



Caroline McColgan



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“Caroline is extremely bright and is very good at grappling with the issues. Her advice is always pragmatic and commercial. She’s a delight to work with.”
(Chambers & Partners, 2024)



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Caroline McColgan joined chambers in October 2011 following successful completion of her pupillage. Since then, she has developed a practice which is strongly focused on insurance, professional negligence, property damage, and construction law. Caroline is a confident advocate and regularly appears in the High Court as well as before the Court of Appeal.

Caroline is very regularly instructed in insurance coverage disputes and has acted in a number of cases at the forefront of recent developments in insurance law.

This year, Caroline has acted for Insurers in the first two Commercial Court trials to consider the availability of cover under policies of warranty & indemnity insurance. These were: *Finsbury Food Group PLC v Axis & Ors* [2023] EWHC 1559 (Comm), a contrived claim concerning the effect of a price reductions warranty and a material adverse change clause; and *Project Angel Bidco Ltd v Axis & Ors* [2023] EWHC 2649 (Comm), which concerned the application and effect of an exclusion in a W&I policy. Caroline’s clients were successful in their defences to both claims.

In 2020, Caroline was instructed to act for Zurich Insurance PLC in the FCA Test Case litigation, both at first instance and in the Supreme Court. Zurich was the only insurer involved in the Test Case which succeeded in avoiding any liability. Since then, Caroline has acted for various other insurers in relation to claims concerning Covid-19, both in Court proceedings and in arbitration.

Early in her practice, Caroline was instructed on the major reinsurance case of *Amlin Corporate Member Ltd & Ors v Oriental Assurance Company* [2013] EWHC 2380 (Comm), appearing as junior counsel for the defendant at trial in the commercial court and on appeal to the Court of Appeal (see *Amlin Corporate Member Ltd & Ors v Oriental Assurance Company* [2014] EWCA Civ 1135).

Before coming to the Bar, Caroline read history at Magdalen College Oxford and then undertook the law conversion course in which she received a distinction. She is a contributing editor to *Emden on Construction Law*, co-authoring Chapter Two: “Formation and Validity of Contract”.



Commercial

Caroline has wide ranging experience of commercial litigation. She frequently deals with matters concerning the sale of goods and supply of services, breach of contract, misrepresentation, bailment, conversion, mortgages, estoppel, credit hire, corporate and personal insolvency.

Selected Cases

- Acting for the promoter of a tax mitigation scheme in relation to an alleged secret commission claim.
- Acting for a major UK reinsurance broker in a dispute over unpaid commission.
- Acting for insurers in a claim for policy indemnity despite failure to comply with a condition precedent.
- Acting for a private company in a breach of contract claim concerning an automatic renewal clause in a supply agreement.
- Acting for a private individual in relation to a contract for the installation audio-visual services that were not provided. The claim made involved restitution for monies had and received.
- Acting for petitioners and creditors in bankruptcy and/or winding up proceedings. Acting for a well-known estate agent in claims for unpaid commissions.
- Acting for the defendants, a partner and the company he had established, in a dispute within a limited liability partnership. After a breakdown in relations between the partners, the company was set up and carried on the same business. An account of profits was sought under Reg.7(9) and (10) of the Limited Liability Partnerships Regulations 2001. The case was successfully resolved after a day's mediation.
- Advising in a claim for breach of duty by a mortgagee in possession. The case involved questions of the complex duties, which were owed to the mortgagor.

Construction & Engineering

Caroline is regularly instructed in construction and engineering disputes. She has particular experience of dealing with claims for defective works, including in relation to large projects for the design and construction of energy facilities. She has acted in various cladding cases. She accepts instructions for employers, contractors, sub-contractors, insurers and individuals. In addition to her court practice, Caroline has been involved in a number of high value adjudication and arbitration matters. She frequently advises in claims for negligence and/or breach of contract against construction professionals.

Selected Cases

- *Athena Asset 5 Sarl v Berkeley Homes West London & Ors* – defending the developer of a block of student accommodation in a cladding claim where damages are claimed in excess of £15m;
 - *Prudential Assurance Co Ltd / Pets at Home Ltd v Stoke on Trent Regeneration Ltd & Ors* – acting for a design and build contractor in its defence and claims in contribution against the project engineering team in relation to alleged defects in a warehouse. Damages exceeded £40m+ (led by Andrew Rigney KC and Fiona Sinclair KC).
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- National Trust for Places of Historic Interest and Outstanding Natural Beauty v Cuffe PLC & Anor [2020], TCC – acting for the claimant property owner in relation to alleged construction defects in a stately home which caused the spread of a catastrophic fire (led by Andrew Rigney KC).
- In adjudication, sole counsel for the successful respondents in their defence to a claim for engineers' negligence claim relating to the design of an ocean terminal;
- In adjudication, defending the architect which designed a high-rise residential block in a cladding claim brought by the main contractor. Damages were claimed in excess of £7million (led by Ben Quiney KC);
- Defending the architect which designed a £multi-million residential scheme in central London in a claim in confidential arbitration proceedings arising from alleged breaches of planning laws (led by Ben Quiney KC);
- Acting for a plumbing contractor in respect of a £5million+ claim for defects in the soil stack system at a block of flats which raised important issues of limitation and complex structure theory (led by Daniel Shapiro KC).
- Defending a major UK contractor in respect of a £12m claim alleging defects in the construction of a leisure centre (led by Andrew Rigney KC).
- Acting for the Defendant in a £25m+ arbitration concerning defective micro-tunneling works on a major engineering project in Bahrain.
- Acting for the developer of a prestigious development in Belgravia in connection with a nuisance and party wall dispute (led by Michael Curtis KC).
- Acting for the Respondent in confidential adjudication proceedings concerning the electronics system installed at a Wind Farm (led by Daniel Shapiro KC).
- Acting for the Defendant, a major national piling company, in a £6m claim for defective piling works;
- Advising a contractor in a claim for unpaid fees where there were no formal contractual arrangements in place;
- Assisting with investigations into the Lakanal House Fire, which occurred in 2009. Caroline was particularly concerned with the buildings / structural issues which were raised and became very familiar with the provisions of the Building Regulations 2010 (led by James Maxwell-Scott KC).

Energy & Natural Resources

Caroline has acted in several energy and natural resources matters, and previous instructions include multi-million disputes relating to works at power stations utilising alternative and emerging energy resources (notably wind and biomass). She is familiar with the issues that commonly arise in the context of such projects, including issues as to completion of works against contractual milestones, and is adept at handling the technical evidence required to resolve such arguments.

Selected Cases

- In adjudication, as sole counsel for the successful Respondents in their defence to a claim for engineers' negligence claim relating to the design of an ocean terminal;
- As sole counsel, acting for the Defendant in a £25m+ arbitration concerning defective micro-tunneling works on a major engineering project in Bahrain.
- Acting for the Respondent in confidential arbitration proceedings concerning a £multi-billion project to build a power station in Saudi Arabia (led by Andrew Rigney KC).
- Acting for the Respondent in confidential arbitration proceedings relating to the design of a process

- for a used-tyre recycling plant in Qatar (led by Andrew Rigney KC).
- Acting for the Respondent in confidential adjudication proceedings concerning the electronics system installed at a Wind Farm (led by Daniel Shapiro KC).

Insurance & Reinsurance

Caroline has substantial experience of insurance and reinsurance disputes. She has acted for Insurers in a relation to a wide range of policies, and is developing a particular specialism in warranty and indemnity (“W&I”) insurance.

Caroline’s most prolific insurance cases include: the FCA Test Case litigation, and, this year, [Finsbury Food Group PLC v Axis & Ors \[2023\] EWHC 1559 \(Comm\)](#); and [Project Angel Bidco Ltd v Axis & Ors \[2023\] EWHC 2649 \(Comm\)](#). These latter were the first commercial court trials concerning policies of W&I insurance.

Other recent instructions include [2 Entertain Video Ltd & Ors v Sony DADC Europe Limited](#), an £8m claim for loss following the destruction of a Sony Warehouse in North London during the 2011 riots in which Caroline was led by Ben Quiney KC. In 2020/2021, she was led by Andrew Rigney KC in [National Trust for Places of Historic Interest and Outstanding Natural Beauty v Cuffe PLC & Anor \[2020\], TCC](#), a subrogated recovery claim arising out of a devastating fire at a Grade-I listed mansion house where the damages claimed exceeded £115m. Early on in her practice, Caroline was instructed with Roger ter Haar KC to represent the Defendant in the major reinsurance case [Amlin Corporate Member Ltd & Ors v Oriental Assurance Company \[2013\] EWHC 2380 \(Comm\)](#). She acted as junior counsel at trial in the commercial court and on appeal to the Court of Appeal (see [Amlin Corporate Member Ltd & Ors v Oriental Assurance Company \[2014\] EWCA Civ 1135](#).)

Selected Cases

- Advising on coverage issues (including Business Interruption) and generally in relation to the COVID-19 pandemic.
- Acting for a major UK reinsurance broker in a high value dispute over unpaid commission following a mid-term change of broker. The Claim settled shortly after Caroline prepared draft proceedings. Acting for a claimant policy holder in a £multi-million coverage dispute following a fire at a warehouse.
- Acting for insurers in one of the first direct claims under the Third Parties (Rights against Insurers) Act 2010
- Acting for claimant policy holders in a fire claim where insurers are attempting to defend proceedings for declaratory relief/damages on grounds of arson and other technical defences.
- Acting for the Defendant in a complex claim by an insurance broker against its principal (the insured) for an adjustment premium fee said to be due to an insurer. The matter raised difficult questions of agency and brokers’ duties. It was settled on very favourable terms.
- Advising an insured who had been declined cover on grounds of material non-disclosure.
- Advising on the effect of the Third Parties (Rights against Insurers) Act 1930 and whether it could be relied upon to require an insurer to meet a set of personal injury claims directly.
- Drafting a defence to a claim for declaratory relief (confirmation of cover) in a claim for consequential losses arising from storm damage;
- Advising in an insurance brokers’ dispute concerning the broker’s right to sue the insured for an



alleged breach of the insurance contract.

Professional Liability

Caroline is regularly instructed in professional negligence matters. She has experience of dealing with a broad range of professions, including solicitors, managing agents and insurance brokers, as well as many claims involving construction professionals. She frequently acts in high value matters on her own account.

Selected Cases

- As sole counsel, acting for the promoter of a tax mitigation scheme and its insurers in relation to alleged failures to give adequate warnings as to the risks of the scheme being challenged by HMRC;
- Acting in confidential arbitration proceedings against an architect in relation to the development of a grade II listed property in Central London. Caroline is being led by Ben Quiney KC.
- Acting for the defendant in a high value accountants' negligence action arising out of complex investment schemes. Caroline was led by Ben Quiney KC.
- Acting for the defendant firm in a claim for solicitors' negligence alleging a failure to identify Japanese Knotweed during a property conveyance.
- Acting for several firms of managing agents said to have breached their duty to manage commercial properties adequately, resulting in claims by third parties.
- Acting for a solicitor-executor in a very complex contentious probate dispute in which it was alleged he had breached his duty to manage the estate. Caroline was led by Dermot Woolgar.
- Acting for a provider of social housing in a brokers' negligence claim. The broker had failed to notify insurers of a high-value claim for tree-root induced subsidence, leaving it uninsured. Caroline was led by Michael Curtis KC and Andrew Davis.

Property Damage

Caroline has extensive experience of Property Damage matters. She regularly advises on issues of subrogation and/or policy coverage and accepts instructions from both claimants and defendants. A number of the claims she has handled have involved defective electrical or plumbing products, which have resulted in fire and flood damage to premises. Caroline is comfortable in dealing with complex expert evidence and handling increasingly high value claims.

Selected Cases

- *Ramvel Ltd & Ors v Bartlett & Anor* – a £multi-million dispute concerning alleged breaches of tortious duties relating to the defective installation of soil vent pipes. The claim raised interesting issues of complex structure theory, and the extent to which it can be relied upon to create a duty on the part of a subcontractor notwithstanding that none would be owed by the main contractor. Caroline acted for the Defendants and their insurers (led by Daniel Shapiro KC).
 - *Prudential Assurance Co Ltd / Pets at Home Ltd v Stoke on Trent Regeneration Ltd & Ors* – acting for a design and build contractor in relation to alleged engineering defects in a warehouse (led by Andrew Rigney KC and Fiona Sinclair KC);
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- National Trust for Places of Historic Interest and Outstanding Natural Beauty v Cuffe PLC & Anor [2020], TCC – acting for the Claimant property owner and its insurers in a subrogated recovery for losses arising out of the destruction of a stately home (led by Andrew Rigney KC).
- 2 Entertain & Ors v Sony DADC [2019], TCC – acting for the Defendant warehouse-owner in this claim for damages following a catastrophic fire set during the London Riots. Caroline represented Sony at all stages of proceedings, culminating in a 14 day trial in the TCC (led by Ben Quiney KC).
- TRW & Anor v Whirlpool & Ors [2019], TCC – acting for a freehold owner of premises destroyed by a fire caused by a defective white goods product. Quantum exceeded £9m (led by Andrew Rigney KC).
- Acting for the Respondent in confidential arbitration proceedings concerning a large fire at industrial premises in the UAE (led by Andrew Rigney KC).
- Acting for the Claimant in confidential arbitration proceedings arising out of a residential development in central London where damage had occurred as a result of basement excavation works at a neighbouring property (led by Crispin Winsor KC).
- Tideland Ltd v Westminster City Council [2015], TCC – a £multi-million claim for tree root induced subsidence and raising difficult issues of quantum as well as liability.
- Chliaifchtein v Wainbridge Estates Belgravia Ltd [2015], TCC – acting for the Defendant in a claim for nuisance and also involving complex issues under the Party Wall etc Act 1996 (led by Michael Curtis KC).
- Various Claimants v Lancashire County Developments Limited [2014], TCC – acting for the defendant in several £multi-million claims arising from a catastrophic fire at a business park. (led by Graham Eklund KC).
- Amlin Corporate Member Ltd & Ors v Oriental Assurance Company [2014] EWCA Civ 1135 – acting for the Defendant at trial and on appeal in this major international reinsurance case concerning the correct interpretation and application of a typhoon warranty (led by Roger Ter Haar KC).

Qualifications

- Major Scholar, Inner Temple (2009 – 2010)
- BVC, BPP Law School (Very Competent) (2009 – 2010) Exhibitioner, Inner Temple (2008 – 2009)
- GDL, BPP Law School (Distinction) (2008 – 2009) Demyship, Magdalen College, Oxford (2006 – 2008) BA (Hons) University of Oxford (2005 – 2008)

Memberships

- LCLCBA
- PNBA
- TECBA

Recommendations

"Caroline is extremely bright and is very good at grappling with the issues. Her advice is always pragmatic and commercial. She's a delight to work with."

Chambers & Partners, 2024



"Easy to deal with and responsive."

Legal 500, 2024

"She completely engages with cases and is energetic and proactive."

Chambers & Partners, 2022

"Caroline is very bright, a superb lawyer, immensely hard-working and dedicated, fantastic with clients, has great judgement and is an absolute pleasure to work with."

Legal 500, 2022

"She is user-friendly on claims in the High Court."

Chambers & Partners, 2022

"Caroline is very knowledgeable, industrious, and a real team player."

Legal 500, 2022

"She is brilliant – extremely bright, immensely hardworking and very pragmatic. Nothing is too much trouble for Caroline and she is perfectly happy to roll up her sleeves and get stuck in."

Legal 500, 2021

"Quickly assimilated large amounts of information and provided succinct advice. She was prepared, stuck to her guns under pressure, and artfully deflected some of the more difficult issues we faced."

Legal 500, 2021

"She expertly deals with particularly difficult and robust challenges to her position, whilst maintaining a cool, pragmatic and commercial head."

Legal 500, 2020