

MARC DELEHANTY

Call: 2011



Marc was called to the Bar in 2011 following First Class degrees in Mathematics and in Law. His practice covers a wide range of **Commercial** and **Civil Fraud** disputes (including **Employment** related business disputes) and **Sports law** matters. He regularly acts in litigation in the Court of Appeal, the High Court, the County Court and a variety of tribunals, both led and as sole counsel. He has particular experience of obtaining and resisting injunctions and of cases with an international or cross-border element, including jurisdiction disputes.

The Legal 500 directory recommends Marc as one of the country's leading junior barristers for Civil Fraud law, describing him as "**a very clever lawyer with massive knowledge of the law**" (2016 edition). He is also ranked in the Sports law category which states that he is "**known for contractual issues and sensitive disputes**" (2016 edition) and is "**a rising star who is capable of very great things**" (2015 edition).

Full details of his experience may be found in the tabs below. The following is a flavour of his recent work:

- **JSC BTA Bank v Ablyazov and Khrapunov** [2017] EWCA Civ 40 – as junior counsel in the Court of Appeal – represented the Second Defendant challenging jurisdiction for a claim for unlawful means conspiracy based on alleged breaches of freezing orders.
- **Ritz Hotel Casino v Al Geabury** [2015] EWHC 2294 (QB) – as junior counsel in the High Court – succeeded, following a six day trial, in a claim for £2 million of unpaid roulette losses against a casino patron who alleged a gambling addiction and raised an illegality defence.
- **Le Puy Ltd v Potter** [2015] IRLR 554 – as sole counsel in the High Court – secured an injunction against a departing director to enforce post-termination restrictive covenants and restrain misuse of confidential information.
- **K v Royal Bank of Scotland plc** [2017] EWCA Civ 43 – as sole counsel in the Court of Appeal – represented a senior financial sector employee claiming unfair dismissal for 'whistleblowing'.
- **McMillan v UK Anti-Doping** (NADP/594/2016) – as sole counsel before the National Anti-Doping Panel – successfully represented a Scottish professional footballer in an appeal against the length of his doping ban.

Following his masters in European law from Cambridge, Marc has developed an expertise in this area in practice: he advises on EU law issues, particularly those that arise in the employment / industrial relations context.

As a Mathematics graduate, Marc is highly numerate and confident in tackling evidential issues of technical complexity, including those necessitating expert evidence.

Commercial Litigation

Marc's practice sees him regularly appear in court, including on a wide variety of interim applications and procedural hearings. Examples of some of the commercial law disputes in which Marc has acted include:

- **Mr H v Mr D** (Mercantile Court, 2017; sole counsel). Currently representing the claimant in a dispute between businessmen about the funding of a game resort and farm in South Africa, which involves issues of contract formation and misrepresentation.
- **Sidev Ltd v Bluemantle Ltd and Monde Developments Ltd** (Mercantile Court, 2016-17; sole counsel). Represented the defendants in a dispute about a company's entitlement to a bonus pursuant to an alleged oral agreement for work done on property development projects. Case settled after the claimant acceded to an order for security for costs and Marc succeeded in obtaining an order for expert evidence (which the claimant had contested) at a CMC.
- **Ritz Hotel Casino v Al Geabury** [2015] EWHC 2294 (QB) (Queen's Bench Division, 2015; led by Clive Freedman QC). Successfully represented the casino at a six day High Court trial in a claim for unpaid gambling debts which raised detailed evidential issues about alleged gambling addiction and legal issues concerning the regulation of casinos and their obligations towards their patrons. In finding for the Ritz, Mrs Justice Simler relied upon documentary evidence which had been "*painstakingly analysed by Mr Delehanty*" (see judgment at para. 16). The defendant's compliance with his disclosure obligations was scrutinised across a number of hotly contested pre-trial High Court hearings at which Marc appeared unled and secured orders for specific disclosure and inspection. **Read more about this case here**. The case was extensively reported in: **The Mirror, The Guardian, The Express, The Daily Mail, and The Evening Standard**.
- **Mercedes Benz Financial Services UK v Omni Utilities and Others** (County Court, 2015; sole counsel). Succeeded in an appeal before HHJ Lochrane against the dismissal of an application for relief from sanctions in a case concerning a company director's personal guarantee.
- High Court claim centring on **breach of directors' fiduciary duties** (Chancery Division, 2013-15; led by Adam Solomon). The case involved a multi-million pound shareholding and multiple parties across several jurisdictions.
- **Assim v Atashi** (County Court, 2014; sole counsel). Succeeded, following a multi-day trial, in a hard-fought claim for breach of contract against an Iranian professional retained to secure the return of confiscated properties in Tehran.
- High Court jurisdiction dispute concerning **enforcement of a foreign judgment** (from an offshore jurisdiction) of over US\$100m (Commercial Court, 2014; led by Stuart Ritchie QC).
- **Vigeland v Ennismore and Vistra** [2012] All ER (D) 115 (Nov) (Chancery Division, 2012; led by Adam Solomon). Acted in a seven day High Court trial concerning claims of breach of contract and misrepresentation in respect of a fund manager's entitlement to a **contractual bonus** and allegations of breach of trust in the administration of a Jersey based trust.

For further details of Marc's experience in commercial disputes see the specific Civil Fraud and Asset Recovery section below. Other areas of expertise and interest include:

- **Intellectual property**: Marc completed part of his pupillage with a specialist Intellectual Property barrister and studied IP to masters degree level. He has assisted in disputes concerning the law of passing-off, confidential information, trademarks and design rights.
- **Business insolvency**: Marc has advised on, and appeared in, contested winding-up petitions in the

Companies Court.

Civil Fraud and Asset Recovery

Examples of some of the civil / commercial fraud law disputes in which Marc has acted include:

- **JSC BTA Bank v Ablyazov and Khrapunov** (Court of Appeal and Commercial Court, 2015-17; led by Charles Samek QC). Representing the Second Defendant in a claim for unlawful means conspiracy consisting in alleged breaches of freezing orders made against the First Defendant in previous proceedings in the *Ablyazov*. This case has to date involved a wide variety of applications and appeals concerning jurisdiction and orders ancillary to freezing injunctions. Most prominent are: (i) the judgment of the Court of Appeal regarding the Second Defendant's **CPR Part 11 application challenging the English Court's jurisdiction** (at [2017] EWCA Civ 40 – [read more about this judgment here](#)); and, (ii) the judgment on the Bank's application that the Second Defendant provide disclosure of his assets, raising issues about the **privilege against self-incrimination** and the use of 'confidentiality clubs' (at [2016] EWHC 289 (Comm) – [read more about this judgment here](#)).
- **Mrs Feinberg v Mr Pike** (Chancery Division, 2016; led by Charles Samek QC). Successfully obtained a **freezing injunction** (including proprietary relief in respect of certain assets) and an order for **information provision** against the defendant, as part of claim for recovery of monies transferred away from the claimant in a series of clandestine transactions.
- **Bin Mahfouz and Others v El-Rashid** (Commercial Court, 2016; led by Charles Samek QC). Represented the defendant in a claim for recovery of €35 million which the claimants sought to invest into an oil venture; the claim involved allegations of **deceit / fraudulent misrepresentation** and for a constructive trust over the money.
- **Ritz Hotel Casino v Al Geabury** (Court of Appeal and Queen's Bench Division, 2016; sole counsel). After the successful trial (described in the general Commercial Litigation section above) and over the course of 2016, Marc has appeared unled in four (4) hearings relating to **enforcement** of the judgment debt and securing of the defendant's assets, including before the Court of Appeal (re: conditions to be attached to any permission to appeal) and before Mrs Justice May (re: successful application to access secured storage units to seek to recover valuable art of the defendant).
- Advised and drafted statements of case in a variety of fraud related matters, such as: for a claimant seeking return of his share of the **proceeds of the sale** of an asset retained by a former business partner (High Court) and for a defendant company allegedly used by co-defendants as a vehicle to receive **misappropriated monies** (High Court).

Business Protection and Confidential Information Disputes

Marc regularly acts, as both junior and sole counsel, in High Court business protection disputes involving team moves, staff poaching, restrictive covenants, garden leave, fiduciary duties and breach of confidence / misuse of confidential information. He is comfortable working as part of a team and to tight deadlines for injunction applications.

Cases in which he has acted include:

- **Granite Search v Kaminski** (Queen's Bench Division, 2016; sole counsel). Represented the defendant at a hearing of an **application for an injunction** against him for alleged breach of post-termination

restrictive covenants and misuse of confidential information. Succeeded in: (i) limiting the competitive restrictions on the defendant pending speedy trial; (ii) substantially narrowing the scope and terms of an order that the defendant provide information about any use he made of confidential information; and, (iii) resisting an order for costs.

- **Le Puy Ltd v Potter and Abstract** [2015] EWHC 193 (QB), [2015] IRLR 554. Sole counsel for the claimant on an urgent injunction application. Successful in obtaining orders to enforce restrictive covenants restraining an ex-director from dealing with the clients of his former company and to prevent misuse of that company's confidential information.
- Junior counsel in a team move / partnership case involving the departure of a senior member of an LLP and other staff from a professional services firm to a newly founded rival firm (Queen's Bench Division 2015; led by Selwyn Bloch QC; case settled before trial).
- Junior counsel in a large team move case in the engineering sector concerning orchestrated poaching of employees by former managers (Queen's Bench Division 2014; led by Selwyn Bloch QC; case settled before trial).
- Sole counsel for two ex-employee respondents to an application for urgent injunctive relief concerning misuse of confidential information (Chancery Division 2014).
- Junior counsel in a team move case in the construction sector representing multiple former employees and their new company (Commercial Court 2013; led by Adam Solomon).

Sports Law

Marc is featured in the Legal 500 directory in the Sport law category, where he is described as "**highly regarded in this area**" (2014 edition), as "**a rising star who is capable of very great things**" (2015 edition) and as "**known for contractual issues and sensitive disputes**" (2016 edition).

Some of the cases in which he has been involved include:

- **McMillan v UK Anti-Doping (UKAD)** (July 2016) – successfully represented Scottish footballer Jordan McMillan before the National Anti-Doping Panel in his appeal against the length of his doping ban (on the basis that he satisfied the 'Substantial Assistance' provisions in the WADA Code and UKAD rules).
- Acting for a Premier League football club in two separate claims against it by spectators in relation to crowd/stadium disturbances, including appearing (as sole counsel) at interim hearings.
- Advising in relation to an agent's entitlement to commission upon the international transfer of a football player.
- Defending a football club against allegations of discriminatory conduct, including appearing (as sole counsel) at interim hearings.

Marc also writes on topical sporting issues for the popular LawInSport website. His articles include: **Why did Coventry City FC's State Aid claim fail?**, **The Queensberry Rules of Sky and BT's Sporting Match-Up**, and **A Guide to England's Independent Football Ombudsman**.

EU and Public Law

Marc represented a doctor in a ground-breaking challenge to NHS contractual terms based on the **freedom of movement for workers** provisions of EU law (led by Edward Kemp; case settled on eve of trial in 2014).

Marc has conducted **administrative law hearings** (as sole counsel), and has appeared before the Upper and

First-tier Tribunals in appeals concerning **immigration** and **social security** matters.

Marc has a first class masters in law (LLM) in European Law from Cambridge and gained a broad experience of EU and public law over the course of his pupillage and training, including assisting in: preparation of judicial review claims, drafting a skeleton argument for the Court of Appeal in an immigration appeal concerning the nature of EU citizenship, and producing advices and opinions in relation to the protection of property under the European Convention on Human Rights.

Additionally, EU law has been the focus of Marc's legal publications. See, e.g., '**Case C-117/14 Poclava v Toledano**' in Volume 20-06 of *Tolley's Employment Law Newsletter* (April 2015); 'Case C-176/12 AMS v Union Locale des Syndicats CGT' in Volume 19-06 of *Tolley's Employment Law Newsletter* (April 2014); and, 'Subsidiarity and Seanad Éireann' [2010] 13 *Trinity C.L. Rev.* 133.

Employment Tribunal Litigation

Marc's experience covers a wide variety of litigation in the Employment Tribunal and he has acted for both claimants and respondents in **multi-day hearings**. He has also drafted grounds of appeal and advised in relation to **appeals against Employment Tribunal judgments** and has appeared as sole counsel in the Employment Appeal Tribunal.

In *K v Royal Bank of Scotland plc* [2017] EWCA Civ 43, Marc represented the claimant in an appeal (as sole counsel) before the Court of Appeal in respect of an amendment application to add a claim for automatic unfair dismissal for 'whistleblowing'. Separately, Marc succeeded in an earlier appeal (as sole counsel) before the EAT (UKEAT/0089/15) concerning the scope of the case which an unfair dismissal claimant can advance at trial, in circumstances where the ET1 form does not positively assert a specific unfair reason for the dismissal.

Marc has acted in cases with a significant international/EU law aspect to them, including:

- Representing a doctor in a challenge to contractual terms based on the free movement provisions of EU law (led by Edward Kemp; case settled on eve of trial).
- Successfully applying to stay Tribunal proceedings where there were related French proceedings.

Professional Background

Education:

- BA (Mod.) in Mathematics at Trinity College, Dublin (2005) – **First Class**
- MA in Legal Studies at University of Bristol (2008) – **Distinction**
- Master of Law (LLM) in European Law at Peterhouse, University of Cambridge (2009) – **First Class**
- Bar Professional Training Course at Kaplan Law School, London (2011) – **Advocacy Scholar**

Academic Awards:

- Phoenicia Scholarship from the Bar European Group.
- Hardwicke Entrance Award and Eastham Scholarship from Lincoln's Inn.
- The de Montmorency prize in law from Peterhouse, University of Cambridge.
- Cambridge European Trust Bursary – awarded for an 'outstanding academic record'.

Debating and mootng:

Prior to commencing practice, Marc honed his advocacy skills through mooting and debating. He enjoyed significant success, including:

- Winning a Europe-wide regional final of the European Law Mooting Competition in 2011;
- Winning the Cambridge University Team Mooting Competition in 2009;
- Reaching the quarter-finals of the European Universities Debating Championships in 2009;
- Regularly representing the Bristol University and Cambridge University debating teams.

Professional Memberships:

Marc is a member of the British Association for Sport and Law (BASL) and the London Irish Lawyers Association (LILA).