

Year called 1998

Silk 2021

judith.ayling@39essex.com



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Legal 500 2021

“One of the best senior juniors in this field. Very comfortable and effective against leading silks in heavyweight cases.”

Legal 500 2021

“One of the best senior juniors around and she is destined to become silk. Technically excellent and very good on causation points.”

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“An outstanding junior for defendant clinical negligence work.”

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“She is undoubtedly silk material who applies the same commitment and rigour to every case, irrespective of the relative complexity or value.”

Legal 500 2018

Judith has a busy practice in clinical negligence, personal injury and costs funding. She was chosen as one of The Lawyer's Hot 100 in 2018.

PRACTICE AREAS

- Clinical Negligence
 - Costs & Litigation Funding
 - Personal Injury
 - Solicitors' Negligence
 - Fraud and Dishonest Exaggeration
 - Alternative Dispute Resolution
-

PRACTICE AREAS

CLINICAL NEGLIGENCE

'A brilliant and tenacious barrister who always fights her corner, gives good advice and works collaboratively in a team. She's always willing to discuss and talk through strategies.' Chambers UK 2020

'She is an exceptional barrister, meticulous in her preparation and calm under fire.' The Legal 500 2020

'She is undoubtedly silk material who applies the same commitment and rigour to every case, irrespective of the relative complexity or value.' The Legal 500 2018

Judith Ayling is very experienced in high-value clinical negligence cases or cases which are particularly sensitive or legally difficult, including complex birth injury, spinal injury and brain injury claim. Most of her work is for defendants, though she also undertakes some claimant work. She regularly deals with cases worth over £1 million, often on her own against a QC, and involving highly technical scientific evidence as well as complex legal issues. She has particular expertise in complex duty of care issues, and has recently acted with Neil Block QC in a landmark claim by hundreds of women in relation to breast surgery by Ian Paterson in the private sector, and which raised complex and novel issues about the existence of a duty of care. She has been involved in several group actions (both with and without formal GLOs) and has experience of the benefits and pitfalls of e-disclosure. She is now instructed in the NHS vaginal mesh litigation with Neil Block QC. She is being led by Angus Moon QC in *Henderson v Dorset Healthcare University NHS Foundation Trust*, an important case on illegality (Supreme Court hearing May 2020). She is experienced and knowledgeable in claims involving the Human Rights Act.

Judith is used to resolving claims by ADR, whether mediation or JSM where she is known for her ability to combine sensitivity to the personal issues involved with legal rigour and mastery of complex facts.

Judith has considerable experience in handling claims where exaggeration and/or fundamental dishonesty is suspected and where a defendant may wish to consider all options, including striking the claim out. She is used

to advising on strategy including the impact of suspected exaggeration/fraud on costs, particularly under the QOCS regime.

She also has a considerable practice in costs issues arising out of clinical negligence claims – acting for both claimants and defendants – including costs and case management hearings, detailed assessment, and complex funding questions including those arising out of group litigation. She is on the Executive Committee of the Personal Injury Bar Association and has been an editor of *Cordery on Solicitors*.

COSTS & LITIGATION FUNDING

'Very easy to deal with and strong on paper.' *'She knows what she's doing, she's hard-working and she's very capable.'* Chambers UK 2020

'Extremely meticulous in her approach and with an encyclopaedic knowledge of costs.' The Legal 500 2020

'Very articulate and gives sound, well-thought-out advice.' The Legal 500 2018

'Phenomenally knowledgeable, very articulate and quick-thinking.' The Legal 500 2017

Judith acts for both claimants and defendants, for receiving and paying parties, and for solicitors and lay clients. She has considerable experience of complex funding questions, including the assignment and novation of CFAs; of detailed assessment and appeals; and of disputes under the Solicitors Act 1974. She appears regularly in the SCCO and the High Court, and is listed in the Legal 500 and Chambers and Partners. She has considerable experience in costs issues arising where GLOs have been made or are being considered and in costs capping in GLO cases. She is specialist funding counsel for UKTC in *UKTC v Fiat Chrysler and others*, in the Competition Appeal Tribunal. She lectures very regularly on costs matters.

PERSONAL INJURY

'She's extremely bright and excellent on the details, while still always being mindful of commercial considerations.'
"She has a wonderful manner which puts clients at ease, and couples this with a very obvious and extensive knowledge of personal injury law and procedure. Judith shows a great deal of empathy with her clients and delivers her advice in a very calm and professional way.' Chambers UK 2020

'Her strengths are her attention to detail and meticulous approach to technical evidence.' The Legal 500 2020

Judith's practice includes employer's liability and public liability – for example, accidents at work, occupier's liability, disease and work-related upper limb disorder, stress at work and catastrophic injury. She is very experienced in cases involving complex legal issues and substantial technical medical evidence. She has special expertise in complex duty of care arguments and is experienced and knowledgeable in claims involving the Human Rights Act.

Judith regularly conducts high-value Multi-Track litigation, acting for claimant and defendant. She has considerable experience in group litigation, including costs issues. She also undertakes health and safety prosecutions, and CRU appeals. She has acted with QCs in chambers on several very high-value cases, again for both claimant and defendant. She deals very regularly with costs issues arising out of personal injury litigation, and has a considerable specialist costs practice. She is experienced in cases where fundamental dishonesty or exaggeration are suspected and in difficult issues under the QOCS regime. She is on the Executive Committee of the Personal Injury Bar Association and has been an editor of *Cordery on Solicitors*

SOLICITORS' NEGLIGENCE

Judith is experienced in solicitors' negligence claims, particularly those arising out of personal injury and clinical negligence claims, and out of costs and funding issues. She has acted for both claimants and defendants.

FRAUD AND DISHONEST EXAGGERATION

Judith has considerable experience in cases where fraud or dishonest exaggeration is suspected or alleged, including applications to introduce, or oppose the introduction of, surveillance evidence

ALTERNATIVE DISPUTE RESOLUTION

At over 20 years' call Judith has considerable experience of all kinds of ADR, generally JSM or formal mediation, including in multi-party disputes and particularly sensitive or legally difficult claims. She is known for her ability to combine sensitivity to the personal issues involved with legal rigour and mastery of complex facts.

CASES

Clinical Negligence

Grace Ellen Mugweni (By Her Mother & Litigation Friend Susan Ruth Mugweni) v NHS London (Formerly South East London Strategic Health Authority) [2011] EWCA Civ 20

Various Claimants v Ian Paterson, Spire Healthcare Limited, Heart of England NHS Foundation Trust (compromised, October 2017)

Henderson v Dorset Healthcare University NHS Foundation Trust (High Court [2016] EWHC 3275 (QB); Court of Appeal [2018] EWCA Civ 1841)

Costs & Litigation Funding

Paccar Inc & Ors v Road Haulage Association Ltd & Ors [2021] EWCA Civ 299

UK Trucks Claim Limited v Fiat and others [2019] CAT 26: *significant case on whether a third party funding agreement falls foul of the DBA Regulations.*

Maclaverty Cooper Atkins V the Lord Chancellor 8 May 2014 [2014] EWHC 1387 (QB)

Blue Sphere Global v Her Majesty's Commissioners for Customs and Excise (SCCO, 20 December 2011): First case to look at the assessment of a success fee where a discounted CFA had been used rather than a no win no fee agreement.

Parkes v Martin [2009] EWCA Civ 883: On the facts a judge had been entitled to allocate costs in accordance with liability because he had regard to a notional counterclaim.

Melina Serpes v Her Majesty's Commissioners for Customs and Excise 22 December 2008 (VAT Tribunal 22.12.08): Litigant in person unable to recover costs of her time in the VAT Tribunal.

Peakman v Linbrooke Services Ltd 13 November 2008 [2008] EWCA Civ 1239: The allocation of a case to the

multi-track because a counterclaim that should not have been brought should have been taken into account by the trial judge.

Roger Barlow v Lucy Ewart Perks (Sup Ct Costs Office) 19 October 2007 Lawtel 31 October 2007: A Conditional Fee Agreement was not valid and enforceable because there had been material non-compliance.

(1) K Fosberry (2) B Fosberry (3) BJ Rice & Associates v Revenue & Customs (Ch D) 25 May 2007 [2008] EWHC 3344 (Ch): A Conditional Fee Agreement was unenforceable where it had various deficiencies that were significant enough to prevent substantial compliance with the Conditional Fee Agreements Regulations 2000.

Myatt v National Coal Board (No.2) [2007] 1 WLR 1559: CA: Solicitors ordered to pay half costs of unsuccessful appeal concerning the enforceability of their CFA.

Various Claimants v Gower Chemicals and others (CC) 28 February 2007 Lawtel 8 March 2007: Regulation 5(1) CCFA Regulations laid down matters that had to be inserted into a CCFA.

Joseph Lahey v Pirelli Tyres Ltd (CA) 14 February 2007 [2007] EWCA Civ 91: It was not open to a costs judge in advance of an assessment of costs payable to acceptance of a Part 36 payment.

Personal Injury

Wilkinson v Fitzgerald [2012] EWCA Civ 1166

Flora Stylianou v (1) Masatomo Toyoshima (2) Suncorp Metway Insurance LTD [2013] EWHC 2188 (QB)

Professional Negligence

Nicholas Drukker & Co v Pridie Brewster & Co 12 December [2005] EWHC 2788 (QB); [2006] 3 Costs LR 439

RECOMMENDATIONS

Judith continues to be recommended for Costs Litigation and Personal Injury by Chambers & Partners and for Costs Litigation and Personal Injury by the Legal 500.

Quotes

"She is a force to be reckoned with." Legal 500 2021

"One of the best senior juniors in this field. Very comfortable and effective against leading silks in heavyweight cases." Legal 500 2021

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"Very articulate and gives sound, well-thought-out advice." The Legal 500 2018

"Bright, responsive, authoritative." The Legal 500 2018

"Excellent senior junior who is very good on quantum. Very thorough and authoritative barrister." "A quality performer in court." Chambers & Partners 2018, Clinical Negligence

"She has a sharp eye for detail and is well liked by clients." Legal 500 2017

"Phenomenally knowledgeable, very articulate and quick-thinking." Legal 500 2017

"I find her very approachable, reliable and sensible. She is very aware of the client's needs and is accurate and succinct in her advice." "Judith really understands complex litigation, and has a tremendous grasp of costs law." Chambers & Partners 2017

"She is very bright, marshals the arguments very well and gives very good advice." Chambers & Partners 2017

"An incisive and excellent advocate, particularly in detailed assessment." Legal 500 2016

"Her advice, whether in conference or in writing, is always unambiguous and her ability to consider all aspects of a particular case with an open mind is a most valuable asset." "Her style is very straight to the point and efficient. She can be relied upon to adhere to her brief and to present the case with determination and vigour." Chambers & Partners 2016

"An outstanding barrister who is extremely bright and reliable." Legal 500 2015

"A very good grasp of the figures and key issues" Legal 500 2015

"She's exceptional and she really knows her stuff." "She is very bright, marshals the arguments very well and gives very good advice." Chambers & Partners 2015

QUALIFICATIONS

Bar Council Certificate of Honour: 1998

Inns of Court School of Law: Bar Vocational Course (Graded Outstanding: 8th in year): 1997-8

City University (1996-7): Common Professional Examination (Commendation): 1996-7

Queen Mother Scholar of Middle Temple

Cooke Prize and Tilley Prize from King's College; Entrance Exhibitioner; Senior Scholar;

King's College, Cambridge: First Class Honours in French and German: 1983-7; graded outstanding in oral examinations in both French and German

ADDITIONAL INFORMATION

Before being called to the Bar in 1998, Judith worked for many years in academic publishing with Cambridge

University Press, specialising in linguistics and philosophy.

Publications

Former editor of *Cordery on Solicitors*

Member of Executive Committee of Personal Injury Bar Association

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