Compass Chambers

David McNaughtan KC

Year called:	2003
Year of silk:	2021
Email:	david.mcnaughtan@compasschambers.com
Qualifications:	Practised as a Barrister and Solicitor in the High Court in Fiji (1994-1996) LL.B (Hons)(Aberdeen) (1989) Dip.LP(Glasgow) (1990)

The LEGAL 500 UNITED KINGDOM LEADING SILK 2022

Chambers TOP RANKED UK Bar 2024

Practice

David called to the Bar in 2003 following a career as a court solicitor. He took silk in 2021.

With over 30 years of experience as a litigator, his current practice is in reparation and personal injury work, acting for both pursuers and defenders. He pursues and defends high value road traffic claims, asbestos-related disease claims and abuse claims. He acted for one of the pursuers in the first successful claim for damages from the Lord Advocate for malicious prosecution. He has a special interest in cases involving accidents abroad, disputes on jurisdiction and the application of foreign law in the Scottish Courts. He has extensive experience in clinical negligence cases including high value birth trauma and spinal cord claims.

He sits as a legal chairman in the War Pensions Appeal Tribunal. He was Standing Junior to the Advocate General from 2018 to 2021, acting on behalf of the Ministry of Defence and other government departments. He was appointed Crown Counsel in August 2021 and conducted complex and serious High Court criminal trials. He remains an ad hoc Advocate Depute. He is a Curator of the Advocates Library.

In 2019 he completed the Advanced Advocacy (Financial Experts) Course run by the Bar Council of South Africa. He provides training to Devils on advocacy skills. From 1994 to 1996 he served as State Counsel to the Director of Public Prosecutions in Fiji, and prosecuted High Court trials and appeals in the Fiji Court of Appeal.

Representative cases

Reparation

Bell v North Ayrshire Council [2007] CSOH] 12 - personal injury action - relevancy of pleadings under Occupiers' Liability (Scotland) Act 1960.

Wallace Brown v Glasgow City Council [2007] CSOH 33 - accident at work in a country park - cases pled under common law,

Workplace (Health, Safety and Welfare) Regulations 1992, Manual Handling Operations Regulations 1992, and the Occupiers Liability (Scotland) Act 1960 - question raised as to whether the pursuer's workplace was part of an agricultural undertaking.

Kevin O'Neill v Dowding & Mills [2007] CSOH 170 - Motion ofr issues. Discussion of complexities in light of application of 6th edition Ogden Tables. Robertson v Smith 2000 SLT 1012, Reid v BP Grangemouth 8 May 2001, and Slessor v Vetco Gray UK ltd and Others 2007 CSOH 59 considered.

Kerry Ramage v Scottish African Safari Park Ltd [2008] CSOH 68 - Motion for issues. Child allegedly contracting e-coli during visit to safari park. Cases pled under common law and Control of Substances Hazardous to Health Regulations 1999.

Billy McGhee v Diageo PLC [2008] CSOH 74 - Proof on contributory negligence and quantum. Serious ankle injury and psychiatric njury. Pursuer seeking future wage loss on basis of 6th edition Ogden Tables.

Rodney McLellan v Dundee City Council [2009] CSOH 9 - Proof on liability, contributory negligence and causation. Finger amputated in lawnmower at work. Alleged breaches of Provision and Use of Work
Equipment Regulations 1998 and Management of Health and Safety at Work Regulations 1999.

Anthony Brookes v First Aberdeen Limited [2010] CSOH 16 - Personal injuries proof. RTA: "non-collision": scooter rider and bus travelling in opposite directions. Scooter rider losing control of scooter and sustaining knee injury. Court finding that was not the result of the way in which bus was driven. Court finding no link between initial knee injury and subsequent Complex Regional Pain Syndrome in pursuer's foot.

Stephen Garbett v Ryan Blaikie Lord McEwan, 17 May 2011 - otion for issues. Defenders opposing issues on ground of complexity arising from pension loss calculations. Issues allowed.

Colin Syme v East Lothian Council Haddington Sheriff Court, 14 ovember 2011 - Debate in personal injuries action. Consideration of Occupiers Liability (Scotland) Act 1960, together with the questions of (i) whether local authority were occupiers of private footpath; and (ii) what, if any, duties of inspection incumbent upon owners of private paths.

Smith v Sabre Insurance Co. Ltd. [2012] CSOH 14. Defenders' plea of res judicata in respect of credit hire charges claimed on behalf of pursuer/Accident Exchange Limited. Previous action for personal injuries had been raised in Stirling Sheriff

Court in respect of the same road traffic accident. It was settled on tender and acceptance in sum of £4550. Pursuer then raised further action in Court of Session for around £30,000 of credit hire charges. Lord Bannatyne upholding plea of res judicata.

Vaickuviene v J. Sainsbury plc [2012] CSOH 69. Fatal claim. Deceased was employed by defenders. He was murdered at work by a fellow employee, following a number of incidents of racist abuse. Case pled under Protection from Harassment Act 1997. Defenders argued that they could not be vicariously liable for the criminal act of their employee. Lady Clark of Calton allowing the case to proceed to proof before answer.

Professional Liability

William McEleney v Dr.Kamal Ohri & others [2007] CSOH 203A - Medical Negligence. Failure to diagnose cauda equina syndrome. Defenders admitted liability. Proof on causation and quantum. Neurosurgical evidence led from Mr. Robin A. Johnston and Mr. Robert Macfarlane.

KT v Lothian NHS Board [2009] CSOH 132 - Medical negligence proof. Cerebal palsy case. Proof on liability and causation. Pursuer pleading cases against obstetrician and anaesthetist. Discussion of res ipsa loquitur in medical negligence cases.

Professional Memberships

Barrister and solicitor of the High Court of Fiji

Publications

Road Traffic Accidents and the Consumer Credit Act 1974, 2000 Scottish Law Gazette 162

When is a Liability not a Liability? 2003 SLT (News) 113

The Imponderables Strike Back! 2008 (84) Green's Reparation Bulletin 1

What The Directories Say

Chambers UK 2020 - Ranked in Personal Injury Category
Has an expansive practice and is proficient in matters relating to occupiers' liability, road traffic accidents and industrial disease. He is able to handle cases involving foreign jurisdictions. He has recent experience acting for pursuers in claims involving defective hip implants under the Consumer Protection Act 1987. "He is very good with calculations in high-value cases."

Legal 500 UK Bar 2020 - Ranked in category of Personal Injury, Medical Negligence and Professional Negligence

"Very capable and robust in negotiation, while his attention to detail in complex clinical negligence cases is exceptional"

Chambers UK 2019 - Ranked in Personal Injury Category
"He works extremely hear, is very diligent and is a good communicator"

Chambers UK 2018 - Ranked in Personal Injury Category
"Super-efficient, always of a high calibre and always very good in a team. He'll get the work done and get to the heart of the matter." "An advocate who is highly organised and very up to date with the changes in the law. He really is at the top of his game."

Chambers UK 2017 - Ranked in Personal Injury Category
Has an expansive practice and is proficient in matters relating to occupiers' liability, road traffic accidents and industrial disease. He attracts praise for his organisation and attention to detail. "He is extremley hard-working and really feels the pulse of his cases. He is very friendly and empathic to his clients but is not afraid to be straight with them when required."