



Lucy Colter



Education

Lucy read English Language & Literature at Trinity College, Oxford, where she achieved a First Class Degree (coming top of her year in Moderations). She was a Percival Exhibitioner and Scholar at Trinity College, and won the Mrs Claude Beddington and the Violet Vaughan Morgan university prizes. She obtained a distinction in the law conversion (CPE), and took a year out to travel in Russia, China, Hong Kong and South East Asia, before the Bar Vocational Course.

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Profile



Lucy's practice is focused on the core areas of commercial litigation, professional liability claims, and insurance. Ranked as a leading junior in Chambers & Partners and the Legal 500 for Professional Negligence and Professional Negligence: Technology & Construction (Chambers & Partners), Lucy has been described as *"first-rate - someone who works hard under difficult circumstances and is very approachable and normal"*, *"she is excellent, good at the detail, very positive and has a good knowledge of the law"*, *"extremely hard-working, very bright and has an exceptional mastery of the detail of complex matters. She provides invaluable input"*, *"she has often been the most junior member of the team... but provides invaluable input"* and *"a good team player who is insightful and responsive."*

Commercial litigation

Lucy is frequently instructed on commercial matters. She is currently instructed on an LCIA arbitration representing a high-net worth client. The arbitration concerns a shareholder dispute and unfair prejudice/oppressive conduct claim relating to real estate in Moscow. She is equally comfortable working individually or as part of a counsel team, and has been frequently led by senior members of Chambers in relation to this type of work.

Professional Liability

Lucy's professional liability works includes claims for and against a range of professionals, including financial consultants, valuers, surveyors and lawyers. She was recently instructed in a claim against a senior tax barrister instructed as an expert in respect of the demerger of a property empire, involving allegations of conflict and bias.

Construction & Engineering

Lucy has extensive experience and expertise in construction and engineering matters, having recently acted for several multinational construction service companies including AMEC and Carillion, for development companies and for the full range of construction professionals, both in the TCC and in arbitration.

Insurance & Reinsurance

Lucy is also instructed in relation to coverage disputes, both in litigation and arbitration, in cases concerning the construction of policy-wording.

Other areas of practice

Lucy has experience acting in arbitrations, especially under the LCIA rules.

Lucy is also keen to develop her practice relating to fraud, in the context of commercial disputes, but also of insurance and professional liability claims.

Details of Lucy's practice in each area can be found by following the relevant links.

Further information

Lucy is a member of Lincoln's Inn. She was awarded the Lord Brougham, Lord Mansfield and Lord Sheldon scholarships.

Lucy is a contributor to the 8th edition of Jackson & Powell on Professional Negligence.

She is a member of COMBAR and PNBA.

Lucy was chair of the Junior COMBAR committee, a sub-committee of the Commercial Bar Association Executive Committee, and now sits on the Equality & Diversity Committee.

Professional Liability

"She is user-friendly and her advice is always very clear and concise." "She is extremely hard-working, very bright and has an exceptional mastery of the detail of complex matters. She provides invaluable input." - Chambers & Partners, 2016

'Extremely hardworking' - Legal 500, 2016

'A good team player who is insightful and responsive.' - Legal 500, 2015

Ranked as a Leading Junior in both Chambers & Partners and the Legal 500, Lucy is praised for being *"good at the detail, very positive and has good knowledge of the law."*, *"she works hard under difficult circumstances and is very approachable and normal."*

Lucy has swiftly built her experience acting for claimants and defendants in claims against solicitors, including claims arising from commercial and property transactions, lost or mishandled litigation, and claims which involve allegations of breach of fiduciary duty and dishonesty. She has a particular interest in the latter, especially in claims where fraud may be alleged.

She also has particularly strong experience acting in claims against valuers, both for claimant and defendant, and enjoys the challenges presented in such matters by sometimes complex valuations (and equally complex expert evidence).

She also acts for and against a range of other professionals, including surveyors and valuers, architects, financial services professionals, and insurance brokers and agents. She particularly enjoys cases set in a commercial context or with an international or cross-jurisdictional angle, or which raise issues of foreign law.

Lucy is equally comfortable working individually or as part of a counsel team, has been frequently led by senior members of Chambers, and enjoys the challenge of urgent and interim applications.

Accountants, Auditors & Actuaries

Acting for a claimant in relation to a potential claim against the expatriate tax team of a well-known firm of accountants, in respect of their handling of her US and UK tax affairs.

Financial Services Professionals

- Acting for financial consultants in a claim against them arising out of advice given in relation to appropriate life and critical illness cover, and in a claim arising out of advice given in relation to endowment mortgages, and for another firm of financial consultants in respect of a claim arising out of advice relating to the transfer of pensions and SIPP investments, including investment in a property Unit Trust.
- Assisting a senior member of Chambers in relation to a very high value auditor's negligence case, involving issues of Hong Kong law.

Insurance Brokers & Agents

Acting for insurance brokers, seeking unless orders against various claimant assureds bringing fire damage claims.

Lawyers

A flavour of Lucy's past and current work and experience in relation to lawyers' negligence is provided by the following:

- Acting on behalf of a company in liquidation in its claim against its former solicitors, for mishandled litigation in the context of alleged conflict of interest and breach of fiduciary duty. This complex matter ended in a 7 day trial in the Chancery Division in respect of the enforceability of a contingency fee agreement. Judgment is awaited. (Led by Justin Fenwick QC).
- She is instructed in a claim against a firm of solicitors (and land agents) in respect of the sale of development land under an allegedly defective agreement. Led by Justin Fenwick QC. This matter also gave rise to issues in respect of a party's entitlement to change expert, in which Lucy assisted (*Adams & Others v Allen & Overy & others* (2013) Foscett J).
- Acting for defendant English solicitors in a claim brought by a firm of Brazilian lawyers, arising out of advice given in relation to a D&O policy of insurance. (Led by Sue Carr QC).
- Acting on behalf of Pannone in a claim for damages in excess of £40 million brought against it by the administrators of a company, arising out of the fraudulent activities of its director. The case raised issues of illegality and the duties of solicitors acting for companies committing fraud on third parties. (Led by Patrick Lawrence QC and Anneliese Day).
- Acting for well-known defendant solicitors in a multi-million pound claim relating to the alleged negligent drafting of a Share Purchase Agreement and mishandling of subsequent litigation against the vendors for breach of warranty. This claim involved allegations of breach of fiduciary duty. (Led by Patrick Lawrence QC and Rick Liddell).
- Advising multiple firms of solicitors and their insurers in relation to multiple claims by lenders in relation to conveyancing transactions, some relating to property company The Step. (Led by Justin Fenwick QC and Graham Chapman).
- In relation to these and similar claims, Lucy has carried out drafting work and has also appeared alone on urgent applications dealing with the question of when solicitors are entitled to provide ex-clients' files to third party lenders.
- Advising and acting for various firms of solicitors, again in relation to professional negligence actions arising out of conveyancing. Some of this litigation related to large-scale buy-to-let schemes and a background of suspected mortgage fraud, in circumstances where the main claim was effectively a contribution claim by valuers against a firm of solicitors. Led by Patrick Lawrence QC, she is presently also defending a firm of solicitors from allegations made by borrowers, which raise issues of illegality and the knowledge by borrowers of the nature of the transactions in which they became involved.
- Acting in various claims against solicitors involving issues of the nature and scope of solicitors' duties to testators, estates and/or beneficiaries. She also has experience of the issues which arise in the context of insolvency administration orders and bankruptcy more generally.
- Recently instructed by defendant solicitors in various cases concerning issues of finality of litigation, where claimants have sought to revive "dead" claims against firms.
- Extensive experience acting in mortgage-related and trust-related disputes. Lucy particularly enjoys disentangling the complicated issues which arise in this area of work.

Surveyors & Valuers

Lucy has excellent experience of acting in claims against valuers, both for claimants and defendants. In respect of claimant-work:

- With Sue Carr QC and Graham Chapman, she acted for the successful trustee and investment company in a multi-million pound claim against defendant surveyors in litigation concerning the acquisition of a factory outlet shopping centre by a Unit Trust: (1) *Capita Alternative Fund Services (Guernsey) Ltd* (2) *Matrix Securities Ltd v Drivers Jonas* [2011] EWHC 2336 and [2012] EWCA Civ 1417.
- She is presently advising a bank in respect of its claim against a firm of valuers for the alleged overvaluation of commercial property in Birmingham.

Lucy also has extensive experience of acting on behalf of defendant valuers. In particular:

- She is instructed (led by Patrick Lawrence QC) in respect of claims by a bank against valuers regarding the valuation of a portfolio of properties across the UK. This matter raises further interesting questions in respect of the determination and application of a bracket / "margin of error" in valuation cases.

- She is currently acting (led by Jamie Smith) in respect of a claim arising out of the alleged over valuation of managed office space.

Ophthalmologists and Optometrists

Lucy is also instructed directly by the Association of Optometrists, defending negligence claims against ophthalmologists optometrists, including those arising out of the eventual diagnosis of rare eye diseases, as well as more common ocular diseases and conditions including retinal detachment, age-related macular degeneration and glaucoma. She enjoys the opportunity of engaging with complex expert evidence at a very early stage presented by these cases. She has a very serious interest in professional liability claims with a healthcare angle, whether the claims are directly against health professionals or not.

International Arbitration

Lucy has experience acting in arbitration under the LCIA rules, particularly in the context of a complex and multi-million pound insurance dispute over the proper construction of policy terms. She is looking forward to developing her practice in this area.

Commercial Dispute Resolution

Lucy is presently developing a busy practice in this area of law. She is particularly interested in matters with an international or cross-jurisdictional angle.

A flavour of Lucy's work and experience is provided by the following:

- Acting for the successful trustee and investment company in a multi-million pound claim against defendant surveyors in litigation concerning the acquisition of a factory outlet shopping centre by a Unit Trust: (1) *Capita Alternative Fund Services (Guernsey) Ltd* (2) *Matrix Securities Ltd v Drivers Jonas* [2011] EWHC 2336. (With Sue Carr QC and Graham Chapman).
- Acting in a highly sensitive dispute between an oligarch and his solicitors, involving an application to come off the record. (With Justin Fenwick QC).
- Acting in a multi-million pound claim brought in relation to the drafting of a Share Purchase Agreement. (With Patrick Lawrence QC and Rick Liddell).
- Acting in relation to claims arising out of overpayment of shareholder dividends. She also has an interest in particular issues arising in relation to claims by shareholders.
- Acting for the claimant in a claim for restitution in respect of monies paid away under a mistake.
- Instructed to advise and attend applications in various cases where complex issues have arisen in relation to a party being in administration or liquidation, including acting for a defendant wealth management company in liquidation.
- Instructed in various subrogated claims for recovery against third parties in contractual disputes.

Insurance & Reinsurance

Lucy particularly enjoys insurance coverage disputes – and disputes purely concerning the construction of insurance policy wording. She also has experience of professional liability claims which require a thorough understanding of multiple issues of insurance law. She also has a real interest in the defence of fraudulent or exaggerated claims.

Recent examples of Lucy's experience are as follows:

- Instructed by the defendant insurer both to advise and to attend the hearing of a preliminary issue in the multi-million pound arbitration relating to both triggers to cover and aggregation, turning on complex points of construction of several policy clauses. The underlying claims against the assured arise out of large-scale claims-handling on behalf of multiple other insurance companies. (Led by both Sue Carr QC and Patrick Lawrence QC).
- Advising a Hong Kong manufacturing company on its rights against its insurers, under a policy governed by Hong Kong law, in relation to a product liability claim brought against the company in the US. This case involved multiple assureds and complex questions of notification.
- Acting for defendant English solicitors in a claim brought by a firm of Brazilian lawyers. The claim arises out of advice given in relation to a D&O policy of insurance, and concerns in particular issues of notification of claims against the claimants brought in various Brazilian states. (Led by Sue Carr QC).
- Acting for various insurers, defending coverage claims under both commercial and household policies of insurance, on multiple grounds including an assured's failure to cooperate with insurer's investigations.

Public Law and Human Rights

Lucy is keen to develop her practice in public law, especially in the context of healthcare. She appeared as junior counsel for the Secretary of State for Health (led by Leigh-Ann Mulcahy QC): *R(on the application of McVey) v Secretary of State for Health* [2010] EWHC 437 and [2010] EWHC 1225.

The Secretary of State successfully resisted the judicial review brought in respect of the *ex gratia* compensation scheme set up to compensate those infected with variant Creutzfeldt-Jakob Disease, including a challenge by interested parties, living victims of the disease. This judicial review also engaged private law questions regarding trusts. Permission to appeal was refused.

Construction & Engineering

Lucy has extensive experience of running construction and engineering cases to trial in the TCC and is developing her experience in arbitration. She has dealt with various forms of contract including JCT, NEC and FIDIC. She acts for leading construction engineering companies and development companies. She especially enjoys the challenge presented by complex technical and scientific evidence.

Past and current cases in this area include:

- Acting on behalf of the successful project manager/quantity surveyor in *William Clark Partnership Ltd v Dock St PCT Ltd* [2015] EWHC 2923 (TCC), defeating a "global" claim that the project manager had caused the entirety of a £1m costs overrun. Lucy was instructed to appear on her own against a silk. The Court of Appeal refused permission to appeal.
- Acting on behalf of Carillion in a 5 week trial in Manchester TCC in a final account dispute arising out of a project at Warrington College, led by Anneliese Day QC. Carillion succeeded at trial. The case included a complex delay claim and allegations of breach of duty in respect of the corrosion of a low temperature hot water system.
- Acting on behalf of a development company in respect of a claim against architects and quantity surveyors arising out of the construction of a clubhouse, using a log-shell constructed in Russia.
- Instructed in respect of an adjudication under an NEC3 contract, in respect of delay issues arising out of the construction of an airport terminal.
- Acting on behalf of a leading engineering company in respect of a dispute and potential high-value arbitration against a major energy company arising out of the construction of a power station. There were complex factual and legal issues in respect of project management and responsibility in addition to technical issues. Again led by Anneliese Day QC.
- Advising a French company tendering for the construction of waste treatment processing at a new nuclear power station, in respect of the application of the FIDIC "Yellow Book" precedent.
- Instructed in a claim by a contractor against its subcontractor for negligent installation of a sprinkler system at an office block development, involving preliminary issues about the proper construction of the contractual mechanism for determining practical completion.
- Successfully defending a firm of architects in a 5 day trial in Manchester TCC in respect of multiple allegations of negligence by a construction company arising out of the construction of office blocks, especially in respect of the design and specification of a roof and high level ventilation system.
- Acting for Carillion in respect of a claim brought by a subcontractor (now in administration) arising out of payments made in the course of 18 different construction projects.
- Acting for a quantity surveyor partnership in a claim in a dispute relating to the construction of an NHS Primary Care Centre. This claim raises difficult issues in respect of funding, tendering and causation, in addition to typical construction project and cost issues.
- Acting for a quantity surveyor alleged to have inadequately supervised and monitored the demolition and rebuild of a property on Guernsey. The plaintiff alleged that the property was unfit for occupation and should be demolished. The plaintiff had also alleged that the construction company had concealed breaches and defective work. Lucy assisted the Ogier (Guernsey) team in preparing for trial (before settlement on Day One).
- Acting for a defendant quantity surveyor in respect of a claim brought by a construction company, in respect of an unprofitable construction project carried out under a JCT. This includes issues arising out of failed dispute resolution, adjudication and (again) includes issues relating to the extent of the surveyor's responsibilities and role.
- Acting for a regulated energy company against engineers in respect of damage done to a water main during excavation works on a bridge.

Lucy has equal experience of pure construction disputes and of professional negligence disputes with a strong construction/engineering flavour. She is equally comfortable acting in a team on a particularly high-value dispute or acting as sole advocate at trial.
