



Nathan Tavares KC

Year of Call: 1992

Year of Silk: 2018

Direct Access: No

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Nathan Tavares KC specialises in **clinical negligence**, catastrophic **personal injury claims**, **product liability**, and **professional negligence**. He is regarded by solicitors and opponents interviewed by the legal directories for having "*sound judgment*", "*an industrious approach*", "*a measured and independent perspective*", and "*a good approachable manner*". He is noted to be "*a versatile and quick-thinking communicator*". "*He is very hard-working, conscientious and intellectually very strong.*" "*He is very good on the mechanics of an accident and he is very experienced on brain and spinal injury cases.*"

Other areas of injury litigation in which Nathan has special expertise include **travel law**, aviation accidents (his first degree was in Aeronautical Engineering and he has acted in a number of claims with significant liability issues), claims involving the MoD, and industrial disease litigation. Nathan is an experienced horse rider and has acted predominantly for riding institutions in many horse-related claims. In the leading case of *Mirvahedy v Henley* he acted alone for the defendant at the quantum trial.

Nathan has sat as a judge of the Mental Health Tribunal since 2004. He also sits on the Editorial Board of the Journal of Personal Injury Law to which he is a regular contributor. He is also a contributory author to the legal chapters in *Brain Injury Claims*, a new practitioner text published by **Sweet & Maxwell**.

Nathan has also provided comments on a number of clinical negligence and personal injury cases which are listed at the bottom of this page with links to pdfs of the comments.

Outside of work, Nathan is a keen sportsman and cyclist. In November 2010 he ran the New York Marathon to raise money for the Spinal Injuries Association.

Nathan is a Head of Chambers (Head of Health the Team).

Areas of Expertise

Personal Injury

Nathan is a respected practitioner in complex or catastrophic personal injury claims. He has particular expertise in:

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traumatic brain injury, spinal cord injury, aviation accidents, equestrian accidents, and industrial disease claims.

He carries out both claimant and defendant work. Instructing solicitors include: Stewarts Law, Irwin Mitchell, Slater & Gordon, Royds Withy King, Hodge Jones & Allen, Bird & Bird, Bevan Brittan, Clyde & Co., BLM, Weightmans, Bond Pearce, and Foot Anstey.

He has been involved in some of the largest individual personal injury claims including several with values in excess of £10 million and one in excess of £20 million, and a number of significant multi-party actions (mass tort claims).

Nathan often writes on personal injury topics and is an editor of the *Journal of Personal Injury Law* (Sweet & Maxwell).

Notable Personal Injury cases

Schoultz v Ball and others [2022] EWHC 2452 (KB), instructed by Clare Garnett at Clyde & Co.

Nathan (leading Harriet Jerram, also from OTC) was instructed by the insurer of a horse which strayed onto the A3 in Surrey resulting in serious brain injury to the claimant who was the passenger in a taxi which collided with the horse. The claimant's case was brought under the Animals Act 1971 as there was no negligence on the part of the First Defendant. Nathan led a successful defence of the claim which was dismissed because the claimant failed to establish that the horse was displaying dangerous characteristics (withing the meaning of s.2(2) of the Act) at the time of the impact. The case is a useful example of the potential limitations of expert evidence in a claim under s2(2), and, depending on the specific facts, will give some encouragement to owners in defending Animals Act claims.

A.B. v (1) S.F; (2) Prestige EA Ltd; (3) Zurich Insurance, 2021

Nathan acted for a claimant whose flat exploded due to a gas leak following building works. The claimant sustained severe burns to 90% of his body and was left with extremely significant ongoing disability, both psychological and physical. Interesting liability issues as to whether the landlord or the project manager were liable for the gas installation, as well as interpretation of the Gas Regulations. The claimant recovered a settlement which

S.X.X. by his Litigation Friend, P.B.B v R Ruby & Sotreria Insurance Company Ltd, Approval December 2022

This was an unusually complex claim where Nathan represented a claimant who sustained paraplegia after he was run down at speed by the defendant. At the time of the accident the claimant was suffering undiagnosed cervical spinal stenosis which was likely to have left him tetraplegic in any event if undiagnosed and untreated. Issues revolved around causation and the 'but for' scenario. Also, what level of statutory care funding would be available in the future and what would have been required in any event? The issues brought into play controversial areas of law which would have been challenged had the claim gone to trial, including the extent to which the law must assume competent medical care had the accident not occurred. The claim settled for > £4.5m.

Freeman v Lockett [2006] PIQR P.23

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Represented Claimant in a leading case involving state funding of care issues for a claimant with tetraplegia.

Kotula v EDF Energy

Important claim with separate reported judgments dealing with (1) liability of cyclist using pavement rather than road, 15/6/10, Simon Brown QC; (2) provisional damages for syringomyelia, [2011] EWHC 1546 QB, Irwin J.; (3) security of funding for periodical payments from a foreign insurer with an indemnity limit in euros, 9/11/12 Irwin J.

Edwards v London Borough of Sutton [2014] EWHC 4378 (QB), [2016] EWCA Civ 1005, [2017] PIQR P2

Claim for spinally injured individual concerning extent of occupier's liability for historic structures (the claimant fell from a bridge with a low parapet wall whilst pushing a bicycle).

Sobolowska v Threlfall [2014] EWHC 4219 (QB) (Foskett J)

Successfully claimed for a claimant who sustained a significant traumatic brain injury in a car park where the circumstantial evidence suggested she had been knocked down by the defendant's car, though there were no independent witnesses and the claimant had no knowledge of what happened to her.

Bryant & Others v High Places Limited

Acted alone for claimants in a multi-party action arising out of a coach crash in Argentina. Recovered in excess of £900,000 for the claimants in various round table meetings.

S v MoD

Acting for 'Britain's Strongest Disabled Man' who had suffered an above-knee amputation when shot during a negligently run operation on the life-firing military range in Canada. Recovered greater than £4 million on full liability.

Lear v Hickstead Limited [2016] EWHC 528 QB

Acting for Hickstead International show ground (the defendant) at a trial where the claimant who sustained paraplegia in an accident at the site alleged that the accident was caused by negligence and/or breach of the Occupier's Liability Act 1957. Nathan was successful in having the claim dismissed.

Rankin & others v (1) MANX2 Ltd; (2) Flightline BCN; (3) Lineas Aereas de Andalucia; (4) La Reunion Aerienne

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Acted for the first defendant (instructed by Bird & Bird on behalf of the French insurer) in relation to multiple claimants injured (some fatally) in an air crash that occurred in Cork in 2011. Quantum greater than £2 million.

Hickman, Cervi, Udoaka & others v (1) London Borough of Southwark, (2) London Fire and Emergency Planning Authority, (3) Apollo Property & Building Services Ltd

Acted for one of the defendants in a multi-party action arising out of the Lakanal House fire which was responsible for the deaths of six residents. Also acted for the contractor in a related professional negligence matter.

Clinical Negligence

Nathan has a wide ranging clinical negligence practice with particular emphasis on claims involving spinal cord injury (from spinal surgery, spinal abscess or discitis), birth injuries, and claims arising out of psychiatric negligence. He is ranked as a leader in the field in both *Legal 500* and *Chambers & Partners*.

"He is as good with the numbers as he is on his feet in court." "He always adds value to any case." Legal 500, 2015

"He is very thorough, excellent on quantum and extremely bright." "His client care is excellent. Nathan is super at quantum and very calm." C&P 2015

Notable Clinical Negligence cases

Various Claimants v Ministry of Defence

Nathan is acting in a group action for a number of military personal who suffered long term psychiatric symptoms after negligently being prescribed the anti-malarial drug Lariam whilst on active duty. He is instructed by Irwin Mitchell and is leading Will Young from OTC.

Major issues exist regarding medical causation, namely whether Lariam is capable of altering the brain sufficiently to result in long term psychiatric damage. The chemistry and medicine involved in assessing causation is highly complex, and each party has four experts on medical causation including US neurotoxicologists. The case is of interest to anyone who has been prescribed Lariam (mefloquine) for travel to tropical countries.

FDS (by his litigation friend, JHG) v (1) Oxford University Hospitals NHS Trust, and (2) Dr Elizabeth Dawson [2021] EWHC 1550 (QB)

Nathan is acting for a claimant (instructed by Stewarts) who suffered a catastrophic stroke as a result of negligent prescription of Clopidogrel by the defendants. A settlement of liability was made with D1 at mediation, and the balance of the claim pursued against D2, who then alleged abuse of process, accord and satisfaction and other technical legal principles. The court made an important ruling on multi-party claims of this nature. Appeal to the Court of Appeal has been

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compromised. The claim is now at a stage where the quantum is being determined, with the claim likely to be in excess of £12 million with care costs running at over £500,000 per annum.

Barnett v Medway University Hospitals Trust [2015] EWHC 440 (QB), [2017] EWCA Civ 235

Acted for the claimant (led by Christopher Wilson-Smith QC) in spinal abscess case involving difficult causation issues, and an appeal regarding when a judge may resort to the burden of proof.

AB v Royal Devon and Exeter NHS Trust [2016] EWHC 1024 QB

Successfully acting for claimant in action for delayed diagnosis of a spinal abscess leading to paraplegia. Quantum issues included interesting application of ex turpi causa as the claimant was a drug-abuser.

Hofer v The Bermuda Hospitals Board

Acting for claimant, a German national, who sustained tetraplegia when detained (whilst on holiday) by mental health services in Bermuda. The Hospital sought permission to appeal to the Privy Council in relation to a strike out application. I drafted the documents which were adopted by the Privy Council in refusing permission.

Szatmari v Oxford University Hospitals NHS Trust

Acted for the claimant in a claim for delayed diagnosis of spinal abscess. The assessment of quantum has been complicated by pre-existing morbidity including pancreas transplant and uncontrolled diabetes.

Caton v Epsom and St Helier University Hospitals NHS Trust

Acted for claimant in a hugely complex causation claim involving unexplained neurological symptoms following prolapsed disc and cauda equina syndrome. Numerous interlocutory hearings regarding failure by the defendant to make admissions.

Turnbull v South London & Maudsley NHS Foundation Trust

Instructed for the defendant hospital in a difficult claim arising out of an attempted suicide by a psychiatric patient. Interesting issues involving the duty owed to prevent an individual with a personality disorder from making self harm attempts when there is nothing that can be done to keep them completely safe, and when they need to be encouraged to take responsibility for their own actions.

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Product Liability

Nathan has many years of experience in product liability claims involving personal injury. His expertise includes medical device litigation through to defective consumer products such as vehicles and machine tools (see more particularly below). His instructions have been broadly balanced between claimants and defendants and many claims have involved a foreign element.

Consumer Products

Nathan was retained for a number of years by a foreign consumer machine tool manufacturer (GMC Tools) in relation to all of the English product liability claims brought against it, of which there were numerous claims often with B&Q or Homebase co-defending.

Kadlec v ECM Limited & Lhor Industrie

Acted for defendant French-based manufacturer (instructed by Clyde & Co) of a car transporter in relation to a significant claim brought by a driver who sustained injury after the vehicle allegedly became uncontrollable and over-turned. There were many technical issues regarding the auto-stabilisation system of the vehicle. The claim was compromised.

Harding v Compact Tractors Ltd

Acted for spinally injured claimant for defectively designed and/or marketed small tractor which rolled and crushed the claimant. Instructed by Stewarts Law.

Harris v Collingwood & Kent High Performance Cars LLP

The claimant sustained tetraplegia after the Ferrari car he was test driving crashed. Nathan acted for the claimant who was suing his employer in relation to the defective vehicle and/or unsafe systems of work. Instructed by Stewarts Law.

Daborn v CT Staddon Limited

Product liability claim against supplier of a Rover MGF sports car for defective vehicle where the wheel disintegrated causing the claimant to suffer very severe injury. Claim settled. Instructed by Stones Solicitors.

Medical Devices

Instructed by American manufacturer of mesh products in relation to multiple claims in England & Wales arising out of alleged defects in the products. Claims on-going.

Instructed by numerous claimants in metal on metal hip product liability claims predominantly involving De Puy devices, but also other manufacturers. Instructed by Leigh Day, Pryers, Foot Anstey, and Thompsons.

Instructed for claimant in a claim arising out of defective implanted cardiac defibrillator (ICD). Instructed by Leigh Day.

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Travel

Nathan has considerable experience of claims from accidents abroad. He was recently instructed to advise an Australian insurance company and re-insurer on jurisdiction and choice of law issues in relation to an English woman seriously injured in an RTA in the New Territories. Another recent Australian case involved advising on security of funding of periodical payments in a personal injury action where the insurance was underwritten by the Government of Western Australia.

He is retained by a large multinational pharmaceutical company to represent it in English product liability claims and to advise it on jurisdictional issues.

Notable Travel cases

Qureshi v Liverpool Victoria Insurance Company

Acted for a British national very seriously injured in an RTA on the highway in Spain. The vehicle was registered in the UK, and the driver was an Indian man who was living in Morocco. Liability for the accident was disputed as the cause of loss of control of the vehicle was uncertain. Case settled for £1.5m + PPs of £370,000 per annum. Instructed by Stewarts Law

Rankine & Others v Manx2 Ltd & Others

Acted for Manx2, the airline responsible for a crash at Cork Airport in February 2011, in respect of two fatal accident claims and one personal injury claim. The claims involved the Warsaw and Montreal Convention, and there were jurisdictional issues as well as significant quantum issues. Instructed by Bird & Bird.

Menendez v Metal Processing Limited

Acting for a Spanish national who was injured in an accident whilst at work in England. During the accident both hands were traumatically amputated. There are no jurisdictional issues, but there are issues regarding assessment of quantum and application of multipliers for someone residing in Spain. Instructed by Coles Miller.

Bryant and Others v High Places Limited

Acted for three claimants who were seriously injured in a coach crash in Argentina after returning from a walking expedition in Patagonia.

Wetherall v Gan Assurances IARD

Acting for a member of the RAF who was knocked off his bicycle and seriously injured whilst on a charity cycle ride in southern France. The car which hit him was being driven by French national. There are on-going issues regarding quantification of the damages under French law.

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Court of Protection

Regularly advising on mental capacity issues and on Deputyship matters including the use of Personal Injury Trusts or other vehicles to avoid the need for Deputyship.

Memberships

- Professional Negligence Bar Association
- Personal Injury Bar Association
- Pan European Organisation of Personal Injury Lawyers
- Product Liability Forum

Publications

Please see below Nathan's comments on some clinical negligence and personal injury cases:

- Shaw v Kovac [2017] EWCA Civ 1028
- Cavanagh v Witley Parish Council, 14/2/17 unreported
- Webster (a child) v Burton Hospitals NHS Foundation Trust [2017] EWCA Civ 62
- Harris v Miller [2016] EWHC 2438 (QB)
- Beaumont v Ferrer [2016] EWCA Civ 768
- Wright v Barts Health NHS Trust [2016] EWHC 1834 (QB)
- English Heritage v Taylor [2016] EWCA Civ 448
- Atkins v Co-operative Group Ltd [2016] EWHC 80 (QB)
- Baxter v Barnes [2015] EWHC 54 (QB)
- Jackson v Murray [2015] UKSC 5
- Brown (Widow and Executrix) v Hamid [2013] EWHC 4067 (QB)
- Leigh v London Ambulance Service NHS Trust [2014] EWHC 286 (QB)
- Robinson v Chief Constable of West Yorkshire [2014] EWCA Civ 15)
- Japp v Virgin Holidays Ltd [2013] EWCA Civ 1371)

Recommendations

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