# SPORTS
# PERSONAL
# INJURY

by

Tim Kevan BA (Hons)
Barrister, 1 Temple Gardens

**Chambers of Ian Burnett QC,**
**1 Temple Gardens,**
**Temple, London EC4Y 9BB**
**Tel: 020 7583 1315. Fax: 020 7353 3969**
**E-mail: tim@timkevan.com. Web-site: www.timkevan.com**

# SPORTS PERSONAL INJURY

**by**

**Tim Kevan, Barrister**

**Chambers of Ian Burnett QC, 1 Temple Gardens, Temple, London EC4Y 9BB**

**Tel: 020 7583 1315. Fax: 020 7353 3969**

**E-mail: tim@timkevan.com. Web-site: www.timkevan.com**

***This hand-out has been written for a talk to the Association of Personal Injury Lawyers in London on 16 October 2003. Tim Kevan is the author of four law books, the most recent of which 'Sports Personal Injury' (Sweet and Maxwell, 2002) is the first textbook solely devoted to this subject. He edits his own personal injury newsletter which has wide circulation throughout the industry. People may sign up for free copies of this newsletter at www.timkevan.com/pi.html.***

*Numerous cases throughout the last few years have increasingly brought legal cases involving sporting activities to the public's attention. From the liability for a bad tackle to the failure to provide adequate medical care, the future is likely to see an increase in litigation. Other developments such as guidance provided to schools on physical education teaching and the introduction of the Human Rights Act also look likely to facilitate the infiltration of the law into sport.*

## INTRODUCTION

It has been estimated that there are between six and nineteen million new sporting injuries in this country each year costing some £500 million in treatment and absence from work[1]. Running along side this is the fact that in recent years there have been a number of landmark decisions giving rise to liabilities against, among others: participants in sporting activities, referees and professional bodies. This coupled with the

[1] British Sports Council Survey, *Epidemiology of Exercise*, 1991; *'Sports Law and Litigation'* by Craig Moore (CLT Professional Publishing, 2nd Edition, 2000) at 145

growth of conditional fees means that the number of sports injury cases in this country is only likely to increase.

Related to this has been an increase in awareness of the need for insurance. For example, in July 2000, the Sports Minister Kate Hoey signalled her support for the introduction of a compulsory insurance scheme to benefit more than 500,000 amateur footballers. Further, the Football Association announced that it was considering funding a scheme to provide both personal injury and public liability cover for all its 43,000 clubs.

Whilst only time will tell exactly how the legal and insurance positions will develop in the future, one thing seems certain: that there will be a vast increase in the number of sports injury cases going through the courts.

This Article provides an introduction to some of the legal principles involved in sports-related personal injury cases and in particular those involving claims by one player against another. It then goes on to briefly look at some of the more specific examples which may arise out of sporting activities and finally makes a brief mention of the sporting disciplinary jurisdictions which may well have to take account of the Human Rights Act 1998.

**NEGLIGENCE**

Though often quoted, the best starting point for any examination of a particular area of negligence remains the famous dictum of Lord Atkin in *Donoghue v Stevenson*[2]:

> *"You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who then is my neighbour? The answer seems to be – persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being*

[2] [1932] AC 562 at 580

*so affected when I am directing my mind to the acts or omissions which are called into question."*

**VOLENTI NON FIT INJURIA**

The complication which arises in the sporting context arises from the fact that those involved in the game are usually taken to have consented to the everyday rough and tumble which may reasonably be expected. This is often expressed in the maxim '*volenti non fit injuria*' which describes a defence to a claim in circumstances where it is shown that the Claimant had consented to the breach of the duty of care which is alleged and had agreed to wave his right of action in respect thereof.

However, with regard to the law of negligence, the defence seems to have little if no application on the law as it currently stands. It was specifically examined in the case of *Smolden v Whitworth and Nolan*[3] in the context of an accusation of negligence against a rugby referee for an injury caused by the collapse of a scrum. The Court of Appeal gave short shrift to the argument that the Claimant had consented to the risk of injury of the type sustained by him by voluntarily playing in the front row of the scrum and thereby participating in the collapse:

*"... this argument is unsustainable. The plaintiff had of course consented to the ordinary incidents of a game of rugby football of the kind in which he was taking part. Given, however, that the rules were framed for the protection of him and other players in the same position, he cannot possibly be said to have consented to a breach of duty on the part of the official whose duty it was to apply the rules and ensure so far as possible that they were observed."*

However, the Court of Appeal did go on to give an indication of a particular set of circumstances in which a *'volenti'* defence might arise. If the Claimant had been identified as a prime culprit in causing the scrum to collapse, then it might have required

[3] [1997] PIQR P133

some consideration as to whether or not, by his actions, he should have consented to the risk of injury and to have waived his right of action against the referee for breach of his duty of care.

However, because *volenti* operates as a complete defence, it is more likely that a court will instead turn to the defence of contributory negligence. As Lord Denning stated in *Nettleship v Weston*[4]:

> *"Now that contributory negligence is not a complete defence, but only a ground for reducing damages, the defence of volenti non fit injuria has been closely considered and, in consequence, it has been severely limited".*

Alternatively, the courts appear to have taken the issue of consent into account when initially analysing the duty of care and before even arriving at a consideration of the defences. In *Condon v Basi*[5], Lord Donaldson cited with approval the statements made by the High Court of Australia in the case of *Rootes v Skelton*[6]:

> *"By engaging in a sport ... the participants may be held to have accepted risks which are inherent in that sport ...: but this does not elimate all duty of care of the one participant to the other."*

In general, therefore, subject perhaps to very specific exceptions, there is little basis for saying that a competitor or participant must be taken to have accepted the risk of injury caused by negligence. This was effectively put by Lord Denning MR in *White v Blackmore*[7] in the context of a claim by dependents of a spectator killed whilst watching a jalopy race when he stated:

---

[4] [1971] 2 QB 691 (at page 701)
[5] [1985] 1 WLR 866
[6] [1968] ALR 33
[7] [1972] 2 QB 651 at 663

*"No doubt the visitor takes on himself the risks inherent in motor-racing, but he does not take on himself the risk of injury doe to the defaults of the organisers."*

Taking account of these general principles, the following provides an analysis of a number of specific situations where liability may arise.

## LIABILITY OF PARTICIPANTS TO OTHER PARTICIPANTS

### 1. Assault

Potentially, injury inflicted by one competitor on another may give rise to a cause of action in assault, in other words, trespass to the person. However, such cases are likely to be rare since in order to establish such an action, a Claimant would have to show that the Defendant intentionally inflicted the injury. As Lord Denning made clear in *Letang v Cooper*[8]:

*"When injury is not inflicted intentionally, but negligently, I would say that the only cause of action is negligence and not trespass."*

### 2. Negligence

#### a. Standard of care

With regard to negligence, the key question regards the standard of care which is owed. In the Canadian case of *Agar v Canning*[9], it was said:

*"The conduct of a player in the heat of the game is instinctive and unpremeditated and should not be judged by standards suited to polite social intercourse."*

It was on this basis that, in *McComiskey v McDermott*[10], the duty owed by a rally driver to his navigator was held to be to exercise such care as was reasonably to be expected of a driver going all out to win the rally.

---

[8] [1967] 1 Lloyd's Rep 488
[9] (1965) 54 WWR 302 at 304

The main debate in this area is with regard to the standard of care: whether it is the ordinary standard expected in the law of negligence or whether something more is required in order to establish liability. This would be to take account of the element of consent involved in participation in sports.

Those advocating a higher threshold for liability suggest that the test which should be adopted is the one set out in the case of *Wooldridge v Sumner*[11] in the context of the liability of participants to spectators. In that case, the Court of Appeal held that liability would only be founded if it was shown that there had been a "reckless disregard" for the spectator's safety.

This test has been applied in foreign jurisdictions where negligence was alleged by one player against another, notably in the United States (see, for example, *Nabozny v Barnhill*[12]).

There are two Court of Appeal authorities directly on the issue of the standard of care between participants, namely *Condon v Basi*[13] and *Caldwell v Fitzgerald & ors*[14] and a number of first instance decisions. Given the confusion which often arise in this area it is worth looking at these judgments in some detail. It will be seen that the "reckless disregard" test has now been rejected by the Court of Appeal.

**b. Condon v Basi**

The landmark decision in this area of law came in *Condon v Basi*[15] in which an amateur footballer was held liable for breaking his opponent's leg in a tackle during a local league match. The Court of Appeal stressed the footballing context in identifying the particular implications of the general duty of care. As mentioned above, Lord Donaldson quoted

---

[10] [1974] IR 75
[11] [1963] 2 QB 43
[12] 334 NE 2d 259 (Illinois Appellate Court 1975)
[13] [1985] 1 WLR 866
[14] [2001] EWCA CIV 1054 - Court of Appeal (Civil Division) - Lord Woolf CJ, Tuckey LJ - 27.06.01
[15] [1985] 1 WLR 866

from *Rootes v Sheldon*[16]. He identified two possible approaches in that case which, as he viewed it, had an identical effect:

a. to take amore generalised duty of care and to modify it on the basis that the participants in the sport impliedly consent to taking risks which would otherwise be a breach of the duty of care;
b. alternatively, that there is a general standard of care, Lord Atkins' neighbour principle, under which a player is under a duty to take all reasonable care, taking into account the circumstances in which he is placed.

Thus it was that Mr Basi was held liable for Mr Condon's broken leg, his sliding tackle having been adjudged to constitute 'serious foul play', to have been made in a reckless and dangerous manner (albeit without malicious intent), and to have been worthy of a sending off.

The clear implication is that, in the case of contact sports such as football and rugby, it will be almost impossible to establish liability unless the actions of the defendant are outside the rules of the game. Indeed, the Court of Appeal appear to have been saying that a breach of the rules is virtually a necessary, though not necessarily a sufficient, requirement for liability to attach. In this regard, see for example Law 12 of the Laws of Football entitled 'Fouls and Misconduct'.

Such an approach has also been applied in other sporting contexts. For example:

a. In *Wright v Cheshire County Council*[17], the fac that certain gymnastic activities were being conducted in a manner which was generally accepted, caused the Court of Appeal to overturn a finding of liabilities in respect of injuries caused.
b. In *Gilsenan v Gunning*[18], the 'custom of the slopes' was one ingredient which went into determining the issue of liability in a skiing accident case.

[16] [1968] ALR 33
[17] [1952] 2 All ER 789

Perhaps the most controversial aspect of Lord Donaldson's judgment was that he went on to stress that whilst a standard of care is objective, a higher standard of care may be expected from certain persons and, by way of example, stated that a higher standard was required of a player in a top flight football match than of a player in a local league match.

### c. First instance judgments after Condon v Basi

#### *i. Elliott v Saunders and Liverpool FC*

In *Elliott v Saunders and Liverpool FC*[19], Drake J had to assess liability in the context of professional sport. In that case, the Chelsea player Paul Elliott failed to establish that Dean Saunders, then of Liverpool, had acted with such lack of care as to be in breach of his duty to exercise reasonable care in all the circumstances, when the Defendant's tackle had severed the Claimant's cruciate ligaments. In so holding, Drake J appeared to accept that the circumstances were such that the Claimant would have been able to establish that the Defendant had been guilty of dangerous and reckless play to get home. He went on to accept the evidence of the Defendant that he had raised his feet in the tackle at the last moment in an instinctive attempt to avoid probable serious injury to himself. Such instinctive reactions were not such as, in the learned Judge's view, to give rise to liability in law, occurring as they did in the heat of battle.

Drake J concluded that a deliberate foul or an error of judgment might be capable of giving rise to liability but, ultimately, each case turned on its own particular facts.

However, whilst following *Condon v Basi*, Drake J did not agree with the *obiter* comments by Lord Donaldson in that case that there might be a higher standard of care required of a player in, say, the Premier League than of a player in a local football match. The standard of care in each case was the same, although, the nature and level of the match in question (and accordingly, the standards of skill to be expected from the

---

[18] (1982) 137 DLR (3d) 252

[19] (unreported) 10 June 1994; Halsbury's Laws of England 1994, Annual Abridgement, paragraph 2056

players) would form part of the factual context within which such standard fell to be applied.

If it were otherwise, as Craig Moore points out in *'Sports Law and Litigation'*[20], the principles may lead to the following anomalous situation:

> *"If Lord Donaldson's reasoning is followed to its logical conclusion, its practical effect is that when a Premier League side plays a non-league side in an FA Cup match, the players of the former side owe a higher standard of care to their opponents that the corresponding obligation."*

### *ii. McCord v Swansea City Football Club*

The significant breakthrough, in terms of a successful negligence claim by one professional player against another, came in *McCord v Swansea City Football Club*[21], when an award estimated to be in the region of £250,000 was made to a former Stockport County player, Brian McCord, whose career ended when he broke his leg in a tackle. Kennedy J found that the Swansea City player, John Carnforth, had been negligent when he challenged McCord for a loose ball in a game in March 1993. The court ruled that the tackle, in which Carnforth slid on one leg with his right foot over the ball as the pair went for a fifty-fifty ball, was "an error which was inconsistent with his taking reasonable care towards his opponent". He said that he had adopted the stance that an "ordinary, reasonable" spectator would take and concluded that the tackled was inconsistent with reasonable care.

### *iii. Watson v Bradford City AFC v Gray and Huddersfield Town FC*

This case was followed by *Watson v Bradford City AFC v Gray and Huddersfield Town FC*[22] in which the Bradford City player, Gordon Watson, succeeded in his negligence action against Kevin Gray and his club, Huddersfield Town, following an incident in a Nationwide League first division match in February 1997 in which Watson sustained a

[20] CLT Professional Publishing, 2nd Edition, 2000
[21] QB Transcript 19 December 1996
[22] [1998] Times 26 November

double fracture of his right leg. At trial, Hooper J formulated the following test for negligence in player against player actions in the context of a professional football match:

> *"Had it been shown, on a balance of probabilities, that a player would have known there was a significant risk that if he tackled in the way he did, the other player would be seriously injured?"*

On behalf of the Claimants, the test was agreed subject to the following conditions: that the test was an objective one; given that the duty must take account of the circumstances in which the player finds himself (see Condon), the standard must be that of a reasonable professional player; and the formulation encompassed within it not only the standard of care, but also the concept of *volenti* or consent.

The approach by Hooper J suggests a two-pronged approach:

a. The risk must be significant;

b. The risk must be of serious injury.

As an aside, it should also be noted that the *Watson* case involved a claim by Watson's club for the loss of his services and other associated losses. They argued that Gray had unlawfully interfered with Watson's contract of employment. To that end, it was accepted on behalf of Bradford that it needed to establish recklessness for the purposes of the tort of unlawful interference with contract (a so-called "intentional" tort). In the event, the court found that the tackle was negligent but not reckless, and Bradford's claim therefore failed at the first hurdle. As Craig Moore states in 'Sports Law and Litigation' (above), "It remains to be seen whether a club can recover for losses that it incurs as a result of the loss of one of its players due to the negligent infliction of injury caused by another player."

### *iv. Pitcher v Huddersfield Town Football Club Ltd*

In *Pitcher v Huddersfield Town Football Club Ltd*[23] the claimant was a professional footballer. He had started playing from a young age and was signed by Crystal Palace in 1994. He had a regular place in the first team and had played numerous league games and cup matches. Whilst playing against the defendant team he was injured by one of their players, Paul Reid, who it was alleged chased the claimant and lunged at him with his left leg and struck him with his boot on his right knee. This caused the claimant to suffer severe injury to his knee that was irreparable. The claimant immediately knew that something serious had happened and when he looked down he saw that there was a stud mark imprint on his knee. The claimant argued that the defendant was negligent and that Paul Reid failed to exercise reasonable skill and care and that his standard of football fell below that expected of a professional footballer. The claim was for more than £1million.

Hallett J held that the defendant was not in breach of its duty of care and could not be liable in negligence for this type of injury despite expert evidence in support of the claim from Sky Sports pundit Frank McLintock and [then] Crystal Palace manager David Bassett. Paul Reid was guilty of a mis-timed tackle and an error of judgment. The expert evidence given by Jimmy Hill and Frank Clark on behalf of Huddersfield T.F.C., was that this type of tackle was seen many times every Saturday afternoon. Hallett J accepted this and held that the tackle was nothing more than an "error of judgment" and was the type of challenge which occurred up and down the country every Saturday in the First Division. She said that the claimant had not shown that the challenge crossed "the high threshold to take this case from a simple late tackle, albeit one with tragic consequences, to one of negligence". In other words an "error of judgement" was still not negligence, especially in the context of a fast moving game.

Further, there was no evidence to support the claimant's assertion that there were stud marks imprinted on his knee after the injury. The physiotherapist could not remember

[23] Queen's Bench Division - Hallett J - 17.07.01.

seeing such an injury on the claimant's knee and neither could his manager or his doctor. It was accepted that certain sports carried a risk of injury and that the level of care required was tailored to each set of circumstances. It was for the claimant to establish on the balance of probabilities that the conduct of Paul Reid fell below the standard of a professional footballer. The claimant could not establish this and did not have enough evidence to support his claim in negligence.

**d. Caldwell v Fitzgerald & ors**

Just before the judgment in *Pitcher v Huddersfield Town Football Club Ltd* came out the Court of Appeal gave judgment in the related case of *Caldwell v Fitzgerald & ors*[24]. In that case the claimant was a jockey participating in a National Hunt race. The defendants were fellow competitors. The first defendant, riding a horse called Master Hyde, and the second defendant, on Mr Bean, crossed the path of Royal Citizen ridden by B on the inside rail of the racecourse and three quarters of a length behind. Royal Citizen shied from the closing gap, unseated B and hampered Fion Corn, ridden by the claimant, with the result that the horse fell, causing personal injury to the claimant. Neither defendant had looked to the left before going for the rail and so crossing Royal Citizen's path, nor heard B shouting out a warning as they encroached. At a subsequent steward's enquiry the two defendants were found guilty of careless riding contrary to rule 153(iii) of the Jockey Club Rules in not having left B enough room to come round the inside rail.

The claimant subsequently brought an action in negligence claiming damages for personal injury. Expert evidence was given to the effect that the defendants should not have taken the inside line until a full length in front of Fion Corn and should have looked to the left before changing course. On 1 February 2001 Holland J dismissed the claim, having found the defendants not liable in negligence, each of the defendants being guilty of a lapse of care which did not surmount the threshold of liability. In doing so he stated that in determining the standard of care required by one sporting participant to another the threshold for liability in practise was

[24] [2001] EWCA CIV 1054 - Court of Appeal (Civil Division) - Lord Woolf CJ, Tuckey LJ - 27.06.01

inevitably high and that in practise it might therefore be difficult to prove any such breach of duty absent proof of conduct that in fact amounted to reckless disregard for the fellow contestant's safety. The claimant appealed. It was submitted on his behalf that the judge had applied too low a test to the relevant standard of care, in effect equating breach with deliberate or reckless disregard for safety; in any event the judge should have found the defendants liable.

The Court of Appeal held that the judge had applied the correct test. He had helpfully identified the circumstances that had to be considered in the particular circumstances of the case. All that he had then gone on to say was that in practice, given the circumstances which he had identified, the threshold for liability was high. Lord Bingham had said the same of a referee in *Smolden v Whitworth*[25]. The judge had not said that a claimant had to establish recklessness. That approach had been specifically rejected by the court in *Smolden* (above). As in *Smolden* there would be no liability for errors of judgment, oversights or lapses of which any participant might be guilty in the context of a fast-moving contest. Something more serious was required. The relevant principles to be applied emerged clearly from the Court of Appeal decision in *Condon v Basi* and *Smolden*.

Further, it was held that the defendants were not to be characterised as negligent. The transcript showed that the experts had been less agreed than the judgment suggested, with one expert saying that similar incidents occurred as many as five or six times in the course of a day's racing. Having seen the video evidence, the judge's conclusion could not be faulted. The incident had occurred in the last part of a close race. The defendants should, as they had admitted and the judge had found, have checked to see that the line they were taking was safe. However, their failure to do so could not be characterised as anything more than an error of judgment, an oversight or a lapse of which any participant might be guilty in the context of a race of that kind. It was the sort of incident which happened quite often.

[25] (1997) ELR 249

## 3. Conclusion

Overall, as the above makes clear, the law in this area is still developing and only time will tell how it will do so in the future. However, from these cases and in particular *Condon* and *Caldwell*, the following principles may perhaps be tentatively suggested as to the standard of care:

1. there is a general standard of care, namely the Lord Atkin approach in *Donoghue v. Stevenson* that a player is under a duty to take all reasonable care taking account of the circumstances;
2. the standard appears to be objective, but objective having regard to the particular set of circumstances;
3. the circumstances are of crucial importance to the level of care required;
4. liability will not attach for errors of judgment, oversights or lapses of which any player might be guilty in the context of a fast moving and vigorous context; something more serious is required;
5. the threshold of liability is a high one which is not easily crossed.

Perhaps, ultimately, it comes down to a question of fact in the particular case: should this player be found to be liable for the injuries he has caused? Did he act unreasonably in all the circumstances? Another simple way of looking at this problem may be to use a dictum of Lord Denning from a different context in the case of *Lane v Holloway*[26]. In that case the claimant had challenged the defendant to a fight (after one of them had referred to the other's wife as a "monkey faced tart"), in the course of which, however, the claimant was injured by a severe punch in the eye. In holding the defendant liable, Lord Denning MR remarked that the defendant:

> *"... went much too far in striking a blow out of all proportion to the occasion".*

Although that case was one where the cause of action was assault and the discussion centred on the issue of consent, it is suggested by David Griffith-Jones and Adrian Barr-

[26] [1968] 1 QB 379 at 388

Smith in *'Law and the Business of Sport'*[27] that the concept of acting "out of all proportion to the occasion" is a useful one when considering the nature and extent of a sportsman's liability to his opponents and fellow competitors.

One thing is clear: given the possibility of liability it would be advisable for all those taking part in sporting activities to make sure that they are adequately insured, certainly against third party liabilities. In the absence of this, players or clubs may find that they face bankruptcy in certain situations. This is all the more so since with the recent developments in the law coupled with the rise of no win, no fee litigation, the number of cases in this area looks as if it will inevitably increase in the next few years.

The following examples highlight the risk:

a. *A non-league club is drawn against Manchester City in the third round of the FA Cup. Without adequate insurance, can the players afford to try and tackle the likes of Robbie Fowler and Steve McManaman whose loss of earnings claims would probably amount to millions of pounds?*
b. *A top banker is playing in a Sunday morning kickaround. Once again, without adequate insurance, can any of his opponents afford taking the risk of tackling him?*

**LIABILITY OF REFEREES**

The potential liability of referees has come to the fore with two recent ground-breaking decisions: *Vowles v Evans & Welsh Rugby Union*[28] and *Smoldon v Whitworth and Nolan*[29].

**1. Smoldon v Whitworth and Nolan**

[27] Butterworths, 1997 at page 12
[28] [2003] 1 WLR 1607
[29] [1997] PIQR P133

In *Smoldon*, a referee of a colts rugby union match was found liable for very serious injuries suffered by the Claimant as a consequence of a collapsed scrum. The referee had allowed numerous scrums to collapse in what was, by all accounts, an ill-tempered match. The case itself was an extreme one on the facts which included the following set of circumstances:

a. the game was a colts (under 19) game;
b. the laws of the game as applied to colts had been specifically revised by the International Rugby Football Board to reduce the risk of such injuries, in particular by requiring that scrums should be required to form a defined sequence of crouch-touch-pause-engage;
c. the International Board and the defendant's own Society of Referees had issued directives and minutes emphasising the importance of the above rule;
d. prior to the accident, the defendant had failed to enforce those rules and allowed the scrums to 'come in hard' which had lead to more than twenty collapsed scrums;
e. the referee had failed to take appropriate steps to enforce the laws, even in the face of a warning from one of his touch judges that someone would get hurt if he did not step in and also in the face of shouts from spectators and complaints from certain players.

The Court of Appeal emphasised that the threshold of liability is a high one and further that all the circumstances had to be taken into consideration. The referee could not be properly held liable for errors of judgment, oversight or lapses of which any referee might be guilty in the context of a fast-moving and vigorous context.

However, they distinguished the duty owed by referees to players from that owed by players to spectators (analysed in *Wooldridge*, for which see below). They concluded that a referee owes a higher duty to the players under his control than a player does to a spectator.

## 2. Vowles v Evans & Welsh Rugby Union

This case was followed by that of *Vowles v Evans & Welsh Rugby Union*[30]. In that case the Court of Appeal upheld a judgment against a referee of an adult amateur rugby match holding in particular that such a referee owed a duty of care to the players to take reasonable care for their safety when carrying out his refereeing duties and further that his breach of that duty caused the claimant's injury.

The Claimant ("V") was injured while playing as hooker for the Llanharan RFC 2nd XV in a local Derby in 1998. The game was played under the 1997 version of the laws of the game issued by the council of the International Rugby Football Board. After about 30 minutes of play one of the Llanharan prop forwards dislocated his shoulder and had to leave the field. There was no suitable replacement on or off the field and the referee offered Llanharan the option to continue with non-contested scrums, although that would mean that they would not be entitled to any league points if they won. Llanharan preferred to continue the match with a flanker ("J") playing as prop. The referee agreed to that course without asking J or anyone else about his previous experience. V was injured at the very end of the game and claimed that the referee was liable for his injury and that the second defendant, the Welsh Rugby Union was vicariously liable. The judge held that the referee did owe C a duty of care, that he was in breach of that duty and that the breach of duty was a cause of C's injury.

The Court of Appeal upheld this decision holding in particular that it was fair, just and reasonable to impose a duty of care on the referee of an adult amateur rugby match. It was open to the judge to proceed on the basis that it was possible for referees or the WRU to obtain insurance cover against third party liability. In the absence of evidence that was a reasonable assumption to make. Rugby was an inherently dangerous sport. Some of the rules were specifically designed to minimise the inherent dangers. Players were dependent for their safety on the due enforcement of the rules. The role of the referee was to enforce the rules. Where a referee undertook to perform that role, it was fair just and reasonable that the players should be entitled to rely on the referee to

[30] [2003] 1 WLR 1607

exercise reasonable care in doing so. Therefore, a referee of a game of rugby football owed a duty of care to the players. As to the standard of care to be expected of the referee, it depended on all the circumstances of the case. It was again emphasised that the threshold of liability was a high one. In this case the referee's qualifications were appropriate for the 2nd XV game he was refereeing. The allegations of breach of duty made against him did not involve any higher standard of skill than basic competence.

In relation to the breach of duty, the referee had failed properly to apply the provisions of law 3(12). He did not ask the Llanharan captain whether he had anyone suitably trained or experienced to be tried in the front row. Nor did he ask J that question. The true position was that J was not suitably trained or experienced so as to be fit to play safely in the front row. The referee could not therefore have permitted him to be tried in the front row under law 3(12). The referee should not have offered Llanharan the option to continue with non-contested scrums or to try J as prop. The Court of Appeal therefore found that the judge rightly found that the referee abdicated his responsibility of deciding whether it was mandatory to insist on non-contested scrums. That was a breach of the referee's duty to exercise reasonable care for the safety of the players. Finally, they held that it was open to the judge on the evidence to infer that J's lack of technique, training and experience as a prop was a significant cause of the claimant's accident in the final scrum.

## 3. The future for referees

Whilst these case do not necessarily open the floodgates for litigation against referees, they will no doubt lead to other actions over the course of the next few years.

Interestingly, a boundary has already been reached in one instance involving the referee Mike Read who refereed the Chelsea – Leicester FA Cup Fifth round replay at Stamford Bridge in February 1997. Mike Reed awarded a penalty to the home side which led to the winning goal and which gave rise to much controversy. Proceedings were issued against Mr Reed and the Football Association by some Leicester supporters who claimed compensation for the severe distress and anxiety which they allegedly suffered as a

consequence of his decision, compelling them to take time off work to recover from the physical trauma.

The claim was struck out as an abuse of the process of the Court. No doubt issues of duty of care, breach, foreseeability and causation formed part of the reasoning for this decision. However, it does not necessarily mean that clubs themselves may consider some form of claim in the future for the actions and decisions of match officials.

**LIABILITY OF PARTICIPANTS TO SPECTATORS**

The leading case with regard to the liability of participants to spectators is *Wooldridge v Sumner*[31]. The Claimant was a photographer who was sitting close to the arena on an equestrian event when a horse ridden by the Defendant went out of control and collided with him. The Defendant was a skilled and experienced rider and although he was thrown in the accident he rode the horse again and it was judged to be champion of its class. As mentioned above, the Court of Appeal held that in order to establish liability it had to be shown that the participant intended to injure the spectator deliberately, or that he displayed a reckless disregard for the safety of spectators.

On the facts, the Defendant was found to have simply made an error of judgment which did not amount to negligence. In particular, Diplock LJ stated:

> *"If, in the course of a game or competition, at a moment when he has not time to think, a participant by mistake takes a wrong measure, he is not to be held guilty of any negligence".*

The other leading case is *Wilks v Cheltenham Home Guard Motor Cycle and Light Car Club*[32] in which the Court of Appeal held that a competitor was entitled to strain himself in order to win, provided he did not act in a foolhardy manner.

---

[31] [1963] 2 QB 43
[32] [1971] 1 WLR 668

The importance of these cases is as much in their role in developing the law in relation to sporting activities as it is to the specific questions addressed. With the greater awareness of the need for safety at sporting events, it is probably likely that such cases will become rarer as time goes on. However, any safety procedures would struggle to deal with wholly unpredictable forms of behaviour such as that displayed by Eric Cantona when he made his infamous kung-fu kick on a spectator[33].

**LIABILITY OF PROFESSIONAL BODY TO PROVIDE MEDICAL FACILITIES**

A very specific area of liability gained notoriety following the relatively recent case of *Watson v British Board of Boxing*[34]. In that case, Kennedy J held that the British Board of Boxing ('BBBC') had been negligent in failing to provide adequate emergency medical facilities at the world middleweight title fight between Chris Eubank and Michael Watson. Watson sustained serious head injuries when he was knocked out by Eubank in the final round. He was provided basic attendance to in the ring but there was a delay of some twenty-eight minutes in transferring him to hospital, during which time Watson suffered irreversible brain damage.

Kennedy J firstly found that the BBBC had owed Watson a duty of care. The Board controlled professional boxing within the United Kingdom and those playing any role in the sport had to become a member and abide by its rules. Although the Board neither organised nor had any contractual involvement in any contest that took place under its aegis, it did give its blessing to contests where the safety arrangements were those of its making, and promoters and boxers looked to the Board's stipulations as providing the appropriate standards of safety. There was a clearly foreseeable danger and it was not necessary to go beyond the traditional neighbour principle to find a duty.

---

[33] *R v Cantona* [1995] Times 24 March

[34] [1999] Times 12 October, Kennedy J; [2001] TLR 2 February; [2001] ILR 11 January, CA

In finding that there was a breach of that duty, Kennedy J held that steps should have been taken to address a particular and serious risk which was one of a limited number that was likely to arise. Since 1980, the agreed standard response for the presence of sub-dural bleeding was to administer the diuretic drug Mannitol which would have required a ringside doctor with knowledge of the regime to administer it. In failing to institute such a system it was held that the Board was in breach of its duty. Further, it was held that if the appropriate treatment had been available at the ringside, the time saved would have mitigated the effects of the injury and the likelihood was that he would have made a much better recovery.

This judgment was later upheld by the Court of Appeal. They held, among other things, that as regards the issue of breach of duty the judge had made proper findings on the evidence. The issue was simply whether proper care was used in making provision for medical treatment of Mr Watson and the ordinary test of reasonable skill and care was the correct one to apply. Serious brain damage represented the most serious risk posed by the sport, and the judge was entitled to find that it should have been addressed by the adoption of a resuscitation facility at ringside, something that anyone with the appropriate expertise would have advised. It was the duty of the Board, and of those advising it on medical matters, to be prospective in their thinking and to seek competent advice as to how a recognised danger could be best combated. Further, a defendant seeking to disturb the findings of fact of a trial judge in relation to causation undertook a hard task. In the instant case the judge was entitled to find on the evidence, that had the correct system of care been in place, the outcome of Mr Watson's injuries would have been significantly better.

This case raises issues not only for the sport of boxing but also in differing degrees to many other sports such as martial arts, rugby and football. In the light of the *Watson*, it will certainly be advisable for professional bodies to undertake risk assessments and provide appropriate levels of medical facilities and further to keep the participants

informed as to the results if they decide not to provide particular medical cover in order that they may make their own arrangements as necessary[35].

**LIABILITY OF SCHOOLS**

Another area of law which will probably lead to increased litigation in the future is that of the liability of teachers and their schools to their pupils during sporting activities. Until the last few years, there has been very little specific guidance to teachers as to exactly how their roles should be performed. This has led to difficulties in determining whether they have breached such duties.

For example, in *Gibbs v Barking Corporation*[36], a schoolteacher was found liable for failing to supervise when a schoolboy injured himself while attempting a vaulting exercise in a gymnastics class. However, in *Wright v Cheshire County Council*[37], a teacher was exonerated from blame for injuries sustained by a twelve-year old boy who fell during a vaulting exercise in a school gym. Then, in *Hampshire CC v Jones*[38], the Court of Appeal upheld a finding of liability for an accident which took place in 1983 in which a pupil fell from a vaulting horse, breaking her arm.

The major recent development in this area of law is that physical education has been included as a core subject in the national curriculum (see the Education (National Curriculum)(Attainment Targets and Programmes of Study in Physical Education Order 1995 (SI 1995/60)). The core elements of the Order which should be read in conjunction with the HMSO publication Physical Education in the National Curriculum, target risk assessment, risk monitoring and risk minimising, a sequence which reflects the demands of European Law and the scheme of the new health and safety regulations which were introduced on 1 January 1993 (the so-called "six-pack").

---

[35] See in particular Moore in 'Sports Law and Litigation', above
[36] [1936] All ER 115
[37] [1952] 2 All ER 789
[38] (unreported, 20th March 1997)

The guidance given in these documents means that it will be much easier for Claimants to point to specific breaches of a standard of care in particular cases. In the light of the 1995 Order and the other guidance provided in the last few years, Claimants will have much stronger grounds for making criticisms of bad practice than they ever did before.

Clearly, claims made by people injured as a child can be very expensive to insurers due to the risk of large claims for loss of earnings. An example is seen in the case which was reported in *The Times* on 13 February 1998 in which a man who sustained brain injuries as a schoolboy when he ran into a javelin held by another pupil accepted damages of £225,000 in settlement of his negligence claim against Berkshire County Council.

Only time will tell exactly how the recent developments will affect the amount of litigation in the future.

**DISCIPLINARY JURISDICTIONS**

Finally, brief mention should also be made of the disciplinary jurisdictions of sporting bodies. In the present context, the jurisdiction's significance is twofold. First, any finding of misconduct may then be used in a subsequent civil action. Second, any sanctions which are imposed may themselves cause damage to the athlete concerned. Therefore, the question arises as to what rights an athlete holds in these proceedings.

In the past, applications for judicial review of the decisions of sporting bodies have failed mainly on the ground that they constituted domestic rather than public tribunals. See for example, *Law v National Greyhound Racing Club Ltd*[39] and *R v Jockey Club, Ex parte The Aga Khan*[40]. This has been so even since the decision in *R v Panel on Take-Overs and Mergers, Ex parte Datafin*[41] which widened the scope of judicial review to include bodies other than those created by statute.

[39] [1983] 3 All ER 300
[40] [1992] Times 9 December
[41] [1987] QB 815

However, two recent developments suggest that the courts may take a different approach in the future. The first is the case of *Jones and another v Welsh Rugby Football Union*[42]. Jones was sent off whilst playing for his club, Ebbw Vale, after a fight with an opponent during a game against Swansea. He claimed that the four week suspension imposed by the Welsh Rugby Union's disciplinary committee was unfair. He suffered from a bad stammer and said that the handicap prevented him from putting his case effectively. Additionally, the committee's rules did not allow for legal representation, the questioning of evidence, or the playing of the match video before the hearing.

Ebsworth J observed that for many years sporting decisions had been made from "wet and windy" touchlines, but the modern professional game meant that such rulings now affected many people who earned their living from the game. The Judge said that Jones had been given "no real rights" and that the punishment was of "unreasonable length". Crucially, she said that it was "naïve" to argue that the decision of disciplinary committees could not be challenged in court because the sanctions imposed now had economic results on those affected. Ebsworth J said that since a player had to be registered with the Welsh RU and was subject to its disciplinary code, there was a form of contract between the two. She urged the committee to settle its case internally, which suggests a lingering reluctance on the part of the judiciary to rule on such disputes if possible.

The other main development is the incorporation of the European Convention of Human Rights into English law and in particular Article 6 and the right to a fair trial through the Human Rights Act 1998. In the future, when considering an application for judicial review, a court must take into account any relevant judgment, decision, declaration or advisory opinion of the European Court of Human Rights, or any other convention institution. Critically, the 'proportionality' test requires judges to consider whether or not there were any significant alternative courses of action which might have achieved the same end less oppressively.

---

[42] [1997] Times 6 March

With specific reference to the right to a fair trial, in *Moreiva de Azedo v Portugal*[43] the Court held that:

> *"right to a fair trial holds so prominent a place in a democratic society that there can be no justification for interpreting Article 6(1) restrictively."*

The requirement also imposes an obligation to provide a reasoned judgment in respect of any decision which is decisive of the outcome[44]. It will probably be sufficient if the reasoned judgment consists of a clear (albeit brief) statement of reasons[45]. Procedural delays and the composition of the disciplinary tribunal are just two of a number of other potential considerations under Article 6.

Only time will tell how the law will develop in this area but it seems highly likely that disciplinary tribunals are going to have to get used to the presence of lawyers ensuring that their clients get a fair hearing. The stakes are too high for it to be otherwise.

## QUANTUM IN SPORTS CASES

Damages for sporting injuries come in many forms and this guide looks very briefly at just a few of them.

### 1. General damages

Very often courts take account of the loss of ability to play sport as in itself a factor which may increase the value of the claim. In *Tsipoloudis v Donald*[46], it was specifically held that damages can be awarded for loss of opportunity to enjoy sport. As Lord Pearce said in *H. West & Son Ltd v Shephard*[47]:

---

[43] [1990] 30 EHRR 721
[44] See *Hadjianastassiou v Greece* [1992] 16 EHRR 219
[45] See *Stefan v GMC* [1999] Times 11 March
[46] CA, 11.12.98 (unreported). Referred to in *'Sports Law'* by Beloff, Kerr and Demetriou, First Edition, 1999, Hart Publishing, at para. 5.70
[47] [1964] AC 326 at 365

*"If, for instance, the plaintiff's main interest in life was some sport or hobby from which he will be debarred, that too increases the assessment."*

It should also be remembered that if the participation in a sport was a significant part of the Claimant's life before the accident, there may also potentially be a claim for psychological injury depending upon the particular circumstances of the case[48].

**2. Loss of a Chance**

Claimants injured in the sporting context should also bear in mind the possibility of claiming damages for the loss of a chance. In assessing the value of the lost chance, the usual civil standard of the balance of probabilities may not apply. In *Davies v Taylor*[49], Lord Reid said as follows:

*"When the question is whether a certain thing is or is not true - whether a certain event did or did not happen - then the court must decide one way or the other. There is no question of chance or probability. Either it did or it did not happen. But the standard of civil proof is a balance of probabilities. If the evidence shows a balance in favour of it having happened then it is proved that it did in fact happen . . . You can prove that a past event happened, but you cannot prove that a future event will happen and I do not think that the law is so foolish as to suppose that you can. All that you can do is to evaluate the chance. Sometimes it is virtually 100 per cent.: sometimes virtually nil. But often it is somewhere in between. And if it is somewhere in between I do not see much difference between a probability of 51 per cent. and a probability of 49 per cent."*

Damages for loss of a chance may therefore potentially be assessed in proportion to that chance, subject to the *de minimis* principle that no account is to be taken of possibilities which are very small, speculative or fanciful. The assessment process must take uncertain events into account. As a matter of fact, an athlete's chances of winning a

[48] See 'All in the Mind', by Tim Kevan and Dr Hugh Koch, *Solicitors Journal*, 4 October 2002, pages 879-880

[49] [1974] AC 207 at 213

competition would turn on many contingencies such as his form at the time of the competition, the form of his competitor and the avoidance of injury. It is immaterial that such contingencies render the assessment of damages uncertain. In the case of *Chaplin v Hicks*[50] the claimant lost the chance of winning a prize. Vaughan Williams LJ said:

> *"It was said that the plaintiff's chance of winning a prize turned on such a number of contingencies that it was impossible for any one, even after arriving at the conclusion that the plaintiff had lost her opportunity by the breach, to say that there was any assessable value of that loss. It is said that in a case which involves so many contingencies it is impossible to say what was the plaintiff's pecuniary loss. I am unable to agree with that contention. I agree that the presence of all the contingencies upon which the gaining of the prize might depend makes the calculation not only difficult but incapable of being carried out with certainty or precision. The proposition is that, whenever the contingencies on which the result depends are numerous and difficult to deal with, it is impossible to recover any damages for the loss of the chance or opportunity of winning the prize. In the present case I understand that there were fifty selected competitors, of whom the plaintiff was one, and twelve prizes, so that the average chance of each competitor was about one in four. Then it is said that the questions which might arise in the minds of the judges are so numerous that it is impossible to say that the case is one in which it is possible to apply the doctrine of averages at all. I do not agree with the contention that, if certainty is impossible of attainment, the damages for a breach of contract are unassessable."*

The leading case in this area with regard to sports is now that of *Langford v Hebran and Nynex Cablecomms*[51]. It was an appeal by the defendants from the judgment of Klevan J, by which he awarded the claimant ('L') damages of £423,133 for personal injuries sustained in a road traffic accident, which included £57,379 plus interest for past and £326,368 for future loss of earnings. L, who was aged 27 at the time of the accident, had

[50] [1911] 2 KB 786 CA
[51] [2001] PIQR Q13

been working as a trainee bricklayer for five months prior to the accident. He was also a world champion amateur kick-boxer, had won his first professional fight, and was predicted to become a world champion professional kick-boxer as well as becoming a kick-boxing instructor upon retirement.

The judge, following the approach approved in *Doyle v Wallace*[52], calculated the loss of earnings claim on the basis of:

i. a basic claim, which assumed that L would have had a professional fighting and teaching career of some nine years, during which he would have continued to work part-time as a bricklayer, following which he would have reverted to bricklaying until he was 60 years old; and
ii. a percentage of each of four alternative career scenarios based upon L's probable career as a kick-boxer and instructor.

In relation to stage ii. the judge calculated the respective chances of each career scenario (in escalating success) on a 'stand alone' basis as: (a) 20%; (b) 40%; (c) 30%; and (d) 10%. The defendants advanced a number of criticisms of the judge's calculation.

The Court of Appeal held that only two criticisms of substance were made out. First, the judge had assumed far too high a figure for L's potential earnings as an instructor. Secondly, the judge's assessment of the career chances was illogical. It could not have been logically correct that L's chance of achieving career scenario (b) was greater than the chance of achieving scenario (a), when L could only have hoped to attain scenario (b) by first attaining scenario (a).

They went on to state that this flaw fatally undermined the judge's approach to the evaluation exercise. At the invitation of the parties the court considered that the appropriate percentage chances on an 'additional claim' basis were: (a) 80%; (b) 66%; (c) 40%; and (d) 20%.

---

[52] [1998] PIQR Q146

The net result of the approach that the court considered should have been adopted below would have been to reduce the total amount awarded by the judge for lost earnings, past and future, by £11,677. That reduction was so comparatively small that it would not have been right to interfere with the judge's award.

Another possible approach in this area would be for a court to make an award for a claimant's disability on the sporting labour market (pursuant to *Smith v Manchester Corp.*[53]). For the guiding principles which govern such an award, the reader is referred to *Kemp & Kemp, The Quantum of Damages, paragraphs 6-151 to 6-161 and 6-700 to 6-724.*

Finally, in this regard, the reader should also bear in mind the case of *Herring v Ministry of Defence*[54], in which the Court of Appeal did not assess the loss of a chance in the way which is mentioned above. They held that traditionally, with the exception of special circumstances, the assessment of future loss of earnings had not necessitated the application of percentage assessment techniques for "loss of a chance" based on the likely actions of third parties. Where the career model adopted by the judge had been chosen because it had in itself been the appropriate baseline and/or was one of a number of alternatives likely to give similar results, it was neither necessary nor appropriate to adopt the "percentage chance" approach in respect of the possibility that the particular career identified would not have been followed after all. This should therefore be borne in mind as a caveat to the above analysis as to loss of a chance.

## 3. Specific examples

There are very few reported cases on assessing damages in the sporting context but readers may particularly bear in mind the following cases:

[53] (1974) 17 KIR 1; (1974) 118 SJ 597, CA
[54] [2003] Times 11 April

*a.* *Singleton v Knowsley Metropolitan Borough*[55]: £12,000 (≈ £26,300 today) for loss of chance of boxing career and employment in consequence of such career (2/82);

*b.* *Gibbens v WJ Curley & Sons*[56]: £3,500 (≈£41,800 today) general damages including potential loss of a chance to play professional football (1/65) (of which perhaps £20,000 or so for loss of amenity possibly although unclear from report);

c. *Girvan v Inverness Farmers Dairy (No. 1)*[57]: probably approximately £15,000 to £20,000 estimated as a reasonable award for mental anguish of being unable to clay pigeon shoot (although jury awarded more);

*d.* *Watson v Gray*[58]: £25,000 general damages (7/99) of which perhaps approximately £10,000 to £15,000 reflected the enhanced loss of amenity to a professional footballer of such an injury, together with the loss of congenial employment as a result of his likely premature retirement from the game;

*e.* *Dibble v Carmarthen Town Council*[59]: settlement of £20,000 general damages and loss of earnings to a professional footballer;

f. *Cooper v William Press & Son*[60]: £3,000 pain, suffering and loss of amenities (11/73) (approximately £22,000 today, of which perhaps ≈£10,000 to £15,000 for loss of ability to continue wrestling);

*g.* *Ostling v Hastings*[61]: £20,000 general damages (11/97) (approximately £22,000 today) of which perhaps approximately £10,000 to £15,000 awarded for loss of six years' rowing, possibly less;

h. *Mulvaine v Joseph*[62]: £1,000 (approximately £11,000 today) general damages for loss of opportunity of competing in five golf tournaments, the ensuing loss of experience and prestige, and loss of chance of winning prize money (11/68);

---

[55] [1982] CLY 840
[56] [1965] CLY 1141
[57] [1995] SLT 735; (No. 2) [1996] SLT 631; (HL) [1998] SLT 21
[58] [1999] CLY 1510; (1999) 99(4) QR 5
[59] unreported, 2001
[60] [1973] CLY 805
[61] [1998] CLY 1677; Kemp PRI-005
[62] [1968] CLY 1118; [1968] Times, November 7; [1968] Sol Jo 22 November

i. *Gudge v Milroy*[63]: £7,250 (1/00) (of which perhaps approximately £1,000 to £2000 for missing a season of horse riding competitions);

j. Another case referred to simply by its facts is mentioned in Grayson's, 'Sport and the Law'[64]: "…while these pages were being processed, a Criminal Injuries Court Board awarded a 31-year-old disabled athlete fit to carry on his sport but proscribed in the job market £70,000 general damages for pain, suffering, loss of amenity and loss of future earnings, applying the *Smith v Manchester City Council*[65] formula for assessing general damages."

## CONCLUSION

This article provides only a very brief introduction to some of the issues which arise in this area of law. It does not cover, for example the potential liability of: occupiers (for which see for example, *Glenie v Slack and Barclay*[66]); local authorities (for which see for example, *Dibble v Carmarthen Town Council*[67]); water authorities; organisers of sporting holidays; and manufacturers and designers of sporting products.

The law in this area promises to develop further in the next few years and litigation is likely to increase. With this in mind, the best advice would be to make sure that you or your client is insured against the risks inherent in the particular activity undertaken.

## ACKNOWLEDGEMENTS

The author has found the following publications particularly helpful: *'Sports Law and Litigation'* by Craig Moore (CLT Professional Publishing, 2nd Edition, 2000); *'Sports Law'*, by Gardiner et al, Cavendish Publishing Ltd, First Edition, 1998; *'Sport and the Law'* by Edward Grayson (Butterworths, 3rd Edition, 2000); *'Sports Law'* by Beloff, Kerr and Demetriou, First Edition, 1999, Hart Publishing; *'Law and the Business of Sport'* by

[63] [2000] 6 CL; [2000] 4 QR 6
[64] Butterworths, 3rd Edition, 2000
[65] (1974) 118 Sol Jo 397, 17 KIR ICH
[66] Lawtel, 19 April 2000, CA
[67] unreported, 2001

David Griffith-Jones and Adrian Barr-Smith (Butterworths, 1997); *'Clerk & Lindsell on Torts'* (Sweet and Maxwell, 18th Edition, 2000); *'Charlesworth and Percy on Negligence'* by R.A. Percy and C.T. Walton (Sweet and Maxwell, 9th Edition, 1997) and *'Bingham's Negligence Cases'* by His Honour Judge David Maddison, His Honour Judge Christopher Tetlow and Graham N. Wood (Sweet and Maxwell, 4th Edition, 1996).

**THE AUTHOR**

**TIM KEVAN** is a Barrister at 1 Temple Gardens with expertise in personal injury, sports, consumer, internet, employment and general common law. He is the author of four textbooks: *Sports Injury Law* (2002), *Kevan on Credit Hire* (2002), *E-mail, the Internet and the Law* (2001) and *A Guide to Credit Hire and Repair* (1999). He has also performed a number of radio interviews on legal matters and has written numerous articles as well as editing his own personal injury newsletter which has wide circulation throughout the industry. In addition, he has been both a presenter and contributor for Legal Network Television training videos. He is a member of the Civil Justice Council's sub-committee on funding along with the Association of Personal Injury Lawyers (APIL) and the Personal Injury Bar Association (PIBA). He has a balance of work between Claimants and Defendants and accepts conditional fee cases. He studied economics and law at Magdalene College, Cambridge University and was a scholar of the Middle Temple. A keen sportsman, he has played three sports at county level and captained his college in two others. He is also a qualified football referee. He surfs, kite-surfs and mountain-bikes near his home town of Minehead in Somerset and supports Manchester City.

***NOTE***

***The law is stated as it is understood by the authors as at 15 October 2003. Any errors are the author's own for which he apologises. The purpose of this hand-out is to highlight the various areas of law potentially associated with sports injuries. It is not intended to be a substitute for legal advice and readers researching a particular problem should not rely upon its contents in isolation but should instead refer to textbooks on the particular aspect of the problem and to legally qualified professionals.***