

## Article Summaries

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### **Professional Negligence in 2021: The Year in Review**

*Helen Evans*

This article considers two core questions which have dominated much of the professional negligence case law in 2021. The first is ‘what are professionals for?’. The second is ‘what are the courts there to do in professional negligence claims?’. The article analyses *MBS v Grant Thornton* [2021] UKSC 20 and then considers claims concerning: dishonesty and presumptions; illegality; and abuse of process. It observes that these cases have at times shown shortcomings with the tools used by the courts to determine professional negligence claims. It concludes that 2021’s cases showed a disinclination on the part of many courts to apply overly rigid rules.

### **Twenty Years on from *Lister v Hesley Hall Ltd* – Is There Now a ‘Tailored Close Connection Test’ for Vicarious Liability in Cases of Sexual Abuse, or Not?**

*Allison Silink and Desmond Ryan*

The authors consider whether, following *Jehovah’s Witnesses v BXB* [2021] EWCA Civ 356, there is a single test for the stage 2 ‘close connection’ test in vicarious liability cases, or whether there is a more tailored test in sexual abuse cases. First, the authors trace the origins of the language of ‘tailoring’ the test for vicarious liability. Secondly, they analyse developments in the 20 years since *Lister v Hedley Hall* [2001] UKHL 22. Thirdly, the authors conclude that the adoption of a tailored test is inconsistent, and indeed directly in conflict, with the approach in *Lister*. Finally, the authors consider that the ‘tailored test’ may in fact make it more difficult for certain abuse victims to succeed in having vicarious liability imposed than under *Lister* and suggest that the development needs to be corrected by the Supreme Court.

### **Negligence in Sport: Context vs Principle**

*Neil Partington*

Analyses the issue of negligence liability in the context of sport with particular regard to *Quick v Nottinghamshire County Council* (County Court, Nottingham). Discusses the ‘enhanced duty’ owed by schoolteachers, limitations of the doctrine of *in loco parentis* and the importance of conducting suitable and sufficient risk assessments. Argues that considerable latitude should be afforded to the discretionary decision making of teachers such that there should be no breach of duty when the decisions made by teachers fall within a reasonable range of options. Submits that *Quick* represents a potentially modest, but important, development to the area of sports negligence.