



Malcolm Sheehan QC

Contents

Product Liability & Group Actions	1
Representative Cases	2
Property	3
Representative Cases	3
Commercial, Insurance & Arbitration	4
Representative Cases	4
Personal Injury	5
Representative Cases	6
Health & Safety, Regulatory & Inquests	7
Representative Cases	7
Public, Human Rights & Local Government	8
Representative Cases	9
What the directories say	9
Appointments	9
Publications	10
Memberships	10
Education	10
Awards & Recognitions	10



Malcolm Sheehan QC

"He is a brilliant technical lawyer and a superb advocate. A gifted QC who impresses both on paper and in the courtroom."

- Chambers UK 2018 & Legal 500 2016

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"Articulate and a pleasure to work with on every level" Malcolm Sheehan QC has a commercial and common law practice, principally in the fields of product liability and group actions, commercial and insurance disputes, commercial property, personal injury, health & safety, public and regulatory law.

"Incredibly industrious and with impeccable judgment" he is ranked by the legal directories as a top tier junior for product liability work and is also ranked for his property and personal injury expertise. *"Great on his feet"* Malcolm has been appointed to the Attorney General's panel of junior counsel (A panel) and has acted for the Crown at appellate level including before the House of Lords.

"Commercial, accurate and a strong tactician" Malcolm's clients include major insurers, financial institutions, product manufacturers, healthcare providers and property developers as well as government departments and local authorities. Malcolm *"stands out for his expertise in pharmaceutical products and medical devices"* and has been instructed in many of the leading group actions including the Seroxat litigation, FAC litigation, PIP Breast Implant litigation and *Motto v Trafigura Limited*. Malcolm *"has the complete trust of his clients as they know he is dedicated to their case."*

Product Liability & Group Actions

Described in Legal 500 as having "superb advocacy skills" Malcolm has been instructed in many leading product liability cases and has consistently been ranked as a leading junior for product liability work by all of the leading UK directories. He is rated in the top tier of leading juniors by Chambers UK and The Legal 500 and is also ranked as a leading junior for product liability work by Legal Experts.

Since undertaking his pupillage with Charles Gibson QC he has gained extensive experience of pharmaceutical and medical device product liability claims. He was the leading junior in the Seroxat Group Litigation (led by Charles Gibson QC and Prashant Popat QC) and has acted for the manufacturers of a number of well-known pharmaceutical products such as Prozac and Roaccutane as well as in the PIP Breast Implant litigation. His pharmaceutical and medical device experience includes group actions such as the FAC Group Litigation, unitary actions, regulatory work, product recall advice and product testing claims. Malcolm is acting as lead counsel for a major medical prosthesis manufacturer in respect of several groups of claims and has acted in claims made against the manufacturers of breast implants, lip injections and bone replacement implants.

Malcolm is experienced in dealing with contractual and tortious commercial product liability claims including claims relating to chemicals, packaging, construction products, laminates and animal vaccines. He frequently advises on the jurisdictional issues arising in large supply chain international product liability claims. Malcolm has particular experience of motor vehicle product liability claims. He has acted in a series of defective tyre claims and is currently defending multiple claims made against a manufacturer of taxis. Malcolm has advised on cases involving subject matter as diverse as cinema film development systems, concrete mixer units, PVCu windows and motorcycle component and circuit design.

Malcolm's extensive experience of group litigation has led to his instruction in group litigation across a wide range of subject areas either as lead counsel or as a group litigation tactics specialist. Malcolm advises clients on where GLO orders are effective and where alternative approaches should be adopted. Malcolm has particular experience of international mass tort group actions including the *Trafigura* litigation. Malcolm has acted in respect of group claims made in respect of alleged human rights breaches, revenue group claims and a series of historic sexual and physical abuse group claims.

Malcolm is a contributor to the *Kluwer International Product Law Manual* and has lectured at the International Centre for Legal Studies Salzburg seminar on international product liability law and at the British Institute of International and Comparative Law food law seminar.

Representative Cases

- *Various claimants v Barking, Havering & Redbridge University Hospitals NHS Trust*
Successfully opposed Group Litigation Order application by 34 claimants who alleged clinical negligence and Human Rights Act breaches by NHS Trust.
- *The Seroxat Group Litigation*
CPA group claim alleging discontinuation symptoms following use of a leading antidepressant/anxiolytic.
- *The PIP Breast Implant Litigation*
Contractual claims by women alleging physical or psychiatric injury sustained as a result of the implantation of PIP breast implants.
- *Motto & Others v Trafigura Limited*
The Abidjan Personal Injury Group Litigation: Court of Appeal case concerning effect of group litigation orders on costs.
- *The FAC Group Litigation*
CPA group claim alleging injury following use of anti-convulsant pharmaceutical products.
- *Various Claimants v Barking, Havering & Redbridge NHS Trust*
Successfully opposing a GLO application in claims alleging clinical negligence and HRA breaches.
- *Americhem Europe Ltd v Rakem Limited*
TCC commercial product liability dispute concerning misdelivery of chemical components the effects on the supply chain.
- *Sneddon & Others v LTI Limited & Others*
Multiple claims alleging engine defects in taxis.

- *Tilda Limited v Alcan Packaging Limited & Another*
Commercial product liability claim in respect of rice product packaging.
- *Dunlop v Medd Racing*
Claim by leading TT motorcyclist in respect of defective wheel design.
- *Raine & Graham v T C Debica*
Defective tyre claim.
- *Deans Foods Limited v Intervet UK Limited & Poultry Health Services Limited*
Commercial product liability claim concerning an animal vaccine.
- *Rajkumar & Others v Dunlop Tyres Limited*
Multi-party defective tyre claim.

Property

“Especially good for those cases where you need to put your thinking cap on” Malcolm has specialised in property claims since his pupillage and now has a wide experience of the major property practice areas. Malcolm’s expertise in this area has been recognised by all of the leading UK legal directories which have consistently ranked him as a leading junior for property/real estate litigation.

Malcolm holds the part-time judicial post of Judge of the First-tier Tribunal, Property Chamber and deals with land registration related property disputes.

“Superb where there is a large bundle of paperwork, he can really pare it down the core elements.” Malcolm has extensive experience of acting in commercial and residential matters for estates, developers, registered social landlords and local authorities. His practice increasingly features instructions to act on behalf of property developers and he is experienced in advising on overage disputes, land swaps, rectification and covenant enforceability issues.

A “rising star, very technical, who gives very good written opinions” Malcolm’s appointment to the Attorney General’s panel of junior counsel to the Crown has added a public law dimension to Malcolm’s property practice. Malcolm acts of the Crown in respect of a number of its largest property disputes. He has also acted on behalf of the Leasehold Valuation Tribunal and various Rent Assessment Committees to defend judicial review applications and statutory appeals.

Malcolm is the real property editor of Butterworths Civil Court Precedents and he contributed the property law chapter to The Civil Practitioner’s Guide to the Human Rights Act 1988. Malcolm is a regular speaker at the CLT Commercial Property seminar has also acted as an invited facilitator at the Property Litigation Association Annual Conference.

Representative Cases

- *Whitgift One & Whitgift Two Limited v Secretary of State for Communities & Local Government*
£5m+ Terminal dilapidations claim concerning landmark commercial premises.

- *Sun Life Assurance v Thales Tracs Ltd [2001] 1 WLR 1562*
Court of Appeal case concerning payment of compensation on determination of a business tenancy.
- *Freshwater Action v Leasehold Valuation Tribunal*
Administrative Court claim against Leasehold Valuation Tribunal.
- *Local Authority v Central Government Department*
Dispute concerning existence and nature of historic arrangements for financing and occupation of court premises.
- *Swan Housing Association v Butt*
Chancery Division restrictive covenants claim concerning a significant social housing development.
- *Grosvenor Estate Belgravia & Metropolitan Police Authority v Secretary of State for Communities and Local Government*
Leasehold Valuation Tribunal claim concerning enfranchisement claim.
- *Anchor Housing Association v Persons unknown*
High Court claim concerning principles applied on enforcing a warrant of execution.

Commercial, Insurance & Arbitration

“Robust and a capable negotiator” Malcolm has a wide commercial litigation and arbitration practice with a particular emphasis on insurance disputes often with a product liability, construction or information technology background. His experience includes domestic and international sale of goods claims, jurisdictional disputes and commercial public law and corporate human rights claims. In addition, he has wide experience of acting for multinational corporations in defending international mass tort claims.

“Equally good on paper as he is on his feet” Malcolm is experienced in arbitration acting in ICC and LCIA arbitrations. He is currently engaged in a major LCIA arbitration arising from a systems integration contract. He is experienced in dealing with commercial disputes which a demanding technical and scientific background in disciplines as varied as material science, biotechnology, epidemiology, valuation and accountancy.

Malcolm regularly advises on coverage and good faith issues and his experience of group litigation has led to instructions to advise on tactics and costs considerations in commercial group litigation. He has particular experience of dealing with disputes concerning limitation and exclusion of liability clauses and with the assessment of quantum.

Malcolm has lectured widely on product liability insurance issues including aggregation and physical damage to property. He has contributed the product liability insurance chapter to the Kluwer International Product Law Manual.

Representative Cases

- *LCIA Arbitration*
£500m+ arbitration concerning the termination of a flagship IT systems integration contract.

- *Gleeson v G E Insurance & Others*
Commercial Court indemnity dispute involving interpretation of a CAR insurance policy.
- *Sneddon & Others v LTI Limited & Others*
Multiple claims alleging engine defects in taxis.
- *Americhem Europe Ltd v Rakem Limited*
TCC commercial product liability dispute concerning misdelivery of chemical components the effects on the supply chain.
- *Tilda Limited v Alcan Packaging Limited & Another*
Commercial product liability claim in respect of rice product packaging.
- *Herbert v Jewson Limited*
Acting for leading building supplies provider in dispute over alleged advisory duties arising on the supply of sound insulation equipment.
- *Joyce v Broadgate Syndicates 1301 at Lloyd's*
Indemnity dispute arising in context of accidental death policy.
- *Deans Foods Limited v Intervet UK Limited and Poultry Health Services Limited*
Commercial product liability claim concerning an animal vaccine.
- *Lakeside Food Group v Cedrob SA*
High Court international sale of goods dispute subject to the law of Poland.

Personal Injury

“Able to handle difficult situations comfortably whilst understanding the client’s needs” Malcolm has wide experience of personal injury claims including employer’s liability claims involving exposure to asbestos, vibration white finger claims and fatal accident claims involving industrial diseases. He deals with catastrophic injury claims including tetraplegia and paraplegia claims.

Malcolm’s experience in this area has been recognised by his instruction to act as junior counsel for the Ministry of Justice in the leading House of Lords personal injury limitation case *Young v Home Office & Catholic Care*. This appeal concerning knowledge and the use of the s.33 discretion is one of the leading personal injury limitation decisions.

Malcolm is involved in claims which are clarifying the scope of personal injury liability. He is instructed several personal injury claims dealing with the extent of the combat immunity defence and he is lead counsel in a claim which tests the extent of an employer’s liability for injuries suffered by employees participating in leisure activities.

Malcolm’s specialism in sports-related injuries is reflected in his involvement in a number of motor sport and swimming pool injury claims including Fatal Accident Act claims. He is also known for his experience of travel claims including group food poisoning claims, holiday accident claims and associated jurisdiction, insurance and

costs issues.

Malcolm's acknowledged expertise in product liability work has led to his instruction in many personal injury product liability claims involving a wide range of products. He is acting in the PIP Breast Implant group litigation and is representing a major medical device manufacturer in relation to metal on metal hip claims. Malcolm has particular experience of claims involving allegedly defective tyres and car and motorcycle wheels.

Malcolm acts in historic sexual and physical abuse group actions and frequently advises on the limitation, vicarious liability, evidential, causation and tactical issues which arise in such cases. He has lectured to legal and industry audiences on topics including causation and contribution in negligence, jurisdiction and choice of law in international personal injury litigation, privilege and confidence, costs and public funding.

Representative Cases

- *Young v Catholic Care (Diocese of Leeds) and the Home Office [2008] UKHL 6*
Leading personal injury limitation case on knowledge and section 33 discretion in historic abuse claims.
- *Motto & Others v Trafigura Limited - the Abidjan Personal Injury Group Litigation*
Court of Appeal case concerning effect of group litigation orders on costs.
- *The Seroxat Group Litigation*
CPA group claim alleging discontinuation symptoms following use of a leading antidepressant/anxiolytic.
- *Dunlop v Medd Racing*
Claim by leading TT motorcyclist in respect of defective wheel design.
- *Raine & Graham v T C Debica*
Catastrophic injury defective tyre claim.
- *Medomsley Detention Centre*
Historic sexual abuse claims.
- *Kirk Levington Detention Centre*
Historic sexual abuse claims.
- *Eastwood Park*
Historic physical abuse claims.
- *Duncan v East Sussex NHS Trust*
High Court claim brought by estate of patient with acute myeloid leukaemia who died after contracting Legionnaire's disease in hospital.
- *Corr v Hooper*
High Court Fatal Accidents Act claim brought by widow of a senior executive of a national bank.
- *Various v Department of Work and Pensions*
Multiple High Court mesothelioma claims alleging workplace exposure.

Health & Safety, Regulatory & Inquests

“*Thorough and good on his feet,*” Health and Safety work is an important part of Malcolm’s practice and he is experienced in acting for corporate and individual defendants in health and safety prosecutions, inquests and associated civil claims. His experience includes acting in health and safety cases where death has been caused and he advises in relation to liabilities under the Corporate Manslaughter and Corporate Homicide Act 2007.

Malcolm acts and advises clients on a range of regulatory matters and has particular experience of food labelling, product safety, pharmaceutical, health supplement and packaging regulations. He is also experienced in fire cases, having acted for both product manufacturers and property owners in respect of electrical fires.

Malcolm has developed an allied expertise in inquests and coronial law, particularly in relation to workplace deaths, healthcare sector deaths, deaths in custody and deaths said to involve pharmaceuticals or medical devices. He is experienced in acting in ECHR Article 2 inquests with an expanded scope.

Representative Cases

- *Re Brian Dorling*
Acting for highway designers in widely reported inquest into the death of a cyclist on a Transport for London cycle superhighway.
- *R (Health & Safety Executive) v Westwood Yarns*
HSE prosecution following fatal accident at work.
- *Ling & Others v Toshiba*
Successful defence of allegations that a VCR unit caused a major fire in a supported housing development.
- *Re Cowler*
Representing organisers of a clinical trial following the death of a participant receiving stem cell therapy.
- *Re Gbadeyan*
Representing hospital at an inquest into the death following respiratory arrest of a newly transferred patient.
- *Medicines & Healthcare Products Regulatory Authority v Kanu*
Prosecution on behalf of the MHRA in respect of Medicines Act offences.
- *Re Kay Stanley*
Second English inquest into a level crossing death in Australia that had been the subject of a prior inquest in Australia.
- *Environment Agency v Harley Davidson Europe Limited*
Regulatory prosecution under the Producer Responsibility Obligations (Packaging Waste) Regulations 1997.

- *Re Leila Petts*
Acting for treating hospital at an inquest following the death of a child during a cardiac catheter procedure.
- *Re McNeil*
Representing a university at an inquest following the death of a diabetic undergraduate.
- *Re Zahid*
Death in custody inquest in which allegations of systemic failure and neglect were made and medical causation disputed.
- *Jackson & Castle v NHS Regulatory Authority*
High Court claim under the National Health Service (General Dental Services) Regulations 1992.
- *Re K*
Hospital death of prisoner with HIV related illness.
- *Re Lee*
Industrial accident where death occurred while cleaning industrial equipment.
- *Re Duffy*
Death at work inquest where gross negligence by employer alleged.
- *Re Idris*
Death in custody inquest of foreign national prisoner.
- *Re Megson*
Death of cancer patient who was participating in clinical trials.

Public, Human Rights & Local Government

Malcolm “doesn’t miss a trick” and as a member of the Attorney General’s panel of junior counsel to the Crown Malcolm is instructed and advises on a variety of public law and Human Rights Acts claims. Malcolm has a particular experience of commercial, healthcare and property related public law and human rights claims.

Malcolm appeared for the Secretary of State for Transport in the leading Court of Appeal case *Rogers v Hoyle* dealing with the admissibility of Air Accident Investigation Branch reports in civil proceedings. He also advises several government departments in relation to vires and statutory interpretation issues.

Malcolm (led by Charles Gibson QC) successfully opposed the making of a Group Litigation Order by various claimants alleging ECHR breaches in the treatment of hospital patients. He is also experienced in claims in which human rights abuses are alleged against overseas subsidiaries of UK domiciled companies.

Malcolm has been instructed to defend the decisions of a variety of courts and Tribunals including the Leasehold Valuation Tribunal, various Rent Assessment Committees and the county court.

Representative Cases

- *Rogers v Hoyle [2014] EWCA Civ 257*
Court of Appeal case explaining *Hollington v Hewthornand* dealing with dealing with the admissibility of AAlB reports in civil proceedings.
- *Various Claimants v Barking, Havering & Redbridge NHS Trust*
Successful opposition to the making of a GLO in claims alleging human rights breaches and clinical negligence.
- *Chin v Ministry of Justice*
Successful defence of claim alleging that the Ministry of Justice was liable for injuries suffered during a prisoner on prisoner assault.
- *Freshwater Action Limited v Leasehold Valuation Tribunal*
Judicial review of two decisions of the Leasehold Valuation Tribunal alleging excess of jurisdiction.
- *Dadgarnejad v Home Office*
Claim by former prisoner alleging breach of convention rights.

What the directories say

"He is fantastic with clients and a great team player."
Legal 500 2020

"He's one of the most accessible, responsive and reliable members of the Bar."
Chambers UK 2020

"A brilliant and immensely hard-working all-rounder."
Chambers UK 2020

Appointments

- Recorder (2019)
- Queen's Counsel (2015)
- Junior Counsel to the Crown, Attorney-General's A Panel (2011-2015, previously B Panel)
- Judge of the First-tier Tribunal, Property Chamber (part-time Judicial post)
- Court of Appeal, Judicial Assistant to Lord Woolf

Publications

- Butterworths Civil Court Precedents (Real Property Contributor)
- Halsbury's Laws of England (Civil Appeals section in Practice & Procedure Volume)
- Kluwer International Product Law Manual (Product Liability Insurance chapter)
- Civil Practitioner's Guide to the Human Rights Act 1998 (Property section)

Memberships

- Commercial Bar Association
- London Common Law & Commercial Bar Association
- Health and Safety Lawyers' Association
- Professional Negligence Bar Association
- Personal Injury Bar Association

Education

- Hardwicke Scholarship, Lincoln's Inn
- Mansfield Scholarship, Lincoln's Inn
- Lord Denning Scholarship, Lincoln's Inn
- Inns of Court Major Scholarship
- MA (1993)
- BA (Oxon) First Class Honours (1989)

Awards & Recognitions

