

SIR DAVID FOSKETT



Prior to his appointment as a High Court Judge in 2007 Sir David had a distinguished career at the Bar with a broad common law practice, but specialising in professional negligence and general commercial matters. He was appointed a QC in 1991. Many cases involved damages claims and he acted more or less equally for claimants and defendants. His clinical negligence and personal injury practice, in particular, led to advising on and appearing in significant damages claims, including claims for ‘loss of a chance’. In the case of *Langford v Hebran* [2001] EWCA Civ 361, for example, he successfully represented a kick boxer whose professional career was ruined in a road traffic accident, relying on the evidence of a forensic accountant who was able to postulate various scenarios for the future in respect of which a percentage chance was attributed.

Prior to his appointment as a full-time judge, in addition to his practice as a barrister, he had qualified as, and acted as, a mediator in a wide variety of cases including partnership and commercial disputes, clinical negligence and personal injury cases, lawyers’ negligence cases and aviation accidents. He was variously described by those who were present as a “first class mediator”, “an excellent mediator, understanding the issues well, some of which were complex and sensitive”/ “excellent at putting the parties at ease”, “conciliatory, sensible and constructive”, ensuring a “co-operative atmosphere” and “informal tone” during the mediation and as “attentive, considerate, knowledgeable, down to earth and helpful”.

During his nearly 12 years as a High Court Judge, he dealt with a wide range of cases, some of which were high profile. For example, the Atomic Veterans’ case, the issue of whether Jeremy Corbyn required a specified level of support within the Parliamentary Labour Party before being on the leadership ballot, the issue of whether the then Mayor of London (Boris Johnson) was justified in making alterations to the fire services in London, the case where a former student of Oxford University made a claim on the grounds that his tuition was negligently inadequate and in consequence received a less

favourable degree than would otherwise have been the case and whether a large number of claimants could successfully sue an Italian lawyer for damages arising from failed purchases of holiday homes in Calabria. He case-managed and tried substantial multi-party litigation and engaged in significant fact-finding exercises in many cases. He dealt with a number of significant damages claims of which *Robshaw v United Lincolnshire Hospitals NHS Trust* [2015] EWHC 923 (QB) – then the highest award to a brain-injured child – is an example, as well as leading cases on the issue of causation, *Bailey v MoD and another* [2007] EWHC 2913 (QB) being one example. In his role, in particular, as Judge in charge of the Queen’s Bench Division Civil List (2015-2018) he regularly had to approve multi-million pound settlements for brain-damaged children. In cases where all matters were settled, he adopted the practice of seeing the family of the child involved privately after the settlement had been approved, a practice always appreciated by the family and their representatives.

His judgments were often praised for their clarity. For example, his judgment in the Atomic Veterans’ case was described by a member of the Supreme Court as “very clear and comprehensive”. In 2013 he was the principal author of ‘The Interim Applications Court of the Queen’s Bench Division of the High Court: A guide for litigants in person’, designed to set out in clearly understandable language relevant practical matters for a litigant in person to follow. It is still in use now.

Sir David is the principal author of ‘Foskett on Compromise’, the leading practitioners’ work on the settlement of litigation, the 9th edition of which was published this year.

He was Treasurer (the elected senior member) of Gray’s Inn in 2018.

Following his retirement as a judge, he returned to private practice as an arbitrator and mediator and is available also to conduct independent inquiries or chair disciplinary proceedings.