



Jack Ferro



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Jack Ferro has practised at Crown Office Chambers since 1999, focusing on personal injury, clinical negligence, product liability and industrial disease. He has developed special expertise and interest in cases raising difficult points of law, and those with a scientific or technical aspect.

Jack has extensive trial advocacy experience, as well as regularly representing clients in settlement negotiations. He has earned a reputation for his clear thinking and communication skills, quickly identifying the critical legal and evidential issues in highly complex cases, and grasping a client's commercial and personal priorities beyond the narrow confines of the litigation. He presents his advice to clients in a straightforward and clearly reasoned way, notable especially in cases where mastery of financial, medical or scientific detail is necessary. He earns praise from clients for his informality and approachability, for his calm tenacity and for his skill in defusing antagonistic situations.

Clinical Negligence

Jack has a broad range of experience in this area, acting for Claimants as well as for the NHS and the defence unions. He has considerable experience of trials, inquests and settlement meetings. He has worked on cases involving serious brain injuries, paraplegia and tetraplegia, major birth defects (particularly cerebral palsy), surgical error, cosmetic surgery and diagnostic failures. He advises regularly on issues of capacity and consent, as well as marshalling complex calculations on assessment of damages involving extensive care and therapy regimes, and associated educational, vocational and accommodation issues. He is noted for his ability to grasp the detail of expert evidence in highly specialist fields, and to deploy that knowledge to his advantage in consultations with experts, in cross-examination and in negotiations with opponents.

Selected Cases

- *Y (a child) v Z University Hospital NHS Trust* – £7 million claim, acting for infant claimant who suffered cerebral palsy as a result of mismanagement at the time of his birth. Complex issues on quantum, involving issues of future education, accommodation and private top-up of public care

- and therapy provision. Case settled at round-table meeting.
- *AB (a child) v Nottingham University Hospital NHS Trust* – Acted for child suffering severe physical disabilities following mismanagement at her birth. She was left with severe communication difficulties and cognitive deficits. The case was complicated by care proceedings during the course of the High Court claim, a highly sensitive domestic situation involving allegations of sexual abuse, and the Local Authority being joined as an intervening party. Liability was compromised on a 75% basis, which led to difficult issues on assessment of damages, in particular as to the balancing of lump sum and periodical payments awards so as to provide sufficient flexibility to meet the 25% shortfall in the cost of therapies, and as to the finding of a workable accommodation solution in a situation where a *Roberts v Johnstone* award was reduced by 25%.
 - *Godfrey v Princess Alexandra Hospital* – Represented dependants in a fatal accident claim arising out of the death of a young woman following excessive post-natal vomiting, leading to a vitamin deficiency causing neurological damage (Wernicke’s encephalopathy). The case involved a catalogue of diagnostic and therapeutic failures by a variety of clinicians, including obstetricians, A&E doctors and psychiatrists. Issues on assessment of damages included care requirements relating to three dependant children, and loss of income.
 - *Raggett v King’s* – Represented defendant hospital in claim arising from leg amputation following delay in diagnosing critical limb ischaemia. Claimant subsequently died of unrelated heart condition, and defendant faced additional allegations that proper treatment of the leg would have led to a diagnosis of the condition from which the claimant later died.
 - *Dainton v Powell* – Successfully represented claimant at trial of liability issues in a case where a GP’s failure to diagnose a developmental dysplasia of the hip at neonatal examination led to lifelong disability and serious impairments to the claimant’s mobility requiring multiple surgeries. The claim was not issued until 21 years later, and therefore raised issues as to the applicability of diagnostic guidelines in the late 1980s, the relative spheres of responsibility of GPs and health visitors at that time, and issues on quantum as to the causal link between the claimant’s disability and her poor educational achievement.
 - *Batey v Taylor* – Acted for claimant in action against respiratory physician for negligent treatment of a persistent respiratory condition. Issues arose as to the appropriateness of the long-term prescription of systemic steroids and as to the failure to identify alternative treatment regimes. Quantification of loss was complicated by the fact that the claimant was about to start a new business venture, the financial prospects of which were uncertain.
 - *Dyche v East & North Hertfordshire NHS Trust* – Acted for claimant in action arising from a hospital’s failure to make a timely diagnosis of cauda equina syndrome following a back injury. The delayed diagnosis resulted in ongoing disability considerably more severe than would otherwise have been the case.
 - *Khan v Joy* – Acted for claimant in action arising from delayed diagnosis of pancoast tumour in the lung. The case raised difficult issues on the expert evidence as to the time when the tumour should first have been diagnosed and as to the effect of the delayed diagnosis on the claimant’s levels of pain / disability and on his chances of survival.

Personal Injury

Jack acts for both claimants and defendants in a wide range of personal injury cases, often in cases raising complex questions of causation or quantification of loss, and cases where there are allegations or suspicions of malingering. He regularly handles cases of catastrophic injury of the highest value and those entailing expert evidence in multiple medical and other disciplines. He is noted for his ability to marshal

large volumes of evidence and to communicate on an informed level with expert witnesses in highly specialised areas. He has considerable experience of cases which turn on the subtle differences of opinion between expert witnesses, and where detailed advice on expert evidence is needed. Equally, he has an impressive track record in Court in probing the evidence of witnesses of fact.

Jack's experience covers both trial and interim hearings, including substantial experience of costs budgeting in high value cases. He handles claims from road accidents and accidents at work to fatal accident claims and industrial diseases. He is regularly instructed in cases involving serious head injuries, psychiatric injury, somatoform disorders, fibromyalgia, chronic pain syndromes and complex regional pain syndromes. His cases regularly involve the drafting of detailed schedules and counter schedules of loss, often involving intricate calculations including claims for loss of a chance, pension loss, and claims raising issues regarding the incidence of welfare benefits.

Selected Cases

- *Kenny v Hutchins* – Represented defendant at assessment of damages trial on a case where claimant made a substantial loss of profits claim arising from downturn in business allegedly due to claimant's absence from work. Case involved highly complex forensic accountancy evidence regarding the profitability of a new business. Successfully argued that loss of profit should be assessed at nil.
- *Brown v Handscombe* – Acted for claimant who suffered life-changing injury at a young age after being run over. Liability was admitted but quantum assessment complicated by disputes over the claimant's likely career path in the absence of the accident, the nature of the claimant's ongoing cognitive impairments and as to his capacity to conduct the litigation and to manage an award of damages. A complex scheme of lifelong commercial care and therapies required to be costed in detail. Case settled at round table meeting.
- *Smith v Asda* – Acted for defendant in claim arising from accident at work where it was argued that the claimant had been acting recklessly, but claimant alleged lack of supervision and training. Successfully persuaded trial judge that claimant was dishonest.
- *Mete et al v AXA et al* – Successfully represented claimant at preliminary issue trial relating to whether a direct right of action against motor insurers exists in a case where the claimant alleges personal injury arising from a road accident but the insurer of the driver at fault withdraws liability under the policy. Later represented four separate claimants in three-week trial in consecutive cases arising from road traffic accidents where Defendant insurers argued that the claims were part of a network of fraudulent claims linking groups of Turkish/Kurdish claimants and Romanian insured parties. Challenging trial involving witnesses with poor communication skills giving evidence through interpreters and facing allegations of dishonesty.
- *McHardy v Doherty* – Acted for claimant suffering severe brain injuries and hemiplegia in a motorcycle accident occurring in France. Case raised finely balanced issues of mental capacity. Quantum issues complicated by defendant insurer not being a secure provider for a periodical payments award.
- *Mann v Eastern Air Executive* – Acting for defendant in case following accident at work where claimant sustained severe facial injuries complicated by illness behaviour and somatic pain. Case ongoing – raises complex issues of causation and the balance between conscious and unconscious exaggeration of symptoms.
- *Karapetianan v Kent & Sussex Loft Conversions* – Acting for defendant in case where claimant alleges complex regional pain syndrome arising from minor injury. Case involves expert evidence in

- multiple disciplines and allegations of malingering. Mediation pending.
- MD v AN – Acted for charitable institution defending allegations of harassment by a member of staff leading to psychiatric injury. Case raised issues as to vicarious liability for actions of holders of honorary academic positions employed by external bodies, as well as extensive factual disputes. Case reached negotiated settlement despite high level of antagonism between the parties involved.
 - Khan v Glynwed Foundries – Acted for claimant in claim for lung cancer arising from prolonged exposure to silica dust during work in foundry in the 1960s and 1970s. Case raised controversial issues on causation of the disease (the claimant was a smoker) and on what the claimant's life expectancy would have been but for the cancer.
 - Scott v Bridon – Acted for defendant in claim for noise-induced hearing loss where causation was in dispute. The issues on the expert evidence centred on the significance of asymmetrical loss between the two ears, the identification of the proper percentile for evaluating the claimant's non-noise related hearing loss, and the effect of measurement error in audiometric testing. The case involved a detailed consideration of the diagnostic guidelines contained in the seminal paper by Coles, Lutman and Buffin, and subsequent research, which calls those guidelines into question.
 - Neatby v Fixtop – Represented claimant at trial in noise-induced hearing loss claim involving issues as to breach of duty, causation and limitation. The claim was complex evidentially because of the absence of documentation and the poor recollection of witnesses as to working conditions many decades earlier.
 - Cousins v British & Commonwealth Holdings – Represented claimant in a claim for noise-induced hearing loss sustained while serving on board ships in the Merchant Navy. Case raised issues of breach of duty and causation, as well as conflict of law issues.
 - Carr v Sir Lindsay Parkinson – Represented defendant in fatal accident claim for mesothelioma brought against former employer. The deceased held a variety of jobs in the construction industry entailing asbestos exposure in the 1950s and 1960s, but due to evidential difficulties, the claimant only directly pursued one defendant. Defendant settled the claimant's claim and went on to bring contribution claim against another former employer of the deceased.
 - Lee v Bovis – Acted for defendant in mesothelioma claim brought after expiry of primary limitation period. Issues related to whether the Court would exercise its discretion to allow the claim to proceed despite the delay in issuing proceedings.
 - Pilkington v Mirahan – Represented defendant in a claim for occupational dermatitis raising issues as to causation of the disease.

Product Liability

Early in his career, Jack worked in the products liability department of Chadbourne & Parke LLP, New York, working on international tobacco and pharmaceuticals litigation. Since then, he has developed considerable experience in products cases, including group actions, in areas of medical devices, pharmaceuticals, mechanical and electrical components, motor vehicles, medical equipment, chemicals and foodstuffs. He works on cases of all levels of value and complexity, but thrives on the technical and scientific issues raised by the more complex cases, and adeptly assimilates the large volumes of technical documentation, which they entail. He also has extensive experience of conducting consultations with expert witnesses, cross-examining them in court and representing clients in settlement negotiations.

Selected Cases

- **Various Claimants v Zimmer** – Represented defendant in group action brought by 85 claimants against manufacturer of metal-on-metal hip replacement devices. Case involves working as part of a team of Counsel, with specific responsibility for reviewing the facts of individual cases, including medical histories of claimants. Expert evidence is complex and extensive, and case raises novel issues on the proper interpretation of “defect” within the Consumer Protection Act 1987.
- **Chadbourne v Baxter Healthcare** – Represented defendant manufacturer of MiniCaps designed for use in connection with peritoneal dialysis. Claim arose from repeated instances of development of peritonitis and revolved around the question of whether this was a complication of the dialysis procedure or the result of a defect in the design of the MiniCap product. The case entailed expert input from renal surgeons as well as extensive documentary evidence regarding the design and manufacturing process, together with disputes as to the relevance of product recalls of similar products in other countries, and whether such recalls provided evidence of a defect.
- **Dancaster v Johnson & Johnson** – Represented private healthcare provider in multiple claims brought by claimants alleging injury arising from surgical implantation of transvaginal mesh (TVM) devices. The claims formed part of a large and complex network of groups of claims brought against a variety of different categories of medical device manufacturers and healthcare providers, both domestically and internationally, and involved detailed case management procedures as part of the wider landscape of TVM group actions.
- **Beddard v Morris** – Represented defendant manufacturer of foaming soap product alleged to have ignited and caused serious burns injuries to a child while being used in the bath in proximity to a bathroom candle. The case raised issues as to the scope of fire risk warnings required to be shown on aerosol products.
- **Johnstone v Suzuki** – Represented defendant motorbike manufacturer in claim arising from a serious accident in which catastrophic injuries were sustained when the claimant lost control of his motorbike. It was determined that the frame of the motorbike had fractured and split apart, and the principal issues were whether the crack was a fatigue crack or an impact crack, and whether the crack would have caused the loss of control described by the claimant. The case entailed complex expert evidence in engineering, accident reconstruction and metallurgy.
- **Moore v Toyota** – Successfully represented defendant car manufacturer in trial of claim relating to allegations of defects in a vehicle’s braking system. The trial involved conflicting engineering evidence as to the operation and efficiency of vehicle handbrakes.
- **Owen v Bristol Myers Squibb** – Acted for claimant in action against drug manufacturer and operator of clinical drug trial for inadequate screening process resulting in the claimant being included in a study for which he was unsuitable by reason of his medical history. Claimant developed cellulitis and osteomyelitis, with serious consequences.
- **Patrick v Denny** – Acted for defendant on complex quantum issues arising from a helicopter crash in which two high-earning self-employed businessmen lost their lives.
- **Lindsay v EH Booth** – Represented defendant in claim brought by a consumer who contracted listeria poisoning after consuming ox tongue purchased from the defendant’s store. Defendant went on to bring contribution claim against its supplier. Case entailed significant expert microbiological evidence.
- **Beech v Argos** – Represented claimant who sustained permanent injury to one eye caused by an explosion in a domestic air pump. The product in question was manufactured in Italy, and the case was complicated by cross jurisdictional issues.
- **Camphill v BH Refrigeration** – Represented defendant in claim for extensive property damage



caused by fire arising from defective refrigeration equipment.

- Tarmac v Sprider Maskiner – Advised in case regarding contribution between the various parties involved in the design and operation of defective asphalt-laying machinery.

Professional Liability

Jack has conducted professional negligence cases in the following fields:

- Accountants
- Agricultural & Forestry
- Architects & Engineers
- Financial Advisers
- Professional Indemnity Insurance
- Solicitors
- Surveyors & Valuers

Industrial Disease

Cases of industrial disease form a significant part of Jack's practice, encompassing principally cases of asbestosis and mesothelioma, noise-induced hearing loss, dermatitis, silicosis and hand-arm vibration syndrome. He advises regularly on the evidential and causation difficulties which often arise in such cases, including issues of life expectancy, limitation and assessing breach of duty based on the prevailing state of scientific knowledge at the time of claims arising from historic employment. He also has experience of stress at work cases.

Selected Cases

- Khan v Glynwed Foundries – Acted for claimant in claim for lung cancer arising from prolonged exposure to silica dust during work in foundry in the 1960s and 1970s. Case raised controversial issues on causation of the disease (the claimant was a smoker) and on what the claimant's life expectancy would have been but for the cancer.
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Civil/Insurance Fraud

Jack frequently represents Defendants in personal injury cases raising allegations of malingering and fundamental dishonesty.

He is well versed in the delicate issues which arise in such cases when pleading Defences and counter-schedules, when handling medical, care and accountancy experts, and when making tactical decisions regarding the use of covert surveillance footage.

He has handled many round table meetings in cases where evidence of fraud has been deployed to secure favourable results for insurers, often involving a compromise on the costs being sought by the Claimant as well as a compromise on the damages payable.

His trial experience includes appearing for the Defendant insurer in a High Court trial where allegations of dishonesty prompted an argument that the claim should be struck out despite being issued prior to the enactment of section 57 of the CJCA 2015, and a County Court trial of four consolidated claims which were alleged to form part of a fraudulent network of bogus claims.

Memberships

- London Common Law & Commercial Bar Association (1999 to present)
- Committee member of the Bar Human Rights Committee (2002 to present)