

Jimmy Barber



YEAR OF CALL: 2008

INN: LINCOLN'S INN

Practice Overview

Jimmy is a specialist practitioner in the fields of clinical negligence, personal injury and industrial disease. He joined St John's Chambers in September 2015 having previously practised in London.

In clinical negligence, Jimmy has experience of cases involving a wide array of areas of medicine and dentistry and acts for healthcare providers, clinicians and claimants. He regularly advises on and settles pleadings in cases involving delays in diagnosis, injuries caused by or in the course of surgery and failure to obtain proper consent.

In his personal injury practice, Jimmy is often instructed on behalf of local authorities and public bodies in defending highways and occupiers' liability claims. He regularly defends personal injury claims involving allegations of fraud, exaggeration and fundamental dishonesty. He has significant experience in industrial disease claims and employers' liability claims, in particular in claims involving noise-induced hearing loss and non-freezing cold injuries brought by military personnel. He was led by Andrew McLaughlin in successfully opposing the appeal in *Stewart v Lewisham & Greenwich NHS Trust* [2017] EWCA Civ 2091, having defended the NHS Trust as sole counsel at first instance.

Jimmy is adept at dealing with cases involving complex and technical issues. He has a particular interest in civil procedure, on various aspects of which he has given talks and seminars.

Prior to specializing in clinical negligence and personal injury, Jimmy developed his advocacy skills and legal knowledge practising in a range of common law and commercial work. He prosecuted and defended in the Crown Court and magistrates' courts and regularly appeared before the Employment Tribunal. He has spent periods working in-house at HMRC, the Government Legal Department and the Ministry of Health. For two terms he was the judicial assistant to Lord Thomas (who was at the time President of the Queen's Bench Division), working at the Civil Appeals Office at the Royal Courts of Justice.

Areas of Expertise

Clinical Negligence

In clinical negligence, Jimmy has experience of a wide array of areas of medicine and dentistry and acts for healthcare providers, clinicians and claimants. He has advised on cases involving delays in diagnosis, injuries caused by or in the course of surgery, failure to obtain proper consent, inadequate nursing care and medication errors.

Examples of instructions include:

- ▶ Failure to identify and treat emergency conditions including oesophageal perforation, acute angle closure glaucoma, ischaemic priapism, appendicitis and intra-abdominal sepsis; delay in carrying out thoracic decompressive laminectomy, leading to neurological compromise; failure to treat serious infection in the foot, leading to an above knee amputation.
- ▶ Delays in diagnosis of various cancers, including invasive squamous cell carcinoma, morphoeic basal cell carcinoma, endometrial carcinoma and breast cancer.
- ▶ Injuries caused by or during the course of surgery, including the alleged unnecessary excision biopsy of a suspected carcinoma; the retention of a wire fragment during the insertion of a femoral line; the accidental injection of adrenaline into a toe, causing ischaemia; burn injuries caused during a hypospadias repair; various orthopaedic claims arising out of total hip and total knee replacement; the performance of a subtotal instead of a total cholecystectomy.
- ▶ Cases involving issues of consent, including the failure to obtain informed consent for the insertion of a Mirena coil; the removal of a gastric band without consent; and the failure to obtain informed consent for the injection of corticosteroids into the knee.
- ▶ Advising on the merits of a strike out application in a secondary victim claim for nervous shock, in which the claimant widow had witnessed the death of her husband after an NHS Trust negligently failed to diagnose a subarachnoid haemorrhage.

Personal Injury

Jimmy accepts instructions in all aspects of personal injury law, primarily acting for insurance companies and local authorities and public bodies. He is willing to accept instructions from claimants on a CFA basis in appropriate cases. He is regularly instructed to advise, settle pleadings and to attend trials and interim hearings in multi-track cases in the County Court and the High Court.

Jimmy has significant experience of fraudulent RTA claims, and has dealt with claims involving allegations of dishonesty, surveillance footage, low velocity impacts, staged accidents and exaggerated claims. He has secured multiple findings of fundamental dishonesty at trial.

He is experienced in employers' and public liability and industrial disease claims, including claims involving health and safety regulations, NIHL, occupational stress, the Highways Act 1980, the Occupiers' Liability Acts and claims for negligence. He acts in travel law claims brought under the Montreal and Athens Conventions and the Package Tour Regulations.

Examples of successful outcomes at trial and on appeal include:

- ▶ Representing the appellant highways authority in the appeal against a first instance finding that there had been a breach of s.41 when the claimant tripped on an area of cracked pavement around the base of a mature tree.
- ▶ Defending a claim at trial for the operators of a fairground ride in the case of a claimant who suffered amputation of finger on the ride.
- ▶ Defending multiple claims for injuries sustained during bell-ringing sessions.
- ▶ Acting for claimant who suffered an eye injury during a school science experiment.

- ▶ Defending a claim for a head injury occasioned by an alleged battery.
- ▶ Acting for a defendant with a limitation defence at trial in a claim for historic NIHL.
- ▶ Acting for a claimant who suffered a needle-stick injury from a syringe left in an item bought from a pawnbroker.
- ▶ Acting for a child claimant whose foot was crushed by a school bus.
- ▶ Acting for a claimant who suffered permanent facial scarring after striking his face against the boundary wall of a football pitch.

Employer's Liability

Jimmy is regularly instructed to advise and to represent claimants and defendants alike in multi-track cases in the County Court. He is experienced in dealing with cases involving manual handling, the provision and use of work equipment, PPE, slipping and tripping in the workplace, noise-induced hearing loss, and occupational stress and harassment and bullying.

He has a significant amount of recent experience in cases brought against the Ministry of Defence for NIHL and NFCI amongst other injuries, and has settled schedules of loss in several substantial loss of career cases.

Recent cases include:

- ▶ Advising and acting for defendants in several manual handling claims pleaded in excess of £250,000.
- ▶ Settling pleadings for and advising an abattoir worker in a manual handling/provision of work equipment claim which caused a significant back injury.
- ▶ Acting for a defendant with a limitation defence at trial in claim for historic NIHL.
- ▶ Advising on contributory negligence in claim by factory operative whose hand was crushed.
- ▶ Advising soldiers with NIHL, NFCI and other injuries in a series of claims against the MOD.
- ▶ Advising HMRC in-house in a wide range of EL disputes, including a number of high value and complex chronic pain and occupational stress claims.

Industrial Disease

Jimmy is regularly instructed in industrial disease cases advising and representing claimants and defendants alike in multi-track cases in the County Court. He has experience dealing with cases involving noise-induced hearing loss and occupational stress and harassment and bullying. He has a significant amount of recent experience in cases brought against the Ministry of Defence for NIHL and NFCI amongst other injuries, and has settled schedules of loss in several substantial loss of career cases.

Examples of recent cases include:

- ▶ Acting for a defendant with a limitation defence at trial in claim for historic noise induced hearing loss.
- ▶ Advising soldiers with NIHL, NFCI and other injuries in a series of claims against the MOD.
- ▶ Advising HMRC in-house in a wide range of employer liability disputes, including a number of high value and complex chronic pain and occupational stress claims.

Personal Injury Costs

Jimmy has a developing practice in personal injury costs. He is regularly instructed to attend costs and case management conferences on behalf of claimants and defendants in multi-track cases and is well-versed in costs budgeting.

Personal Injury Fraud

Jimmy is frequently instructed to deal with cases in which allegations of fraud or fundamental dishonesty are raised, and has considerable experience at trial both in successfully proving and defending against such allegations in road traffic accident (including in cases involving low velocity impacts, induced collisions and exaggerated losses) and other personal injury claims. He is experienced in cross-examining claimants to unveil inconsistencies in their medical records and other documents. He also regularly advises defendants and claimants on the merits of allegations of fundamental dishonesty.

Examples of recent instructions include:

- ▶ Defending a claim in which a finding of fundamental dishonesty was made against a claimant who had failed to mention any whiplash injuries during an emergency admission for suspected pneumonia one month after the index accident.
- ▶ Obtaining a finding of fundamental dishonesty against a claimant who had been involved in two successive road traffic accidents, but had failed to disclose both accidents to both medico-legal experts.
- ▶ Obtaining the removal of QOCS protection from a claimant who sought to discontinue his claim mid-trial after being cross-examined.
- ▶ Achieving settlement at a JSM for a claimant with a chronic pain condition, in the face of substantial disclosure of surveillance footage and allegations of fundamental dishonesty.

Public Liability

Jimmy is regularly instructed to advise and to represent claimants and defendants alike in multi-track cases in the County Court involving the statutory duties under the Highways Act 1980, the Occupiers' Liability Acts 1957 and 1984 and the Animals Act 1971 as well as claims for negligence and for assaults on public premises.

Recent examples of successful outcomes at trial and on appeal include:

- ▶ Representing the appellant highways authority in appeal against a first instance finding that there had been a breach of s.41 when the claimant tripped on an area of cracked pavement around the base of a mature tree.
- ▶ Acting for the operators of a fairground ride in defending a claim brought by a claimant who suffered an amputated finger on their ride.
- ▶ Defending multiple claims for injuries sustained during bell-ringing sessions.
- ▶ Acting for an elderly claimant who fractured her leg after tripping on a gravel verge in a car park.
- ▶ Defending a claim for a head injury occasioned by an alleged battery.
- ▶ Acting for a claimant who suffered permanent facial scarring after striking his face against the boundary wall of a football pitch.
- ▶ Acting for a claimant who suffered a needle-stick injury from a syringe left in an item bought from a pawnbrokers.

- ▶ Acting for a claimant who suffered an eye injury during a school science experiment.
- ▶ Defending a claim brought against a school after a pupil allegedly fell on ice and fractured her wrist.

Travel Abroad

Jimmy advises on and settles pleadings in a variety of consumer aviation and travel claims. These include carriage by air disputes involving Regulation (EC) No.261/2004 and the Montreal Convention, such as denied boarding, flight delays, lost baggage and passenger injury claims; personal injury claims involving the Package Tours Regulations; and advising on conflicts of laws and jurisdictional issues.

Recent instructions include:

- ▶ Defending claims brought by air passengers for various heads of loss that are not recoverable under the terms of the Montreal Convention, e.g. emotional suffering and distress caused by denied boarding.
- ▶ Acting for airlines in defending claims brought under Regulation (EC) No. 261/2004.
- ▶ Obtaining the striking out of a Regulation (EC) No. 261/2004 claim which had purportedly been assigned by the claimant passenger to a third party under the terms of a deed of assignment.
- ▶ Acting for tour operators in claims for breach of contract and misrepresentation relating to package holidays.
- ▶ Advising on jurisdiction and applicable law under Brussels I (recast) and Rome II.
- ▶ Advising claimants in relation to accidents abroad under the Package Tour Regulations.
- ▶ Acting for a claimant who suffered substantial facial injuries after falling through an open hatch on a Turkish schooner.
- ▶ Advising a child claimant who suffered burns from a tray of hot drinks which fell on him during a ferry journey.

Related Case:

- ▶ *Stewart v Lewisham & Greenwich NHS Trust* [2017] EWCA Civ 2091

Professional Memberships:

- ▶ Personal Injury Bar Association

Qualifications & awards:

- ▶ LLB European (Magister), University of Exeter (First Class)
- ▶ LLM, University of the Saarland (First Class)
- ▶ Bachelor of Civil Law, University of Oxford
- ▶ Lord Denning Scholarship & Hardwicke Entrance Award, Lincoln's Inn
- ▶ Undergraduate prizes including the Cavendish Prize, DLA European Law Prize, Markus Zalewski Prize and School of Law Commendation



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