

PROFESSIONAL LIABILITY CONFERENCE 2018: UNRAVELLING THE CAUSATION KNOT?

Wilberforce
CHAMBERS

Wednesday 31 January 2018

9.00am–1.00pm | CPD points: 3.5

Registration fee: £75 + VAT (£90)

Location
The Brewery
52 Chiswell Street
London
EC1Y 4SD



Timetable

8.30am Registration and Breakfast

9.00am Welcome from Chairperson – Clare Stanley QC

9.15am What is “*res inter alios acta*” and how can you make it work for you?

Jonathan Seitler QC

- What do we know about how and when the principle kicks in?
- What is ‘collateral’ and how do you distinguish it from what is ‘direct’?
- How does the principle fit with other rules in the law of damages?
- Is it all clear now after *Swynson v Lowick Rose*?

9.35am *Tiuta v De Villiers* under the spot light; the but for test of causation revisited

Joanna Smith QC

- Is a valuer to be held liable for a lender’s pre-existing loss in the shape of a first loan where that lender uses a new second loan made in reliance on negligent valuation advice to discharge the first loan?
- How does the *Nykredit* basic comparison operate in such a case?
- The relationship between factual and legal causation
- The significance of the decision in *Swynson v Lowick Rose*
- The arguments in the Supreme Court in *Tiuta v De Villiers* explained

9.55am Reflective loss in professional liability claims against advisers and directors – how far does it go and how to get around it

Graeme Halkerston

- Failed investment structures and dubious directors – when the doctrine might apply
- Shareholders – The traditional scope of reflective loss
- Non-shareholders – How wide is the principle?
- What claims are excluded?
- Ways of getting around reflective loss issues

10.15am Break

10.45am SAAMCO: where are we now?

Charlotte Black

- *Hughes-Holland v BPE Solicitors* [2017] UKSC 21 (also known as *Gabriel v Little*)
- Duty to provide information vs duty to advise – the latest position
- Consideration of ‘the SAAMCO cap’
- Cases overruled by *Hughes-Holland*

11.15am WORKSHOPS (PLEASE SELECT ONE)

W(A) Professionals assuming duties of care to third parties: Clare Stanley QC, Zoë Barton and Jamie Holmes

- What is the test for the assumption of responsibility to a non-client?
- *White v Jones* – how far can the principle be expanded beyond will drafting cases?
- What if there is a conflict between the duty assumed and your duty to your client?
- Having assumed a duty, what is its scope?
- Causation of loss

W(B) Loss of a chance:

Lexa Hilliard QC, Tiffany Scott and Tom Robinson

- “You get what you settle for” – Thelma and Louise
- Categories of loss of a chance
- Tests for establishing a claim for loss of a chance
- How to calculate damages for loss of a chance
- When is loss of a chance not loss of a chance

W(C) Directors who use companies for illegal activity:

James Ayliffe QC, Sebastian Allen, Simon Atkinson and Joseph Steadman

- Whom can a company sue?
- When might a company succeed?
- What could a company recover?

W(D) Causation, contribution and mitigation:

Lawrence Cohen QC, Julian Greenhill and Elizabeth Houghton

- Factual and legal causation: the “but for” test and remoteness
- Intervening causes and counterfactuals
- The requirements for contributory negligence and contribution claims
- Limits on the duty to mitigate

12.30pm THE 5 MINUTE PITCH

Chaired by Jonathan Seitler QC, Marcia Shekerdemian QC, Jonathan Davey QC, Tiffany Scott, Jamie Holmes, and Elizabeth Houghton will each pick a case from the last 100 years and attempt to persuade you that it is the most important case decided in the professional liability sphere. They will have 5 minutes each. Who is the most effective? You, the audience, will decide.

1.00pm Closing – Clare Stanley QC

1.10pm Lunch