NEW SQUARE

Sue Carr QC

Education

Wycombe Abbey School, Trinity College Cambridge, MA Cantab.

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Year of Call: 1987
Year of Silk: 2003

Languages
Fluent in French and German

Profile

With the latest Legal 500 again placing Sue at the top of the top band of silks in professional negligence, Chambers and Partners 2013 also makes the following entry: Sue Carr QC "stands firm in the face of her opponents," and instils great confidence in clients. Steely in court, she offers "cross-examinations that are lethal in their effect".

Sue is a “fantastic silk who is seen as “a big gun to have on the larger cases.” Her skills are myriad; she is an “excellent advocate with powerful analytical skills” and is also an “enthusiastic and hard-working team player.” As one impressed barrister stated : “She is the one that you would want to represent you”. Sue has a “fully deserved” reputation as “one of the very best professional negligence counsel”, “an absolutely fantastic silk” and “an exceptional trial lawyer”, a "splendid performer and excellent cross-examiner.". She “has great presence in court, is deeply incisive and very client-friendly”. Her “commitment, determination and thorough hard working nature enables clients to feel that she is fighting your corner”.

Sue's principal areas of practice lie in the field of professional liability and general commercial law, including insurance work. She was recently chairman of the Professional Negligence Bar Association and was the chairman of the Bar Standards Board’s Complaints Committee, responsible for the handling of disciplinary matters against all barristers, until December 2010.

In the field of professional liability Sue has experience of claims at all levels involving the full range of professionals. Her practice extends to disciplinary and wasted costs work and related judicial review claims. She handles a broad range of general commercial litigation (with particular expertise in civil fraud and accessory liability) and frequently acts in insurance disputes involving repudiation of cover and construction/policy points. Her practice also covers directors’duties claims Her clients range from major insurers, banks, trusts and financial institutions to private individuals.

She has wide interlocutory, trial and Court of Appeal experience as well as having considerable arbitration and mediation expertise. She appeared in the House of Lords (in the now leading case on constructive trusts and solicitors' dishonesty) and has appeared as leading counsel in many high profile cases, including by way of example *AXA v Darby Solicitors* (limitation in economic loss), *Persimmon v Great Lakes Reinsurance* (ATE insurers’ rights to avoid), *Football League v Edge Ellison and another* (alleged negligence in relation to the sale of licensing rights to ONDigital), *Daniels v Thompson* (solicitors’ duties to executors), and the Cable & Wireless litigation (alleged re-insurance fraud). She has acted in several leading group litigation actions, including MMR, lenders' claims arising out of shared ownership schemes, film financing and The Accident Group Litigation.

Sue is also available for appointment as arbitrator and is a formally accredited and experienced mediator. She is a regular lecturer.

The Directories

The 2010 edition of Legal 500 says that Sue Carr QC's "reputation as one of the very best professional negligence counsel is fully deserved". Sue has been consistently listed in Chambers & Partners Directory and the Legal 500 as a leading professional negligence practitioner. Chambers UK 2010 say that Sue is "the whole package - she has great presence in court, is deeply incisive and is very client-friendly." Chambers & Partners 2009 comment that she is "involved in everything going". In 2008 Legal 500 describe her promotion to the first tier for the quality of her work as "much deserved". In 2008 Chambers & Partners quoted peers describing her as a broad-based professional negligence specialist “who can turn her hand to anything”. Chambers & Partners 2007 described Sue as, despite only taking Silk in 2003 "an absolutely fantastic Silk" she is an "exceptional trial lawyer" with a "sixth sense as to how the court is reading a case". "Her commitment, determination and thorough hard working nature enables clients to

feel she is fighting your corner". She also has "some of the best client skills at the Bar". The 2006 edition of Chambers & Partners describes her as the "very impressive" Sue Carr QC who has "rapidly grown into the best of silks". They commended this "charming litigator" for her "exceptional intellectual abilities".

Further Information

Member of the Bar Standards Board 2008-2011 Crown Court Recorder 2009.
Sue is a member of the Chancery Bar Association, COMBAR and LCLBA and Trinity Lawyers' Association. Governing Bencher of the Inner Temple.

In April 2011 Sue was appointed Complaints Commissioner for the International Criminal Court for a four year term. Sue remains in full time practice.

Professional Liability

Sue was recently chairman of the Professional Negligence Bar Association. She has experience of claims at all levels involving the full range of professionals. Her practice extends to disciplinary and wasted costs work and related judicial review claims. She appeared in the House of Lords (in the now leading case on constructive trusts and solicitors' dishonesty) and has appeared as leading counsel in many high profile professional liability cases, including by way of example *AXA v Darby Solicitors* (limitation in economic loss), *Football League v Edge Ellison and another* (alleged negligence in relation to the sale of licensing rights to ONDigital), *Daniels v Thompson* (solicitors' duties to executors), and the Cable & Wireless litigation (alleged re-insurance fraud involving solicitors). She has acted in several leading group litigation actions, including MMR, lenders' claims arising out of shared ownership schemes, film financing and The Accident Group Litigation.

Sue has a "fully deserved" reputation as "one of the very best professional negligence counsel". Sue has been listed consistently in Chambers & Partners Directory and the Legal 500 as a leading professional negligence practitioner. She has variously been described as "the whole package - she has great presence in court, is deeply incisive and is very client-friendly.", "involved in everything going" and "a broad based professional negligence specialist who can turn her hand to anything".

Accountants, Auditors & Actuaries

Sue has wide experience of accountants' and auditors' claims, large and small. Claims include liabilities arising out of accounting functions as well as eg. claims arising out of charity/tax advice. Sue recently acted in a large international group audit claim, on a claim relating to Swiss/UK treaty tax advice and on a lender's claim against accountants for misrepresentation/inadequate control on a corporate take-over in the textile sector. She is currently acting on large claim against a chartered tax advisor arising out of a film financing scheme.

Construction Professionals

Sue has considerable experience of construction work, having been instructed from the early days of her practice in this area. She has acted against local authorities and for and against major construction companies and employers in construction disputes. More recently, however, involvement in construction matters arisen mainly in the context of professional negligence or general commercial claims (e.g. lost litigation claims, claims against architects and engineers and insurance disputes). Examples include

- acting in complex engineering dispute arising out of the installation of a high technology fairground ride in Manchester;
- acting in solicitors' negligence claim arising out of a dispute involving Glasgow DC and 2 building contractors on a substantial tower block cladding project.

Sue is currently acting in several large TCC actions.

Financial Services Professionals

FSMA related issues arise commonly in the course of Sue's wider professional liability and commercial work. Sue successfully represented the Part 20 Defendant in *Football League Ltd v Edge Ellison v Active Rights Management Ltd and Clive Townley* [2006] EWHC 1462 (Ch).

Insurance Brokers & Agents

Sue is familiar with most types of claims against insurance brokers, including claims in relation to advice on/obtaining of cover for pension mis-selling claims.

Lawyers

Sue is extremely experienced in all types of claims against solicitors and barristers, both in advisory and litigation context. She handles significant commercial, financial and property disputes as well as disputes arising out of litigation performance. Sue is a specialist in "Etridge"-type claims. She is acting on several high value lenders claims against valuers and solicitors in fraud and negligence. She has experience of managed litigation arising out of multiple claims against solicitors' firms made by lenders and consumer credit related claims.

In recent years Sue's practice has expanded to cover civil fraud, primarily in context of solicitors' dishonesty and accessory liability. She also has considerable experience of wasted costs jurisdiction, in civil and criminal matters, and at first instance and appellate level.

Sue acted for the largest single cohort of Panel Solicitors in the multi party litigation arising out of the collapse of The Accident Group Ltd.

Cases in the field include:

- *Axa Insurance Limited v Akhter & Darby Sols & others* [2010] 1 WLR 1662 (limitation in economic loss cases)
- *R (on application of AB) v X Crown Court* [2009] EWHC 1149 (judicial review in the context of wasted costs)
- *Harrison v Harrison* [2009] EWHC 428 (wasted costs)
- *Law Society and others v Douglas Weymyss and others* [2008] EWHC 252 (multi-claim litigation brought by the Law Society under the Solicitors Act 1974 against various solicitors)
- *Pritchard Joyce & Hinds v Batcup & Anor* [2009] EWHC 635 (QB) (solicitors claim for contribution against barristers)
- *Fen & ors v D'Cruz & Ors* [2007] EWCA Civ 319 (holding out claim against solicitor partner)
- *Daniels v. Thompson* [2004] PNLR 33 (solicitors' negligence, inheritance tax, duties to third parties).
- *Luke v. Kingsley Smith & Co and Another* [2004] PNLR 12 (barrister's negligence)
- *Donsland Ltd v. Van Hoogstraten* [2002] PNLR (wasted costs, solicitors' implied authority).
- *Balfron Trustees Ltd v. Peterson and others (No 2)* [2001] All ER (D) 104 Jul (solicitors' accessory liability - stay of civil proceedings pending outcome of criminal proceedings).
- *BDG Roof-Bond Ltd v. Douglas and others* [2000] BCLC 1 (solicitors' negligence claim arising out of buy-out transaction).
- *Twinsectra Ltd v. Yardley and others* [2002] 2AC 164 (constructive trusts/solicitor accessory liability).
- *Mortgage Express Ltd v. Newman & Co v Solicitors Indemnity Fund Ltd* [2000] PNLR 298 (solicitors' dishonesty) (now heard in the Court of Appeal and re-tried).
- *Halifax plc v. Gould & Swayne and others* [1999] PNLR 184 (scope of solicitors' duties/estoppel by convention in shared ownership managed litigation).
- *Basso v Estry* and others – LTL 8.11.2005 – (strike out for abuse of process).
- Represented approx 20% of Panel Solicitor Defendants in The Accident Group Litigation brought by insurers. Led on privilege hearing in 2006.([2006] EWHC 839 (Comm))

Surveyors & Valuers

Sue has a broad range of experience of claims involving both residential and commercial surveys and valuations. She recently acted on substantial dispute relating to the valuation of a shopping centre and is currently acting on many high value lenders claims. Sue recently obtained £10m summary judgement in deceit in the Commercial Court :*Cheshire Building Society v Dunlop Haywards (DHL) Ltd* [2008] EWHC 51 (Comm).

Commercial Dispute Resolution

An established Silk, Sue is familiar with general commercial and contract disputes and is instructed in the leading commercial litigation of the day. Examples include her acting in the reinsurance fraud claim brought by Cable & Wireless plc against former employees and others; acting on a multi-million pound subrogated flood damage claim; acting in multiparty trial involving complex foreign law issues; acting in the litigation brought by The Football League Limited arising out of the sale of licensing rights to ONDigital.

She regularly advises on and litigates construction/policy points. Insurance disputes handled include fire claims/arson defences; claim concerning underwriters' liability under a partial loss clause in a Lloyds' Fine Art Dealer's policy; challenge to ATE insurers' rights to avoid.

Cases in the field include the following :

- Currently acting in the ongoing Innovator Litigation
- *Persimmon Homes Ltd and another v Great Lakes Reinsurance (UK) plc* [2010] EWHC 1705 (Comm)
- *AXA Insurance Ltd v Darby and others* [2010] PNLR 10 CA
- *Cheshire Building Society v Dunlop Haywards (DHL)* [2008] EWHC 51 (Comm)

- *Cable & Wireless plc and Pender Insurance Ltd v Valentine* and others - large multi-handed Commercial Court litigation commencing in October 2005 involving complex company law, dishonesty, accessory liability and remedy issues
- Represented approx 20% of Panel Solicitor Defendants in The Accident Group Litigation brought by insurers: [2006] EWHC 839 (Comm)
- Represented Part 20 Defendant in *Football League Ltd v Edge Ellison v Active Rights Management Ltd and Clive Townley* [2006] EWHC 1462 (Ch)
- Represented Part 20 Defendant in multi-million pound claim arising out of film financing scheme
- *Interdesco SA v. Nullifire* [1992] 1 Lloyd's Rep 180
- *Quorum SA v. Schramm* [2002] 1 Lloyd's Rep 249

Insurance & Reinsurance

Sue has a strong insurance practice, both within and without the professional liability context.

She regularly advises on and litigates construction/policy points both in the professional indemnity field and more generally. This is also an area where she is often asked to arbitrate. In terms of court litigation, she recently led for the solicitor defendants in the important limitation ruling in *AXA Insurance Ltd v Darby and others* [2010] PNLR 10 CA.

Insurance disputes handled include fire claims/arson defences and claims arising out of underwriters' liability under a partial loss clause in a Lloyds' Fine Art Dealer's policy. She acted in *Persimmon Homes Ltd v Great Lakes Reinsurance plc* [2010] EWHC 1705 (Comm), in which the rights of ATE insurers to avoid were challenged (unsuccessfully).

Product Liability

Sue's product liability experience has developed throughout her time at the Bar. She acted in the organophosphate managed litigation and was instructed to act for the National Health Service Authority in the MMR litigation. Since then she has acted in several large product liability cases, including cases involving cosmetic surgery products and chicken vaccines.

Sports Law

Advising on players' contracts/transfers in context of ongoing litigation.

Member of Olympic Selection Appeal Panel (pentathlon).

Chancery

Much of Sue's professional indemnity work is litigated in the Chancery Division. In particular, much of her civil fraud practice and work in lenders' and solicitors' claims takes place here. She has also considerable experience of "direct" Chancery work, such as company, property and tax disputes, including claims against directors, for example in relation to allegedly negligent swap-related advice. Sue regularly lectures to the Chancery Bar Association, having spoken to date on the Financial Services Ombudsman, on *Daniels v. Thompson* and most recently on equitable remedies in the field of knowing assistance.

Cases include:

- *Daniels v. Thompson* [2004] PNLR 23 (solicitors' negligence, inheritance tax, duties to third parties)
- *Balfron Trustees Ltd v. Peterson and others (No 2)* [2001] All ER 104 (solicitors' accessory liability - stay of civil proceedings)
- *BDG Roof-Bond Ltd v. Douglas and others* [2000] BCLC 1 (solicitors' negligence claim arising out of buy-out transaction)
- *Twinsectra v. Yardley and others* [2002] 2AC 164 (constructive trusts/accessory liability)
- *Mortgage Express Ltd v. Newman v. Solicitors Indemnity Fund Ltd* [2000] PNLR 298 (solicitors' dishonesty)
- *Law Society v Weymuss* [2008] EWHC 252 (Ch) (whether the Law Society could be said to owe a private law duty of care to clients of firms with monies on client account).
- *Halifax Plc v. Gould & Swayne and others* [1999] PNLR 184 (solicitors' duties/estoppel by convention in shared ownership managed litigation)

Disciplinary

- Chairman of the BSB Complaints Committee
- Acted for in-house counsel from US company on perjury allegation and disciplinary matters in context of ongoing litigation
- Advised firm of solicitors on complex ongoing disciplinary complaint.
- Experienced in advising on money laundering regulations
- Experienced in advising solicitors on Code compliance issues generally – details available on request

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Mediation

Governing Bencher of the Inner Temple, Crown Court Recorder, Former Chairman of the BSB Complaints Committee, Complaints Commissioner to the ICC in the Hague

Sue is an accredited mediator (ADR Chambers 2003). Since then she has acted as sole mediator in all types of civil/commercial disputes, including pension-misselling disputes, banking claims, insurance disputes including coverage, professional negligence claims, contract claims and art loss/valuation claims.

She is experienced in multi-party mediations and mediations involving litigants in person.