



Colleen Cumbers



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Colleen Cumbers accepts instructions across Chambers' core areas of practice, with a particular emphasis on commercial disputes, construction, insurance & reinsurance, professional negligence, product liability, property damage, and international arbitration. She also maintains a broad personal injury practice.

Colleen is a robust court advocate with extensive experience of handling small claims and fast track trials, as well as applications, hearings, and CCMCs in multi-track cases. She frequently appears against more experienced counsel, including successfully appearing against a ranked senior junior in the High Court and appearing in the TCC in an appeal against a Party Wall etc. Act award in which opposing counsel was a specialist in the field.

Colleen's attention to detail serves her well in court. Recent successes include reducing more senior counsel's cost budget by almost 50% in a CCMC and uncovering a seemingly insignificant date of signature in a large volume of documents which she used to successfully argue for the dismissal of a property damage claim in its entirety, despite liability having been admitted.

In addition to her court work, Colleen has a busy paperwork practice. At all stages of litigation, she is able to provide advice and drafting, including in circumstances where a quick turnaround is required. Colleen is available to advise and draft pleadings on behalf of both claimants and defendants, and across the range of Chambers' practice areas.

During pupillage, Colleen completed extensive amounts of written work on complex and high-value matters for her supervisors and other members of Chambers. She also assisted in preparation for court appearances and arbitrations. While still a pupil, her skeleton argument was used in a DIAC arbitration involving sums of more than 50 million Qatari Riyal.

Prior to coming to the Bar, Colleen graduated from the University of Oxford with a First Class BA in French and German. She subsequently completed an MA Law (Conversion) at the University of Law for which she was awarded a Distinction, as well as the Dean's Award for best overall performance in her cohort. She went on to complete an LLM Master of Laws with selected papers including International Trade Law. She was awarded a Distinction in all papers taken.

Commercial

Colleen gained experience across the spectrum of Chambers' commercial work during pupillage, benefitting from the supervision of leading barristers in this field.

Her recent work in this area includes:

- Commercial Chancery: Advising a shareholder and director of a company in relation to bringing a claim against a fellow shareholder following their misappropriation of company assets in breach of fiduciary duty. The shareholder alleged that they were a creditor of the company and were entitled to appropriate the sums in question. As the shareholder had since left the country, enforcement of any judgement was a relevant consideration.
- Sale of Goods: Settling the Defence in a claim for the costs of repairing an allegedly defective motorcycle on the basis that a product recall should have been issued. Issues included whether the Defendant, as the importer and mid-chain supplier of the product, owed a duty of care to the Claimant as the ultimate purchaser of the product.
- Contracts for Services: Settling the Reply and Defence to Counterclaim on behalf of a firm of solicitors claiming the sum of unpaid invoices from their clients. The dispute arose in relation to whether services provided in relation to advice on a right of way dispute fell within the existing conveyancing retainer or amounted to a distinct retainer for which additional sums were due.
- Contracts for Services: Successfully negotiating settlement in advance of the hearing of an application by the other side for summary judgement. The claim arose out of a contract between the Claimants and an estate agency. Colleen represented the Claimants, previously litigants in person, who had alleged that, pursuant to the terms of the contract between the parties, commission was not due to the estate agency, and that, in any event, the service was performed negligently and so there was a defence of set-off.
- Contracts for Services: Settling the Defence on behalf of a letting agent against whom tenants alleged breach of contract and/or negligence due to unsafe levels of lead being detected in a let property's water supply. Issues included whether the letting agent was the correct party against which to pursue a claim and what steps a letting agent could reasonably be expected to have taken in pre-tenancy checks.
- Contracts for Services: Settling the Defence in a claim against a heating and plumbing company. Allegations included breach of the Equality Act 2010, specifically the failure of a service-provider to make reasonable adjustments for a disabled customer, and failure of the company to comply with the terms of its own responsive repairs policy.
- Contracts for Services and Consumer Law: Securing judgement for the Claimant in a claim against a removals company. In the course of the provision of the service, the Claimant's items were damaged. Sums owed to the Claimant were in dispute due to a purported liability cap under the contract. The case turned on interpretation of contract terms between the parties and the Consumer Rights Act 2015.
- Civil Fraud: Settling the Defence on behalf of the promoter of a tax mitigation scheme in relation to an alleged secret commission claim (during pupillage).
- General Commercial: Advising on whether an exclusion clause excluding liability for anticipated savings operated to limit the Claimant's recoverable losses and whether, in any event, the claim in its entirety was capped at £2 million on the basis of a liability cap. This matter included consideration of the Unfair Contract Terms Act 1977 (during pupillage).



Colleen is also a member of the Commercial Bar Association (COMBAR).

Construction & Engineering

During pupillage, Colleen benefited from the supervision of leading barristers in this field as well as a training programme on construction law delivered by Anthony Lavers.

Her recent work in this area includes:

- Representing a builder at a preliminary hearing in a claim for the costs of remedying allegedly defective insurance repairs. Matters in issue included the need for expert evidence.
- Representing the Respondents at a CMC in the Technology and Construction Court. Appearing against a specialist in the particular field, Colleen successfully resisted efforts by the Appellants to stay proceedings.
- Advising on the prospects of successfully resisting an appeal of an award made under the Party Wall etc. Act 1996. The three-day appeal, on which Colleen is instructed, raises matters such as the jurisdiction of the surveyors to make the award in question.
- Settling the Reply to Counterclaim on behalf of a firm of architects accused of breach of contract and professional negligence in relation to alleged failures to properly submit a planning application prior to the implementation of legislative changes which would increase costs for the client.
- Settling the Defence in a case concerning the alleged negligence of a company engaged to erect perimeter protecting fencing which required ground excavation to construct fence posts. Underground electricity cables were allegedly damaged in the process of the excavations. Issues included the information provided to the company in advance by various parties and the appropriateness of the company's system of work (during pupillage).
- Settling the Reply in a High Court case involving a dispute over the scope of work under the contract and the parties' various obligations under the Control of Asbestos Regulations 2012 (during pupillage).
- Drafting an application for security for costs by way of a payment into court of £225,000 in a High Court case involving allegations of breach of a construction contract (during pupillage).
- Drafting a position statement for mediation on behalf of a party who installed a wood burning stove at a property which was subsequently subject to a serious fire. Issues included responsibility for the construction of and knowledge of the composition of a combustible wall adjacent to the stove, as well as compliance with the relevant Building Regulations (during pupillage).
- Preparing the skeleton for a DIAC arbitration concerning sums of over 50 million Qatari Riyal which involved a dispute between two construction companies existing under the laws of the UAE. Colleen's skeleton was submitted for use in the arbitration (during pupillage).

Colleen is a member of the Technology and Construction Bar Association (TECBAR) and the Society of Construction Law (SCL). She attended TECBAR's Annual Conference in November 2024 as a delegate. The conference included sessions on the latest updates in relation to the Building Safety Act 2022, a walkthrough of the Procurement Act 2023 (due to come into force early next year), and a detailed discussion on enforcing arbitration decisions in a construction context by way of insolvency proceedings.



Insurance & Reinsurance

During pupillage, Colleen benefited from the supervision of leading barristers in this field.

Both during pupillage and in her own right, she has experience in advising insurers as to matters such as the strength of declinature of cover as well as in drafting pleadings.

Colleen's recent work in this area includes:

- Obtaining strike out of a claim against an insurer for failure to provide cover under an insurance policy on the basis that the claim was brought against the wrong entity.
- Settling the Particulars of Claim in a subrogated claim by an insurer to recover its outlay under a property insurance policy following damage to property caused by a third party. A question arose as to whether to bring the claim against the third party directly and/or against its insurer. Colleen concurrently provided advice on this point.
- Advising an insurer on the prospects of declining cover in relation to a proposed claim arising out of contaminated batches of beer, specifically advising on questions of whether there had been damage to property or simply production of a defective product and whether a financial loss extension applied (during pupillage).
- Advising an insurer on the prospects of declining cover on the basis that the alleged tortfeasor was a labour only sub-contractor as opposed to a bona-fide sub-contractor (during pupillage).
- Settling the Defence to a High Court claim for a declaration that insurers were bound to indemnify the various Claimants' businesses in respect of interruption caused by the COVID-19 pandemic (during pupillage).
- Drafting a Letter of Response to an application for an order for provision of insurance coverage evidence in an arbitration under the Arbitration Act 1996 and the UNCITRAL Arbitration Rules 2021 which was valued at more than \$25 million (during pupillage).

Professional Negligence

Both during pupillage and in her own right, Colleen has experience in dealing with a wide range of professional liability matters. She accepts instructions on behalf of both claimants and defendants.

Colleen has experience in cases relating to claims against:

- Architects;
- Insurance brokers;
- Accountants;
- Solicitors;
- Medical professionals.

Her recent work in this area includes:

- Drafting a Letter of Response on behalf of a firm of solicitors whose client, a real estate company, alleged a failure on the part of the solicitors to advise it to bring a Part 20 claim against its managing agent when it faced (and ultimately settled) a claim for breach of a repairing covenant. The matter

involved a complex issue in relation to conflicts of interest as the solicitors had been corresponding with the client (the real estate company) via the managing agent, as per the retainer agreement.

- Settling the Reply to Counterclaim in a case in which she represented a firm of architects accused of breach of contract and professional negligence in relation to alleged failures to properly submit a planning application prior to the implementation of legislative changes which would increase costs for their client.
- Settling the Defence on behalf of a firm of solicitors accused of failing to adequately advise their clients about rights of way during the conveyancing of a property under a retainer agreement, allegedly leading to the present dispute between the clients and their neighbour.
- Settling the Reply and Defence to Counterclaim in a case in which she represented a firm of solicitors accused of professional negligence in relation to advice and representation provided during divorce proceedings.
- Settling the Defence to a High Court claim against the promoter of a tax mitigation scheme in relation to alleged failures to give adequate warnings as to the risks of the scheme being challenged by HMRC (during pupillage).
- Drafting a skeleton on behalf of the Claimant, an insurance company, for a CMC in a High Court case. The claim was a broker's negligence claim arising out of the fraudulent 'placement' of a non-existent reinsurance policy by a sub-broker, leading to losses of approximately €20 million (during pupillage).

For Colleen's recent work in relation to claims against medical professionals, see the Clinical Negligence section of her Chambers profile.

Colleen is a member of the Professional Negligence Bar Association.

Property Damage

Both during pupillage and in her own practice, Colleen has developed extensive experience of property damage claims. Acting on behalf of both claimants and defendants, Colleen has advised, drafted pleadings, and provided representation in court proceedings.

Colleen's recent work in this area includes:

Court Work

- Securing judgement for the Claimant in a property damage claim against a removals company. The case turned on interpretation of contract terms between the parties and the Consumer Rights Act 2015.
- Uncovering a seemingly insignificant date of signature in a large volume of documents which she used to successfully argue for the dismissal of a property damage claim arising out of an RTA, despite liability having been admitted.
- Obtaining strike out in a property damage claim in which she represented a well-known energy company accused of negligent installation of a smart meter.
- Securing dismissal of a property damage claim arising out of an RTA. The Defendant alleged fraud on the part of the Claimant, asserting that no collision had occurred.
- Representing a highway authority in a claim alleging a failure to maintain a highway in accordance with the Highways Act 1980, leading to damage of a vehicle. Colleen raised a section 58 defence to argue that such care as in all the circumstances was reasonably required had been taken.

- Securing costs for a defendant insurer in a property damage case arising out of an RTA. The claimant insurer argued that the defendant had issued proceedings prematurely, without having provided quantum evidence in relation to repair costs which could have avoided litigation. Colleen secured costs on the basis that the Letter of Claim stated quantum evidence had been sent, and the other side's failure to adequately respond or to dispute this made issuing proceedings reasonable.

Paperwork

- Advising on and subsequently settling the Particulars of Claim in a property damage case which involved evaluating technical evidence on pipework joint installations and establishing negligent workmanship.
- Settling the Defence on behalf of a heating company accused of property damage in the process of carrying out their services.
- Settling the Particulars of Claim in a High Court claim against a motor vehicle body repairing company whose breaches of the Health and Safety Executive publication on Safe Use and Handling of Flammable Liquids led to a serious fire which spread to and destroyed a neighbouring commercial premises (during pupillage).
- Settling the Particulars of Claim in a High Court case concerning the failure of a residential school to adequately supervise pupils so as to prevent them causing damage to a local grade II listed historic building (during pupillage).
- Settling the Defence in a case concerning the alleged negligence of a company engaged to erect perimeter protecting fencing which required ground excavation to construct fence posts. Underground electricity cables were allegedly damaged in the process of the excavations. Issues included the information provided to the company in advance by various parties and the appropriateness of the company's system of work.
- Drafting a position statement for mediation on behalf of a party who installed a wood burning stove at a property which was subsequently subject to a serious fire (during pupillage).

International Arbitration

During pupillage seats with Richard Sage and Patrick Maxwell, Colleen gained exposure to work in the field of international arbitration. Work included drafting a Letter of Response to an application for the provision of insurance coverage evidence in an arbitration – valued at more than \$25 million – under the Arbitration Act 1996 and the UNCITRAL Arbitration Rules 2021.

While still a pupil, her skeleton argument was used in a DIAC arbitration involving sums of more than 50 million Qatari Riyal. Issues included the operation of set-off under the UAE Civil Code. Colleen is therefore familiar with researching, analysing, and interpreting Middle Eastern Civil Codes.

Colleen also gained exposure to international litigation and arbitration during her LLM, as part of which she selected International Trade Law as a specialist subject, with studies that included jurisdiction as well as the ICC and the LCIA rules. Colleen was awarded a high Distinction grade in this paper.

Colleen has written an instructive article on the topic of enforcing foreign arbitration awards in the courts of England and Wales for Chambers' Commercial Law Blog. You can read her article [here](#).

Colleen is also a member of the Young International Arbitration Group.

Personal Injury

Colleen is frequently instructed in personal injury trials, MOJ stage 3 hearings, and infant approval hearings. She has appeared in small claims and fast track trials, as well as applications and hearings in multi-track cases.

In addition to her court work in this area, Colleen accepts instructions to advise and draft pleadings on behalf of both claimants and defendants.

Colleen has particular experience advising, drafting, and representing parties in the following areas:

- Employers' liability;
- Occupiers' liability;
- Public liability;
- Road traffic accidents.

Colleen also has experience of appearing at CCMCs. She has appeared in the High Court in such hearings and has been successful against more senior counsel. Colleen recently attended a workshop by the Senior Master of the King's Bench Division on newly-released guidance on costs budgeting hearings PI/ClinNeg cases. Colleen looks forward to putting this valuable guidance into practice in upcoming costs budgeting hearings / CCMCs.

Colleen's recent work in the field of personal injury includes:

Court Work

- Successfully appearing in an application and directions hearing in the High Court in a multi-track personal injury case worth over £200,000. Matters included the appropriateness of a liability split, and amendments of directions to trial following an admission of primary liability.
- Acting for a housing association in a multi-track claim for personal injuries in which the Claimant made an application to almost triple the value of her claim.
- Representing the Defendant in a CCMC and succeeding in reducing the Claimant's costs budget by almost 50%.

Paperwork

- Advising a claimant in relation to prospects and next steps in a High Court case concerning historic sexual abuse/assault while the claimant was a looked-after child. Advice included the operation of s. 33 of the Limitation Act 1980.
- Advising a claimant in relation to prospects of success in a claim against a highway authority for alleged failure to maintain a pavement so that it did not present a danger to members of the public.
- Settling the Defence and Counter-Schedule in a claim for alleged failings on the part of a care home to arrange repairs to an allegedly defective lift or to adequately warn its employees of the danger. The claim was brought by an employee who had an accident which resulted in personal injuries and significant loss of earnings.
- Settling the Defence and Counter-Schedule in a claim against an employer for alleged breaches of the Provision and Use of Work Equipment Regulations 1992 which were said to have led to the injury of an employee using equipment which had been provided by his employer, namely a delivery van.



Colleen is a member of PIBA. By attending their events and conferences, she ensures that she keeps her personal injury knowledge up to date. Most recently, she attended their Winter Conference as a delegate. The conference included a session covering the substantial case law developments on fundamental dishonesty over the past year. The session enhanced Colleen's capacity to handle cases involving fundamental dishonesty.

Clinical Negligence

As part of her LLM Master of Laws, Colleen studied Medical Law as a specialist subject and was awarded a Distinction grade. She also completed a dissertation on the Supreme Court case of *Paul v Wolverhampton* as part of her LLM and a legal research project on the *Bolam* test as part of her MA Law (Conversion). She was awarded high Distinction grades in both. Her academic background makes her well-placed to advise on issues such as scope of duty and breach of duty.

Colleen accepts instructions on behalf of claimants and defendants.

Her recent work in this area includes:

- Advising the family of a patient who died following a late diagnosis of malignant melanoma. Issues included whether it was possible to establish breach of duty and causation, as well as practical issues such as the need for further expert evidence.
- Advising a claimant as to prospects of success in a proposed claim against an NHS dentist and NHS trust. The Claimant alleged that the dentist's negligent assessment and NHS trust's wrongful refusal to provide alternative treatment led to him incurring the costs of private dental treatment.
- Advising an NHS Trust in relation to the value of a claim arising from the death of a patient following a missed diagnosis of aortic dissection, liability having been admitted, and settling the Counter-Schedule of Loss to the claim which was pleaded at well over £1 million (during pupillage).

Colleen also has experience of appearing at CCMCs. She has appeared in the High Court in such hearings and has been successful against more senior counsel. Colleen recently attended a workshop by the Senior Master of the King's Bench Division on newly-released guidance on costs budgeting hearings in PI/ClinNeg cases. Colleen looks forward to putting this valuable guidance into practice in upcoming costs budgeting hearings / CCMCs.

Colleen attended the PNBA's Clinical Negligence Conference 2024 as a delegate. She has also benefited from membership of PIBA, especially a recent conference session covering the substantial case law developments on fundamental dishonesty over the past year. The session enhanced Colleen's capacity to handle PI/ClinNeg cases involving fundamental dishonesty.

Qualifications

- BA French and German (First Class), University of Oxford
- MA Law (Conversion) (Distinction), University of Law
- LLM Master of Laws (Distinction), University of Law



Memberships

- Commercial Bar Association (COMBAR)
- Technology and Construction Bar Association (TECBAR)
- The Society of Construction Law (SCL)
- Professional Negligence Bar Association (PNBA)
- London Common Law & Commercial Bar Association (LCLCBA)
- Young International Arbitration Group (YIAG)
- Personal Injury Bar Association (PIBA)