



Harriet Jones-Fenleigh

Call: 2007

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Practice Areas:

Harriet is developing a broad commercial and civil practice in line with Chambers' profile. She is particularly interested in the following areas:

- Arbitration
- Aviation
- Banking and Financial Services
- Civil Fraud
- Commercial Litigation
- Commodities
- Company Law
- Conflict of Laws and Jurisdiction
- Insurance and Reinsurance
- Professional Negligence
- Sale of Goods and International Trade

Summary of Practice:

Harriet is instructed in relation to a wide range of commercial matters. She regularly appears in the High Court and in arbitral proceedings, both as sole advocate and as a member of larger teams of counsel. She has experience of cases involving foreign law (including Zambian, Libyan, Serbian, French, Belgian and Ukrainian law). She also has experience of witness handling via video link and through an interpreter. A summary of her recent practice is set out below.

Arbitration

- **ICC Proceedings** - Acting (as sole counsel) in ICC arbitration proceedings for the owners of a large copper mine in a dispute with a former contractor for over US\$11 million. The proceedings involved a number of jurisdiction and choice of law issues.
- **ICC Proceedings** - Acting (with Akhil Shah QC) in ICC arbitration proceedings concerning the performance of a contract for services in Libya.

- **LCIA proceedings** - Acting (as sole counsel) in LCIA arbitration proceedings worth in excess of £750,000 concerning the alleged breach of restrictive covenants in a shareholders' agreement. This included a dispute as to the Tribunal's jurisdiction.
- **LCIA proceedings** - Acting (as sole counsel) in LCIA arbitration proceedings for a steel trader against an industrial buyer concerning the alleged breach of a contract on ISTA Terms. The proceedings settled before the hearing.
- **SIAC proceedings** - Drafting (as sole counsel) a statement of claim in SIAC arbitration proceedings to recover sums invested in a business in Hong Kong pursuant to a JVA. The defendant settled shortly after they received the draft statement of claim.
- Advising on a dispute arising out of a sales agency agreement for the sale of military equipment to a foreign government, including advising on the construction of the arbitration and choice of law clauses.
- **FOSFA proceedings** - Drafting (as sole counsel) appeal submissions on behalf of a Ukrainian company in FOSFA arbitration proceedings concerning various disputes about quality, payment and delivery arising out of a contract for the supply of soybean oil.
- **GAFTA proceedings** - Advising (as sole counsel) a Danish company in GAFTA arbitration proceedings concerning the quality and condition of a cargo of fishmeal.
- **FOSFA proceedings** - Advising and drafting submissions in six FOSFA arbitrations arising out of the alleged contamination of cargoes of sunflower seed oil. These proceedings all involved questions of limitation, as well as liability and quantum.

Aviation

- **ACG Acquisition XX LLC v Olympic Airlines S.A. [2009-] (Comm)** - Acting (with Michael McLaren QC and Philip Brook Smith QC) for the lessors of a Boeing 737 in a dispute with a lessee regarding the proper construction of the aircraft lease agreement.
- **ICC proceedings** - Acting (with Akhil Shah QC) in ICC arbitration proceedings in a dispute concerning performance of a contract for services in Libya.
- **Gamit v MTU Maintenance Hannover [2011] EWHC (Comm)** - Acting (with Akhil Shah QC) in a dispute with an MRO over the ownership of aircraft engine parts following refurbishment work.
- Advising the owner of helicopter involved in an accident on the liability of his insurers and the merits of a negligence claim against a CAMO.
- Author (with Adam Zellick) of the Civil Aviation volume of Atkins' Court Forms (Butterworths LexisNexis, 2010).
- Acting for airlines defending claims brought by passengers under the Montreal Convention 1999/Carriage by Air Act 1961, Regulation EC 261/2004 and at common law.

Banking and Financial Services

- Regularly instructed to advise and represent high street banks and lenders in matters concerning:
 - mortgage repossessions;

- mortgage fraud;
- the enforcement of loans and guarantees;
- the alleged misselling of Payment Protection Insurance;
- the litigation in the County Courts concerning the lawfulness of unauthorised overdraft charges.
- Instructed by a major high street bank in respect of a potential claim arising out of the collapse of an Icelandic bank. Through this Harriet has acquired a detailed understanding of payments and settlements systems (SWIFT and CHAPS).
- Advising a major high street bank on its obligations in respect of a Third Party Debt Order and a Restraint Order made pursuant to the Proceeds of Crime Act 2002.

Chancery and Company Law

- **LCIA proceedings** - Acting (as sole counsel) in an LCIA Arbitration worth in excess of £750,000 brought by shareholders against former directors and shareholders concerning the alleged breach of restrictive covenants in a shareholders' agreement. The dispute raised issues of reflective loss (see Arbitration above).
- Regularly instructed by creditors to make winding up petitions.

Civil Fraud

- ***Secretary of State for Justice v LSM Professional Limited & ors [2009-] (QBD)*** - Acting (with Simon Browne-Wilkinson QC, Paul Gott and Jonathan Davey) for the Secretary of State for Justice in a multimillion pound fraud claim arising out of a rent review and the sale and release of a property.
- Regularly instructed by major lenders in mortgage repossession actions, including where mortgagors allege fraud by co-mortgagors.
- Acting for a property developer in a debt claim by a contractor who had fraudulently submitted forged invoices.

Commodities, Sale and Supply of Goods and Services and International Trade

- Regularly instructed to advise and draft submissions in respect of claims for cargo contamination (see Arbitration above).
- Acting for a commercial printing company in a dispute arising out a contract to print and ship a consignment of fine art books.
- Regularly instructed to advise and settle pleadings in various contractual disputes including allegations of misrepresentation, breach of terms implied by the Sale of Goods Act 1979 and Supply of Goods of Services Act 1982 and industry standard terms, such as the ISTA Standard Terms & Conditions of Sale and ASTM International Standards. Recent examples include:
 - Acting for a steel trader in a contractual claim against a supplier worth in excess of £400,000;

- Acting for steel supplier in a contractual claim against an industrial buyer concerning the alleged breach of a contract on ISTA Terms;
- Acting for a property developer in a debt claim brought by the provider of security services to various construction sites;
- Advising and settling pleadings for the seller of a business in a claim by a sole selling agent for remuneration following the sale of the business.

Consumer Credit Law

Harriet has experience advising on and defending claims under the Consumer Credit Act 1974, including:

- Acting for a bank defending a claim by a passenger under s. 75 for damages for loss of enjoyment after the flights he purchased on his credit card were cancelled after the airline went into administration;
- Acting for a bank defending a claim brought by a travel agent challenging its right to "charge back" (ie claw back) sums paid to the credit card provider and supplier on receipt of a claim under the CCA 1974.

Insurance and Reinsurance

- Advising independent financial advisors on coverage issues in a dispute with their professional indemnity insurers over potential claims arising out of an FSA investigation into the mis-selling of geared traded endowment policies (GTEPs).
- Advising traders on coverage issues in two disputes with their insurers regarding claims arising from the contamination of cargo.
- Advising an insured helicopter owner in a dispute with insurers regarding coverage for an accident resulting in the total economic loss of the aircraft.
- Advising underwriters on the construction of cancellation and termination provisions in a political risk reinsurance policy.
- Advising an insured car owner in respect of disclosure and notification issues.
- Instructed by a major insurance broker to review its clients' collateral warranties in light of their professional indemnity insurance.

Professional Negligence and Professional Discipline

- ***Solicitors Regulation Authority v (1) Miller (2) Gore [2011] (SDT)*** - Acting (with Timothy Dutton QC) for the SRA in the successful prosecution of a partner and a former partner of Davenport Lyons in respect of their conduct of over 6,000 filesharing claims.
- Advising an individual as to the merits of a substantial potential claim against a firm of solicitors in respect of their conduct of a clinical negligence claim.

Education:

BA History, Gonville and Caius College, Cambridge (Double First)

CPE, City University (Distinction)

BVC, Inns of Court School of Law (Outstanding)

Prizes & Scholarships:

- Pupillage Scholarship (Lincoln's Inn)
- Buchanan Prize for outstanding performance on the Bar Vocational Course (Lincoln's Inn)
- Lord Mansfield Scholarship (Lincoln's Inn)
- Lord Bowen Scholarship (Lincoln's Inn)
- Hardwicke Scholarship (Lincoln's Inn)
- Senior Scholar, Gonville and Caius College, Cambridge
- College Prize for best performance in History Tripos, Gonville and Caius College, Cambridge
- Winner, John Smith Memorial (formerly Observer) Mace Debating Competition (2004)
- Champion, Oxford Union International Inter-Varsity Debating Tournament (2004)
- World Debating Championship, Quarter-Finalist (2005)

Memberships:

- COMBAR
- Young International Arbitrators Group (YIAG)

Other Experience:

Secondment to the International Trade and Energy group of Clyde & Co. LLP (September-December 2008), during which Harriet gained experience of arbitrations under the ICSID, LCIA, ICC and FOSFA rules, as well as international sale of goods and insurance disputes.