Marcus Pilgerstorfer KC

Silk: 2020 Call: 2002

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Marcus is an enormously experienced specialist in the fields of employment and discrimination law; product liability and consumer law; and public, human rights and data privacy law. He has appeared in a number of the leading cases.

He is recognised by the directories as “a superb barrister” who is “just brilliant in court” and “handles clients extremely well and surpasses their expectations”. He has “a brain the size of a planet” and is “clearly much admired by the senior judiciary”.

Marcus is a Civil and Criminal Recorder (part-time judge), is an Advocacy Trainer at Gray’s Inn and was a member of the Attorney General’s A Panel of Counsel to the Crown.

> ***Marcus brings academic excellence, deep knowledge of the law and a drive to do the right thing for the claimant in each case. He is diligent, considered and meticulous.***
>
> LEGAL 500

Expertise

Product Liability and Consumer Rights

Marcus is recognised in the directories as one of the leading product liability and consumer rights specialists. He has been described by the directories as *"a superb barrister with a phenomenal brain"*; and "*brilliant. He gets the law right every time, he's a detail person and the perfect junior to have working with you"; a "walking encyclopaedia of all matters product liability*".

Marcus' work includes the following (please see under 'recent cases' for examples):

- **Large Multi-Party/Group Litigation**: Marcus acts in a number of the most high profile group litigation cases in this field, including those concerning metal-on-metal hips, PIP breast implants, and pharmaceutical products.
- **Individual Cases**: Marcus has worked on a very wide range of other individual cases concerning products such as cars, bicycles, motorcycles, showers, ladders, lotions, eye lenses, and other pharmaceuticals and medical devices.
- **International**: Marcus has advised in connection with a number of international product cases, including in relation to manufacturing disputes in Hong Kong.
- **Product Safety/Regulation:** Marcus acts and advises in product safety and regulatory cases, including in relation to faulty tumble dryers which were liable to catch on fire, as featured on BBC's Watchdog programme.

Marcus has an active research interest in this area and is Joint Editor of the Common Core Product Liability Research Group, an international research project comparing European product liability laws. He has completed a PhD concerning the implementation of the Product Liability Directive in England and Germany.

> ***Walking encyclopaedia of all matters product liability***
>
> CHAMBERS & PARTNERS

The DePuy Pinnacle Metal-on-Metal Hip Group Litigation: Gee v DePuy International Ltd

[2018] EWHC 1208 (QB), [2018] MED LR 347 (HC, QBD)

Whether Pinnacle metal-on-metal hip implants were defective within the meaning of the Consumer Protection Act 1987 and Product Liability Directive; correct approach to determining defectiveness and causation (4 month trial).

The PIP Breast Implant Group Litigation

(2010-DATE, HC). THE LAWYER TOP 20 CASES OF 2016

Claims against private clinics, credit card companies and insurers concerning whether PIP silicone breast implants were of satisfactory quality.

Holloway v Transform Medical Group (CS) Ltd

[2014] EWHC 1641

Application to add further claimants to a GLO register.

The ASR Hip Special Arbitration Process

(2015-18, arbitration process).

Whirlpool Tumble Dryers

(2016-date)
Acting in relation to regulatory decisions and individual claims arising from tumble dryers that were liable to catch on fire (featured on BBC's Watchdog programme).

XYZ v Travelers Insurance Co Ltd

[2019] UKSC 48; [2019] 1 WLR 6075 (SC); [2018] EWCA CIV 1099, [2018] LLOYD'S REP IR 636 (CA); [2017] EWHC 287 (QB), [2017] LLOYD'S REP IR 269 (HC)

Section 51 Supreme Court Act 1981 costs application against non-party insurers in the context of a GLO.

The Mix-Match Hip Litigation

(2014-2018, HC)

Claims against surgeons concerning whether they manufactured a defective product by combining hip implant components from different manufacturers when performing hip surgery

The Sabril Group Litigation

(2007-2010, HC)

Claims concerning whether the epilepsy drug Sabril was a defective product under the Consumer Protection Act 1987 and Product Liability Directive.

Achievements

Appointments

- Queen's Counsel (2020)

- Adjunct Professor, City University of Hong Kong (2020, 2021)
- Recorder (Crime 2018, Civil 2019)
- Attorney General's Panel of Counsel to the Crown: A Panel (2019), B Panel (2014) C Panel (2008)
- Advocacy Trainer (Gray's Inn) (2014)
- Pupil Supervisor (2010)

News, Articles & Publications

Regular Publications

- Civil Court Practice ('the Green Book') (contributor 2016-date)
- Tolley's Employment Law Handbook (contributor 2013-date)

Book Chapters

- *Munkman on Employer's Liability,* Bennett (Ed), chapter on the liability of third parties to an injured employee *(2019)*
- *Research Handbook in EU Health Law,* Hervey & Young (Eds), chapter on EU law and policy on pharmaceuticals marketing and post-market control including product liability *(2017)*
- *Cambridge Companion to European Private Law,* Twigg-Flesner (Ed), chapter on Product Liability *(2010)*
- *Discrimination in Employment,* Tucker & George (Eds), chapter on Injury to Feelings Awards *(2007)*

Articles

- *Procurement of Covid-19 vaccines: why were legal liabilities transferred to the public sector? InDret 2.2021 p364-366 (available here)*
- *Products in a Pandemic: Liability for Medical Products and the Fight against Covid-19 (2020) European Journal of Risk Regulation, 1-39. (available here)*
- *European product liability after Boston Scientific: an assessment of the Court's judgment on defect, damage and causation (2017) 28 European Business Law Review 879*
- *The Product Liability Directive: Time to get Soft? (2013) 4 Journal of European Tort Law 1*
- *Transferred Discrimination in European Law: Case C-303/06 Coleman v Attridge Law (2008) 37 ILJ 384*
- *Direct and Indirect Discrimination: Is there something in between? (2008) 37 ILJ 347*
- *A Dog's Dinner? Reconsidering Contractual Illegality in the Employment Sphere (2008) 37 ILJ 279*
- *Taking Discrimination Personally? An Analysis of the Doctrine of Transferred Discrimination (2008) 19 Kings College Law Journal 265*
- *Expert Evidence: The Requirement of Independence [2008] JPIL 224*
- *Illegally Formed Contracts of Employment and Equal Treatment at Work (2005) 34 ILJ 158*
- *The Development Risk Defence – Knowledge, Discoverability and Creative Leaps [2004] JPIL 258*

Research

- *Common Core of European Private Law – Product Liability Project* (Joint Editor), ongoing.

Education

University of Oxford (St John's College and Universität Regensburg, Germany)
MA English Law with German Law, First Class Honours.

University of Manchester
PhD: *European Product Liability – A Comparative Study of "Development Risks" in English and German Law*

Other

Languages

- German
- French (basic)

Scholarships

- Lord Justice Holker Scholar of Gray's Inn

Memberships

- Discrimination Law Association
- Employment Lawyers Association
- Employment Law Bar Association
- Industrial Law Society
- International Bar Association
- Product Liability Forum of the British Institute of International and Comparative Law

A coming star, now extremely experienced in product liability law

LEGAL 500

Fantastically supportive and an absolute delight to deal with.

CHAMBERS & PARTNERS

Excellent advice and clear guidance

CHAMBERS & PARTNERS

Continues to impress

LEGAL 500

Highly responsive and commercial, has made his mark in this area with his efforts on drafting employment bills intended for Parliament

CHAMBERS & PARTNERS

A rising star according to judges, and has a good presentational style

CHAMBERS & PARTNERS

He is just brilliant in court and relates well to clients

CHAMBERS & PARTNERS

One of the brightest junior counsel

LEGAL 500

A very good, analytical brain

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