



Toby Gee



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"Methodical and persuasive"; "Excellent in the courtroom."
(Legal 500)



Toby combines an incisive analytical mind and keen eye for detail with a down-to-earth approach.

His specialist fields include product liability (medical and non-medical), professional and clinical negligence, insurance, commercial and personal injury.

Adept with scientific, technical medical and experts, Toby has experience of cases involving complex expert issues in fields as wide-ranging as chemical engineering, industrial processes (chemical, physical, electric and electronic), clinical negligence, geotechnical engineering, earthquakes/seismic damage, electrical and electronic products, medical products, multiple medical fields, and technical insurance policy issues.

Toby was also admitted as a barrister in New Zealand in 2013. From 2014 until 2025 he practised as a lawyer in New Zealand, initially as Special Counsel at leading national law firm Minter Ellison Rudd Watts, and then as an independent barrister.

He has acted in commercial, professional negligence, insurance and medico-legal cases, including advising and representing banks, insurance companies, oil companies, a major national sporting body, local authorities, and New Zealand's national no-fault compensation scheme the Accident Compensation Corporation, for which he has acted in multiple appeals and reviews as a member of its panel of counsel.

Toby has appeared in civil courts up to and including the Court of Appeal both in England and Wales and in New Zealand.

He has also been accredited as a mediator in both the UK and New Zealand. He is a judicious and effective advocate in court, mediations and negotiations.

Product Liability

Non-medical

- *Henderson v Feldbinder* – Acted for successful German lorry manufacturer sued by UK employer alleging negligent design of handrail on tanker. Issues included whether compliance with German

safety standard was sufficient.

- *Snow & Rock v Bosch, Iveco et al* – Acted for Bosch GmbH in relation to vehicle fire allegedly due to negligently designed / manufactured ABS unit.
- Vehicle fires allegedly due to design/manufacturing faults: Cars (2 manufacturers), lorries (2 manufacturers). Including risk of fire arising from electronic componentry.
- Fires allegedly due to electrical faults in domestic appliances (eg toaster, washing machine, fridge-freezers).
- Industrial glass-handling machine severing engineer's hand – allegedly defective system of electronic sensors. Acting for employer against producer.
- Fire in sauna at leisure centre – claim against sauna designers/suppliers.
- Toughened glass panels on new office building spontaneously shattering leading to need to re-clad building: claim against manufacturers of panels and against enamel paint manufacturers.
- Acting for lorry manufacturer in claim against manufacturer by employer following serious injury to employee. Allegedly defective guardrail causing injury.
- Racing motorcycle wheel shattering.
- Exploding paint canister causing blindness.
- Finger amputated in car park ticket vending machine. Acted for manufacturers. Held: Pre-marketing testing inadequate. Adequate testing would have revealed risk of injury which could easily have been removed. However, actual risk was so low that a reasonable manufacturer would not have taken steps to reduce it if known. Therefore claim failed.
- Cases involving allegations of: exploding vacuum flasks, exploding sparkling wine bottles, well-known kitchen cleaning fluid causing corrosive skin burns, domestic timber treatment causing permanent sensitisation to chemicals.
- Advising manufacturer as to recall regulatory requirements and process following identification of dangerous product (vehicle cycle rack).

Medical:

- Medtronic Sprint Fidelis lead for Implantable Cardioverter Defibrillator. Represented two separate UK claimants against Medtronic.
- Intervertebral disc prosthesis – alleged defects in design/manufacture causing severe back problems – development risk defence – skilled intermediary. Represented manufacturer. Claim settled at mediation.
- Incorrect knee implant used in knee replacement surgery – supplier default – cause of long-term knee problems.
- Fertility clinic – sperm bank – use of sperm with chromosomal abnormality – liability in relation to resulting fetuses/babies.
- Cases involving claims of: vaccine causing chronic fatigue syndrome, diabetic syringe needle breaking during use, toxic shock syndrome – inadequate warning on tampon packet.

Insurance & Reinsurance

- Earthquake insurance claims (residential property, commercial property – buildings policies, contract works policies (demolition of multi-storey carpark due to catastrophic earthquake damage to one component of building – definition of 'other property' – categorisation of physical damage vs

- economic loss).
- Financial services (claim for recovery of substantial regulatory penalty following alleged misselling of financial product – application of exclusion clause for services/products relating to financial derivatives).
- Fire, employers' liability and motor policy disputes.
- Sperm bank – use of sperm with chromosomal abnormality – coverage – medical malpractice policy – product liability policy.
- Policy disputes arising out of alleged fraud, material non-disclosure, etc.
- Member of team of counsel in *Deutsche Rückversicherung v Walbrook Ins Co Ltd & Others* [1995] 1 WLR 1017.
- Commercial Court insurance claim relating to loss of undersea tractor equipment; meaning of 'days' grace'.
- Construction of exclusion clauses in public liability policies (eg property 'in the charge of' insured; wilful default; 'financial derivative activities')
- Advising gold bullion depository on insurance policy coverage.
- Insurance coverage issues for legal costs and statutory liability in the context of manslaughter prosecution following multiple fatalities in fire allegedly due to health and safety breaches.

Property Damage

Cases include:

- Fires (domestic and industrial)
- Burglary (including alleged failure of security systems)
- Demolition (negligence/nuisance causing damage to neighbouring buildings – defence of inevitability of damage)

Commercial

Examples of work include:

- Advising an oil and gas company in a breach of warranty claim in the course of the company's purchase of another oil and gas company. Breach of warranty by vendor. Whether consent required for change in customer loyalty scheme. Application of requirement not to unreasonably withhold consent. Quantification of losses. Dispute settled.
- Representing a franchisor being sued by former franchisee for allegedly wrongfully terminating the franchise agreement. Termination had been on the basis that the franchisee was responsible for the publication of fake positive Google reviews of the franchise. Issues/processes included investigation of source and mechanism by which fake Google reviews were generated; outcomes of investigation by Commerce Commission; search order for search of franchisee's home to recover computer equipment and relevant information; counterclaim by franchisor: recoverability of losses by one company in a group of companies where another company in the group was the relevant contracting party for the franchisor. Outcome: franchisee's claim struck out as an abuse of process and ordered to pay franchisor's costs on an indemnity basis.
- Representing the only aquarium in the south island of New Zealand against its landlord the Port of Marlborough. Commercial lease, expiry, alleged unconscionable conduct of landlord in denying right

to renew. *Ecoworld Aquarium Ltd v Port Marlborough New Zealand Ltd* [2022] NZHC 3016.

<https://www.nzlii.org/nz/cases/NZHC/2022/3016.html>

- Representing a law firm in a professional liability claim: Use of law firm's trust account to hold deposits of investors in property development scheme. Property developer became insolvent. Claim by investors against law firm for misleading conduct. (NZ Court of Appeal: *Ng and others v Harkness Law Limited and Anr* <https://www.nzlii.org/cgi-bin/sinodisp/nz/cases/NZCA/2015/411.html?query=harkness>)
- Acting for a national rest-home company making a substantial claim against its electricity supplier for overcharging over several years. Meaning and application of market-related pricing structure. Settled.
- Acting for an aeronautical engineering and services company in relation to a commercial dispute with an airline over provision of services. Engineering company reported misconduct of airline to CAA relating to misstatement in manifest. CAA suspended airline from operating. Engineering company claim for payment for engineering services. Counterclaim of alleged wrongful report to CAA.
- Acting for a bank, including advising its board on strategy, in relation to a substantial commercial relationship dispute with a national airline. Incipient dispute resolved.
- Advising the trustees of a trust managing the proceeds of a Treaty of Waitangi settlement on mediation and dispute resolution procedures.
- Represented the successful contractor Amey in *LB Silica Sand v Central Bedfordshire Council/Amey LG Ltd*. Landslip in quarry allegedly due to highway drainage maintenance works. Claim against highway authority and highway maintenance contractor. Negligence/Rylands v Fletcher/strict liability under s.100 of the Highways Act 1980. *Ex turpi causa* in relation to claimant's alleged breach of the same section. Breaches of planning requirements. Whether an easement existed in relation to the relevant drainage. Geotechnical evidence – cause and severity of landslip. Result: Claim struck out (Ramsey J).
- Alleged negligence in the supply/installation/upgrading of corona discharge equipment for the treatment of polythene film.
- *Holliday Pigments v WBB*. Supply of kaolin china clay – allegations: clay mineralogy out of specification, causing failure of chemical process for producing ultramarine blue pigment. Acted for defendant (with Andrew Bartlett KC). Result: Claim discontinued shortly before trial.
- Finance company claiming return of loans under block agreement with CFA claims providers.
- “Battle of the forms” contractual dispute after destruction of railway maintenance equipment by vandals.
- Sale of goods, supply of services including skilled services. E.g. sole distribution agreement for computer hardware, design and installation of computer system.
- Contamination of wine bottling plant allegedly by defective water softener/absence of adequate filters – claim against manufacturers and designers of plant.
- Contamination of pharmaceutical powder during grinding – suitability for use in pharmaceutical applications – purity requirements pursuant to grinding contract.
- Escape of domestic fuel oil due to tank failure during delivery causing ground contamination and possible contamination of aquifer.
- Pipeline for sewage outfall, alleged defects.
- Former contributing editor, Emden's Construction Law.
- *Bailey v HSS Alarms EWCA, The Times 20.6.00*. Negligence of burglar-alarm monitoring company. Contractual chain. Duty of care to property owner where not in direct contractual relationship.

Professional Liability

Especially scientific/technical, medical, engineering, non-standard/emerging

- Surveyors, accountants, solicitors, insurance brokers, estates managers, electricians, engineers. E.g. negligence of marine engineers repairing narrow boat allegedly causing subsequent sinking; drug manufacture, contamination of reprocessed chemical; junior counsel in *The London Institute v Planned Maintenance Engineering* (engineers allegedly causing flood of university tower-block); Solicitors' failure to warn of subsidence risk in conveyance; Surveyor appointed under London (Building Acts) Amendment Act 1939 (Held: no duty of care); failure to warn (electrician – alleged failure to warn supermarket of danger of hot fuses – supermarket burned down); acted for c.150 claimants in group litigation against former solicitors for negligently settling vibration white finger claims at an undervalue.
- Commissioning of electronic control device for industrial electric fire allegedly due to incorrect programming of device lowering protection against fire due to other faulty components.
- Claim against water treatment engineers relating to water treatment services in tyre factory allegedly leading to boiler furnace tube collapse.
- Claim against engineers allegedly causing explosions in print-drying.
- Cold-top electric furnace for lead crystal glass manufacture – claim against designers / suppliers – disintegration of allegedly unsuitable tiles.

Personal Injury

- All types of personal injury cases from minor to catastrophic, including employers' liability, industrial disease, fatal accidents, brain/psychological injury.
- *Swain v (1) Geoffrey Osborne Ltd (2) PJ Browne Ltd* [2010] EWHC 1108 (QB); [2010] EWHC 3118 (QB), Foskett J. Represented Geoffrey Osborne Ltd. Claimant allegedly slipped on muddy pavement opposite a building site. He sued the main contractor Osbornes and the groundworks subcontractor Browne. Both were found liable at trial. In contribution proceedings Osbornes obtained a full indemnity from Browne, together with indemnity costs from the expiry of a Part 36 offer.
- *Hopps v Mott MacDonald/MOD* [2009] EWHC 1881 (QB) (led at trial by Mark Turner QC). Claimant engineer was injured in Iraq when a road-side bomb was detonated near the vehicle in which he was travelling. He sued his "employers" Mott MacDonald and the MOD for failing to provide him with an armoured vehicle. Issues included proper scope of expert evidence, "security" evidence, ballistics expert evidence, whether the reconstruction of Iraq's infrastructure was a "desirable activity" within the meaning of s.1 of the Compensation Act 2006; whether that section has retrospective application.
- *Aktas v Adepta* [2010] EWCA Civ 1170; [2011] 2 W.L.R. 945: Junior counsel – Abuse of process, failure to serve of claim form, second set of proceedings. Effect of *Horton v Sadler* [2007] 1 AC 307 on *Hashroodi v Hancock* [2004] EWCA Civ 652 and other cases.
- *Chinery v EWE*, 4.02, EWCA. Junior counsel. Liability of subcontractor who creates a dangerous trap, in respect of injury to another subcontractor's employee (rendered paraplegic).
- Health and Safety prosecutions, eg relating to construction sites and railway maintenance.
- Inquests, including representing the deceased's doctor subject to investigation by reason of the death.

Clinical Negligence

- Instructed by NHSLA in catastrophic injury cases including *Crofton v NHSLA* (following [2007] EWCA Civ 71); *A v C NHS Trust* (spastic tetraplegic cerebral palsy due to perinatal negligence); *Sutton v Princess Alexandra Hospital NHS Trust Lawtel LTLPI 8/9/2009* (severe cauda equina syndrome); *Princess Alexandra Hospital NHS Trust v Badcock* – representing the hospital in its contribution claim against tortfeasor causing original injury in *Sutton*.
- Acted for the claimant in *TTT v Kingston Hospital NHS Trust*, Owen J, 25.11.11 – catastrophic birth injury; successful interim payment application bringing the total of interim payments to £1.5M.
- Other examples: *Pena-Romero v Abbeyfield/Bucks NHS Trust* (failure to diagnose cerebral abscess leading to catastrophic brain injury); late diagnosis of neonatal and infant infections leading to permanent injury/death; late diagnosis of cancers; failure to diagnose congenital dislocation of hip; failure to diagnose infection causing osteoporosis; complex spinal operation causing stroke and neurological complications; novel operation on spine allegedly unreasonable; severe brain and physical damage following perinatal operations for congenital diaphragmatic hernia; breast augmentation surgery – use of wrong-sized implant; late diagnosis of neonatal meningitis; MRSA infection; allegedly negligent treatment for life-threatening paediatric medulloblastoma.

ADR

Experienced advocate in mediations including multi-party claims. Examples include:

- Claim by bank following earthquake damage to flagship national headquarters: claim against developer, architect, engineers, main contractors, local authority.
- Acting for international manufacturer of electronic component installed into vehicles. Warehouse fire caused by fire starting in vehicle allegedly due to water ingress into electronic component. Claim against defendants including vehicle manufacturers, component manufacturer.
- Claim by body corporate, owner of apartment block – defective external doors throughout apartment block – claim against architects, engineers, contractors, local authority.

Toby has been accredited as a mediator in the UK (2004) and New Zealand (2005, re-accredited 2017); and by the Disputes Board Federation (2009).

Sports Law

Toby Gee's practice ranges across several key sports law areas.

Toby's relevant practice areas include professional negligence, product liability, insurance, personal injury and commercial law. He also has significant governance experience, having sat on and chaired various charitable boards.

Toby has advised national sporting bodies on matters such as:

- Legal and ethical obligations of a national sporting organisation towards former players of the sport (professional, amateur, and under-18) who may have brain conditions as a result of multiple head

impacts, taking into account various different contractual and non-contractual relationships and degrees of control over the game, and the relationship between the national body and the world body in relation to rule-setting and regulation.

- Effect of restructuring collective and individual contracting structures for players employed (directly or indirectly) by a national sporting body on that body's health and safety obligations to players
- Board selection. Toby was a member of the selection panel for a new board of a national sporting body. He advised on and developed the board selection process in collaboration with the chair of the selection panel, and played a key role in the appointment process.

Relevant cases include:

- Representing a club protesting to a national sporting body about the rationality of a change to eligibility rules for players to participate in club teams taking part in national championships.
- Representing producers and managers of sports products (eg mountain bike, motorcycle, wakeboard, 'bucking bronco') alleged to have been defective and/or improperly managed such as to cause injury to participants.
- Representing a local authority in relation to a personal injury action – injury allegedly caused by lack of supervision in a school context.

Other

Toby was admitted as a barrister and solicitor in New Zealand in 2013. He worked as Special Counsel to national New Zealand law firm Minter Ellison Rudd Watts in 2014-2017 before moving to the New Zealand independent bar and practising as a barrister at Lambton Chambers, Wellington, New Zealand (2017-2025).

During that time he advised and represented clients ranging from Māori organisations to local authorities, and individuals to large national companies. He has appeared in the New Zealand Court of Appeal, High Court and District Court, as well as various tribunals.

Published articles and seminars include the following subjects: reparation sentences and civil damages, cyber risks (member of expert panels at launch of NZ National Cyber Security Strategy and New Zealand Insurance Law Association annual conference and seminars), privacy, insurance law principles, indemnity and exclusion clauses, issues relating to COVID vaccine mandate.

Devised and edited *Cover to Cover*, quarterly magazine for the insurance industry (2014-2017).

Critiquer/judge in New Zealand Law Society's High Court Litigation Skills course (2014 – 2024).

Member of the New Zealand Bar Association's Advocacy and Law Reform Committee (2022-2025).

Appointed as a Faculty Member for the New Zealand Law Society's Litigation Skills Course for litigation barristers and solicitors (2023).

Delivered guest lectures and seminars at Victoria University of Wellington on brain damage allegedly arising from multiple head impacts, and on the proper limits and use of expert evidence (2021-2024).

As at 2026, he retains his New Zealand practising certificate and is well-placed to deal with cases involving



New Zealand/UK cross-over.

Fellow of the Royal Geographical Society.

Affiliate member of the New Zealand Institute of Professional Photography (2022-2025).

Memberships

UK:

- Professional Negligence Bar Association
- Personal Injuries Bar Association
- Technology & Construction Bar Association
- The London Common Law and Commercial Bar Association

NZ:

- New Zealand Law Society
- New Zealand Bar Association
- New Zealand Insurance Law Association (2014 -2025)
- Wellington Medico-Legal Society (2014-2025)

Appointments:

- Director and Vice-chair of Lambeth Law Centre, 2004 – 2005
- Chair of charity Porters' Progress UK, 2007-2012
- Governor of Dulwich Village Infants' School, 2012-2013
- Board member of New Zealand Choral Federation, 2018 – 2022
- Board member of St Mark's Church School, Wellington, New Zealand, 2019 – 2025. Chair, 2023-2025
- Member of Board selection panels: World Choir Games (2022), Inline Hockey New Zealand (2025)

Recommendations

"You did a stellar job on the Bank of New Zealand recovery."
(Senior claims manager for Bank of New Zealand's global property insurer)

"I couldn't have done it without your direction."
(Manager of biodiesel plant for NZ oil and gas company)

"Thank you so much for your tenacity."
(Individual client)

"Toby has the rare combination of legal brilliance and exceptional communication, together with humility, respect, compassion and empathy."
(Individual client – a doctor with a serious long-term injury)



"Toby's clear, careful thinking, calm authority and principled approach make him an exceptionally effective barrister. His personal qualities of integrity, sound judgment and experience blend to produce the consistently strong outcomes he achieves."

(Chief scientist at New Zealand Rugby)

"Methodical and persuasive."

Legal 500 ((2016)

"He's very approachable and responds very quickly with detailed advice."

Chambers & Partners (2015)

"Highly regarded for his versatility."

Chambers & Partners (2014)

"He provides excellent advice which leaves no room for doubt."

Legal 500 ((2014)

"Excellent in the courtroom."

Legal 500 ((2013)