



# Leigh-Ann Mulcahy QC

Call 1993 | Silk 2009

*"Brilliant lawyer, highly organised and outstanding on the law of causation. Great strategic thinker."*

*The Legal 500*

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Leigh-Ann is a leading advocate who held the appointment of Deputy High Court Judge from 2016–2022 (with authorisation to sit in the Commercial Court from 2020-2022) and continues to hold the roles of President of the Panel of Senior Decision-Makers at the Guernsey Financial Services Commission (from 1 January 2021), international commercial arbitrator and mediator. She is also called to the Bar of the Republic of Ireland.

Her practice includes insurance and reinsurance, international arbitration, product liability, professional negligence and discipline, administrative and public law and commercial and IT-related disputes. She works both domestically and internationally, including in Asia (where she is a Registered Foreign Lawyer, Singapore International Commercial Court) and the Caribbean. As a former Fellow of the Royal Statistical Society, she handles many cases involving heavy technical, expert and statistical evidence.

Leigh-Ann is currently working on several high profile group litigation cases including the civil claims and ADR process arising out of the Grenfell Tower fire; the diesel Emissions litigation and claims arising out of the use of Hormone Pregnancy Tests in the 1960s and 70s. She is also advising on various COVID-19 related issues and was instructed by the FCA in its test case on the validity of business interruption insurance claims. She has acted for the UK Government for over 25 years and held the appointment of First Counsel to the Welsh Government from 2013 to 2016.

Described as “a very clear, polished and persuasive advocate who definitely has the ear of the court”, “astonishingly good” and “a great strategist”, Leigh-Ann has specialisms in appellate advocacy and cases involving multi-party litigation. In addition to her courtroom skills, where one comments that “...judges love her” and she is described as an “absolute pleasure to work with”.

## Recent Highlights

### Grenfell Civil Claims

Acting for Royal Borough of Kensington and Chelsea and the Kensington & Chelsea Tenant Management Organisation Ltd in relation to civil claims arising out of the Grenfell Tower fire on 14 June 2017 and related ADR processes: *Abdel-Kader & ors v Royal Borough of Kensington & Chelsea & ors* [2021] EWHC 2016 (QB); *De Costa & ors v The London Fire Commissioner and ors* [2020] EWHC 2718 (QB).

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## FCA High Court test case on business interruption during the coronavirus pandemic

Acting for the FCA in obtaining court declarations aimed at resolving contractual uncertainty in selected business interruption insurance policies, following the large numbers of claims made to insurers under these policies arising out of the coronavirus (COVID-19) pandemic and resulting Government controls imposed: *FCA v Arch & others* [2020] EWHC 2448 (Comm).

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## Various claimants v Giambrone and Law

Acting for AIG on an appeal to the Court of Appeal against a non-party costs order made against liability insurers pursuant to section 51 Senior Courts Act 1981 arising out of group litigation (*Various Claimants v Giambrone and Law (A firm)* [2019] 4 WLR 7), which settled with the appeal being allowed and the order set aside.

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## R (Kamlesh Mansukhlal Damji Pattni) v Secretary of State for the Home Department (2019)

Acting for the claimant, Mr Pattni, in his successful application for Judicial Review of a UK Home office decision refusing his application to British citizenship and refusing to issue him with a British passport.

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## Akcine Bendrove Bankas Snoras v Antonov [2018] EWHC 887 (Comm)

Acting in an application regarding whether the obtaining of foreign enforcement orders constituted breach of undertakings given on a freezing injunction.

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# Expertise

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## Administrative & Public Law

Leigh-Ann has acted in a number of public law matters, including judicial review cases or civil claims which have raised public law or human rights issues. She has experience of advising on public law issues over inquest procedures, legal complaints procedures, claims against the Financial Services Ombudsman, property issues, health policy and immigration law. She also has experience of tribunal and regulatory law. She is general editor of *Human Rights and Civil Practice* (OUP). Leigh-Ann has also sat as a Deputy High Court Judge in the Administrative Court and as a Senior Decision-Maker for the Guernsey Financial Services Commission a role in which she is involved in the regulation of financial services.

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## Notable Administrative & Public Law cases

### Browarek v Smart Solutions (Recruitment) Ltd & FS Commercial Limited (2022)

Representing clients in defending civil claim(s) in the High Court arising from the practices of employment agencies in relation to modern slavery.

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Advising in connection with the Post Office Horizon IT Inquiry.

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Advising in relation to a potential judicial review relating to the application of money-laundering regulations.

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### **R (Kamlesh Mansukhlal Damji Pattni) v Secretary of State for the Home Department (2019)**

Acting for the claimant, Mr Pattni, in his successful application for Judicial Review of a UK Home Office decision refusing his application to British citizenship and refusing to issue him with a British passport.

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Advising an individual in relation to public law and other issues arising out of a parliamentary select committee inquiry and a judge-led public inquiry.

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Advising on public and constitutional law issues in relation to the Welsh devolution settlement, legislative competence and other public law issues of major importance (in her role as First Counsel for the Welsh Government from 2013 to 2016).

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Acting as Counsel to a public inquiry into NHS Complaints Procedures and the Conduct of an NHS gynaecologist, Richard Neale.

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Advising on whether various heads of loss, including loss of profits, were recoverable under Article 1 of the First Protocol to the ECHR in a commercial action.

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Challenging a financial services regulatory decision made by the Financial Conduct Authority on behalf of an insurance company.

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Acting for claimants in a claim for damages against a government agency alleging misfeasance in public office and breach of human rights law.

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### **R (on the application of Boehringer Ingleheim Ltd) v NHS Commissioning Board [2016] EWHC 1557 (Admin)**

Acting for the claimant in a challenge to a pharmaceutical commissioning decision.

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Acting for a medical reporting organization on a potential judicial review challenge to a licensing decision. Case settled at pre-action stage.

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Acting for a European pharmaceutical company in a potential judicial review challenge to a commissioning decision in relation to its product. Case settled at pre-action stage.

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**R (on the application of Forge Care Homes Ltd & Ors) v Cardiff & Vale University Health Board & Other Health Boards & County Council of the City of Cardiff & Other Councils & The Welsh Ministers) [2015] EWHC 601**

Acting for Welsh Ministers, an interested party.

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Acting on behalf of the Ministry of Defence in relation to 12 conjoined appeals to the Upper Tribunal against the First-tier Tribunal (Armed Forces Compensation and War Pensions Chamber)'s decision not to award pensions to certain veterans of the nuclear tests in Australia and the South Pacific in the 1950s. The appeal raised jurisdictional issues regarding the legal test to be applied by the First-tier Tribunal and the Upper Tribunal's powers of review.

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Advising in relation to a legal challenge to the grant of marketing authorisation in respect of a pharmaceutical product under EU and domestic law.

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**R (on the application of McVey & Ors) v Secretary of State for Health (2010) Med LR 204 (main claim); R (on the application of McVey & ors) v Secretary of State for Health & (1) Jonathan Simms (2) Holly Mills (Interested Parties) [2010] EWHC 1225 (Admin) (interested parties' claim)**

Defending a judicial review claim on behalf of the Secretary of State for Health by various claimants and a further claim made by two interested parties which sought to challenge the vCJD Compensation Scheme.

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Advising on procedural/human rights issues arising from first instance and Court of Appeal judgment in relation to an appeal to the Supreme Court.

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**R (Lord Chancellor) v Chief Land Registrar [2006] QB 795**

Acting for a local authority challenging the expropriatory effect of legislation.

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**R (Ministry of Defence) v Wiltshire and Swindon Coroner [2006] 1 WLR 134**

Acting for the Ministry of Defence as claimant challenging a jury direction in an inquest.

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Advising in relation to potential judicial review challenges to a proposed consumer redress scheme in the financial services context.

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Advising on judicial review claims relating to two professional bodies in relation to their statutory compensation funds.

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Advising on regulatory obligations to a major multinational manufacturer of a medical device and the statutory duties of relevant regulators.

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Acting for the Ministry of Defence in relation to issues of combat immunity and procurement in the context of claims by service men and women for noise-induced hearing loss caused during or in preparation for operational deployment: see *Durrheim v Ministry of Defence* [2014] EWHC 1960, QB, an appeal to the High Court arising out of an application for conjoined case management of such claims.

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Advising in potential challenges to Ombudsmen including the Financial Services Ombudsman, Legal Ombudsman and Local Government Ombudsman.

## Commercial Disputes

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Ranked as a Leading Silk in *The Legal 500 Asia Pacific 2021* for Commercial Disputes, Leigh-Ann has experience of acting or advising in a wide range of commercial and contract disputes including sale of goods, agency, share purchase agreements, IT contractual issues, credit factoring, energy law and insolvency. She also regularly advises and acts in relation to financial services issues. Leigh-Ann is also a Registered Foreign Lawyer, Singapore International Commercial Court.

### Notable Commercial Disputes cases

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Advising in relation to various financial services regulatory issues and proceedings.

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Acting for a pharmaceutical company in a high value licensing dispute with another pharmaceutical company.

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Advising a specialist supplier regarding enforcement of contractual limitations of liability in defence of a high value fire claim.

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Acting for a Singapore technology company in defence of a high value licensing dispute with a global technology company.

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### **Emblaze Mobility Solutions Ltd v Revenue and Customers Commissioners [2018] UKUT 373 (TCC)**

Acting in an appeal relating to issues of interest and lawfulness of deduction of repayment supplement in a tax case.

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### **Akcine Bendrove Bankas Snoras v Antonov [2018] EWHC 887 (Comm)**

Acting in an application regarding whether obtaining of foreign enforcement orders constituted breach of undertakings given on freezing injunction.

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Acting for a bank on a Privy Council appeal in litigation arising from a dispute over the status of a mortgage over land and enforcement of its security.

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Acting in a referral and appeal to the Court of Appeal on behalf of a financial services company in a financial services enforcement case.

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**Goodlife Foods Ltd v Hall Fire Protection Ltd [2018] BLR 491 (CA);[2017] EWHC 767 (TCC); [2017] BLR 389**

Acting for the defendant in a commercial dispute arising out of a fire with a claim for negligence and breach of statutory duty in relation to the supply and installation of a fire suppressant system and giving rise to issues over incorporation and validity of exclusion clauses.

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Advising a software developer and IT solutions contractor regarding various contractual disputes arising out of a Software Development & Managed Services Agreement.

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Advising claimants in relation to their appeal and mitigation options following a failed claim against an international bank arising out of lost investments.

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Acting on behalf of Welsh Ministers in a substantial competition law claim against Servier in the Chancery Division, concerning the supply of the ACE inhibitor, Perindopril.

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Acting on behalf of Welsh Ministers in a substantial competition law follow-on claim being tried in the Chancery Division against Reckitt-Benckiser to recover losses to the Welsh NHS as a result of anti-competitive conduct relating to its product, Gavison. The claim settled.

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**Abbey Forwarding (in Liquidation) v Revenue and Customs Commissioners [2015] EWHC 225 (Ch); [2015] Bus LR 882**

Representing an insolvent company and succeeding in enforcing a cross-undertaking in damages given by HMRC when seeking an order appointing a provisional liquidator of the company.

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**Secretary of State for the Home Department v Raytheon Systems Ltd [2015] 1 Lloyd's Rep 493 and [2014] EWHC 4375**

Acting in a very substantial international commercial arbitration involving a high value and complex IT dispute arising out of the "e-Borders" system. TCC (two judgments) Leigh-Ann acted for the Home Secretary and succeeded in overturning a high value arbitration award for serious irregularity.

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Acting in Commercial Court proceedings by financial companies who are alleging negligence on the part of their insurance broker in failing to ensure they had coverage for claims arising out of PPI mis-selling.

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Acting in a challenge to enforcement action by the Financial Conduct Authority. Obtained order staying enforcement action.

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Advising in relation to a proposed retail banking claim arising out of alleged negligence in relation to cheque fraud.

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Acting on a claim for insurance and investment fraud made by a financial services regulator against the former directors of CLICO, a Trinidadian company with business across the Caribbean.

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### Dickinson v Tesco

Acting on behalf of various insurers in the credit hire context on issues of re-trial and future case management arising out of the test cases decided by the Court of Appeal.

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Acting on a £4 million+ claim by a company against its former CEO and director for breaches of fiduciary and contractual duties.

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Acting for the claimant in relation to two serious commercial fraud cases arising out of property transactions.

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Advising and acting for multi-national shipping company in securing recovery of its shipping containers and personally negotiated international settlement agreement in relation to a dispute between German and Netherlands companies.

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Acting on a high value international trade dispute between a UK based import/export company and a major US retailer concerning breach of contract and economic torts.

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### Acting in *AE Beckett & Sons (Lyndons) Ltd v Midlands Electricity* [2001] 1 WLR 281, CA

Exemption clauses for economic loss; statutory construction of Electricity Act 1988.

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Acting in various claims arising from interruption of electricity supply including *MV Sports Ltd v Midland Electricity* (2002) and a claim against National Grid.

## Insurance

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Ranked in the directories for Insurance & Reinsurance, and nominated for 'Insurance Silk of the Year' by *Chambers & Partners* in 2016, Leigh-Ann has expertise in many areas of insurance and reinsurance including professional indemnity, employers' liability, public liability, civil liability, financial lines, business interruption, event cancellation, property, marine, credit insurance and cyber risks (in both litigation and arbitration). She has considerable expertise in relation to insurance claims for COVID-19 losses, the insurance of asbestos liabilities and issues that arise in the insurance of financial services professionals (particularly in relation to proactive consumer redress and the mis-selling of PPI, pensions and other investments). She increasingly advises on insurance disputes with an international element.

## Notable Insurance cases

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### **Various Eateries Trading Limited v Allianz Insurance Plc**

Acting for the policyholder in a matter listed for trial in July 2022, to determine issues of aggregation and causation arising out of the Marsh Resilience Policy wording.

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### **Cuckow v AXA Insurance UK Plc**

Acting for AXA in relation to a test case involving up to 1800 claims in which third party claimants seek an indemnity from an insurer under the public liability section of a policy issued to its insolvent insured company arising out of its alleged negligent installation of cavity wall insulation. The litigation is testing issues relating to beaches of condition relating to claims notification and claims procedures by the administrators of the insured. Leigh-Ann succeeded on behalf of insurers at trial; the matter is currently on appeal.

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Acting for an insurer in arbitral proceedings regarding coverage issues arising out of a design and build insurance policy.

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Advising various policyholders on business interruption and event cancellation insurance issues, including issues relating to commercial landlords and loss of rent, and professional sports clubs regarding loss of income.

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Acting for a solvent public company policyholder in relation to recovery of historic asbestos liabilities from its insurer.

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### **Financial Conduct Authority v Arch and others [2020] EWHC 2448 (Comm)**

Acting for the FCA on its test case relating to business interruption insurance and whether it responds to COVID-19 losses.

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Advising an insured on a high value marine insurance cargo claim with foreign law issues.

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### **Various Claimants v Giambrone & Law (A firm) [2019] 4 WLR 7**

Acting for AIG on an appeal to the Court of Appeal against a non-party costs order made against liability insurers pursuant to section 51 Senior Courts Act 1981 arising out of group litigation. Settled with the appeal being allowed and the order set aside.

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Advising insurers in relation to subrogated recovery claims arising out of high value losses due to a fire.

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Advising an Asian insured on the merits of a claim against UK reinsurers arising out of a reinsurance contract dispute.

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Advising a corporate policyholder on its entitlement to indemnity under a \$20 million credit insurance policy and in relation to arbitration of the insurance dispute.

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Acting for a corporate policyholder in litigation relating to the application of deductibles in the context of asbestos related employers' liability claims.

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### **Redman v Zurich Insurance Plc [2017] EWHC 1919**

Acting for insurers on one of the first claims under the Third Parties (Rights against Insurers) Act 2010 concerning its retrospective effect.

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Advising a reinsured on the proper construction of a quota-share reinsurance treaty.

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Advising an excess insurer in relation to a civil liability policy raising issues of notification and breach of condition.

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Advising excess liability insurers in relation to coverage issues arising from losses caused by collapse of a dam in South America.

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Advising a Lloyds Syndicate on coverage issues arising out of a high value personal injury claim where there was a substantial under-insurance.

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Advising a reinsured on a dispute with reinsurers over responsibility for currently exchange losses when paying a foreign insured in local currency.

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### **International Energy Group Ltd v Zurich Insurance [2016] AC 509**

Successfully acting for Zurich before Court of Appeal and Supreme Court.

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### **Durham v BAI & Ors[2012] 1 WLR 867**

Successfully acting for Zurich in the *Employer's Liability Policy Trigger Litigation* up to and including the Supreme Court. She has advised on numerous other insurance coverage disputes relating to both asbestos liabilities and environmental liabilities and is currently advising on reinsurance recoveries, allocation and other insurance issues that remain unresolved following IEGL.

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Acting in a coverage dispute between National Grid / Cadent and Excess Insurance Company/Catalina Worthing in the Commercial Court, which settled shortly before trial.

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### **PIP Breast Implant Litigation**

Acting for RSA in an insurance dispute in 2015 which considered when injury occurred in product liability policies in the context of leaking silicone implants. The dispute settled at mediation.

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### **Cape Distribution Limited v Cape Intermediate Holdings Limited in 2016 ([2016] EWHC 1119 & [2016] EWHC 1786)**

Acting for Cape Intermediate Holdings Ltd in proceedings before Picken J brought by Aviva to recover its outlay on behalf of a Cape subsidiary for asbestos-related disease. This concerned issues of parent liability, contractual indemnities, co-insurance and subrogation. This resulted in two major judgments and a six-week avoidance trial heard in January/February 2017, following which the case, which was on appeal to the Court of Appeal, settled.

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### **Ocean Finance & Mortgages Ltd v Oval Insurance Broking Ltd [2016] Lloyd's Rep IR 319**

Acting for a multinational financial services company in relation to professional indemnity insurance issues arising out of PPI mis-selling liabilities. The claim settled shortly before trial which proceeded in relation to the third party action.

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Acting for insurance brokers in relation to a claim of alleged negligence arising out of the scope of their customer's cover, which raised professional negligence and insurance coverage issues.

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Acting for an insurer of insurance brokers in arbitration proceedings defending a coverage claim brought by a brokerage firm.

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Appearing on behalf of an insured at an arbitration hearing to consider the trigger for a public liability insurance policy in the context of sexual abuse claims where the victims only discovered the conduct and suffered psychiatric injury subsequent to the conduct itself.

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Regularly advising insurers and insureds on various professional indemnity coverage issues, including issues over the construction of the Minimum Terms for solicitors' and surveyors' professional indemnity insurance, aggregation, notification and avoidance for fraud/dishonesty.

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Advising on and appearing at arbitration on behalf of a 'mutual' insurer relating to indemnity and policy interpretation issues, including notification and aggregation.

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Advising on various product liability insurance coverage issues which arose between primary and excess insurers in a

high value dispute.

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Advising a regulatory body in relation to insurance issues potentially arising from a proposed form of regulatory action.

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Acting for insurers in *Cormack v Washbourne* [2000] Lloyd's LR PN 459, CA and *Gloucestershire Health Authority v Torpy* [1999] Lloyd's Reinsurance Law Reports 203 (excess layer).

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Offering expertise in the operation of the Financial Services Compensation Scheme and in issues arising from proactive consumer redress, including in relation to pensions mis-selling, PPI and Arch Cru.

## International Arbitration - as arbitrator

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### Notable International Arbitration - as arbitrator cases

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Acting as co-arbitrator in a SIAC arbitration in an insurance-related dispute.

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Acting as sole arbitrator in five related LCIA arbitrations arising in the banking context.

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Acting as sole arbitrator in a CI Arb arbitration relating to a claim under a guarantee and counterclaim (jointly appointed by the parties).

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Acting as sole arbitrator in an LCIA arbitration relating to the oil and gas industry.

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Acting as co-arbitrator in an LCIA arbitration relating to an alleged fraud claim.

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Acting as sole arbitrator in an ad hoc domestic insurance-related arbitration (jointly appointed by the parties).

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Appointed as an ad hoc arbitrator in a commercial dispute relating to quantum.

## International Arbitration - as counsel

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### Notable International Arbitration - as counsel cases

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Acting as leading counsel in an ICC arbitration relating to a licensing dispute in the pharmaceutical field.

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Acting on behalf of the Home Secretary in a substantial LCIA arbitration which comprised a very high value and complex IT dispute between the UK Government and the British subsidiary of a US defence contractor arising out of the “e-Borders” contract. Leigh-Ann subsequently secured the setting aside of the £200+ million arbitration award for serious irregularity (*Secretary of State for the Home Department v Raytheon Systems Ltd* [2015] 1 Lloyd’s Rep 493 and also [2014] EWHC 4375, TCC).

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Acting for a corporate Singaporean policyholder regarding its claim for indemnity under a US\$20 million credit insurance policy underwritten by UK insurers and acting in relation to the proposed international arbitration, which ultimately settled with the insurers paying the claim.

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Acting for a multi-national shipping company based in the Netherlands in a dispute with a German company with a view to securing the recovery of its shipping containers located in various other jurisdictions.

## Product Liability - Commercial products

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Leigh-Ann is listed as a Leading Silk for Product Liability by the legal directories. She advises on product liability and product safety in a range of areas including commercial products, pharmaceuticals, medical devices, vaccines, chemicals, radiation and food. She also advises on regulatory issues and legal risk management in order to avoid litigation. She was a Fellow of the Royal Statistical Society from 2017 to 2022 and is sought after for cases involving technical and scientific evidence. She is editor of *The Law and Regulation of Medicines* (Oxford University Press) and *The Law and Regulation of Medicines and Medical Devices* (OUP, forthcoming).

### Notable Product Liability - Commercial products cases

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#### **Abdel-Kader & ors v Royal Borough of Kensington & Chelsea & ors [2021] EWHC 2016 (QB); De Costa & ors v The London Fire Commissioner and ors [2020] EWHC 2718 (QB)**

Acting for Royal Borough of Kensington and Chelsea and Kensington & Chelsea Tenant Management Organisation Ltd in relation to civil claims arising out of the Grenfell Tower fire on 14 June 2017.

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Acting in the diesel Emissions litigation for car manufacturers and authorised dealers in relation to a large number of claims brought by consumers alleging breach of applicable regulations and misrepresentation.

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Acting for a firm of security professionals defending an intimidated claim by a former client whose home was burgled.

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Acting for a sub-contractor on a multi-party high value claim brought by BAE Systems arising out of the activation of a fire suppressant system in an aircraft testing facility.

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Advising on a high value claim arising out of a vehicle fire with international dimensions.

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Advising a toy manufacturer on issues relating to a potential product recall and other regulatory issues.

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Advising a major manufacturer of household products on commercial product liability claims and compatibility with EU law.

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Advising a specialist gas system supplier regarding liability issues arising out of a high value fire claim.

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Advising a leading manufacturer on issues arising out of consumer products causing property damage

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Acting on a dispute between two life sciences companies arising out of the termination of a clinical trial.

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### **Goodlife Foods Ltd v Hall Fire Protection Ltd [2017] EWHC 767 (TCC); [2017] BLR 389**

Acting for the defendant in a negligence claim arising out of the supply of a fire suppressant system. The claim was subject to a preliminary issue on the validity of an exclusion clause, an issue on which the defendant was successful.

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### **Grundon Waste Management Ltd v Hygrade Industrial Plastics Ltd (2012)**

Acting for the claimant in this multi-party action in the TCC arising out of an overheating incident and associated fires at a waste management facility.

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### **Costain Oil & Gas Process Limited v Barton Firtop Engineering (2008-2010)**

Advising on and settling pleadings in a commercial product liability claim arising out of manufacture and supply of temporary industrial strainers for use in gas pipelines.

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### **Kent County Council v Griggs & Ors; Aviza v Welsh Electrical & Ors**

Defending an electrical wholesaler, Newey & Eyre, in relation to commercial product liability / fire claims arising out of allegedly defective capacitors in light fittings.

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Advising on claims arising out of the testing and manufacture of a defective building insulation product.

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Advising a major manufacturer and its insurers on potential claims arising out of dishwashers and fire risks.

## **Product Liability - Ionising radiation**

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Leigh-Ann is listed as a Leading Silk for Product Liability by the legal directories. She advises on product liability and

product safety in a range of areas including commercial products, pharmaceuticals, medical devices, vaccines, chemicals, radiation and food. She also advises on regulatory issues and legal risk management in order to avoid litigation. She is a Fellow of the Royal Statistical Society and is sought after for cases involving technical and scientific evidence. She is editor of *The Law and Regulation of Medicines* (Oxford University Press) and *The Law and Regulation of Medicines and Medical Devices* (OUP, forthcoming).

## Notable Product Liability - Ionising radiation cases

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**AB & ors v Ministry of Defence [2009] EWHC 1421; (2011) 117 BMLR 101, CA; [2012] 2 WLR 643, SC.**

Appearing at the limitation trial and subsequent appeals to the Court of Appeal and Supreme Court for the Ministry of Defence in a major group action by over 1000 former servicemen arising out of the nuclear tests in Australia and the South Pacific in the 1950s.

Appearing on behalf of Ministry of Defence on 12 conjoined war pensions appeals by veterans to the Upper Tribunal.

## Product Liability - Pharmaceuticals and blood products

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### Notable Product Liability - Pharmaceuticals and blood products cases

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Acting for the Department of Health and Social Care (sued in its capacity as medicines regulator) in relation to group litigation arising from the use of hormone pregnancy tests in the 1960s and 70s.

Advising on regulatory and liability issues arising out of the licensing of pharmaceutical products alleged to cause harm.

Advising on the legal landscape and issues arising in relation to the faster introduction of new pharmaceutical products.

Advising NHSBT on legal risk management in relation to blood and blood products.

Advising on a potential claim arising out of an anti-smoking treatment.

Advising on potential product liability claim arising out of a monoclonal antibody used in cancer screening.

Advising on a claim relating to dopamine agonists/compulsive gambling in relation to Parkinson's Disease treatments.

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Advising in relation to The Foetal Anticonvulsant Litigation.

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Advising in relation to the AIDS/HIV and Hepatitis C Haemophiliacs litigation.

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Defending a parallel importer in relation to a pharmaceutical claim relating to an allegedly defective patient information leaflet.

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### **Amanda Smith v Secretary of State for Health [2002] Lloyd's Med 305**

Defending the Committee on the Safety of Medicines in the Aspirin/Reye's Syndrome case.

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Acting in The Human Growth Hormone/CJD Litigation in relation to both those who had contracted CJD and claims by the "worried well" ((2000) 54 BMLR 1, 79, 85, 95, 100, 103, 104, 111; [2000] Lloyd's Rep Med 161).

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Carrying out specialist advisory work in relation to pharmaceutical regulation and legal risk management for producers, insurers and regulatory bodies.

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Working with the Royal Statistical Society to consider how to improve the use and understanding of epidemiological and statistical evidence in civil litigation.

## **Product Liability - Medical devices**

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### **Notable Product Liability - Medical devices cases**

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Acting at a CMC on behalf of a clinic defendant in the PIP Breast Implant Litigation arising out of the use of industrial (as opposed to medical) grade silicone in breast implants by a French company.

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Advising a major multinational company in relation to its regulatory obligations and a possible product recall of a medical device.

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Advising a manufacturer of cosmetic dermal fillers in relation to claims against it arising out of granuloma formation.

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Advising the claimant in relation to allergies alleged to be the result of PPD in hair dye.

## **Product Liability - Other**

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## Notable Product Liability - Other cases

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Representing the Ministry of Defence in the Porton Down litigation between 2003 and 2008, dealing with a six-and-a-half-month inquest in 2004, a subsequent judicial review and claims arising out of non-therapeutic human experimentation with chemical warfare agents. The litigation involved extensive expert evidence on toxicology and the development of bioethics from 1940s to 1980s.

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Acting on behalf of the Department of Health and DEFRA in relation to claims arising out of BSE/vCJD and involved in setting up the vCJD Trust to compensate victims of vCJD.

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Acting in relation to a proposed vaccine damage group action.

## Professional Discipline - Lawyers

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Leigh-Ann advises and acts on professional disciplinary cases in particular in relation to the Solicitors Regulation Authority and Bar Standards Board and the Financial Reporting Council.

## Notable Professional Discipline - Lawyers cases

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Advising a senior solicitor in relation to an SRA investigation and potential SDT proceedings.

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Defending a barrister in disciplinary proceedings before a BTAS Disciplinary Tribunal.

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Acting for a law firm in defending wasted costs proceedings involving allegations of misconduct in parallel with professional disciplinary proceedings.

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Acting for a barrister in relation to judge initiated wasted costs proceedings arising out of a high-profile criminal trial.

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Advising a law firm in relation to regulatory issues relating to licensing as an ABS and anti-money laundering regulations.

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Advising a law firm in relation to conflict of interest and confidential information issues in the context of leveraged finance transactions.

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Advising a law firm in relation to issues over the Solicitors' Account Rules and protection of client monies.

## Professional Discipline - Other professions

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### Notable Professional Discipline - Other professions cases

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Defending an accountant and non-executive director in regulatory proceedings brought by the Financial Reporting Council arising out of the collapse of a financial institution.

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Advising in relation to a disciplinary case before the Royal College of Veterinary Surgeons Disciplinary Committee.

## Professional Negligence & Professional Discipline - Accountants, auditors and actuaries

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### Notable Professional Negligence & Professional Discipline - Accountants, auditors and actuaries cases

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Defending an accountants/tax advisers' negligence claim on behalf of MRI Moores Rowland LLP.

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#### **Bezant v Rausing & 16 ors [2007] EWHC 1118**

Representing the UK and Cayman branches of a firm of accountants and tax advisers in a substantial case involving alleged breaches of the company and insolvency legislation and professional negligence.

## Professional Negligence & Professional Discipline - Construction professionals

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### Notable Professional Negligence & Professional Discipline - Construction professionals cases

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Acting for an architect on a £20 million claim arising out of alleged negligence in designing a modification to a factory which was subsequently destroyed by fire.

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Advising on claim against engineer arising out of a defective floor slab in a major commercial development.

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Acting for firm of engineers in relation to claims arising out of a defective industrial crane.

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#### **Bedfordshire County Council v Fitzpatrick Contractors [2001] BLR 226**

Acting on a claim for repudiatory breach of contract.

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Dealing with claims against surveyors and valuers in relation to both residential and commercial valuation claims.

Expertise in marine surveyors' liabilities.

## Professional Negligence & Professional Discipline - Insurance brokers and agents

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Notable Professional Negligence & Professional Discipline - Insurance brokers and agents cases

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### Ocean Finance & Mortgages Ltd v Oval Insurance Broking Ltd [2016] Lloyd's Rep IR 319

Acting for a multinational financial services company in relation to claims against producing and placing brokers arising out of failure to make a notification and/or alleged non-disclosure to insurer of material information leading to avoidance of cover. The claim settled shortly before trial which proceeded in relation to the third party action.

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Acting for insurance brokers in relation to a claim of alleged negligence arising out of the scope of their customer's cover.

## Professional Negligence & Professional Discipline - Lawyers

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Leigh-Ann is listed as a Leading Silk for Professional Negligence by the legal directories. She has extensive expertise in relation to professional liability, wasted costs applications, issues of professional conduct including conflicts of interest, claims for lost litigation and disadvantageous property transactions and claims arising in the criminal or regulatory context, product liability context or which raise human rights issues. She also advises and acts on professional disciplinary cases in particular in relation to the Solicitors Regulation Authority and Bar Standards Board and the Financial Reporting Council.

Notable Professional Negligence & Professional Discipline - Lawyers cases

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Acting for a QC in relation to a professional negligence claim arising out of the failed MMR group litigation and succeeded in obtaining reverse summary judgment on the claim.

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Acting for a QC and junior in defending a potential high value negligence claim arising out of lost litigation.

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Acting for a claimant solicitors' firm suing former clients for unpaid fees and defending substantial counterclaims for alleged negligence.

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Acting for solicitors in defence of a breach of fiduciary duty claim.

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### Paragon v Plevin (2017)

Defending a wasted costs claim in the Supreme Court against a firm of solicitors.

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### Hassan Khan & Co v Al Shanfari & Al Rawas [2017] EWCA Civ 42

Acting on a limitation appeal to the Court of Appeal in a solicitor's liability case where a counterclaim alleging negligence was raised in defence of a claim for unpaid fees.

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Defending a very high value solicitors' negligence claim arising out of lost product liability litigation, which settled at mediation.

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Defending a high value wasted costs claim arising out of failed employment tribunal proceedings.

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Defending a High Court claim on behalf of a firm of solicitors arising out of a property transaction involving allegations of dishonest assistance in a breach of trust.

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Acting for insurers of a licensed conveyancer in relation to a number of claims arising out of alleged lending transactions.

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Appearing on a three-day s.33 Limitation Act 1980 application on behalf of claimants whose solicitors who had wrongly obtained extensions of time for service of first claim forms leading to the claims being struck out and had to bring fresh claims on behalf of their clients.

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### Griswold v Mace Jones & anr (2013)

Defending a QC in proceedings in the Chancery Division by former clients against their solicitors and counsel arising out of lost commercial litigation.

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Advising a commercial client on the merits and quantum of a proposed claim against two former firms of solicitors arising out of a failed business venture involving a disqualified director.

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### Phelps v LHP Law & Or (QBD, 2010)

Acting for and obtaining summary judgment on behalf of a barrister in a claim arising out of an alleged failure to advise a vulnerable claimant on the protection of her damages following settlement of a personal injury claim.

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### Protopapas Solicitors v Spon-Smith (Ch.Div, 2010)

Appearing on behalf of a barrister at the trial of a negligence claim by a firm of solicitors against a barrister alleging a duty of care to protect their fees.

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### Bertram v Eversheds & Boodle Hatfield

Defending a solicitors' negligence claim arising out of private client tax advice and drafting a share sale agreement.

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### **Cabvision v Feetum, Marsden & Smith and Dean & Dean Solicitors**

Defending a wasted costs application against solicitors following a long trial in the Chancery Division arising out of the preparation of witness statements, giving of evidence etc.

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Leading the defence of an appeal on behalf of all respondents to a negligence claim arising out of lost litigation in *Leonard v Byrt* [2008] EWCA Civ 20.

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Representing solicitors in Commercial Court claim arising out of compromise of litigation in *Reass SARL v Markel International Insurance Company* (2007).

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### **Russell Young & Co v Kevin Brown & ors [2007] 2 All ER 452**

Acting on an appeal relating to costs issues arising from the Vibration White Finger litigation against solicitors.

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### **Medcalf v Mardell [2003] AC 120**

Representing the respondent barristers to the first wasted costs case to be heard by the House of Lords and argued the human rights submissions.

## **Professional Negligence & Professional Discipline - Other professions**

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Notable Professional Negligence & Professional Discipline - Other professions cases

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### **Phillips and ors v Symes & ors (No 2) [2005] 1 WLR 2043, [2004] EWHC 2330 (Ch)**

Acting for the expert in the first claim for wasted costs against experts.

## **Directory Quotes**

*"A highly intelligent silk, who is a very reassuring presence in conference. She is very easy to work with."*

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The Legal 500

*"She's a very effective and thorough performer and a very strong advocate." "She is absolutely excellent. She provides forensic analysis and is always on top of the details." "Extremely calm under pressure and able to grasp*

*very complex cases very quickly and provide pragmatic advice."*

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Chambers & Partners

*"She really makes her points concisely and judges love her." "Extremely knowledgeable and responsive, she is willing to go out of her way to assist."*

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Chambers & Partners

*"A very clear, polished and persuasive advocate who definitely has the ear of the court. She is an incredibly hard-working and respected silk."*

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Chambers & Partners

*"She has the best manner in terms of dealing with clients, and she puts everyone at ease by being so on top of the detail - you feel you can trust her completely." "A real standout - a solid worker and an effective performer."*

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Chambers & Partners

*"She is absolutely brilliant and has an extremely impressive client list. Her ability to analyse the issues is second to none and she's a very lovely person to work with too." "She's able to turn around complicated instructions very quickly and provides very clear advice."*

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Chambers & Partners

*"Outstanding mind, preparation very thorough, brilliant lawyer, organised and great manner in court."*

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The Legal 500

*"Knowledgeable, experienced, thorough and prepared - one of the silks who goes above and beyond to deliver a result for the client."*

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The Legal 500

*"Skilled in complex reinsurance disputes, very thorough and commercially astute, very personable... able to grasp technical points easily."*

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Chambers & Partners

## Directory Rankings

Chambers & Partners

- Group Litigation
- Insurance
- Professional Negligence
- Product Liability

The Legal 500 – UK

- Administrative & Public Law
- Insurance & Reinsurance
- Product Liability
- Professional Negligence

The Legal 500 – Asia Pacific

- The English Bar: Commercial

## Education

- A. (Cantab)
- M. (Osgoode, Canada)
- E.C.Law (Kings)

## International Bar / Court Appointments

- Called to the Bar of the Republic of Ireland
- Full registration as a Foreign Lawyer with the Singapore International Commercial Court (SICC)

## Memberships

- Registered Foreign Lawyer, Singapore International Commercial Court.
- Deputy High Court Judge 2016-2022 (with authorisation to sit in the Commercial Court from 2020-2022)
- President of the Panel of Senior Decision-Makers at the Guernsey Financial Services Commission (from 1 January 2021).
- Senior Decision-Maker for the Guernsey Financial Services Commission 2014-2020.
- Adjudicator for the Professional Negligence Adjudication Scheme 2014-date.
- First Counsel to the Welsh Government from 2013 to 2016.
- Called to the Bar of the Republic of Ireland 1998.
- Non-executive director of Bar Mutual Indemnity Fund Ltd 2011-2017.
- International advanced advocacy trainer since 2002, teaching in the UK, Australia, South Africa, Ireland, Singapore and Malaysia, with a particular focus on teaching appellate advocacy and financial expert evidence.
- Member of COMBAR working party considering the implications of Brexit for insurance and reinsurance law (2016-2017).
- CEDR accredited mediator since 1998.

### Memberships of professional bodies

- COMBAR
- PNBA
- ALBA
- LCLCBA
- British Insurance Law Association
- ICC
- LCIA
- Arbitral Women
- European Circuit
- SICC

### Awards & Scholarships

- Foundation Scholarship (Jesus College)
- Squire Scholarship (Cambridge University)
- J. Hamson Prize for Contract Law (Cambridge University)
- Major Scholarship (Inner Temple)
- Commonwealth Scholarship

## Publications

- General Editor of *Human Rights and Civil Practice* (OUP)
- Consultant Editor and Contributor to *The Law and Regulation of Medicines* (OUP) and *The Law and Regulation of Medicines & Medical Devices* (OUP, forthcoming)
- Editor of *Jackson & Powell on Professional Liability* (6th and 7th eds) (Thomson Reuters)

- Contributor to R. Goldberg's *Perspectives on Causation* (Hart)
- Member of Editorial Board of Lexis' *PSL Arbitration*. Contributes articles on topical issues in arbitration.

## Awards

