

SELWYN BLOCH QC

Silk: 2000 | Call: 1982



Introduction

Selwyn is a leading Employment Silk. The directories refer to his **“superb advocacy”** and his ability to **“make highly complex arguments sound like common sense”**.

He is an acknowledged expert in disputes involving **restrictive covenants, confidential information, garden leave, springboard injunctions, bonuses, fiduciary duties, wrongful dismissal and team moves**. He has appeared in many of the leading cases at the cutting edge of the development of modern **restraint of trade** principles. The legal directories note that Selwyn **“wrote the leading textbook on restrictive covenants and unsurprisingly is many clients’ primary adviser on this and many other areas of law”** and **“Solicitors favour him as he is wonderful before clients – so positive, so supportive and very direct in his advice”**. He is described as **“great at getting to the heart of a matter”**, **“accessible, practical and a persistent advocate”**, **“clear, client-friendly and appealing to judges”**.

He has a special interest in:

- **international law** (conflict of laws) **and employment**: Most recently (2015 and 2016) he acted for the defendant in ***Petter v EMC*** (2016) in the Commercial Court and the Court of Appeal and in obtaining permission to appeal the Supreme Court. This involved challenging existing Court of Appeal authority granting anti-suit injunctive relief to prevent the continuation of restrictive covenant proceedings in the US;
- **urgent injunctions and speedy trials**.

His cases over a wide range of industry sectors, including **financial services, accountants, solicitors and recruitment agencies**.

His cases often involve the interface between **employment law** (commercial and statutory) and **confidential information, contract law, fiduciary duties, economic torts and company law**.

Chambers & Partners and Legal 500 (2016-2017) say:

- **“He combines a deep understanding of the law with client-management skills and responsiveness.”**
- **“Very innovative and fresh in his thinking; just a joy to work with.”**
- **“On restrictive covenants he is the go-to person, very impressive. He has great knowledge and expertise in the area and speaks with conviction; it’s difficult to not be convinced by what he’s saying.”**

Recent cases (2016) include:

- ***Petter v EMC*** (2016) (CA): *Petter v EMC* (2016) (CA) in which he acted for the Defendant which obtained permission to appeal to the Supreme Court: (a) to challenge existing Court of Appeal authority granting anti-suit injunctions prevent restrictive covenant proceedings continuing in the US (b) challenging jurisdiction under the Brussels I (Recast) Regulation. This case involved novel issues of jurisdiction under the Regulation and comity of nations. At core of the dispute was that the UK court was seeking to prevent the USA court from exercising a jurisdiction agreed by the parties (in an exclusive jurisdiction clause in favour of the US courts);

- **Richardson v Glencor**: Substantial Commercial Court claim for value of shares arising out of the widely-publicised Glencore IPO (reputed to be largest capital raising by an international company in London). The case involved interpretation of documents relating to an Employee Benefit Trust governed by Swiss law. English law and Swiss law applied to different parts of the claim and there were substantial disputes regarding the effect and application of Swiss law;
- **McNeill v Alliant Insurance Holdings** (2016) in which he was instructed to resist an attempt to extend the principles in the *Petter* case;
- A claim relating to alleged unlawful team move involving removal of highly sensitive technical data to a foreign power; the claim was significant in terms of security issues in relation to a (potentially hostile) foreign power - and reputedly engaging in industrial espionage against the UK;
- a “team move” case – involving alleged breaches of confidence, breaches of fiduciary duty, data protection of considerable commercial significance.

Business Protection

Selwyn has extensive experience in High Court employment disputes of all kinds, including “**team moves**”, **confidential information** and **wrongful dismissal** cases. He advises on and appears in cases involving **urgent injunctive** relief and **speedy trials** relating especially to **restrictive covenants**, **garden leave** and **springboard** and **confidential information injunctions**.

Selwyn is particularly experienced in cases which require close working between barristers instructing solicitors and foreign legal teams. These cases typically involve:

- team moves involving several defendants;
- high value employment disputes which may engage points of legal principle of international and commercial significance and complexity;
- Selwyn leading (or being consulted in conjunction with) prominent barrister colleagues (in employment or related disciplines such as intellectual property and company law) in cases against leading Silks.

For examples of cases in which Selwyn has acted recently see **Recent Cases**. He has acted in numerous high profile cases involving team moves, restrictive covenants (subject to English or foreign law); confidentiality and springboard injunctions and garden leave. In addition to the well-known case of **Tullet Prebon v BGC** (see below) he has since been instructed in numerous team moves cases in the **financial services industry** including **Brewin Dolphin v Charles Stanley** and **BMS v TigerRisk**.

Other significant cases include:

- **Thomas v Farr** [2007] ICR 932 [2007] IRLR 419 (CA) - directors' non-competition covenants;
- **Duarte v Black & Decker** [2007] EWCH 2720 [2008] 1 All ER (Comm) 401 - restrictive covenants subject to foreign law;
- **Total Oil v White Nile** [2007] (CA) - pre-action disclosure in commercial dispute/justiciability of disputes relating to foreign states;
- **Halstead v Paymentsshield** [2012] IRLR 856 (CA) – concurrent proceeding in High Court and Employment Tribunal (lifting of stay);
- **QBE v Dymoke** [2012] IRLR 458 - team moves/springboard injunctions;
- **Caterpillar v Huesca de Crean** [2012] IRLR 410 [CA] – confidential information barriers;
- **Tullet Prebon v BGC** [2010] IRLR 648 - team moves;
- **SG & R Valuation Service v Boudrais** [2008] IRLR 770 - garden leave injunction where no garden leave clause;
- **Paul Wurth v Siemens** - springboard injunctions to stop team moves, Court of Appeal (2008).

Employment (Foreign law/Conflict of laws)

Selwyn has a special interest in cases which involve an **international law** or **conflict of laws** element. Examples of cases in which he has appeared include:

- ***Petter v EMC*** (2016) (CA) in which he acted for the defendant which obtained permission to appeal the Supreme Court to challenge existing Court of Appeal authority granting anti-suit injunctions preventing restrictive covenant proceedings continuing in the US;
- ***McNeill v Alliant Insurance Holdings*** (2016) in which he was instructed to resist an attempt to extend the principles in the *Petter* case to prevent the exercise by the US courts of jurisdiction pursuant to exclusive jurisdiction clauses agreed by the parties in favour of US courts;
- ***Duarte v Black & Decker*** [2007] EWCH 2720 [2008] 1 All ER (Comm) 401 – in he acted for the employee who struck down covenants under Maryland law, which were alternatively held to be repugnant to English public policy.

Confidential Information

Selwyn has extensive experience and has acted in numerous cases involving issues of confidential information, whether in an employment, commercial or partnership context. Examples of such cases are included under **Recent Cases** and **Business Protection** (above).

These cases typically involve:

- secret technical or business information;
- involve interim injunctive proceedings or speedy trial;
- acting together with an employment or IP junior or silk.

Other Employment: Statutory/Advisory

Selwyn also has considerable experience of:

- (and has appeared in) many employment tribunal and EAT cases, including cases concerning **unfair dismissal**, the “cross-over” between unfair and **wrongful dismissal** cases, **whistleblowing TUPE** and **discrimination** cases. He has served as a part-time Employment Judge since 2000;
- drafting and advising on all kinds of anti-competitive and related provisions in employment and other kinds of contracts including **incentive employee benefit trusts** and other **incentives**. These provisions typically include **restrictive covenants**, **anti-team moves covenants**, **garden leave**, **confidentiality** and **bonus provisions**.

Examples of his most recent drafting/advisory work are:

- drafting restrictive provisions for a range of employees of a building society;
- an instruction by a magic circle firm to review/draft a suite of restrictive provisions for one of the leading international accountancy practices applying in relation to several entities in different jurisdictions.

Mediation

Selwyn has acted in numerous cases either as a mediator and an advocate, especially but not exclusively in employment cases. These cases are typically in relation to high value wrongful dismissal and bonus disputes as well as disputes relating to restrictive covenants. He is also a judicial mediator in the employment tribunal.

Partnerships & LLPs

Selwyn has extensive experience of partnership cases. He has a particular interest in cases relating to competition between partners, especially cases involving **restrictive covenants**, **garden leave** and **confidential**

information issues. His experience in this regard involves both acting in partnership and LLP litigation and drafting relevant provisions in partnership and LLP agreements. In particular, he has been instructed to draft and advise on covenants in the largest (and medium-sized) **accountancy** and **solicitors'** practices.

Commercial

Selwyn's experience includes, in particular, disputes relating to confidential information, restrictive covenants in commercial agreements, including partnership agreements, confidential information, economic torts, disputes relating to directors, agents/ consultants, and breach of contract and sports related disputes. Selwyn has been engaged to advise in some of the highest profile/high value restrictive covenant/confidential information cases. He is often engaged to consider these and other issues in the context of solicitors' and accountants' partnerships.

His Court of Appeal cases include:

- **Total Oil v White Nile** [2007] (CA) - pre-action disclosure in commercial dispute/justiciability of disputes relating to foreign states
- **Fourie v Le Roux** [2005] (CA) interim injunctive relief in support of fraud claim in foreign jurisdiction
- **Kuwait Oil v Al Badhr** [2000] CA (leading case on conspiracy)