Jacqueline Perry

Year of Silk: 2006

Year of Call: 1975



Practice Summary

Dual qualified (UK and California Bar) for many years, Jacqueline's areas of work span contract and tort. She handles commercial and insurance matters, both in the UK and the US, and has been practising in recent years in substantial and highly publicised cases relating to product liability, professional negligence, personal injury and clinical negligence. Much of her work has an international flavour.

She is highly thought of by her professional clients, who instruct her in the sure knowledge of her thoroughness, fearlessness and sound and sensitive approach to all aspects of her work. Jacqueline has frequently successfully pioneered arguments and points of law or practice.

As a qualified and practising Californian lawyer, Jacqueline has consolidated her field of expertise in this jurisdiction and she has successfully litigated in front of civil juries in the California Superior Court in multi-million-dollar claims.

She has acted for both claimants and defendants in very high-profile, public interest cases, representing local authorities and insurers as well as receiving a significant volume of instructions from trades' unions and Government departments, the Police and the Fire Brigade. She has acted for claimants in group action cases arising out of major disasters, including the original and recent Thalidomide claims. She is also instructed in major multi-party business and human rights matters and high-profile group actions against multi-national corporations, particularly those arising out of the extractive industries in Africa.

In addition, Jacqueline has considerable experience in advising and appearing for solicitors in respect of bills rendered or following litigation when bills are contested. She has handled such cases before the Master, in the High Court and in the Court of Appeal.

She is recommended in the most recent editions of Chambers and Partners and Legal 500 for her work in the area of Product Liability.

Jacqueline has been involved in, both in England and California, multi-million-pound claims against major international oil companies arising out of oil spillages and explosions which have had catastrophic human and environmental impact. These group claims especially, against companies and states in relation to human rights abuses allegedly carried out by state and private security forces, and in relation to environmental torts, whether current or historical, have become increasingly common. The issues raised are often complex, raising difficult questions of conflict of laws, jurisdiction, tort, limitation, parent company liability, contribution and claims handling.

Recent examples of her work in this area include:

- negotiating a multi-million-pound settlement for some 7500 citizens of the Bodo region in the Delta area of the Republic of Nigeria arising from serious oil spills perpetrated by Shell Nigeria. This required considerations of local Nigerian statute as well as common law applications of nuisance and negligence and jurisdictional arguments were raised as to bringing the claims in England.

- co-counselling with fellow partner, Neil Fraser Esq., in ongoing litigation on behalf of 12,500 persons all residing in the coastal plains of Nigeria, against Chevron Corporation which has been conducted in the federal Court in San Francisco. The claim arises from a catastrophic explosion on the rig KS Endeavor.

- successfully resisting a ‘Norwich Pharmacal’ application by the Defendant, Trafigura arising out of ongoing litigation in the Netherlands in relation to alleged pollution in the Ivory Coast affecting Ivorians.

- Advising on mining claim in Sierra Leone on behalf of thousands of farmers whose land was despoiled by rutile mining over many years and who received no compensation;

- Claim for professional negligence arising out of Trafigura dumping in the Ivory Coast;

- Advising senior government official in Equatorial Guinea; met Chief Justice who wants to further connections;

- Ongoing claim against Vodacom in the Dem Rep of Congo

- Ongoing matters with Libyan Investment Authority including advising in respect of a claim in the Caymans for which I was invited to 2 consultations to meet with clients in Istanbul last year:

- Settlement of another oil spill by Shell following proceedings in Nigeria; attempted registration of the £110m judgment in England and finally substantially assisting in settlement of the same for £88m in Nigeria.

- Advising on a matter heard in the DIAC involving an Indian/ Arab company;

- Invited to participate in a firm operating in Dubai- ongoing discussions

- Ongoing matter involving Israeli clients in respect of oil operations in Georgia.

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During recent past, Jacqueline had been involved in a number of matters concerning Private International Law, providing specialist advice on cases in which foreign law or jurisdiction arise. Examples include:

Providing Advice and an Opinion for the New York Federal Court in respect of the execution of a multi-million pound judgement against the Iranian Government that arose from a hostage taking situation.

Advising the Solicitors' Regulation Authority in respect of claims brought against it in California and advising on the application of recognition of English jurisdiction in the Californian courts.

Advising on the terms of an English insurance policy under both Californian law and English common law as applied to a $250 million turbine damaged in a hurricane in the Philippines and disputes regarding the extent of the claim.

Advising the NHSLA as to contribution claims against a Californian surgeon in respect of medical treatment following patient's treatment in Britain.

Advice to the 'Bad Blood' tribunal for the Chairman's Report in respect of usage of material from US (mainly) Federal cases that were heard arising from the same factual matrix as the Enquiry covered.

Jacqueline has practiced in the field of clinical negligence for many years, where there are obvious synergies with her personal injury, product liability and professional negligence practices. Jacqueline has made a particular speciality of causation issues, as seen in cases such as *Chester v Afshar* in the House of Lords. Jacqueline now has vast experience of this area of work both in bringing claims on behalf of claimants or bringing third party claims against health providers on behalf of her primary insurance clients.

She is also active in cross-jurisdictional cases and has, for example, advised the NHSLA as to contribution claims against a Californian surgeon in respect of medical treatment following patient's treatment in Britain.

In addition, she has been active on group litigation regarding clinical products and equipment including recently acting on cases concerning faulty mesh implants, which have been widely reported in the press. She has an enviable reputation for her work on multi-party disputes concerning liability in relation to pharmaceutical products and has for a long time advised victims of the drug Thalidomide in respect of the necessary increase in funding to pursue recovery against the original manufacturers of the drug in Germany. She also led on the long running litigation regarding the safety of the SSRI drug, Seroxat.

In 2023, she successfully acted for a Claimant whose wife died whilst having an angiogram procedure. The Defendant, a seasoned Professor of Cardiology was found to have been negligent

under both heads of the claim: a lack of informed consent and recommending and carrying out the procedure.

Jacqueline has an impressive history of advising and acting on commercial and contract dispute work, much of it with an international flavour and with a variety of experience in the insurance, construction and entertainment industries. Examples of the type of work she undertakes is as follows:

- advising in matters involving world famous celebrities and successfully resolving issues and drafting the necessary agreements arising from an IP dispute between employees of a Tennessee Company, its Californian licensee and a subsidiary company in Bristol, England.
- advising in claims ranging between clients in New York, conducting business in Dubai with a company and director in California.
- succeeding in obtaining a unanimous jury award of more than £3 million on behalf of a sub-contractor against one of the world's largest construction corporations (Manufacturing Automation Solutions Inc v Kiewit Pacific Co) in relation to the installations of control systems into an LA County water pumping station.
- arguing a complex matter for clients in St. Lucia in the Privy Council on the interpretation of the St. Lucia civil code as it applied to a dispute on a hypothec between her clients and the First Caribbean International Bank.
- Successfully arguing that the BSB Template Direct Access contract, in the context of the case that it was used, was unenforceable against the lay client;

From the beginning of her career Jacqueline has been instructed in insurance claims and policy coverage issues ranging from motor traffic cases to municipal and local government cases to global insurance matters, mainly on behalf of the defendant insurers. She has frequently advised insurers as to the correct application and interpretation of a policy.

Her recent experience includes:

- Advising on a difficult and sensitive insurance claim arising out of a dispute on an employment policy.
- Advising on the terms of an English insurance policy under both Californian law and English common law as applied to a $250 million turbine damaged in a hurricane in the Philippines and disputes regarding the extent of the claim.
- Providing multiple advices in advance of an arbitration hearing in a $60 million dispute with reinsurers on a CAR policy arising out of a $250 million hydraulic power plant project in the Philippines which was devastated by a typhoon in 2009.

She has recently prepared a paper on the insurance and commercial implications arising out of the Covid-19 pandemic.

From the beginning of her career Jacqueline has been instructed in personal injury claims ranging from motor traffic cases to municipal and local government cases, mainly on behalf of the defendant insurers. She has acted on many such cases both in the UK, in California and across jurisdictions.

The work she has done in recent years has tended to be of very high value and often where competing insurers may be involved. For example:

- advising on the M1 disaster when a trailer carrying military tanks overturned involving some 23 vehicles, some 6 deaths and multiple personal injury claims. The real issues revolved around which vehicle and therefore which insurer was responsible for the claims arising from the incident.

- advising on both procedure and substantive issues in respect of a claim by a Californian, injured when disembarking a plane in London, who sued in Federal court in California.

- securing a multi-million-dollar settlement for a client in San Francisco arising out of a road accident.

- achieving a multi-million dollar-settlement (Ellis deceased v Democon and others) in Washington State on behalf of a client whose husband was killed in a road accident. The eventual thrust of the claim arose in relation to product liability and Jacqueline was instrumental in bringing in a number of potential defendants from all over the United States.

In addition, Jacqueline has acted on a number of high-profile international group actions (see under International Group Litigation) where issues invariably include complex questions of jurisdiction and choice of law.

Jacqueline’s practice spans a broad range of product liability and negligence matters and she has a wealth of experience in dealing with claims relating to clinical and pharmaceutical products, as well as conducting and defending claims regarding other types of consumer products, industrial products and equipment.

She routinely represents both claimants and defendants in very high-profile public interest cases, which are often multi-party or group litigation, and which have occurred as a result of product failure, with often catastrophic consequences.

She has for a long time advised victims of the drug Thalidomide in respect of the funding that needed to be substantially increased for them and also worked on the long running litigation regarding the SSRI drug, Seroxat.

In dealing with the above matters, she has worked closely with many of the leading experts in their fields, from scientists and forensic accountants to mechanical and geotechnical engineers.

Recent cases include:

- advising, pro bono, on the multi-party claim in respect of the thalidomide victims which now encompasses the prospect of recovery on behalf of European victims against the original

manufacturers of the drug in Germany. Over the years she has ‘taken on’ Guinness plc, Diageo plc and HM Government as part of these proceedings.

acting in the multi-party action against Glaxo Smith Kline in relation to the safety of the SSRI antidepressant drug Seroxat (paroxetine), which litigation was revived under Jacqueline with a team of Counsel including another silk, senior junior and altogether a team of 5 barristers.

leading in a number of cases seeking compensation for damage caused by mesh implants. The first of these has now settled and substantial damages have been recovered for the client.

advising in California as lead trial counsel in litigation involving carbon monoxide poisoning arising out of faulty heating equipment. The case was heard in Napa Valley, California and comprised a claim for personal injuries sustained as a consequence of a faulty product.

achieving in Seattle, Washington State, a multi-million dollar settlement in Ellis deceased v Democon and others, which was a wrongful death claim as a consequence of a defectively designed axle locking nut on a trailer.

Jacqueline has a well-established practice acting in litigation arising from alleged professional negligence, particularly in the legal and financial services sectors. She has a number of ongoing instructions arising out of negligent and/or fraudulent advice connected with large investment schemes as well as an instruction from a liquidator arising from negligent tax advice to the underlying corporate entity.

Examples of recent work include:

acting in a significant claim for professional negligence in the Commercial Court against solicitors, resulting in multi-million-pound damages for the Claimant. The case arose from the alleged pollution by Trafigura in the Ivory Coast. Jacqueline was instructed in behalf of almost 6000 Ivorians who were deprived of their compensation following the settlement with Trafigura.

acting in an appeal from the Court of Appeal to the Supreme Court in a claim against the Bank of Scotland in relation to an investment scheme.

Many of Jacqueline’s cases have been reported over the years, in the law reports, in the Personal Injury Quantum Reports and written up in Kemp & Kemp as well as other publications. Some of the significant reported cases are listed below.

Atay v Glaser & Miller [2023] EWHC 2539 (KB) unfairness of direct access contract found.

Chewings v Williams [2010]: Serious leg injuries. Risk of deterioration. Possibility of amputation. Whether provisional damages suitable and if so, for what period.

Armsden v Kent Police [2009] EWCA Civ 631: Duty of care of emergency vehicles when answering urgent response calls.

Sahakian v McDonnell [2007] EWHC 3242 (QB): Causation; contributory negligence; speed contributing to severity of injury and whether this should be a factor in the negligence of driver.

Daniels v Metropolitan Police Commissioner [2006] EWCA 1622: Costs dispute arising out of very late service of evidence.

Chester v Afshar [2005] 1AC 134: Autonomy of patient when doctor seeking consent for surgery.

Bacon v White 1997: Fatal diving accident and issue of contributory negligence of novice diver.

Lewis v Osborne 1995: Value of a mother's services following her death in RTA when vehicle driven by claimant's father.

Birch v Hales Containers 1992 (CA): Early decision on admissibility of surveillance evidence – when appropriate.

Queen's Counsel (2006) – now KC

Fellow of the International Academy of Trial Lawyers (2009)

Admitted to California Bar (2001)

Bencher of Grays Inn (2005)

Master of Students, Gray's Inn (2009–2011)

Grade "A" Advocacy Trainer for Gray's Inn

Delivered lecture in London to selected jurists and senior Judges from across the USA on the differences between group litigation, mass torts and class certification; 2022

Prepared and co-wrote with Michael de Marco- litigation partner of K& L Gates, paper on Force Majeure clauses in insurance contracts;

Prepared and presented paper on insurance issues arising from Covid – webinar given 2020

Prepared and presented talk on GDPR for Grays Inn students 2018, 2019

Appointed Adjunct Professor at the Strauss Institute at Pepperdine University - 2018

Researched, prepared and presented Webinar on causation issues presented for MBL-2017

Invited lecturer on corporate litigation by Pepperdine University Law school, London programme – July 2013.

Selected by the South Eastern Circuit to participate as a faculty member in the civil advocacy course run at Florida University – May 2013

Panel speaker for Gray's event "Call to the International Bar" – April 2011

Bar Conference: invited panel participant for Association of Women Barristers – 2010.

Speaker on Corporate Manslaughter at Lady Margaret Hall, Oxford – May 2010

Co-presented discussion for Californian lawyers forum on comparative disclosure rules with Associate Justice William Rylaarsdam, Judge of the Appeal Court of Orange County – 2006.

Women's Lawyer Conference, invited speaker – 1999.

Royal Society of Medicine, a UK Consulting Editor for "Medicine, Science and the Law"

Co-authored paper on proposals for the future of the Inns of Court and re-organisation of the legal professions in England & Wales – published by 'Graya' – June 2013.

Co-authored with Peter Carter QC paper on ethics as part of presentation package for Gray's Inn students and trainee barristers – 2009.

Developed and pioneered teaching course for restraining orders pursuant to Drug Trafficking Act 1986 and Criminal Justice Act and provided training to Metropolitan Police both at New Scotland Yard and Hendon Detective Training School 1986-1993.

Under nom-de-plume (Nicola Charles): provided legal advice for popular Women's magazines and appeared regularly on Granada's "This Morning" programme as well as GMTV 1989-1998. For some 7 years featured as one of Jimmy Young's team broadcasting legal advice on Radio 2.

Co-wrote with writer and journalist, Janice James, two books (i) The Rights of Woman(Arrow 1990) and (ii) Know Your Law(Pavilion 1995) – this was republished in Japan with Japanese notations for teaching English in 2001.

Paper written 1988 at request of head of Policy Studies Unit of IOD on English and European Jurisprudence.

Education

- Oxford University
- M.A., Jurisprudence
- London College of Law
- Bar Degree

Areas of Expertise

- Administrative Public Law
- Human Rights Equalities
- Commercial
- Employment
- Inquiries And Inquests
- Investigations And Resolutions
- Local Government

- Planning Environment
- Professional Discipline And Regulatory
- Sport Media And Entertainment
- Business Crime