



Janick Fielding – Barrister

Called 1997

Practice summary – Civil and Criminal Fraud

DIRECTORY RECOMMENDATIONS / QUOTATIONS:

“Janick’s extensive knowledge of technicalities allows him to be able to advise swiftly, and accurately; and also to present compelling arguments before the court.”

“Janick’s written submissions struck the first blow to the Crown’s case; the second, fatal blow to the prosecution was dealt with in his challenge to the witnesses’ evidence.”

PROFILE:

An experienced and heavyweight criminal defence practitioner, Janick is called upon when a fight is required. Never one to shy away from a direct assault upon the prosecution case, he is exactly the type of barrister sought by clients who expect to see attack as part of their defence.

As can be seen from the high-profile nature of cases he has been asked to defend, Janick is fluent in pre-trial tactics, expert instruction and analysis, and the deployment of searching disclosure arguments. Abuse of process is also one of his favoured specialities.

Fraud cases in which Janick is instructed are often international. His ability to read around topics relevant to the case, whether that be the dispersal of assets during Chiang Kai-Chek’s China during the second world war or the disintegration of society and medical ills in post-independence Congo, has often afforded his clients a leading edge.

Janick is a keen and effective jury advocate, approachable to clients and tactically astute.

He has a good deal of experience in the Court of Appeal and the Administrative Court, having taken numerous points on conviction and sentence.

NOTABLE CASES:

R v Halim & ors (trials 1 and 2) [2018-19] – Conspiracy to defraud

The defendant, a high street bank employee, was alleged to have been instrumental in allowing fraudsters to walk into her branch and, often without proper documentation, leave with substantial sums of money. The loss to the bank was millions. The Crown’s evidence included forensic analysis of banking records, consideration of branch CCTV showing the defendant’s conduct and the bank’s own internal investigations. A search of the defendant’s home had also revealed that she had retained PIN details and correspondence of a recently defrauded account.



The defendant's case, notwithstanding evidence that appeared overwhelming, was that the impression the defendant may have given through her conduct was wrong and that she had in fact been targeted by a well-organised criminal gang on account of her unfamiliarity with her role. Further, the bank's investigation of her was inherently dishonest and had deliberately exposed her to prosecution when in fact she ought to have been exonerated.

Counsel, who had only been instructed 48 hours before the first trial, established during cross-examination of the bank's investigator that disclosure to the Crown had been partial and partisan. Moreover, it appeared that the bank's lead investigator may have misled the court on oath. The trial duly collapsed.

During the retrial, counsel established through lengthy cross-examination a raft of questionable conduct engaged in by the bank's lead investigator, as well as potential involvement in serious crime by the branch management. Legal arguments and repeated recalling of the investigator revealed an evermore troubling picture of dishonesty and discreditable practices that included misleading the police, misleading the Court on oath, excusing likely criminal conduct by others, failing to pass on material that assisted the defence and seeking to stop witnesses from assisting the defence. The position was further compounded by the police who had failed to spot and act on these events. Counsel ran several arguments to exclude evidence and to stay proceedings as an abuse of process. The second abuse of process argument was unanswerable and the prosecution case was stayed. – Southwark Crown Court.

R v Walker & ors [2018-19] – Money Laundering

The defendant was one of twelve caught in an operation that identified high level theft of monies from a high street bank, followed by a complex process of laundering the proceeds.

The case featured close analysis of the various links between the offenders, particularly through forensic searches of electronic media data.

Complicating this defendant's position was the fact that he had only recently been acquitted of an almost identical laundering offence, having run the same defence of innocent association. Further, on the face of the papers before the jury in this case, there was evidence of involvement in a third, similar conspiracy. In relation to that latter evidential issue, counsel succeeded in having the evidence excluded. The defendant was acquitted. – Inner London Crown Court

R v Bakker, Scheffer & another (trials 1,2 and 3) [2007 – 2016] - Corruption

The defence of a UN consulting agent charged with alleged corruption offences along with the co-director of their NGO. The third defendant is the company solicitor. The allegation concerns the illegal facilitation of award after bidding for an \$80 million UNDP Congolese medical aid grant to Missionpharma, an approved Danish UNDP long term contract provider.



The case was described even in its early stages as one of the most complex the LSC had seen.

Counsel was instructed pre-charge to advise on tactics. Having provided advice throughout the interview stage and through the lower court, counsel oversaw the creation of two defence teams for the first two defendants. Acting thereafter for Scheffer, instructed by three firms of solicitors to date and led variously by Sir Ivan Lawrence QC, Sir Allan Green QC, Gareth Rees QC and Christopher Sallon QC, counsel has been a constant presence throughout the lengthy litigation process.

The case has featured extensive background research, counsel having studied the in-country situation in the DRC. Multi-national disclosure requests of complexity and length have been drafted. Foreign and UN law and procedure have been scrutinised. Several abuse of process arguments have been compiled. This in addition to all of the usual preparations necessary in bringing a complex fraud to trial. - Southwark Crown Court.

R v Lynch-Harwood [2015-16] – Fraud

The defendant had pretended to her employers that she was dying of cancer when in fact she was arranging a situation that would allow her to work from home, have time off and cover for her increasing alcoholism. The deception was complex, involving research into the fabricated condition and the production of letters, purporting to be from medical practitioners, that had been forged. She also stole a six-figure sum from a company tax account and used her position to cover the losses. Her actions were eventually discovered when the CEO, who also had cancer, arranged for flowers to be sent to the hospital where he understood her to be undergoing treatment, only to find them sent back with a message that the hospital had no records of any such patient. The subsequent enquiry revealed a loss in high six figures and significant damage to the company and its prospects in a very competitive market. Although there were no realistic prospects of an acquittal, counsel succeeded over several months in limiting significantly the defendant's culpability and accordingly secured a very low sentence. – Wood Green Crown Court.

Day & Day v Barker [2013-14] – Malicious prosecution:

The claimants (husband and wife) had been the victim of the defendant's road rage attack. He drove around their car dangerously, drove at Mr. Day, and rammed their car twice. Having followed and apprehended him, the Mr. Day became involved in an altercation as the defendant fought to escape. On arrival at the scene, the police wrongly arrested Mr. Day, the defendant having alleged that it was the claimant who had driven dangerously. The criminal allegation was swiftly dispatched following counsel's pleadings. The claimants then launched an action against the defendant for malicious prosecution and the damages, physical and emotional, as a result. The defendant's solicitors contended that their client, though conceding the physical damage occasioned, could not be held responsible for the institution of the criminal prosecution. Counsel averred otherwise. The defendant capitulated, affording significant damages to both claimants as well as costs. Basildon County Court.

R v Wells [2012-14] – Fraud:

The defendant, a GP practice manager was charged in a very serious and extensive accusation of fraud against her employers. Counsel was instructed also to oversee the tactical preparation of the defence generally, the second defendant being the daughter and assistant practice manager. It was said by the prosecution that the first defendant had claimed for additional hours, far in excess of what she could



have worked, over a period of several years. Further, that petty cash monies had been repeatedly stolen, direct cash payments were not banked and jobs given to family members who similarly took far greater remuneration than they had been entitled to. The defence case was that the practice, run incompetently and dishonestly by the two partners, had worked the first defendant into the ground. She had been the glue holding the practice together, regularly working sixteen hour days, through weekends and holidays. The defence established through emails and expert analysts that work had been undertaken regularly late into the night and from the very early hours of the morning. In addition, her work boosted practice revenue significantly. The defence contended that the partners had conspired to rid themselves of the defendant to prevent the discovery of serious tax discrepancies for which they were responsible. Issue was taken with the Crown's preparation and investigation and a lengthy abuse of process argument was readied. The Crown discontinued the case when the defendant developed an aggressive, terminal cancer. Guildford Crown Court.

Knights v Wessex Funding Ltd [2013] – Fraud:

Counsel acted for the parent company of a porn brokers accused by a woman of selling her jewelry given them by a thief or handler following an alleged burglary of her home. The claim was a fraud. The claimant had permitted her husband, a man previously jailed for dishonesty, to pawn the jewelry, obtain monies and then seek to recover the considerable value of the jewelry on the subsequent false claim. The case required close analysis of complex facts and background sources in order to unmask the fraudulent claim. The defence case was made all the more difficult by absent witnesses, faulty CCTV and the porn brokers having closed down prior to the hearing of the case. The claim was dismissed, and the defendant awarded costs in full. Maidstone County Court.

Re: D [2013] - Restraint proceedings:

Instructed on behalf of the *ex.parte* company, counsel was tasked with seeking to lift a restraint order imposed against an escrow agent's accounts while he was the subject of an ongoing City of London Police investigation. The Applicant company, based in Switzerland and trading in the rare earth element oxide market, had been forced to suspend trading due to the frozen funds, latterly alleged to be improperly accrued, though little evidence in support of the same was provided. The case featured the late production by police of large volumes of material, some of it complex, far less of it relevant. Identification of the salient issues was paramount. - Plymouth Crown Court.

R v Sandhu & others [2011] – Conspiracy to defraud:

Counsel was specifically recommended and instructed for the first defendant in a multi-handed conspiracy concerning the setting up of fake accounts in order to filter client funds to other institutions. The defendant was a Barclays Bank manager with a high level of access. The evidence on the papers appeared overwhelming, coming from a number of sources, including phone data, banking analysis and fingerprinting. Counsel was chosen due to his reputation for fighting after previous counsel had been sacked for pressurising the defendant to plead.



This was a case in which counsel had to be alive to potential conflicts and cut-throat defences being run by any of the four co-defendants, all lower down on the indictment. The trial featured a range of unheralded difficulties, including the Crown objecting to the defendant quite intentionally running two defences, a prosecution handwriting expert who was served mid-trial and inferential patterns drawn from a variety of phone data charts. – Birmingham Crown Court.

R v O'Donnell & others [2010 – 11] – *Environmental offences and money laundering:*

Leading Counsel, instructed to lead Gudrun Young, in defending one of four charged in the largest ever environmental prosecution of its kind.

The defendants had set up unlicensed waste collection operations and then deposited huge amounts of building and other debris onto a site of special scientific interest. In areas the land level had been raised by four metres. Almost four million pounds was then said to have been laundered through a variety of companies. The case concerned complex analytical evidence in respect of the environmental issues as well as a substantial amount of financial documentation and surveillance material.

Leading counsel's robust, uncompromising approach was the reason for his instruction and his defendant was the only one to be acquitted. – Reading / Isleworth Crown Court.

R v Lim and others [2006 - 7] – *counterfeiting, fraud*

Junior to Gregory Bull QC, representing the ringleader of the largest counterfeiting in British history. The defendant had headed an international team of conspirators who had flown to the UK and presented £180,000,000 in forged £500,000 notes to the Bank of England for realisation, the tip of a claim that was said to amount to £900 billion.

The background to the case required counsel to have a detailed knowledge of the financial and political position of Chiang Kai-Chek's republican government during the years of Japan's Manchurian occupation of China, both before and during the second world war.

The case featured analysis of the Bank of England's procedures over the past 80 years, counterfeiting expertise and evidence of banking processes in Holland.

Having persuaded the trial judge, after an eight day submission of no case, to remove the matter from the jury, the Crown lodged an appeal against the terminatory ruling.

The Court of Appeal upheld the original ruling, with the defendant acquitted and awarded costs. – Southwark Crown Court / Court of Appeal.

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