

## **Barrister: John Schmitt**

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### **Overview:**

John is a specialist in complex personal injury work. He appears and advises in actions for personal injury and fatal accidents arising from the negligence of professionals, employers and public authorities. He is regularly involved in the settlement of cases with a six figure value and appears increasingly in the High Court. He combines a detailed grasp of the law with confident advocacy and clear, practical advice.

John has substantial wider experience, regularly acting and advising in a range of commercial and civil disputes, while also representing local authorities and private clients in family matters involving children and finances. His profile has separate sections showcasing his experience in these areas.

John welcomes the opportunity to contest challenging cases on liability. He has recently been successful in two hotly contested multi-track trials: the first was an assault at work on a night receptionist carried out by a patient who had escaped from a psychiatric ward in which John successfully argued it was a foreseeable injury that came about in an unexpected way; the second was negligent laser surgery where John was able to persuade the Defendant's expert in oral evidence to adopt the Claimant's case on breach.

John is a contributing author to the latest edition of the Road Traffic Accident section of Butterworths Personal Injury Law Service; he is a specialist on liability in this area.

He is also experienced in representing families at inquests in a clinical negligence context and has done so through the AvMA pro-bono inquest service. Most recently he has represented a family at a four day jury inquest at the conclusion of which the deceased's employer were ordered to produce a Prevention of Future Deaths report.

Prior to becoming a barrister, John was an English teacher, acting as Head of Department at a leading secondary school. His first career and his extensive court experience to date have together equipped him with the valuable skills of persuasive argumentation and team management, along with the ability to interact with clients sensitively and to perform under pressure.

John is a member of the Personal Injuries and Professional Negligence Bar Associations.

In his free time, John enjoys cooking, tennis, singing and time with his young family.

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### **Commercial & Property**

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#### **Commercial & Property:**

John is experienced in acting in a range of residential and business landlord and tenant cases, and those engaging lease / licence issues and building / boundary disputes. He is able to use his related experience in professional negligence cases to the advantage of his clients in such disputes, particularly in his handling of expert evidence.

Recent work includes successfully arguing at trial on a behalf of a Claimant landlord that the Defendant's purported equitable assignment of a lease for an internet café was invalid, and in another case successfully rebutting an alleged surrender of a commercial lease. His trial experience of witness handling is particularly useful in contested landlord and tenant disputes.

On paper, John frequently completes pleadings in this area, and frequently advises and acts within possession proceedings. For example, he has recently advised regarding whether, following a Notice Requiring Possession, a landlord receiving rent under an Assured Shorthold Tenancy has created an inference that a new tenancy is being created, and on a range of issues arising from defective section 21 Notices.

### **Civil**

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#### **Civil:**

John is frequently instructed in multi-track personal injury claims pleaded up to £1,000,000 and works collaboratively with his instructing solicitors to achieve regularly six-figure settlements for his clients.

John has abundant experience in the County Court successfully conducting trials, interim hearings and applications, and is appearing in the High Court with increasing frequency. He prides himself on his advocacy.



**Call: 2013**

#### **Education:**

BA Hons in Classics & English, Oriel College, University of Oxford (First Class); Graduate Diploma in Law, City University Law School (Distinction); BPTC, BPP Law School, (Very Competent); Lord Bowen, Lord Denning & Lord Levenson Scholar of Lincoln's Inn

#### **Practice areas**

- Clinical Negligence
- Commercial and Property
- Court of Protection
- Employment
- Family
- Inquests
- Personal Injury
- Police Law
- Professional Negligence
- Regulatory and Disciplinary

#### **Recent News**

- Helen Pooley & John Schmitt give training to Tinsdills Solicitors
- Coroner returns narrative verdict at inquest into the death of Amy Bottomley

On a daily basis John advises and drafts pleadings on matters concerning the negligence of professionals, employers, public authorities, businesses, schools and motorists, as well as in complex quantum matters arising from personal injury. He provides intelligent, thorough and commercially practical advice. He is also developing his clinical negligence practice and welcomes instructions in this area.

By way of example, John has recently been successful in two hotly contested multi-track trials: the first concerned a freakish assault at work at night on a hotel receptionist carried out by a patient who had escaped from a psychiatric ward – John successfully argued it was a foreseeable injury that came about in an unexpected way; the second concerned negligent laser surgery where John was able to persuade the Defendant's expert in oral evidence to adopt the Claimant's case on breach. He has also won at trial on challenging claims against the MOJ for its negligent care of a prison guard assaulted by youth offenders and against the Kenyan High Commission for its negligent care of a chauffeur.

## Employment

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### Employment:

John is a multi-disciplinary barrister who is an experienced and flexible advocate. John has experience of advising on a range of aspects of employment law with a particular emphasis on constructive dismissal. For example, he has advised an employee who worked in the caring field for forty years in relation to a potential action against an employer for constructive dismissal and discrimination based on her race. This engaged complex issues regarding the employee's potential acceptance of the employer's repudiatory breach in circumstances where an employee had shown some tentative willingness to be reinstated in her professional role.

As another example, he has drafted a rider to an ET1 in a whistleblowing case where the employee, a medical professional, had alleged serious misconduct on the part of a colleague and, as such, asserted he had made a protected disclosure within s.43A Employment Rights Act 1996.

John has also appeared in the Employment Tribunal in a legally complex matter representing an employee who was arguing that his demotion was tantamount to a dismissal. This also necessitated a legal argument as to whether the employer's disciplinary power to demote was incorporated into the Claimant's contract, in addition to detailed cross examination of the employer's senior management as to its disciplinary procedures.

John was a teacher for nine years before becoming a barrister and enjoyed a management position within a leading secondary school, giving him experience of the realities of employment disputes and experience of handling them at first hand.

## Family & Court of Protection

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### Family & Court of Protection:

John regularly acts for local authorities, parents and guardians in public law matters involving children and equally regularly represents parties seeking financial remedies and child arrangements in private law.

John has extensive experience of appearing in complex, multi-day final hearings to determine applications for care orders, adoption, residence and contact in respect of children; he also frequently advises and appears in matrimonial finance matters with a value in excess of £1,000,000.

John has substantial experience in the High Court for matters involving child abduction, complex jurisdictional disputes and emergency medical treatment for children: see [2018] EWHC 937 (Fam).

John has extensive skill and experience in advocacy (much of this from his training conducting criminal trials) and as a result has a robust and effective courtroom style. He is a tough but fair negotiator.

His first career in education gives him wider and substantial experience with working with children and parents within a multi-agency context through which his skills at mediating, negotiating and advocating for his clients have been developed.

John is expanding his practice within the Court of Protection jurisdiction and has relevant experience as follows:

- Serious medical treatment applications including longstanding involvement for the London Borough of Enfield in an application under the inherent jurisdiction in respect of emergency blood transfusions where declaratory relief was sought and obtained amidst complex issues of non-parental consent: [2018] EWHC 937 (Fam);
- A range of emergency applications, particularly within the context of public family law;
- Issues relating to the appointment of deputies;
- Frequent provision of written advice on compromises in respect of protected parties and attendance at subsequent approval hearings.

For more information please call our clerks on **020 7832 0500**

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