4 weeks.

Mark maintains an interest in litigation arising out of costs' issues and is instructed to attend detailed assessments and deal with all aspects of funding and the quantum of costs.

Mark is a contributing editor to Sweet & Maxwell's Charlesworth & Percy on Negligence and was involved in editing several chapters for the 14th Edition including those dealing with employers' liability and professional negligence.

## Industrial Disease

Mark undertakes work involving all aspects of disease litigation. He is well versed in dealing with asbestos related claims and is often instructed to deal with a case from drafting the defence to its conclusion at trial and has a particular interest in the issue of immunotherapy costs. Mark regularly appears in hearings in the Queen's Bench Division and often attends 'show cause' hearings and contested trials concerning the issues of limitation, breach of duty and quantum.

Mark is regularly involved in claims involving irritant and hazardous substances and is often asked to



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advise employers in relation to claims relating to asthma, cancer, and dermatitis.

Mark deals with many claims involving work-related upper limb disorders and in particular those arising as a result of repetitive work and exposure to vibration. He regularly accepts instructions in relation to cases concerning carpal tunnel syndrome, cubital tunnel syndrome, golfer's elbow, tennis elbow and HAVS. Mark regularly advises and appears in many trials involving issues of breach of duty, limitation and causation.

Mark has a healthy practice dealing with NIHL claims from their inception until their disposal at trial.

## Selected Cases

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Mark has recently been involved in the following notable cases:

- A High Court trial involving the quantum of general damages for a minor respiratory disability arising as a result of pleural thickening.
- Fudge v Hawkins & Ors [2018] EWHC 453 (QB) – acting for a Defendant. The court refused to exercise its discretion under the Limitation Act 1980 s.33. The claim related to asbestos exposure over 40 years earlier and the claimant's delay since accruing knowledge of his injury had adversely affected the cogency and availability of the evidence.
- Simpson v Arla Foods [2018] HHJ Gargan – which involved the construction of a compromise agreement in an asbestos related pleural thickening claim.
- A claim for bladder cancer allegedly caused by exposure to paint fumes in a spray painting booth.
- An occupational asthma claim arising as a result of exposure to paint and plastic fume.
- Dermatitis claims arising as a result of exposure to resin and oil.

## Personal Injury

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Mark is regularly instructed by both Claimants and Defendants in all aspects of personal injury litigation. He regularly appears in trials involving accidents at work; on the public highway and due to the occupation of premises.

Mark has particular experience in dealing with claims resulting from road traffic accidents and has advised and acted in many claims arising from low velocity impact collisions. He has a detailed knowledge of the procedural aspects of road traffic accident claims involving allegations of fraud and LVI.

Mark regularly accepts instructions on behalf of local authorities particularly in relation to claims arising from accidents on the public highway, occupiers' liability and housing disrepair.

Other areas of interest include claims relating to Deep Vein Thrombosis and claims under the Animals Act 1971.

Mark has regularly appeared before the CICAP in all aspects of criminal injuries compensation appeals. He has often acted on behalf of nurses, train drivers and has successfully recovered substantial sums of compensation for clients with severe and permanent brain damage.

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## Selected Cases

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- Acting for a Claimant who sustained severe brain damage following an accident at work whilst painting a ship in Falmouth docks.
- Acting for a train driver who recovered £360,000 following an accident, which caused him permanent spinal injury.
- Acting for a community support officer who sustained spinal injury resulting from the use of unsuitable body armour.
- Acting for a former police officer who had been retired on grounds of medical ill health. The case involved consideration of the system of appeals in relation to ill health retirement pensions and the involvement of the police federation.
- **Selwood v Durham CC & Ors [2012] EWCA Civ 979; [2012] PIQR P20** – Represented Claimant in a claim for negligence of NHS Trust in failing to warn local authority social worker of threats to her life by voluntary mental patient. Issues: whether necessary to show an assumption of responsibility for victim's safety; whether Art.2 ECHR engaged. [led by Michael Kent QC]
- Recovering £100,000 for a claimant whose finger had been traumatically amputated by a circular saw.
- Settling a case for over £1million for a claimant who suffered serious physical and mental consequences following a road traffic accident.

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## Inquests & Public Inquiries

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Mark regularly attends inquests on behalf of all properly interested parties including families, NHS Trusts, surgeons, care homes, care staff, insurers and employers.

He has particular experience in relation to deaths occurring in hospital and in custody and in a care home setting. He has detailed knowledge of the systems and procedures operated in hospitals and prisons and the health care arrangements pertaining to both organisations.

Mark has been involved in several inquests involving the implications of surgical procedures and the consequences of the MRSA virus.

He has experience of appearing before juries at inquests and has a particular interest in the issue of neglect arising from the lack of appropriate medical treatment.

Mark has considerable experience in dealing with Article 2/ 'Middleton' inquests and the scope of the inquiry to be undertaken to satisfy the requirements of the Human Rights Act.

He was instructed by the family of Yvonne Simmons who died as a result of a hernia which was not appropriately treated. An urgent referral to an upper gastro-intestinal surgeon had been identified as being necessary but did not occur. A jury returned a verdict of accidental death contributed to by neglect.

He has been instructed to represent private and NHS hospitals in relation to deaths occurring following procedures such as heart transplant surgery, hip and other orthopaedic operations. He has experience in dealing with the consequences of deep vein thrombosis.

Mark acted for a primary care trust in the inquest into the death of James Yarnell. This article 2 inquest



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involved a prisoner who had received an overdose of oral chemotherapy drugs following his attendance at hospital. Mark represented the PCT which provided health care services in the prison. A jury heard four weeks of evidence relating to the systems in place for the prescribing, dispensing, storage and control of oral chemotherapy drugs. The inquest involved extensive submissions in relation to the scope of the inquiry, the evidence to be presented to the jury and the potential verdicts to be returned.

Mark was involved in a three week inquest relating to a death of a resident in a care home from sepsis which had arisen due to an infected pressure ulcer. Mark acted for a team of district nurses who had provided care.

Mark acted for a care home in a week long jury inquest involving a resident who had died by choking on her food as a result of the progressive consequences of vascular dementia.

Mark has recently been involved in two jury inquests involving the use of medical equipment in a care home setting.

Mark acted for two paramedics in a four week jury inquest relating to a death caused by taking illicit drugs. The death occurred in custody and it involved complex issues of causation requiring the expert input of two Home Office Pathologists.

## Costs

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Mark has been involved in many costs' hearings and has particular experience dealing with technical issues involving conditional fee agreements. He has been involved in several cases relating to the notification of funding and the consequences of Before the Event Insurance. Mark has often attended detailed assessment hearings on behalf of both Claimants and Defendants.

He was instructed by the Defendant in the case of *Zahur v Centrica [HHJ Walford]* in an appeal relating to the operation of CPR Part 36 and whether an offer is capable of acceptance in the absence of formal written notice of withdrawal.

He was instructed by the Defendant in the case of *Watkiss v Allison* which involved the recoverability of ATE premiums in LVI cases.

Mark has considerable experience in dealing with cases involving the operation of CPR Part 44 and the appropriate costs' orders to be made where there have been admissible offers to settle which have not been made in accordance with Part 36.

## Qualifications

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- MA (Cantab)
- LLM (Cantab)