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Key developments worth noting

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Make sure you don't miss out

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**APRIL IN REVIEW**

“  
...proud-pied April, dressed in all his trim,  
Hath put a spirit of youth in everything... ”

*William Shakespeare*

*Extract from Sonnet 98: From you have I been absent in the spring*

**MAY 2018 NEWSLETTER**

**NEW BILL OF COSTS**

The new electronic format bill of costs became mandatory in Part 7 multi-track claims.

**NEW INSOLVENCY PRACTICE DIRECTION**

The keenly awaited new Practice Direction on Insolvency Proceedings (PDIP 2018) was published on 25 April 2018, to come into force immediately ([https://www.justice.gov.uk/courts/procedure-rules/civil/rules/insolvency\\_pdf](https://www.justice.gov.uk/courts/procedure-rules/civil/rules/insolvency_pdf)).

**LAUNCH OF "PUBLIC BETA" PHASE OF ONLINE DISPUTE RESOLUTION PILOT**

On 6 April 2018, HM Courts & Tribunals Service (HMCTS) made public a new online service, which can now be used to start a claim against anyone in England and Wales.

It is aimed at providing a quicker, more user-friendly way to start an action in the County Court for amounts up to £10,000.

**LAW SOCIETY BUSINESS REVIEW AND ANNUAL REPORT 2016/17**

On 10 April the Law Society published its business review and annual report for 2016/17 (<http://www.lawsociety.org.uk/about-us/annual-report>).

**SPEECH BY LORD KEEN**

On 17 April 2018, Lord Keen gave the keynote address on civil justice reform at the Association of Personal Injury Lawyers conference, in which he set out forthcoming changes to personal injury law, including the Civil Liability Bill and the increase to the small claims for personal injury claims (<https://www.gov.uk/government/speeches/lord-keens-speech-on-civil-justice-reform>).

**ADR**

The Department for Business, Energy & Industrial Strategy has published its Final Report: Resolving consumer disputes: Alternative Dispute Resolution and the Court System ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/698442/Final\\_report\\_-\\_Resolving\\_consumer\\_disputes.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698442/Final_report_-_Resolving_consumer_disputes.pdf)).

**REPORT OF COMMERCIAL COURT USERS' GROUP MEETING, MARCH 2018**

On 29 April 2018, the Judiciary published a report of the Commercial Court Users' Group meeting in March 2018 (<https://www.judiciary.gov.uk/publications/commercial-court-users-group-meeting-report-march-2018/>).

**TAKING A BROAD VIEW**



Beverley Barton, Senior Editor, Practical Law Dispute Resolution highlights a few of the "big picture" developments of interest to dispute resolution lawyers during March 2018.

Subscribers to Practical Law Dispute Resolution can access more detailed updates, including practical commentary, on the Practical Law Dispute Resolution website ([www.practicallaw.com](http://www.practicallaw.com)).

**PRACTICE DIRECTION "MAKING DOCUMENT" FOR 96th CPR UPDATE**

The making document, setting out changes to practice directions associated with the 96th CPR Update, received ministerial sign off on 9 April 2018 (<https://www.justice.gov.uk/courts/procedure-rules/civil/pdf/update/96th-update-online-court-LiP-public-pilot-2-pilot-extensions.pdf>). Changes came into force, variously, on 26 March, 30 March and 4 April 2018.

Key points of interest include:

- New PD 51R regarding the Online Court pilot.
- Change to PD 51P regarding the Pilot for Insolvency Express Trials.
- Change to PD 51O regarding the Electronic Working Pilot Scheme.

**97th CPR UPDATE: CIVIL PROCEDURE (AMENDMENT NO. 2) RULES 2018/ASSOCIATED "MAKING DOCUMENT"**

The Civil Procedure (Amendment No 2) Rules 2018 (SI 2018/479) (<http://www.legislation.gov.uk/ukSI/2018/479/contents/made>) were laid before Parliament on 16 April 2018. These rules are part of the 97th update to the Civil Procedure Rules. On the same day, the making document setting out the changes to practice directions associated with the 97th CPR update was published (<https://www.justice.gov.uk/courts/procedure-rules/civil/pdf/update/97th-cpr-update-practice-direction-making-document.pdf>). The changes come into effect on 7 May 2018.

The main change of interest to dispute resolution lawyers concerns the formalisation of the jurisdiction of legal advisers in the County Court.

**PRE-ACTION PROTOCOL FOR RESOLUTION OF PACKAGE TRAVEL CLAIMS**

A new Pre-action protocol for resolution of package travel claims (<https://www.justice.gov.uk/courts/procedure-rules/civil/protocol/pre-action-protocol-for-resolution-of-package-travel-claims>) comes into effect on 7 May 2018.

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# IN THE COURTS

Some decisions of particular practical interest handed down (or made publicly available for the first time) during April 2018, include:

## COSTS AND FUNDING

As usual, there was no shortage of interesting costs decisions. A couple of examples include:

- Gavin Edmondson Solicitors Ltd v Haven Insurance Company Ltd [2018] UKSC 21, 18 April 2018, in which the Supreme Court considered an appeal against the Court of Appeal's decision that an insurance company was liable to pay a solicitor's fees after it settled personal injury claims on behalf of the solicitor's clients on an all-inclusive basis.
- Cleveland Bridge UK Ltd v Sarens (UK) Ltd [2018] EWHC 827 (TCC) (18 April 2018), in which the Technology and Construction Court considered the appropriate treatment of incurred (as opposed to estimated costs that have been approved in a costs budget) when determining an application for a payment on account of costs prior to detailed assessment under CPR 44.2(8).

## DAMAGES

In *Morris-Garner and another v One Step (Support) Ltd* [2018] UKSC 20, 18 April 2018, the Supreme Court gave a landmark judgment concerning Wrotham Park (or "negotiating") damages.

## INJUNCTIVE RELIEF

In *Akcine Bendrove Bankas Snoras v Antonov and others* [2018] EWHC 887 (Comm) (20 April 2018), the Commercial Court provided guidance on the scope of the undertaking in a worldwide freezing order not to seek orders of similar nature.

## LIMITATION

In *RG Carter Building Ltd v Kier Business Services Ltd* (formerly Mouchel Business Services Ltd) [2018] EWHC 729 (TCC) (5 April 2018), the court considered when time starts to run for the purposes of section 10(4) of the Limitation Act 1980 (regarding contribution claims).

## LITIGANTS IN PERSON

In the last CLAN newsletter, we mentioned a couple of decisions that considered the appropriate procedure in cases involving litigants in person. It is clear that this is a recurrent issue. Cases in April, providing additional guidance on this topic, include:

- *EDF Energy Customers Ltd* (formerly *EDF Energy Customers plc*) v *Re-Energized Ltd* [2018] EWHC 652 (Ch) (28 March 2018), (relating to an appeal against a compulsory winding-up order).
- *St Clair v King and another* [2018] EWHC 682 (Ch) (28 March 2018) (regarding an appeal against a decision to strike out proceedings disputing the validity of a will).
- *Country Cars of Bristol Ltd v County Cars (SW) Ltd and another* [2018] EWHC 839 (IPEC) (20 March 2018) (relating to an application to set aside judgment in default).

## SERVICE

*NPV v QEL and another* [2018] EWHC 703 (QB) (28 March 2018) provides an example of a case providing for service by text message.

## SETTLEMENT AND PART 36

Decisions of interest include:

- *JMX* (a child by his mother and litigation friend, *FMX*) v *Norfolk and Norwich Hospitals NHS Foundation Trust* [2018] EWHC 675 (QB) (28 March 2018), in which *Foskett J* had to decide whether the court has jurisdiction to award an "additional sum", under CPR 36.17(4)(d), following determination of a preliminary issue on liability.
- *Ali and another v Channel 5 Broadcast Ltd* [2018] EWHC 840 (Ch) (19 April 2018), in which the court grappled with a number of issues regarding Part 36 offers.

## STATEMENTS OF CASE

In *Best Friends Group and another v Barclays Bank plc* [2018] EWCA Civ 601 (28 March 2018), the Court of Appeal considered the approach, under CPR 17.4(3), regarding amendments to statements of case after the end of the limitation period.

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## CLAN NEWS & EVENTS

For **CLAN** Newsletter feedback, or if you would like to include anything in a future edition, please contact Alexandra Carr or Beverley Barton—**CLAN** Newsletter Editors:

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**Professional Negligence  
Conference 2018**

**Wednesday 6 June 2018**

**12:30 to 6:00pm**

Hosted by:

**Simmons & Simmons**

CityPoint, 1 Ropemaker St,  
London EC2Y 9SS

**Priced from £145 for members  
(non-members welcome)**

**See back page for details**

**4 training hours**

**Confirmed Speakers:**

**Mark Cannon QC**  
4 New Square

**Marion Smith QC**  
39 Essex Chambers

**Neil Hext QC**  
4 New Square

**James Pollock**  
Simmons&Simmons

**Helen Evans**  
4 New Square

**Nik Yeo**  
Fountain Court

**TBC**  
39 Essex Chambers

The Commercial Litigation Association is respected for holding some of the best conferences and seminars in the litigation community.

Our second Professional Negligence Seminar will be hosted in the auditorium of leading City law firm Simmons & Simmons.

Over 4 hours of high quality training: Lunch on arrival from 12noon.

## PROGRAMME

- 12:45 **Chairman's opening remarks:** David Foster, Barlow Robbins
- 1:00 **What is dishonesty and why is it important?** by Neil Hext QC and Helen Evans of 4 New Square.
- 1:40 **Investor Fraud:** Mark Cannon QC of 4 New Square.
- 2:20 Coffee
- 2:40 **Expert Witnesses:** the Good, the Bad and the Ugly: a practical workshop exploring the key aspects of choosing, instructing and working with experts including preparing reports, dealing with the joint meeting and giving evidence. Marion Smith QC of 39 Essex Chambers.
- 4:00 Coffee
- 4:20 **Confidentiality and privilege: Professional liability considerations for solicitors.** James Pollock, Simmons & Simmons
- 5:00 **Structured Finance Litigation - the Professional Negligence aspect: Causes of action, title to sue and loss.**  
Nik Yeo of Fountain Court (Professional Negligence Junior of the Year at the 2016 Chambers & Partners Awards).
- 5:40 **Closing Remarks**

**Close at 6pm followed by networking drinks and canapes until 7:30pm.**

£145 plus vat for Solicitor Members (Membership is £60 pa)

See over, or contact [mark@annectolegal.co.uk](mailto:mark@annectolegal.co.uk) to book your place.

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Annual Conference is priced at:

- Membership is £60 + vat per annum
- £145 + vat for solicitor members
- £195 + vat for non-solicitor members
- £295 + vat for non-members (so why not join?!)
- A discounted Academic rate of £150 + vat is available (includes 12 months membership)

See [www.comlit.co.uk](http://www.comlit.co.uk) where the full range of membership benefits is outlined.

Cheques should be made payable to **CLAN Commercial Services Ltd** and the delegate name should be clearly printed on the reverse:

If you would prefer to pay by Bank Transfer please e-mail [Mark@ComLit.co.uk](mailto:Mark@ComLit.co.uk)

Please return this form and cheques to:

Mark Beaumont, CLAN Commercial Services Ltd,  
Abbey House, 25 Clarendon Road, Redhill, Surrey RH1 1QZ.

Title Mr / Mrs / Ms / Dr Name.....

Company.....

Position.....

Address.....

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Telephone.....

Email Address.....

**Terms & Conditions:** Fees include full conference documentation and refreshments during the course of the day. CLAN reserves the right to refuse admission if payment has not been received prior to the start of the event. Written confirmation will be issued upon receipt of the conference fee. CLAN reserves the right to alter or cancel any part of the published programme or scheduled speakers. **Cancellations:** Refunds can be made up to 20 days prior to the event (minus 10% admin fees). Substitutions can be made at any time.