



GARDEN COURT CHAMBERS

Abigail Holt

YEAR OF CALL: 1993



Abigail has over 25 years of experience focusing mainly on accident, disease, health and medical-related issues. Her caseload concentrates on difficult tort/negligence cases: catastrophic injury and death; personal injury claims for head injuries and clinical negligence; complex industrial diseases, particularly lung disease/asbestos; injury abroad; to human rights claims including for child abuse/neglect.

The breadth of her experience encompasses difficult Criminal Injuries Compensation Authority Appeals; Court of Protection; Regulation of healthcare professionals (GMC, NMC); inquests; and judicial review of medical/healthcare-related matters.

Abigail's expertise is far wider than most PI/clinical negligence practitioners. She has experience working with the team of référendaires in the Cabinet of the UK Advocate General, (Eleanor Sharpston QC), at the Court of Justice of the European Union in Luxembourg, (where both her excellent French and Spanish language skills and wide legal background were invaluable). She is the Treasurer of the European Circuit of the Bar,

and is co-convenor of the Garden Court's Commercial and Business Ethics Team.

In 2024, Abigail was appointed as a High Court Examiner.

"Abigail is an exceptional barrister with vast experience, and deep knowledge in this area of law."

LEGAL 500, 2024 (PERSONAL INJURY)

"Abigail has great empathy with clients, is technically brilliant and innovative, and is excellent at cross-examination."

LEGAL 500, 2021 (PERSONAL INJURY)

"Recommended for industrial disease work."

LEGAL 500 2020

"Highly recommended for mesothelioma and asbestos cases."

LEGAL 500 2019

"An expert in asbestos and mesothelioma cases"

LEGAL 500 2017

"She has an excellent manner with clients and is always thoroughly prepared"

LEGAL 500 2016

If you would like to get in touch with Abigail please contact the clerking team:

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CATESTROPHIC PERSONAL INJURY, LITIGATION AND CLINICAL NEGLIGENCE

Abigail studied medicine before switching to law and so has a background in general science, as well as in biological science. Most of her cases involve engagement with multiple medical experts over a wide range of disciplines. She has extensive experience engaging with engineering evidence.

Examples of clinical negligence instructions include: a failure to diagnose Herpes Simplex Encephalitis in a 9-month-old baby resulting in severe learning difficulties; failure to diagnose breast cancer, ovarian cancer and oesophageal cancer, all with fatal consequences; failure to diagnose DVT and pulmonary embolism with fatal consequences; irreversible damage to the vascular system resulting in the amputation of the claimant's leg; undiagnosed Crohn's disease; surgically perforated bowel; slipped femoral epiphysis in a child resulting in permanent hip joint injury; undiagnosed scaphoid fractures and macular degeneration. Many of Abigail's cases have involved allegations of negligence in the failure to provide adequate care for care-home residents suffering from dementia and complex co-morbid conditions.

Recent PI instructions have included fatalities arising out of a massive fireworks explosion with expert pyrotechnical evidence; burning injuries in foundries; serious degloving injuries; bilateral amputations arising out of a collision on a railway; many cases involving complex pain and profound emotional reactions to accidents resulting in severe psychiatric injury.

NOTABLE CASES

Examples of recent successful cases:

Mrs B v IC NHS Trust - **Complex clinical negligence case where the Claimant suffered life-changing complications due to the negligent re-positioning of a cardiac ICD (Implantable Cardioverter-Defibrillator) device which migrated within the chest wall muscles and where there was a failure to advise that in fact the device was not serving a useful purpose.**

Mr C v SH NHS Trust - **Health care support worker severely assaulted in the face by patient in secure unit for adolescents. As a result, suffered facial fractures, traumatic brain injury, PTSD and loss of taste and smell.**

Mr H v HM Prison and Probation - **Senior Prison officer suffered permanent hand injury when participating in a local response training exercise. The case required expert evidence on "control and restraint" techniques deployed in prisons.**

Mr P v Rolls Royce - **Claimant suffered a head injury when cycling through his work's exit when a traffic barrier fell on him and caused him to fall off his bike. Case complicated by pre-existing comorbid cerebral aneurism.**

Mr C v KH Motorcycles - Claimant suffered multiple injuries when defectively performed repairs to his motorbike caused a mechanical malfunction and the Claimant was thrown from the motorbike. He suffered a severe displaced tri-malleolar ankle fracture, went on to develop a pain syndrome and psychiatric sequelae. Severe consequences for married father of five children.

Ms A v Topgolf - Claimant trainee nurse hit in the face by a friend with a golf club at a golf practice range causing fractured skull and permanent vision problems.

Mr P (CICA – successful Appeal to Upper Tribunal) - Aged 19, Mr P suffered a catastrophic brain with a skull fracture, acute subdural haematoma resulting in craniotomy surgery and severe/permanent deficits in cognitive function, memory and personality change. He lost his job, personal relationship and every area of his life were adversely impacted. The Court of Protection appointed a Financial Deputy. An initial award (£55,300) was successfully appealed to £287,019 but with a very limited award for Deputyship costs. The Upper Tribunal was persuaded to permit a further appeal which resulted in £235,965 in past and future deputyship costs. Global award: £497,172.

Ms G v Elvenden Farms Ltd - periprosthetic spiral fracture and head injury, resulting in orthopaedic surgery complicated by hospital-acquired MRSA infection and psychological sequelae. Incomplete recovery and permanent mobility/lifestyle deficits - £250,000.

Mr W (Fatal claim on behalf of wife) v Roman originals – Deceased (86 years) walked into a plate glass shop door resulting in a fall, causing a fractured hip necessitating total hip replacement which went on to dislocate on multiple occasions resulting in several hospital admissions. The accident and stress of hip dislocations/surgery caused the Deceased massive heart problems which exposed her to hospital-acquired COVID-19 infection, resulting in her untimely death - £100,000.

INDUSTRIAL DISEASE, ASBESTOS LITIGATION AND PULMONARY DISEASE

Abigail has expertise in lung disease arising out of historic asbestos exposure. Typical clients suffer from mesothelioma, lung cancer or asbestosis, as a result of historic occupational exposure in industrial settings and shipyards from the 1950s, through to the 1980s. Abigail also has a great deal of expertise in successfully bringing claims for low exposure to asbestos, typically tradesmen, plumbers and electricians. Many of Abigail's instructions arise out of deaths due to lung disease and usually against a background of complex comorbidities.

Abigail successfully represented the Estate of Oldman (LTL 14/8/2017) (persuading the Court to apply the jurisprudence of *Jeromson*, in a decision which pre-dated the very similar arguments put forward in the case of *Bussey*). She also has experience with other types of lung disease including the British Coal litigation (Griffiths & others), a compensation scheme for Chronic Bronchitis and COPD. She also has an interest in asthma and air pollution.

NOTABLE CASES

Recent successful cases include:

Mr C (Deceased) v ABR - The Deceased was a bakery engineer for a short period in the early 1960's. Low asbestos exposure. Suffered sarcomatoid plural mesothelioma. Complicated financial consequences for the dependent Widow because the Deceased was still working on a self-employed basis at the time of death.

Mr S (Deceased) v 3 Defendants - Fatal lung cancer case involving ceiling fitter exposed to asbestos many years previously and with scant direct evidence of asbestos exposure from the Deceased and no asbestos-related diagnosis before he died. Because he died at the height of the COVID-19 pandemic, inadequate post-mortem performed and the Widow's concerns ignored by the treating doctors.

Mr E v 2 Defendants - Claimant had 50% respiratory disability (20% progressive diffuse pleural thickening, 10% anxiety-related and 20% due to COPD with emphysema) with a significant risk of respiratory disability progression. The Claimant also had an earlier diagnosis of non-asbestos-related lung cancer. Significant date-of-knowledge limitation issues in the case due to complex pulmonary history.

COURT OF PROTECTION AND DEPUTYSHIP ISSUES

Abigail is asked to advise in relation to issues connected to finances and damages awarded to vulnerable adults. She is instructed in complex CICA appeal hearings where there are complex situations arising out of mapping the CICA scheme rules against the obligations of Deputies, the Court of Protection requirements, as well as social security assessment rules.

Abigail's Tribunal work engages issues of capacity and disability (engaging Mental Capacity Act 2005) and impacting upon consent to give instructions, e.g. in relation to immigration matters, including on the validity to consent to marry, as well as in relation to the management of property and financial affairs.

NOTABLE CASES

Recent cases have included:

Long-running Court of Protection case involving elderly care home resident (P) with severe mental illness but inconclusive diagnosis subject to eviction notice from care home who could not meet P's complex needs. Huge problems trying to identify appropriate alternative accommodation to coincide with P's adult children's wishes and to coordinate with P's spouse accommodated in a different care home also with cognitive deficits.

Advising on the extent of the inherent jurisdiction of the English High Court in relation to a UK citizen dementia patient lacking capacity and living abroad, resulting in the patient's teenage child being taken into foster care.

REGULATION OF HEALTHCARE PROFESSIONS

Abigail has extensive experience representing healthcare professionals following complaints made to Regulators, predominantly GMC and NMC. She also represents social workers, dentists and ambulance paramedics in disciplinary proceedings.

NOTABLE CASES

Recent example cases include:

A hospital Registrar accused of a very serious sexual assault on a vulnerable patient where Abigail secured unrestricted practice for the doctor whilst the GMC and criminal investigation continued (before the proceedings were eventually dropped).

Preserving the registration of a hospital doctor suffering from serious stress who succumbed to prescribing himself medication in the name of another patient and then being dishonest when the GMC initiated an investigation into his behaviour, at a time when the doctor was working with a famous professional sports team which is constantly in the national media.

Successfully advocating for the unrestricted return to the practice of a young ambulance paramedic recovering from severe mental illness.

ETHICS, AI/TECH, EUROPEAN, INTERNATIONAL AND GENERAL COMMON LAW

Abigail has been recognised as being a thought-leader in relation to the Ethics in information technology and artificial intelligence (AI). In the last 12 months, she has presented at conferences organised by AITechNorth and Manchester Metropolitan University.

To celebrate the UN Day for Universal Access to Information Abigail was asked to write a piece for the International Association of Women Judges: [Too much information?! - International Association of Women Judges \(iawj.org\)](#)

Abigail has experience with insurance-related issues, particularly connected to historic torts, or where there is a dispute as to the existence of a relevant insurance policy. Abigail was able to settle a case for a client challenging the government's failure to follow a lawful procurement policy in a tendering process for bulk foodstuffs destined for a large government department. She has also successfully concluded litigation and successfully mediated disputes involving commercial leases.

She also has considerable expertise in relation to the free movement of European Citizens and EU retained law with regard to employment law. At the European Court of Justice in Luxembourg she worked on cases involving employment rights and discrimination; trademarks; competition (satellite TV services) harmonisation of VAT and rules pertaining to “turnover” taxes. Her Tribunal work frequently exposes Abigail to issues arising out of the application of international Treaties.

NOTABLE CASES

Abigail has facilitated the successful resolution of a number of international cases. Recent examples include:

Smith v Primetals Technologies Limited - Claimant had pre-existing Crohn’s disease and was sent on a work trip to India where he suffered a flare up of the disease which resulted surgical removal of his large bowel and other complications - £800,000 settlement.

Garrity v XL Insurance (for an Airlines company) - Claimant (Cabin Crew) suffered multiple leg fractures when a flight from Cuba flew into turbulence and the aircraft shot up around 500 feet in 90 seconds, pinning her to the aircraft floor leaving permanent injuries and inability to continue in her profession.

DF v Acorn - A 13-year old suffered very serious orthopaedic, psychological and scarring injuries in a waterfall in Val D’Aosta, on an adventure holiday in Italy, resulting in being airlifted off a mountain for surgery in Turin followed by a long rehabilitation period and educational disruption.

MEDIATION SERVICES AND “SHOW CAUSE” HEARINGS

Abigail has been a fully trained mediator since 2011 and has also acted as a mediation advocate. Most recent mediation work has been in relation to complex PI cases which were not amenable to settlement by joint settlement meetings or commercial lease disputes. All such mediations resulted in the successful resolution of all issues, including linked Employment Tribunal cases and costs.

On numerous occasions, with the permission of the High Court, Abigail has performed the role of Court Examiner taking evidence on commission for the Court, in cases where Claimants have been too ill to attend for cross-examination at trial.

ENVIRONMENTAL LAW AND CLIMATE JUSTICE

Abigail has an interest and experience in environmental law and climate justice. Previously, Abigail worked with Paul Clark and Tim Baldwin on the “Zero Hour” Campaign in relation to the cross-party Climate and Ecology Bill, which aims to set concrete steps to implement the Paris Agreement.

Her current practice includes industrial disease work, including asbestos litigation which aims to hold polluters accountable. Asbestos is a form of deadly air pollution which engages the tort rules in relation to the attribution of harm and apportionment. Abigail's academic background in science, particularly epidemiology, supports her practice in asbestos disease litigation.

Abigail's 14-year experience as a First-Tribunal Tier Judge in the Immigration and Asylum Chamber means she has a good grounding in EU and Human Rights Law. Abigail is also familiar with the environmental chapter of the Treaty of Functioning of the European Union (TFEU). Abi's judicial post has deepened her awareness of the increased displacement of people due to climate change.

Abigail has been involved in research in relation to the EU Health Governance movement where academics attempt to generate public health-related policies applicable across the EU. The researchers frequently highlight that these policies would work in tandem with promoting green policies and fossil fuel-reducing policies.

In 2023, Abigail completed Cambridge University's *Democratising Education for Global Sustainability and Justice* course and the British Institute of International and Comparative Law (BIICL) *Short Court on Climate Change Law* (June 2023).

In June 2024, Abigail completed the Cambridge University online course '*Sustainable Development Goals: Law and Policy*'.

BACKGROUND

Abigail studied medicine for two years before swapping to study law. She relies heavily on her scientific and medical background in many of her cases.

She also has a long-standing personal interest in studying Spanish (in May 2024 she was asked to address the Madrid Law Society in Spanish to explain the role of a British barrister) and French which she used whilst working at the European Court of Justice in Luxembourg.

PUBLICATIONS

[Following the science? Accountability in the time of COVID](#) | [COUNSEL](#) | [The Magazine of the Bar of England and Wales](#)

TRAINING AND SEMINARS

Abigail has given presentations on EU Citizens Rights and International Law in Everyday Cases for the European Circuit of the Bar.

Congreso Internacional Sobre Responsabilidad Civil y Seguro (9 & 10 May 2024) - Abigail presented (and took questions!) in Spanish at the Madrid Law Society first international conference on civil liability and insurance. The event was organised by the Pan European Organisation of Personal Injury Lawyers (PEOPIL) ICAM and ANAVA-RC.

COURT EXAMINER

In 2024, Abigail was appointed as a [Court Examiner](#) (following success in a competition organised by the Judicial Appointments Commission). The High Court Examiner role is a quasi-judicial role governed by CPR 34. The Court Examiner takes the evidence as a judge would, ensuring that the evidence is carefully recorded and a transcript produced for the Trial Judge.

Court Examiners are able to take depositions, often for persons with a terminal illness, or those who are too severely ill to attend court. The role can involve taking evidence for the High Court where a witness is abroad and cannot travel to the UK for some reason.

A Court Examiner can also be asked to supervise cross-examinations of witnesses in the UK at the request of a foreign court in relation to a case proceeding overseas (pursuant to the Evidence (Proceedings in Other Jurisdictions) Act 1975 and the Hague Convention).

Abigail has already acted on a number of occasions supervising evidence-taking from individuals with fatal conditions who are too ill to attend their forthcoming trial.

EDUCATION

Oxford University – MA Jurisprudence 1989-92

Manchester University – MA in Healthcare Ethics and Law (part-time) 2000-2

Kings College London, Centre of European Law, MA in EU Law - 2022

Academy of European Law (ERA) seminar for judges in Bucharest “Applying the Charter of Fundamental Rights of the European Union” (May 2017)

Regents University, (London) Diploma in Mediation (June 2017)

Short Course on Climate Change Law (June 2023) BIICL (British Institute of International and Comparative Law)

Sustainable Development Goals: Law and Policy University of Cambridge Online (June 2024)

PROFESSIONAL MEMBERSHIP

European Circuit of the Bar (Treasurer)

APIL

BIICL

PIBA

UK Association of Women Judges (Abigail is on the International sub-committee)

PEOPIL

Northern Circuit

LANGUAGES

Spanish and French (B2/undergraduate level)

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