



Abigail Cohen

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Abigail Cohen

"She is commercial, practical and excellent with clients."

- Legal 500 2019

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Abigail Cohen is an experienced junior with a civil and common law practice, with an emphasis on health & safety and inquests, commercial litigation, in particular product liability, employment law, and personal injury.

Abigail is recommended in Legal 500 where she is described as having a “*sharp intellect*” and as an “*effective advocate*”.

In addition to her own cases, Abigail has a busy junior practice and has appeared in a number of high profile cases including the criminal prosecution arising out of the Buncefield oil storage depot explosion and a number of Group Actions, most recently a claim in the Technology and Construction Court arising out of two oil spills in the Niger Delta.

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Health & Safety, Inquests

Abigail has amassed a wealth of experience in health and safety cases, which is a key area of her practice. At a relatively early stage of her tenancy she was instructed as a junior (to Roger Henderson QC and Prashant Popat QC) in the prosecution arising from the “Buncefield” oil depot explosion which culminated in a three month trial in St Albans Crown Court. Since then Abigail regularly appears in health and safety matters in both the Magistrates and the Crown Court as a junior and in her own right.

She has recent experience of a number of cases under the new Sentencing Guideline for Health and Safety Offences.

Her cases vary in subject matter across the health and safety spectrum, ranging from injuries at work (falls from height, unguarded machinery etc) to fire safety failings in construction projects to claims brought against the Ministry of Defence for breach of regulatory duties relating to the provision of PPE to regulatory

investigations against companies in respect of their products.

Abigail's health and safety practice in the criminal courts dovetails with her civil work in the fields of personal injury and product liability.

Abigail also regularly appears before the Coroner's Court on behalf of interested parties, both commercial entities whose activities or products are facing potential scrutiny and on behalf of public bodies in her capacity as a member of the Attorney General's C panel (often Article 2 inquests arising out of deaths in custody). She has recent experience of a number of jury inquests. She has experience in Inquests in a number of sectors including construction, health and care.

Abigail is a member of the Health and Safety Lawyers' Association and she is recommended in the Legal 500 in this area.

Instructions Include

- Instructed as a junior to Roger Henderson QC and Prashant Popat QC in the Buncefield criminal prosecution which led to a 3 month jury trial at St Albans Crown Court.
- Acted on behalf of a company being prosecuted under the Regulatory Reform (Fire Safety) Order 2005 (led by Prashant Popat QC). The prosecution was dismissed at a pre-trial review following legal argument as to the correct interpretation of the RRO.
- Prosecution of a company under the Control of Asbestos Regulations 2006 for failings of asbestos management at its premises.
- HSE prosecution arising out of injury to employee operating palletising machinery (on behalf of Defendant).
- HSE prosecution arising out of presence of asbestos on construction site (on behalf of Defendant).
- Advised University/Union as to health and safety obligations.
- Two week jury inquest arising out of prison suicide.
- One week jury inquest arising out of fall from height on construction site.
- Inquest on behalf of construction company whose role in construction of a roundabout at which a fatality occurred was being scrutinized.
- Various inquests on behalf of Prison Service in which issues are raised as to the management of risks of self-harm and suicide; such hearings being Article 2 inquests.
- Various Inquests on behalf of Care Home operator.
- Various Inquests on behalf of provider of supported living accommodation to young people with mental health issues.

Product Liability

Product Liability is a core area of Abigail's practice. She accepts instructions in a range of product liability matters both under the CPA 1987 and at common law. She is instructed in litigation concerning products across the spectrum including pharmaceutical products, household and consumer products, vehicles, and food. This work sits well with her practice in Health and Safety and Regulatory work and in addition to civil liability claims she has experience of advising companies in relation to investigations by regulatory authorities.

Abigail has also developed significant experience of the procedural complexities of Group litigation having

been instructed as a junior in a number of Group actions, including the Bomu Bonny Oil Pipeline litigation on behalf of Shell's Nigerian subsidiary arising out of leaks from a defective oil pipeline in the Niger Delta and litigation involving over 100 claims against the MOD in respect of allegedly inadequate PPE.

Instructions Include

- Instructed in claim against leading manufacturer of pharmaceutical products in respect of an oral pain relief medicine alleged to be defective and give rise to tooth decay. Successfully defeated claim at early stage.
- Instructed in a number of claims in respect of an allegedly defective drug giving rise to novel points of law under the CPA 1987.
- Acting for a leading vehicle manufacturer in respect of claims arising out of defective car bonnets and fires arising in vehicles.
- Instructed in claims arising out of PPE supplied in the course of the Ebola crisis.
- Instructed in claim arising out of malfunction of bespoke prop manufactured for Olympic opening ceremony.
- Instructed in contractual claim in respect of clinical trials.
- Instructed by manufacturer of tap valves in respect of large number of claims for flooding and property damage.
- Assisted in research and drafting of submissions in the Fetal Anticonvulsant Litigation; produced research in the Sabril litigation (anti epilepsy drug) in particular on the Development Risks Defence; drafted submissions to the ECJ in *O'Byrne v Aventis Pasteur*
- Food; assisted with research and drafting in the Para Red food contamination claims.
- Other; produced papers on procedural, strategic and tactical matters arising in product liability claims including Product Recall and Group Actions. Contributor to Butterworth's Encyclopaedia of Product Liability Law.

Commercial Litigation & Insurance

Abigail regularly acts for commercial clients and insurers in a range of matters giving rise to contractual and tortious disputes.

Abigail often advises in cases in which cross jurisdictional issues arise and she has experience of advising on conflicts of law problems in respect of both jurisdiction and choice of law, some of which arose in the Group Action brought by several thousand Nigerian Nationals in which she was instructed.

Instructions Include

- Instructed as a junior to Charles Gibson QC and Geraint Webb in a Commercial Court trial of a £50 million subrogated insurance claim arising out of the failure of a turbine blade which caused a large scale explosion in a power station in South Africa which settled in the middle of trial.
- Instructed as junior in Group Action on behalf of Shell (Nigeria) arising out of losses claimed following oil spills in the Niger Delta.
- Instructed in contractual dispute between product manufacturer and State following malfunction of bespoke prop for an Olympic Ceremony.
- Instructed on behalf of a company appealing against the withholding of VAT by HMRC on the basis that

the appellant company participated in MTIC fraud.

- Instructed to advise insurer in respect of a claim brought by policyholders arising from insurers delay in responding to a property damage claim.
- Instructed by manufacturer of tap valves facing large number of claims for property damage.
- Instructed by insurers of major manufacturer and supplier of commercial vehicles in relation to claims that vehicles not of satisfactory quality/not fit for purpose.

Employment

Abigail regularly appears in the Employment Tribunal in claims ranging from unfair dismissals to discrimination primarily, though by no means exclusively, for Respondents. Abigail also has experience of appearing in the Employment Appeal Tribunal.

Instructions Include

- Instructed by a leading cosmetic and make up brand and successfully defended a claim for unfair dismissal involving gross misconduct.
- Instructed by a local authority and successfully defended a claim for unfair dismissal and disability discrimination.
- Instructed by production company defending claim of automatic unfair dismissal and pregnancy discrimination.
- Instructed by local authority and successfully defended claim brought by teacher for unfair dismissal involving gross misconduct.
- Instructed by DWP to defend claim for race discrimination.
- Instructed by an NHS Trust and successfully appealed a finding by the Tribunal that the Claimant was disabled within the meaning of the Equality Act 2010 (before EAT).
- Instructed by Home Office and successfully defeated claim for disability discrimination.
- Instructed by employee dismissed for gross misconduct and successfully negotiated favourable compromise agreement.
- Instructed by employee dismissed by leading supermarket chain giving rise to issues of discrimination on grounds of religion and successfully negotiated favourable compromise agreement.
- Instructed by employee dismissed when long term income protection withdrawn by insurer, employee seeking to challenge the dismissal and withdrawal of cover.

Group Actions

Abigail has extensive experience of Group Actions relative to her call. She has been involved in litigation of this nature from the outset of her practice. In her pupillage she assisted her Supervisor, Geraint Webb QC, in relation to a group action brought by women whose children suffered birth defects as a result of anti-epilepsy medicine taken during pregnancy.

Since becoming a tenant, Abigail acted as a junior (led by Charles Gibson QC) on behalf of the Shell Petroleum Development Company in a Group Action brought by several thousand Nigerian Nationals which is ongoing

before the Technology and Construction Court.

Abigail is currently instructed by the Ministry of Defence in the Noise Induced Hearing Loss litigation, in which over one hundred service personnel are claiming in respect of hearing loss suffered whilst deployed.

She is also instructed by the Ministry of Justice in claims (numbering over one thousand) in respect of historic sexual abuse allegations whilst in detention centers.

Representative Cases

- *Bomu-Bonny Oil Pipeline Litigation*
Over 15,000 claims brought in the English Courts in respect of oil spills in the Niger Delta.
- *Noise Induced Hearing Loss*
Hundreds of claims brought against the MOD in respect of hearing loss sustained during deployment and domestic training.
- *Medomsley Detention Centre Claims*
Thousands of claims brought against the Ministry of Justice in respect of allegations of sexual abuse during detention in the 1970s and 1980s.

Personal Injury

Abigail's personal injury practice covers the full range of accidents from slipping and tripping to workplace accidents resulting in serious injury or death. This area of practice complements her practice in the fields of Health and Safety and Product Liability.

Instructions Include

- Regularly instructed by insurers in claims arising out of work place accidents in particular in the construction field.
- Acted on behalf of a defendant and successfully withdrew an admission of liability made years earlier by loss adjusters. The case involved issues as to the scope of CPR 14.1A in terms of withdrawing admissions.
- Instructed by Ministry of Justice in numerous claims brought by employees for injuries sustained during the course of employment in particular assaults and work place stress.
- Instructed by Ministry of Defence in numerous claims brought by service personnel for psychiatric injuries following deployment to combat zones.

What the directories say

"Abigail is a good operator - knowledgeable, experienced and excellent with clients. She is a strong

communicator both in meetings and in court and genuinely care about the outcome for her clients. She is a pleasure to work with."

Legal 500 2021

"An able junior with a very good eye for detail."

Legal 500 2017

"Her calm, reassuring presence is very popular with clients."

Legal 500 2016

Appointments

- Deputy District Judge (2020)
- Attorney General's Panel of Counsel (C Panel, 2013-2019)

Publications

- Tolley's Health and Safety at Work Handbook, contributor
- Miller, Butterworth's Product Liability and Safety Encyclopedia, contributor

Memberships

- Health & Safety Lawyers' Association
- Commercial Bar Association
- Employment Lawyers' Association
- Employment Law Bar Association

Education

- Nottingham Law School, BVC, Very Competent (2004-2005)
- University of Birmingham, Beinart Memorial Prize for the most meritorious performance in the final year (2004)
- University of Birmingham, Sir Henry Barber Law Scholarship (2004)
- University of Birmingham, Petit Bursary for Second Year Examination Performance (2003)
- University of Birmingham, Maudsley Prize for First Year Examination Performance (2002)
- University of Birmingham, Law LLB, First Class (2001-2004)

Awards & Recognitions

