



## Leigh-Ann Mulcahy QC



### Education

M.A. (Cantab.) LL.M. (Osgoode, Canada) Dip. E.C.Law (Kings).  
Scholarships/prizes: Foundation Scholarship (Jesus College); Squire  
Scholarship (Cambridge University); C.J. Hamson Prize for Contract Law (Cambridge University);  
Major Scholarship (Inner Temple); Commonwealth Scholarship.

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Year of Call: 1993

Year of Silk: 2009

## Profile



Leigh-Ann Mulcahy QC is listed by the legal directories as a leading silk in four fields (Professional Negligence, Product Liability, Insurance and Administrative & Public Law). She is also a Deputy High Court Judge a role which she combines with her other practice.

She has been described in the legal directories as follows: *"an incredibly good appellate advocate"*; *"at the top of her field"*; *"truly brilliant"*; *"ferociously bright"*; *"she is an iron fist in a velvet glove"*; *"she has a great reputation and it's fully deserved"*; *"first-rate"*; *"outstanding"*; *"a fantastic advocate"*; *"extremely diligent"*; *"formidably intelligent"*; *"extremely bright and highly organised"*; *"prodigiously hard-working and possesses both a first-class brain and very sound judgment"*; *"excellent, thorough...with encyclopaedic knowledge of the case-law"*; *"charming and relentless in equal measure and she exudes confidence. She never loses sight of the big picture and ensures that clients are well informed and happy at all times"*; *"tenacious with the opposition"* *"very knowledgeable"*, with *"strong attention to detail and picks up complex matters quickly"*; *"if I had a matter that was being litigated and I knew was going to trial I would use her. She is very good at looking at complicated facts, getting to the heart of them and then arguing your corner for you"* and produces *"stunning performances"* in court.

In addition, she is also considered to be *"very user-friendly"*, *"one of the most approachable QCs"* and is praised for her *"ease of manner with both peers and clients"*.

Leigh-Ann has wide advocacy experience at all levels, including the Supreme Court and House of Lords. As well as litigation, she acts as an advocate and arbitrator in commercial and insurance arbitrations. She has succeeded in three cases before the Supreme Court (*International Energy Group Ltd v Zurich* (2015) and *The Employers' Liability Policy Trigger Litigation* (2012) arising out of the insurance of asbestos liabilities; *The Atomic Veterans Litigation* (2012) a group action alleging exposure to ionising radiation during the British nuclear tests in Australia and the South Pacific in the 1950s) and one before the House of Lords (*Medcalf v Mardell* (2003) relating to wasted costs and barristers' liability). Recent important cases including acting for insurers in a complex insurance coverage dispute arising out of the *PIP Breast Implant Litigation*, overturning a high value arbitration award for serious irregularity on behalf of the Home Secretary in *Secretary of State for the Home Department v Raytheon Systems Ltd* (2015) and enforcing a cross-undertaking in damages against HM Revenue & Customs in *Abbey Forwarding Ltd (In Liquidation) v Revenue and Customs Commissioners* (2015).

Leigh-Ann has extensive experience of handling group/multi-party litigation and is especially noted for cases involving complex technical or scientific evidence. Leigh-Ann accepts instructions as a mediator (CEDR accredited) and is a Senior Decision-Maker for the Guernsey Financial Services Commission.

She specialises in the following areas of practice:

- Professional liability (including claims involving solicitors, barristers, accountants, insurance brokers and financial services professionals);
- Product liability (including commercial products, pharmaceuticals, vaccines, food safety, medical devices, blood and blood products);
- Insurance and reinsurance, particularly all forms of liability insurance;

- Commercial litigation, including financial services, commercial fraud and utilities law;
- Public and constitutional law;
- Human rights;
- Mediation;
- Arbitration.

Leigh-Ann held the appointment of First Counsel to the Welsh Government from 2013 to November 2016. In addition, prior to her appointment to silk, Leigh-Ann held the appointment of Treasury Counsel (A Panel) and since taking silk she has continued to act in cases for the UK Government upon the nomination of the Attorney-General. Over the course of some 20 years, she has acted for a wide range of Government departments and other public bodies on issues including public law, EC law and human rights.

Major cases include:

- *International Energy Group Ltd v Zurich Insurance Plc UK* [2015] 2 WLR 1472, a Supreme Court appeal involving employers' liability insurance. Leigh-Ann represented the successful appellant, Zurich. The case concerned asbestos/mesothelioma risks and in particular whether an insurer has any right of contribution from another insurer and/or a right of recoupment from a solvent employer in respect of uninsured periods;
- *The PIP Breast Implant Litigation insurance dispute* (2014-15). Leigh-Ann represented RSA on an insurance coverage dispute with Spire Healthcare, a dispute which settled prior to trial.
- *Secretary of State for the Home Department v Raytheon Systems Ltd* [2015] 1 Lloyd's Rep 493 and also [2014] EWHC 4375, TCC (two judgments), an arbitration appeal in which Leigh-Ann acted for the Home Secretary and succeeded in overturning a high value arbitration award for serious irregularity.
- *Abbey Forwarding (in Liquidation) v Revenue and Customs Commissioners* [2015] EWHC 225 (Ch); [2015] Bus LR 882. Leigh-Ann represented an insolvent company and succeeded in enforcing a cross-undertaking in damages given by HMRC when seeking an order appointing a provisional liquidator of the company. She is currently acting on the damages Inquiry.
- *Welsh Ministers v Servier* (2015). Leigh-Ann is currently acting for the Welsh Claimants in competition law proceedings in the Chancery Division, concerning the supply of the ACE inhibitor, Perindopril.
- *Welsh Ministers v Reckitt-Benckiser* (2014). Leigh-Ann acted for the Welsh Claimants in a competition law follow-on claim in the Chancery Division concerning the supply of Gaviscon.
- *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 claims for noise induced hearing loss raising issues of combat immunity.
- *Abdale & ors v Ministry of Defence* (2014). Leigh-Ann appeared for the Ministry of Defence on a two week hearing before the Upper Tribunal of a set of 12 conjoined appeals which was the first major case testing the legislation governing the war pensions jurisdiction.
- *Davidson v Aegis Defence Services (BVI) Ltd* [2014] 2 All ER 216, a limitation appeal to the Court of Appeal raising novel issues under s.33 Limitation Act 1980.
- *The Employers' Liability Insurance Trigger Litigation (Durham v BAI (Run Off) Ltd* [2012] 1 WLR 867), a multi-party action and major liability insurance case concerning asbestos/mesothelioma risks, which was appealed to the Supreme Court. Leigh-Ann represented Zurich Insurance Company which was successful in its appeal.
- *The Atomic Veterans Litigation (AB & ors v Ministry of Defence* [2013] 1 AC 78), a Supreme Court appeal arising out of a large multi-party action arising out of the British nuclear tests in Australia and the South Pacific in the 1950s. Leigh-Ann represented the Ministry of Defence which succeeded in its limitation defence.
- *The Miners' Knee Litigation (Davies v Secretary of State for Energy and Climate Change* [2012] EWCA Civ 1380), a large group action arising out of the development of osteoarthritis in the knee from coal mining. She represented the Department for Energy and Climate Change in successfully resisting an appeal by the claimants to the Court of Appeal.
- *The Porton Down Litigation*, a multi-party action arising out of a programme of non-therapeutic experimentation at Porton Down with chemical warfare agents and antidotes. She represented the Ministry of Defence.
- *Medcalf v Mardell* [2003] 1 AC 120, a professional liability claim involving the first and only wasted costs case to be heard by the House of Lords. Leigh-Ann appeared on behalf of the successful barrister respondents. As junior counsel, she presented part of the appeal orally before the House of Lords.
- *The BSE Litigation*, a multi-party action which arose out of the development of BSE/vCJD and resulted in an *ex gratia* compensation scheme being set up by the Government. Leigh-Ann acted for the Department of Health and Department of Environment, Food and Rural Affairs. During 2010, she defended a major judicial review of the vCJD Compensation Scheme on behalf of the Department of Health ((2010) Med LR 204 & [2010] EWHC 1225).
- *Aspirin/Reyes Syndrome* [2002] Lloyd's Rep Med 333, a product liability claim in which Leigh-Ann acted on behalf of the Committee on the Safety of Medicines.
- *The Creutzfeldt-Jakob Disease/Human Growth Hormone Litigation*, a multi-party product liability action by claimants who had developed CJD as a result of taking human growth hormone or had received the medicine but were "worried well" ((2000) 54 BMLR 1, 79, 85, 95, 100, 103, 104, 111; [2000] Lloyd's Rep Med 161). Leigh-Ann acted for the Department of Health and Medical Research Council.

She is Consultant Editor and contributor to *The Law and Regulation of Medicines* (OUP), Editor of *Jackson & Powell on Professional Liability* (6th and 7th eds) (Thomson Reuters), contributor to R. Goldberg's *Perspectives on Causation* (Hart) and General Editor of *Human Rights and Civil Practice* (OUP). She is also on the Editorial Board of

Lexis' PSL Arbitration.

Leigh-Ann is a non-executive director of Bar Mutual Indemnity Fund Ltd. She is called to the Bar of the Republic of Ireland. She is also an international advanced advocacy trainer.

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## Professional Liability

"Noted for her ease of manner with both peers and clients", Leigh-Ann "is a well-established name in the professional negligence world and continues to grow her already vast practice". She is described in the directories in relation to this field as "outstanding", "a fantastic advocate", "extremely bright and highly organised" and is "highly recommended for solicitors' negligence cases" and said to be a "thorough and an extremely safe pair of hands", "Leigh-Ann is charming and relentless in equal measure and she exudes confidence. She never loses sight of the big picture and ensures that clients are well informed and happy at all times", "extremely diligent and thorough with papers and instructions and very flexible. She gets on top of the points very quickly".

## Accountants, Auditors & Actuaries

- Defending an accountants/tax advisers' negligence claim on behalf of MRI Moores Rowland LLP
- Represented 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: *Bezant v Rausing & 16 ors* [2007] EWHC 1118

## Construction Professionals

Experience of acting for/against construction professionals including

- Acting for an architect on a £20M claim arising out of alleged negligence in designing a modification to a factory which was subsequently destroyed by fire
- Advised on claim against engineer arising out of a defective floor slab in a major commercial development
- Acting for firm of engineers in relation to claims arising out of a defective industrial crane
- Acting on a claim for repudiatory breach of contract: *Bedfordshire County Council v Fitzpatrick Contractors* [2001] BLR 226

## Insurance Brokers & Agents

- 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, due for trial in January 2016
- Acting for insurance brokers in relation to a claim of alleged negligence arising out of the scope of their customer's cover

## Lawyers

Particular expertise in relation to 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.

- Defended a very high value solicitors' negligence claim arising out of lost product liability litigation, which recently settled at mediation.
- Defended a high value wasted costs claim arising out of failed employment tribunal proceedings.
- Defended 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.
- Acted for insurers of a licensed conveyancer in relation to a number of claims arising out of alleged lending transactions.
- Appeared on a 3 day s.33 Limitation Act 1980 application in Central London County Court (value £1M+) 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.
- Defending a QC in proceedings in the Chancery Division by former clients against their solicitors and counsel arising out of lost commercial litigation: *Griswold v Mace Jones & anr* (2013).
- Advised 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.
- Acted for and obtained 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:

- Phelps v LHP Law & or* (QBD, 2010).
- Appeared 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: *Protopapas Solicitors v Spon-Smith* (Ch.Div, 2010).
  - Defended a solicitors' negligence claim arising out of private client tax advice and drafting a share sale agreement: *Bertram v Eversheds & Boodle Hatfield*.
  - Defended 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: *Cabvision v Feetum, Marsden & Smith and Dean & Dean Solicitors* (2010).
  - Led 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.
  - Represented solicitors in Commercial Court claim arising out of compromise of litigation in *Reass SARL v Markel International Insurance Company* (2007).
  - Acted on an appeal relating to costs issues arising from the Vibration White Finger litigation against solicitors: *Russell Young & Co v Kevin Brown & ors* [2007] 2 All ER 452
  - Represented the respondent barristers to the first wasted costs case to be heard by the House of Lords in *Medcalf v Mardell* [2003] AC 120 and argued the human rights submissions.

## Surveyors & Valuers

- Has dealt with claims against surveyors and valuers in relation to both residential and commercial valuation claims. Expertise in marine surveyors' liabilities.

## Experts

- Acted for the expert in the first claim for wasted costs against experts: *Phillips and ors v Symes & ors (No 2)* [2005] 1 WLR 2043, [2004] EWHC 2330 (Ch)

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## International Arbitration

- Leigh-Ann has acted and accepts instructions to act both as an arbitrator and as an expert determiner in insurance and commercial disputes which the parties have agreed or wish to resolve in a confidential forum.
- Acted in a very substantial international commercial arbitration involving a high value and complex IT dispute arising out of the "e-Borders" IT system. In *Secretary of State for the Home Department v Raytheon Systems Ltd* [2015] 1 Lloyd's Rep 493 and also [2014] EWHC 4375, TCC (two judgments) Leigh-Ann acted for the Home Secretary and succeeded in overturning a high value arbitration award for serious irregularity.
- Leigh-Ann is a member of the Editorial Board and contributes articles in the field of arbitration law to Lexis PSL *Arbitration*.

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## Commercial Dispute Resolution

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, credit factoring, energy law and insolvency. She also regularly advises and acts in relation to financial services issues. Leigh-Ann is a Senior Decision-Maker for the Guernsey Financial Services Commission. In November 2015, she is chairing a session at the iTechLaw conference on Technology Dispute Resolution. Cases includes the following:

- Advised claimants in relation to their appeal and mitigation options following a failed claim against an international bank arising out of lost investments.
- 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.
- Acted 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.
- *Abbey Forwarding (in Liquidation) v Revenue and Customs Commissioners* [2015] EWHC 225 (Ch); [2015] Bus LR 882. Leigh-Ann represented an insolvent company and succeeded in enforcing a cross-undertaking in damages given by HMRC when seeking an order appointing a provisional liquidator of the company. She is currently acting on the damages Inquiry.
- Acted in a very substantial international commercial arbitration involving a high value and complex IT dispute arising out of the "e-Borders" system. In *Secretary of State for the Home Department v Raytheon Systems Ltd* [2015] 1 Lloyd's Rep 493 and also [2014] EWHC 4375, TCC (two judgments) Leigh-Ann acted for the Home Secretary and succeeded in overturning a high value arbitration award for serious irregularity.
- 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.
- Acted in a challenge to enforcement action by the Financial Conduct Authority. Obtained order staying enforcement action.

- Advised in relation to a proposed retail banking claim arising out of alleged negligence in relation to cheque fraud.
- Acted (with John Powell QC) 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.
- Acted on behalf of various insurers in the credit hire context on issues of re-trial and future case management arising out of the *Dickinson v Tesco* test cases decided by the Court of Appeal.
- Acted on a £4M+ claim by a company against its former CEO and director for breaches of fiduciary and contractual duties.
- Acted for the claimant in relation to two serious commercial fraud cases arising out of property transactions.
- Advised and acted 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.
- 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.
- Acted 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).
- Acted in various claims arising from interruption of electricity supply including *MV Sports Ltd v Midland Electricity* (2002) and a claim against National Grid.

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## Insurance & Reinsurance

Listed as a Leading Silk for Insurance in Chambers & Partners 2016, Leigh-Ann is described by the directories in relation to this field as “*very hard-working indeed. She has a great reputation and it’s fully deserved*” (2016), “*excellent, thorough and a barrister with encyclopaedic knowledge of case-law*” and “*At the top of her field, she provides excellent advice*” (2014). Leigh-Ann’s combination of expertise in relation to insurance, financial services, professionals and public law has led to her advising and acting in a number of cases which straddle these fields (in both the litigation and arbitration contexts). She has considerable expertise in relation to the insurance of asbestos liabilities and issues that arise in relation to the insurance of financial services professionals (and in particular in relation to issues arising over proactive consumer redress).

- *International Energy Group Ltd v Zurich Insurance Plc UK*, an employers’ liability insurance case concerning asbestos/mesothelioma risks. Appeared on behalf of Zurich in an appeal to the Court of Appeal ([2013] PIQR P10) and appeal to the Supreme Court [2015] 2 WLR 1472. Leigh-Ann represented the successful appellant, Zurich. The case concerned whether an insurer has any right of contribution from another insurer and/or a right of recoupment from a solvent employer in respect of uninsured periods and created new law in this area.
- *The PIP Breast Implant Litigation insurance dispute* (2014-15). Leigh-Ann represented RSA on an insurance coverage dispute with Spire Healthcare, a dispute which settled prior to trial. The case raised issues of what was “injury” for the purpose of product liability policies in the context of breast implants.
- Appeared on behalf of Zurich Insurance Company in the Employers Liability Insurance Trigger Litigation *Durham v BAI & ors* at trial [2009] 2 All ER 26, on appeal to the Court of Appeal [2010] EWCA Civ 1096 and on appeal to the Supreme Court [2012] UKSC 14.
- Regularly advises both insurers and insureds on various issues arising in relation to the insurance of asbestos liabilities in the employers’ liability and public liability contexts, including aggregation, policy construction, contribution issues between insurers, insurer-insured and between group companies, the operation of the Financial Services Compensation Scheme etc.
- Regularly advises insurers on various 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.
- Acting on a Commercial Court claim by two financial services companies against their insurance broker arising out of liabilities for pensions mis-selling. Due for trial in January 2016.
- Advised on indemnity and construction issues arising in relation to a mutual insurer.
- Advised on product liability insurance coverage issues between primary and excess insurers in high value dispute.
- Advised a regulatory body in relation to insurance issues potentially arising from a proposed form of regulatory action.
- Expertise in section 51 applications for costs against insurers *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).

Leigh-Ann has chaired and been a speaker for Lexis-Nexis Insurance Law Webinars and is a regular speaker on liability insurance issues.

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## Costs

- Leigh-Ann appeared in *Cabvision v Feetum, Marsden & Smith & Dean & Dean Solicitors (FMS v Jens Hills Solicitors)* Chancery Division, Norris J (2010) which considered recoverability of solicitors’ costs of pursuing

- wasted costs proceedings against third parties when not covered by CFA in respect of the main action.
- Appeared for Respondents in *Carlton Grove v Rubin Lewis O'Brien* relating to the recoverability of additional liabilities (success fee and insurance premiums) where there existed breaches of Section 32.5 Costs Practice Direction.
  - Appeared on appeal to Court of Appeal which held that the claimants in a group action where there was no group litigation order could recover generic or common costs under the terms of a CFA without any need for an additional or collateral agreement relating to generic costs: *Russell Young v. Kevin Brown & ors* [2008] 1 WLR 525.
  - Leigh-Ann has advised on and drafted costs sharing orders in relation to several group actions.

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## Product Liability

*"She's excellent. She has a strong reputation and also a good degree of experience in this field." "She is ferociously bright and if I had a matter that was being litigated and I knew was going to trial I would use her. She is very good at looking at complicated facts, getting to the heart of them and then arguing your corner for you." - Chambers & Partners, 2016.*

Leigh-Ann is described by the directories in relation to this field as "...an incredibly good appellate advocate. She is prodigiously hard-working and possesses both a first-class brain and very sound judgment", "Formidably intelligent and very user-friendly, she has built up her specialist knowledge of pharmaceuticals very impressively", "extremely bright", "dedicated" and "tenacious with the opposition".

### Commercial products:

- *Grundon Waste Management Ltd v Hygrade Industrial Plastics Ltd* (2012): Leigh-Ann acted 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.
- *Costain Oil & Gas Process Limited v. Barton Firtop Engineering* (2008-2010): Leigh-Ann advised on and settled pleadings in a commercial product liability claim arising out of manufacture and supply of temporary industrial strainers for use in gas pipelines.
- *Kent County Council v. Griggs & ors; Aviza v Welsh Electrical & ors* cases: Defended an electrical wholesaler, Newey & Eyre, in relation to commercial product liability/fire claims arising out of allegedly defective capacitors in light fittings.
- Advised on claims arising out of the testing and manufacture of a defective building insulation product.
- Advised major manufacturer on potential claims arising out of dishwashers and fire risks.

### Ionising radiation:

- Appeared 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: *AB & ors v Ministry of Defence* [2009] EWHC 1421; (2011) 117 BMLR 101, CA; [2012] 2 WLR 643, SC.
- Appeared on behalf of Ministry of Defence on 12 conjoined war pensions appeals by veterans to the Upper Tribunal.

### Pharmaceuticals and blood products:

- Advised on a potential claim arising out of an anti-smoking treatment.
- Advised on potential product liability claim arising out of a monoclonal antibody used in cancer screening.
- Advised on a claim relating to dopamine agonists/compulsive gambling in relation to Parkinson's Disease treatments.
- Advised in relation to The Foetal Anticonvulsant Litigation.
- Advised in relation to AIDS/HIV and Hepatitis C Haemophiliacs litigation.
- Defended a parallel importer in relation to a pharmaceutical claim relating to an allegedly defective patient information leaflet.
- Defended the Committee on the Safety of Medicines in the Aspirin/Reye's Syndrome case: *Amanda Smith v Secretary of State for Health* [2002] Lloyd's Med 305.
- Acted 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).
- Leigh-Ann also carries out specialist advisory work in relation to pharmaceutical regulation and legal risk management for producers, insurers and regulatory bodies.
- Leigh-Ann is Consultant Editor and contributes the Civil Liability and Public Law Liability chapters of The Law and Regulation of Medicines (OUP, 2008) and regularly lectures on product liability issues.

### Chemicals:

- Between 2003 and 2008, Leigh-Ann represented the Ministry of Defence in the Porton Down litigation dealing with

a 6 ½ 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 during the last 60 years.

#### Food:

- Between 2000 to date, Leigh-Ann has acted on behalf of the Department of Health and DEFRA in relation to claims arising out of BSE/vCJD.

#### Medical devices

- The PIP Breast Implant Litigation. Leigh-Ann acted at a CMC on behalf of a clinic defendant in this group action arising out of the use of industrial (as opposed to medical) grade silicone in breast implants by a French company.
- Advised a major multinational company in relation to its regulatory obligations and a possible product recall of a medical device.
- Advised a manufacturer of cosmetic dermal fillers in relation to claims against it arising out of granuloma formation.
- Advised claimant in relation to allergies alleged to be the result of PPD in hair dye.

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## Public Law and Human Rights

'She has strong attention to detail and picks up complex matters quickly'- The Legal 500, 2015.

In her role as First Counsel for the Welsh Government, Leigh-Ann advised on public and constitutional law issues in relation to the Welsh devolution settlement, legislative competence and other public law issues of major importance. Leigh-Ann has been listed by The Legal 500 as a Leading Silk in Administrative and Public Law (including Local Government) for a number of years.

She has advised and acted in relation to a number of 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).

- Acted for Welsh Ministers, an interested party in *R (on the application of Forge Care Homes Ltd & ors) v Cardiff & Vale University Health Board and other Health Boards and County Council of the City of Cardiff and other Councils and The Welsh Ministers* [2015] EWHC 601.
  - Acted 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.
  - Advised in relation to a legal challenge to the grant of marketing authorisation in respect of a pharmaceutical product under EU and domestic law.
  - Defended a judicial review claim on behalf of the Secretary of State for Health by various claimants and a further claim made by 2 interested parties which sought to challenge the vCJD Compensation Scheme: *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).
  - Advised on procedural/human rights issues arising from first instance and Court of Appeal judgment in relation to an appeal to the Supreme Court.
  - Acted for a local authority challenging the expropriatory effect of legislation: *R (Lord Chancellor) v Chief Land Registrar* [2006] QB 795.
  - Acted for the Ministry of Defence as claimant challenging a jury direction in an inquest: *R (Ministry of Defence) v Wiltshire and Swindon Coroner* [2006] 1 WLR 134.
  - Advised in relation to potential judicial review challenges to a proposed consumer redress scheme in the financial services context and the administration by two professional bodies of their statutory compensation funds.
  - Advised on regulatory obligations to a major multinational manufacturer of a medical device and the statutory duties of relevant regulators.
  - Acted 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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## Mediation

- Leigh-Ann has been a CEDR accredited mediator since 1998. She regularly acts as a commercial mediator, with a particular specialism in mediating professional liability disputes. Her skill set, and in particular her negotiation and interpersonal skills, are well suited to mediation.
  - Her mediation experience includes disputes involving unrepresented parties as well as multiple parties.
  - She also has extensive experience as counsel in mediation, in particular in the fields of professional liability, product liability and commercial disputes, advising on strategy and leading the negotiations on behalf of clients, including in relation to two very high value group actions.
  - Leigh-Ann's Mediation Agreement and Information Form are available on request.
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## Arbitration

- Leigh-Ann has acted and accepts instructions to act both as an arbitrator and as an expert determiner in insurance and commercial disputes which the parties have agreed or wish to resolve in a confidential forum.
  - Acted in a very substantial international commercial arbitration involving a high value and complex IT dispute arising out of the "e-Borders" IT system. In *Secretary of State for the Home Department v Raytheon Systems Ltd* [2015] 1 Lloyd's Rep 493 and also [2014] EWHC 4375, TCC (two judgments) Leigh-Ann acted for the Home Secretary and succeeded in overturning a high value arbitration award for serious irregularity.
  - Leigh-Ann is a member of the Editorial Board and contributes articles in the field of arbitration law to Lexis PSL *Arbitration*.
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## Public International Law

4 New Square Chambers is a fast growing presence at the public international law Bar. Members of Chambers regularly act on behalf of, and against, national governments in the UK and abroad in contentious and advisory proceedings, and advise governments, corporate bodies, non-governmental organizations, and individuals on a range of matters including:

- the protection of foreign investment under bilateral investment treaties as well as regional protections such as NAFTA and the Energy Charter
- the interpretation and application of international law in domestic courts and international courts and tribunals
- state and diplomatic immunity
- international environmental law
- the use of force and armed conflict
- the international protections for human rights through international treaties such as the European Convention on Human Rights and the International Covenant on Civil and Political Rights.

Current and recent instructions in the field of public international law include disputes before the International Court of Justice, the ICSID and ICC tribunals, the European Court of Human Rights, the Court of Justice of the Economic Community of West African States, and the domestic courts of the United Kingdom, the Gambia and the Republic of Turkey. Given Chambers' long-standing strength in international arbitration work, members of chambers are particularly well placed to advise and to represent parties in investor-State disputes.

Highlights of recent public international work by Members of Chambers include:

- appearing as counsel for the Republic of Costa Rica before the International Court of Justice in the case concerning *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)*
- acting for the investors in a substantial investment arbitration against the Maldives Government
- acting on behalf of the UK government in the challenge by an Iranian Bank to the validity of sanctions imposed in line with international treaty obligations
- acting for and advising an investor in ICSID proceedings against a Central Asian state
- appearing as counsel for the Republic of Costa Rica before the International Court of Justice in the case concerning *Construction of a Road in Costa Rica along the San Juan River (Nicaragua v. Costa Rica)*
- acting for a leading European Bank in a \$75 million property rights claim pending before the European Court of Human Rights
- acting on behalf of leading NGOs against the Gambia under the human rights provisions of the Economic Community of West African States treaty
- appearing as counsel for a European state in the CME/Lauder bilateral investment treaty claims
- acting on behalf of leading NGOs in the challenge, on the grounds of compliance with customary international law

and international treaty law, to the detention of David Miranda when carrying material from the Edward Snowden leaks

- advising the Republic of Serbia in the advisory proceedings before the International Court of Justice concerning *Accordance with international law of the unilateral declaration of independence in respect of Kosovo*.
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