



Ben Kelly

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Year of Call: 2006

Ben is a specialist Defendant personal injury practitioner. He represents a number of large insurers in claims involving fraud and fundamental dishonesty and has been successful in obtaining numerous findings on behalf of his insurer clients. He is experienced in analysing the large volumes of financial disclosure usually involved in substantial credit hire claims and is frequently successful in defeating or substantially reducing such claims.

Memberships

- Personal Injury Bar Association

EXPERTISE

Personal Injury

Ben appears for and advises Defendants in all aspects of personal injury. He advises in conference and on paper, and drafts documents at all stages of litigation from intimation of claim through to trial and appeal.

Recent cases at trial include:

RTA

- Late presentation
- Staged/fictitious accidents
- Phantom passengers

- Bogus “independent” witnesses
- Exaggerated claims
- Induced collisions
- Low velocity impact
- Significant credit hire claims

Employers' Liability

- Extent of a school's duty of care to a teaching assistant to avoid an assault by a child with special educational needs
- Accidents on constructions sites

Public Liability

- Accident befalling young child within a private nursery setting
- Application of *McGeown v Northern Ireland Housing Executive* in a tripping claim
- Guest slipping at a wedding reception
- Various trips, slips and falls on highways and on private property

Fraud - Civil

Ben is approved by a number of large insurers in claims involving allegations of fraud and fundamental dishonesty. Such instructions usually, but not exclusively, arise in RTA claims.

He is experienced in drafting robust Defences, Counter Schedules and Parts 18 and 35 questions in such claims. He frequently advises in conference in order to proof insured drivers with a view to determining the strength of their evidence at trial.

Examples of recent cases:

S v F – Preston County Court, 2020

Claim discontinued following cross-examination of Claimant with substantial claims history.

M & B v A – Preston County Court, 2020

Late presentation of injury claims by 2 Claimants. Both claims dismissed after trial.

S v K – Manchester County Court, 2019

Claimant taxi driver with claim for hire, recovery and storage in excess of £40,000 found to have been dishonest.

N v W – Birkenhead County Court, 2019

Instructions received for disposal hearing, advice provided to apply to set aside and withdraw admission of liability. Following the successful application, Ben drafted the Defence raising LVI and fundamental dishonesty. The claim was subsequently discontinued.

A v G & A – Sheffield County Court, 2019

Claimant taxi driver with credit hire claim of £20,000 found to have been fundamentally dishonest.

W v B – CCMCC (not yet transferred to C's home Court), 2019

Tripping claim discontinued upon receipt of Defence raising fundamental dishonesty.