

Jonathan Cohen QC

Silk: 2016 | Call: 1999

Queen's Counsel

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A QC at just 38 years old, Jonathan Cohen has built his reputation on being an outstanding cross-examiner and is often brought in to address difficult cases turning on disputed evidence of fact. He is listed by Chambers & Partners as a leading commercial dispute resolution and employment silk and also elsewhere for partnership and civil fraud. In Chambers & Partners 2020, he is described as **“very persuasive and sharp in court”** and **“bright, very hard-working and completely fearless. He’s just outstanding and goes from strength to strength.”**

Jonathan has a crossover commercial dispute resolution, partnership and employment practice almost exclusively consisting of heavyweight High Court litigation and claims involving breach of fiduciary duty, dishonesty or fraud. His employment experience as a junior barrister, when he was twice nominated as Chambers & Partners employment junior of the year, gives him a unique understanding of the issues raised in civil claims for breach of duty against senior executives, directors and partners. He is frequently instructed in Russian and Asian work; he acted for a number of defendants in the Mukhtar Ablyazov Kazakh banking fraud litigation, for Eurasian Natural Resources Corporation in their high-profile action against a former director for breach of fiduciary duty and in the Court of Appeal for Optaglio, a technology venture owned by a wealthy Russian investor, in a claim against its former directors

Highlights of his practice in 2019 and 2020 include appearing:

- In the Business & Property Courts and the Court of Appeal for the De-Pury family in a claim for commission on the sale of the most expensive painting ever sold on the private art market, and defending against allegations of breach of fiduciary duty. The trial and the appeal, in which he was successful, were reported in press throughout the world.
- In the Queen’s Bench Division and the Court of Appeal for Mandy Gray, a wealthy divorcee, defending against a claim by her former boyfriend for a half share of her considerable assets, and seeking an anti-suit injunction to prevent proceedings being brought in New Zealand. The Court of Appeal have referred the question of whether Ms Gray has a right to be sued only in England to the European Court of Justice. The claim was reported throughout the international press.
- In the Business & Property Courts for Domestic & General, the household name appliance insurer, in ongoing fraud litigation against rogue traders.
- In the Commercial Court for Walgreens Boots Alliance in a claim against Avon Cosmetics Inc, seeking injunctive relief to prevent the Chief Financial Officer moving from the former to the latter.
- In an LCIA arbitration for the Richard Green Gallery, defending against a claim that paintings were sold to wealthy purchasers by fraudulent misrepresentations.
- In confidential partnership proceedings for an international law firm, defending against proceedings for breach of duty.

- In a Swiss ICC arbitration for wealthy French investors, seeking damages for a large property fraud perpetrated in London.
- As an expert witness to the courts of the Marshall Islands in English civil procedure in the Akhmedova v Akhmedov divorce.
- For a leading London private equity fund, seeking \$100 million of damages for breach of an introduction agreement.
- For a former partner of Deloitte LLP, seeking injunctive relief to enforce rights in the LLP members' agreement. The claim failed at first instance and an appeal is to be heard in the Court of Appeal in October 2020
- For an actress whose anonymity has been ordered by the Court in a claim against Harvey Weinstein and former directors of the Weinstein Company. The case is to be heard in the Court of Appeal in late 2020.

Jonathan has a reputation for combining powerful advocacy with strong legal skills and a commercial and cost sensitive approach to litigation.

RECOMMENDATIONS

"Jonathan Cohen QC is very calm and authoritative, and his advocacy is very smooth."

Chambers Global 2020, Commercial Dispute Resolution

"Very persuasive and sharp in court."

Chambers & Partners 2020, Commercial Dispute Resolution

"Very bright, very hard-working and completely fearless. He's just outstanding and goes from strength to strength."

Chambers & Partners 2020, Employment Law)

"Extremely technically adept, a deep strategic thinker and he has your back throughout the case."

Legal 500 2020, Partnership

AREAS OF LAW

Commercial & Civil Fraud

Jonathan undertakes a full spread of general commercial work. Much of his practice has a focus on litigation arising from breaches of fiduciary duty, fraud and the theft of confidential information.

Recent cases of interest in this area include:

- **Gray v Hurley [2019] 1 WLR 5333**. Claim by exceptionally wealthy divorcee (who obtained one of the largest divorce judgments ever given by the English courts) to recover circa \$50 million of property registered in the name of her lover. The claim is multi-jurisdictional (England, Switzerland, New Zealand). It has already resulted in a substantial and important jurisdiction judgment in favour of the English Courts ([2019] EWHC 1636) and another important judgment refusing an anti-suit injunction ([2019] 1 WLR 5333). An appeal was heard by the Court of Appeal on 4 December 2019, reported at [2019] EWCA Civ 2222, resulting in a reference to the European Court of Justice on the question of whether a right to be sued in England under the Brussels Recast Regulation must be protected by anti-suit injunction.
- **Harris v Underbelly Ltd & Ors**. A claim by a wealthy arts investor against the well-known theatre producers, Underbelly, for fraudulent misrepresentation in an investment prospectus.
- **W Nagel v Pluczenik Diamond Company NV [2019] Costs L.R. 2117**. Important appeal from the Chief Master, considering the question of whether a judgment debt includes unassessed costs, so that CPR Part 71 cross examination is available of judgment debtors.

- **(1) ACLBDD Holdings Ltd (2) De Pury v (1) Staechelin (2) Paisner (3) McCaffrey [2019] 3 All ER 429**. Appeal to the Court of Appeal from a Chancery Division claim for \$10 million by a well know family engaged in the business of art brokerage for commission said to be owed on the sale of an old master (almost certainly the most expensive painting ever sold on the private market). This was one of the most widely reported cases heard in the Business & Property Courts in 2017. It was an international headline in newspapers throughout Europe and the Americas. It involved extensive and challenging cross-examination of witnesses including Martin Paisner of Berwin Leighton Paisner. The claim was successful both below and in the Court of Appeal ([2019] 3 All ER 429); the case is a rare example of a high value oral contract claim succeeding and is probably the most prominent art case ever to come before the English courts.
- **Flowgroup Plc v Co-Operative Energy Ltd [2019] EWHC 2344 (Comm)**. A successful claim by business vendors for breach of a complex sale and purchase agreement.
- **Athena Brands Ltd v Superdrug Stores Plc [2019] EWHC 3503 (Comm)**. A successful claim by a supplier to Superdrug, establishing that one of Superdrug's buyers had ostensible authority to contract.
- **The Klesch Collection Ltd v The Richard Green Gallery**. Claim by wealthy art collectors against the gallery for fraudulent misrepresentation in respect of the sale of two old masters. The case addresses the critical issue of the implications conveyed by the provision of provenance. Having been issued in the High Court and attracting headlines in the press, it was determined in a confidential arbitration in January 2020.
- **Domestic & General Insurance Plc v (1) Service Box Plc (2) Surge Group Plc (3) Paul Careless & Ors**. Substantial fraud and conspiracy claim by D&G, the biggest insurer of domestic appliances in the world, against two rogue trader businesses who have been targeting its customers and making fraudulent misrepresentations to them so as to obtain their custom. Widely reported in the national press and London Evening Standard.
- **Akhmedov v Akhmedova**. Claim by former wife of Russian oligarch and beneficiary of a circa \$300 million divorce judgment to recover the yacht formerly owned by Roman Abramovich and now her former husband, in satisfaction of the divorce judgment. Jonathan Cohen QC was instructed on behalf of the wife to provide evidence to the High Court of the Marshall Islands (where the yacht is flagged) in aid of enforcement, on the questions of (i) the regularity of the English divorce judgment, and (2) the legality of service.
- **DAS UK Holdings Limited & Ors v (1) Asplin (2) Kearns (3) Medreport Limited (4) Medcare Treatment Services Limited**. Multi-million pound High Court claim by one of the world's leading insurance companies against former directors and medical report providers for conspiracy, fraud and breach of trust over a number of years.
- **Global Energy Horizons Corporation v Gray**. Huge fraud claim by Global Energy Horizons Corporation against former director and shareholder Mr Gray. The nature of the allegations is that Mr Gray stole away from Global technology which was enormously valuable to the oil and gas industry and has dishonestly concealed his benefit from that through a web of international companies.
- **Moore v Squibb [2018] EWHC 2731**. Claim by Tottenham jeweller against the demolition contractors used by the Greater London Authority to deal with the burnt out buildings following the London riots in 2011. The allegation made by the jeweller was that the demolition contractors had stolen safes with millions of pounds worth of jewellery in them. The claim settled at a mediation shortly before trial. Jonathan Cohen was instructed for the demolition contractors.
- **Farrar v Miller [2018] EWCA 172**. Substantial Chancery Division and Court of Appeal dispute between property developers, as to the validity of an oral joint venture agreement and the effect of Section 2 of the Law of Property Act 1989.
- **Dauriac-Stobe v Signia Wealth Ltd [2017] EWHC 363**. Claim by a well known city figure in respect of her ousting from a wealth management business backed by John Caudwell. The claim has been widely featured in the press, including in a Sunday Times feature.
- **O'Brien v Josh Wood Hair & Ors**. Shareholder dispute in respect of the ownership of a famous hair care brand sold in major High Street stores.
- **Optaglio Ltd v Tethal & Hudson [2015] EWCA Civ 1002, [2015] All ER 51**. Claim by leading technology company, specialising in the laser holographic etching of microchips, against two former directors for fraud and misappropriation

of intellectual property. The decision of the Court of Appeal is now one of the leading authorities on disposing of factual disputes on summary judgment applications.

- **SBI Markets DMCC v Mobile Money Network Limited [2014] EWHC 949 (Comm)**. Successful defence of summary judgment application for consultancy payments.
- **Gateway Plaza v White [2014] EWCA Civ 555, [2014] EGLR 191**. First Court of Appeal decision on the meaning of the words “exchange contracts”.
- **Valilas v Januzaj [2014] EWCA Civ 436, [2015] 1 All ER (Comm) 1047**. Important Court of Appeal judgment on whether a deliberate decision not to make payment pursuant to a contract is necessarily repudiatory.
- **Golden Eye International Ltd & Ors v Telefonica UK Limited (Consumer Focus Intervening) [2012] EWCA Civ 1740, [2013] EMLR 26**. Leading Court of Appeal decision on Norwich Pharmacal applications to obtain the identities of internet pirates.
- **Besharova v Ede & Ravenscroft**. Companies Court claim by the former wife of Boris Berezovsky that the directors of Ede & Ravenscroft, co-owners with her of a prestige commercial building in the heart of St Petersburg, which she received from Berezovsky as part of her divorce settlement, were cheating her out of many millions of pounds of rental income.
- **JSC BTA Bank v Ablyazov, Drey Associates & ors [2009] EWCA Civ 1124, [2010] 1 WLR 976**. Joined appeals in the Court of Appeal in a significant international fraud claim. The appeals address the important issue of whether the privilege against self-incrimination applies to a risk of a money laundering charge.

Restrictive Covenants, Confidentiality and High Court Employment Claims

Jonathan has a wealth of experience in applying for and defending against injunctions for breach of covenants and infringement of fiduciary and confidentiality duties. He is regularly instructed in breach of confidence claims and is recognised to be one of the leading practitioners in these areas.

Recent cases of interest in this area include:

- **Media Entertainment NV v Karyagdyev & Ors [2020] EWHC 1138**. Successful strike out application on behalf of the Defendants, establishing that claims of breach of confidence against third party recipients of confidential information must plead and prove knowledge that information has been taken in breach of confidence.
- **Walgreen Boots Alliance v (1) Arnal (2) Avon Cosmetics Inc.** Substantial High Court restrictive covenant claim by WBA against its former Chief Financial Officer and his new employer, Avon. The critical issue was the extent to which Boots and Avon are in competition around the world. The case settled in the early hours of the morning of the first day of trial. Jonathan Cohen represented Walgreens Boots Alliance.
- **Tullett Prebon Group Limited v (1) Morozov, (2) Rudman**. Restrictive covenant enforcement claim in the inter-dealer broker business.
- **Al Bassam v Deutsche Bank**. Commercial Court claim by well-known founder of the Centricus global investment firm against Deutsche Bank for various breaches of duty intended to injure him including an unlawful means conspiracy.
- **Ideal Standard NV v Herbert [2019] IRLR 431**. Arbitration against former very senior executive of Ideal Standard to enforce a post-termination covenant to prevent him from moving to rival company Kohler Mira.
- **MX1 Ltd & SES SA v Farahzad [2018] 1 WLR 5553**. Claim by Israeli and Luxembourg satellite broadcasting conglomerate against BBC Iran anchor journalist for conspiracy with its rival to damage its interests by Tweeting criticism of its business.
- **2018 Prison Officer's Strike**. Successful application for an injunction to force striking prison officers back into work following their wildcat strike on 14 September 2018
- **Ali v Petroleum Company of Trinidad & Tobago [2017] ICR 531**. Privy Council appeal from the Court of Appeal of

Trinidad & Tobago, addressing the question of when a term is implied into a contract preventing an employer from obstructing the ability of an employee to obtain a valuable benefit, for example a bonus.

- **Visage Ltd v Mehan [2017] EWHC 2734**. Team move and theft of confidential information claim in the “fast fashion” business.
- **Tradition Financial Services Ltd v Gamberoni [2017] IRLR 698**. Restrictive covenant enforcement claim in the inter-dealer broker business.
- **Vanden Recycling Ltd v Kras Recycling BV [2017] C.P Rep 3616**. Court of Appeal decision on the strike out of a claim where the Claimant had settled with one joint tortfeasor without reserving the ability to proceed against others.
- **Capgemini India Private Ltd v Krishnan [2014] EWHC 1092**. High Court decision on whether contractual undertakings should be enforced by injunctive relief even if no risk of damage can be shown.
- **ENRC Plc v Sir Paul Judge [2014] EWHC 3556**. High Court claim by well known FTSE 100 Kazakh mining company against its own director (a former Director General of the Conservative Party) to expose his leaking of highly confidential information to the press and attempts to undermine ENRC’s commercial reputation. Widely reported in the national and international press.
- **Luck & 112 Others v British Telecommunications Plc [2014] EWHC 290**. Multi-million pound fraudulent misrepresentation claim by 112 former employees of British Telecom for losses relating to their final salary pensions.
- **Ariadne Capital v Serageldin [2013] All ER (D) 291 (Feb)**. High Court claim by leading private equity fund to prevent departing employee from misusing stolen confidential information and to recover the costs of investigating and stopping the unlawful behaviour.
- **Kearns v Glencore UK Ltd [2013] 1 All ER (D) 102 (Dec)**. High Court claim by former oil trader that he was wrongfully deprived of shares that he had been promised which were said to be worth over £8 million. The claim was extensively reported on a daily basis in the national and international press.
- **Sunseeker v Tobia [2011] EWHC 4004 (QB)**. Battle between super-yacht manufacturers, Sunseeker and Princess Yachts to prevent Sunseeker’s chief designer from moving to their main rival, Princess.
- **Driver v Air India Limited [2011] IRLR 992**. Appeal to the Court of Appeal by Claimant from the rejection of his claims in the High Court, attacking Air India’s terms and conditions of employment for UK staff.
- **BGC Capital Markets (Switzerland) LLP v (1) Rees (2) Tullett Prebon PLC [2011] All ER(D) 51**. Round 2 of the dispute between BGC and Tullett, on this occasion a battle over a broker leaving BGC’s Swiss subsidiary to join Tullett.
- **Tullett Prebon PLC & Ors v BGC Brokers LP & Ors [2010] EWHC 484, [2010] IRLR 648**. Appeared for BGC in this high profile battle between two leading city inter-dealer brokers. The application for interim relief was heard in April 2009 and the trial itself took place over four months in 2010. The judgment was appealed to the Court of Appeal, reported at [2011] IRLR 420.

Partnership

Jonathan is a specialist in 1890 Act and LLP partnership disputes, where his combined experience of employment law and commercial litigation come together to give him an unrivalled ability to advise on law and strategy. He regularly acts for international law and financial services firms. Recent cases include:

- **Confidential Partnership Matter**. Jonathan Cohen represents one of the world’s largest law firms in a claim arising from a very serious internal incident, involving a sexual advance against a female associate. The case involves multi-jurisdictional tortious, employment and regulatory issues. The case has been widely reported in the international press.
- **Confidential Partnership Matter**. Jonathan Cohen represents a large, multi-office English law firm whose CEO is accused of sexual misconduct towards two female associates. The case is ongoing.

- **David Joseph v Deloitte [2018] EWHC 3354.** Claim by equity partner of Deloitte for breach by the LLP of its partnership agreement in failing to afford him a right of appeal against his expulsion to the other equity partners. The Claimant, represented by Jonathan Cohen, was unsuccessful but has obtained permission to appeal to the Court of Appeal.
- **Parr v Moore Stephens.** Claim by a former high flying partner of Moore Stephens for age discrimination, based on the application of a 60 mandatory retirement age. The critical question is whether partners who are made consultants (i.e. most retired partners) are able to bring age discrimination claims at the end of their consultancy period because the application of a mandatory retirement age is an act which continues throughout the remainder of the partner's engagement with the firm. Mr Parr (represented by Jonathan Cohen) has succeeded on that point in the ET and Moore Stephens has appealed to the EAT.
- **Confidential Partnership Matter.** Jonathan Cohen represents a very large, household name American law firm. A senior, London based equity partner of the law firm is accused of (amongst other things) sexual harassment of two female partners. The case is ongoing.
- **Rust & Alvarez & Marsal LLP v FTI Consulting LLP.** Substantial arbitration claim by FTI Consulting that former senior member had engaged in numerous breaches of fiduciary duty and to enforce post-termination restrictive covenants against him and his new partnership, Alvarez & Marsal. The claim was resolved in a confidential LCIA arbitration.
- **Roberts v Wilsons LLP [2018] BCC 50.** Court of Appeal decides the important question of whether an LLP member can claim dismissal related damages flowing from pre-termination acts.
- **Partridge v (i) Harrington (ii) Bentley (iii) Bentley Harrington (Re UniLad).** High profile claim by former 1890 Act partner against fellow partners. UniLad is a media content provider that has taken the youth market by storm. It was founded by three students but is now worth tens of millions of pounds. The Claimant was ejected from the partnership for poor performance before it had any value. Years later, he seeks compensation for a third of its present value.
- **Maitland Hudson & Anr v Dempsey (Solicitors' Regulatory Authority intervening).** Chancery Division claim by high profile solicitors' practices in London and Paris for the return of privileged and confidential files taken by a former partner. Described on the front page of the Law Society Gazette as the "first legal action by a law firm against a self-styled in-house 'whistleblower'."

Art

Jonathan is one of the leading art and cultural property QCs in the country. He has in recent years appeared in many of the well-known disputes that have come before the English Courts or in arbitration and he has an intimate understanding of the particular issues in respect of commissions, breaches of fiduciary duty and fraud which are a hallmark of these claims. Recent cases of interest include:

- **(1) ACLBDD Holdings Ltd (2) De Pury v (1) Staechelin (2) Paisner (3) McCaffrey [2019] 3 All ER 429.** Appeal to the Court of Appeal from a Chancery Division claim for \$10 million by a well know family engaged in the business of art brokerage for commission said to be owed on the sale of an old master (almost certainly the most expensive painting ever sold on the private market). This was one of the most widely reported cases heard in the Business & Property Courts in 2017. It was an international headline in newspapers throughout Europe and the Americas. It involved extensive and challenging cross-examination of witnesses including Martin Paisner of Berwin Leighton Paisner. The claim was successful both below and in the Court of Appeal ([2019] 3 All ER 429); the case is a rare example of a high value oral contract claim succeeding and is probably the most prominent art case ever to come before the English courts.
- **The Klesch Collection Ltd v The Richard Green Gallery.** Claim by wealthy art collectors against the gallery for fraudulent misrepresentation in respect of the sale of two old masters. The case addresses the critical issue of the implications conveyed by the provision of provenance. Having been issued in the High Court and attracting headlines in the press, it was determined in a confidential arbitration in January 2020.
- **Hue-Williams v Chandris [2017] EWHC 3419.** High Court claim by well-known London art dealer for commission said to be owed to him for the prospective sale of a large art collection owned by Greek shipping family, "the Chandris

Collection”, one of the largest privately held art collections in the world. After three days of Jonathan’s cross-examination, the case collapsed and costs were paid of nearly a million pounds.

- **Simon Lee Gallery v DSFT Art Investment Company LLC**. Claim by the Simon Lee Gallery, one of the largest and most successful art vendors in the world, for an injunction to prevent the sale of three Hartung paintings at Sotheby’s in Paris. The sale was said to be in breach of an agreement whereby DSFT agreed to allow the Simon Lee Gallery to sell the paintings. Jonathan Cohen represented the gallery.
- **The Flowers Gallery v Patrick Hughes**. Claim by prominent London gallery against well-known artist that the effect of his termination of their sole representation rights was that they were entitled to a substantial payment under the Commercial Agency Regulations. The claim was the first known to all of the lawyers in the case where a gallery had sought to claim that it was a commercial agent under the European regulations. Jonathan Cohen represented the artist. The case has now settled.
- **Dover Street Ltd & Mallett Inc v (1) Neville, (2) Smyth-Osborne, (3) Hutchinson Smith**. Claim for breach of fiduciary duty and breach of USA freezing and insolvency orders against the former directors of the well-known Dover Street gallery.
- **Claimant v A Leading London Art Advisory Firm**. Claim by the estate of a wealthy art collector for breach of fiduciary duty against prominent London art advisory firm. The nature of the case and the names of the parties are confidential.

Statutory Employment Claims

Jonathan has historically been a leading practitioner in the ET and EAT. He was twice nominated as Chambers & Partners employment junior of the year. In silk, he remains a force in statutory employment law and is instructed in the highest value claims, with particular expertise in whistle-blowing and all forms of discrimination.

Recent cases of interest in this area include:

- **Parr v Moore Stephens**. Claim by a former high-flying partner of Moore Stephens for age discrimination, based on the application of a 60 mandatory retirement age. The critical question is whether partners who are made consultants (i.e. most retired partners) are able to bring age discrimination claims at the end of their consultancy period because the application of a mandatory retirement age is an act which continues throughout the remainder of the partner’s engagement with the firm. Mr Parr (represented by Jonathan Cohen) has succeeded on that point in the ET and Moore Stephens has appealed to the EAT.
- **Sarnoff v YZ**. Claim for very serious and long-standing sex discrimination by female employee of the Weinstein Company against Harvey Weinstein as perpetrator and a number of former directors as facilitator. The case is particularly interesting for the claim against the latter directors on the basis that they knew of Weinstein’s predilections and are liable for not preventing his actions. An appeal to the EAT by Mr Sarnoff failed but he has obtained permission to appeal to the Court of Appeal.
- **Langton v Amdocs Systems Group Limited**. High value unauthorised deductions from wages claim in respect of permanent health insurance. Jonathan Cohen acts for the employer. Defence of the claim failed at first instance but permission to appeal to the EAT has been obtained.
- **Richard Boath v Barclays Bank**. Ongoing Employment Tribunal claim by the former head of Barclays investment bank to recover withheld bonuses relating to an SFO investigation into the bank.
- **Hafiz and Haque Solicitors v Mullick [2015] ICR 1085**. Leading EAT decision on the test for the making of a wasted costs order against solicitors.
- **Bates Van Winkelhof v Clyde & Co [2014] UKSC 32**. Instructed by Public Concern at Work, the whistleblowing charity, to intervene in the claim in the Supreme Court to argue for the first time in England that domestic whistleblowing legislation is incompatible with Article 10 of the European Convention on Human Rights (freedom of expression) because it gives whistleblowing protection only to employees and not to partners.
- **Riley v Crown Prosecution Service [2013] IRLR 966**. Court of Appeal challenge to the decision of the Employment Tribunal to strike out the case of an ill Claimant where there was no firm medical prognosis for the date on which a trial

could take place. The case is the leading authority on the application of Article 6 of the European Convention to ill health strike out decisions in the civil courts.

- **City and County of Swansea v Gayle [2013] IRLR 768**. First consideration by the Employment Appeal Tribunal of whether covert photographic surveillance of a malingering employee was a breach of privacy rights under Article 8 of the European Convention on Human Rights.
 - **Salford Royal NHS Foundation Trust v Roldon [2010] IRLR 721, [2010] 114 BMLR 152**. Important Court of Appeal decision on the level of investigation required for career ending allegations.
 - **City & County of Swansea v Honey [2008] All ER (D) 311**. Leading authority on bias and ET members.
 - **James v Greenwich London Borough Council [2008] ICR 545, [2008] IRLR 302**. Leading Court of Appeal authority on the status of agency workers.
 - **Klusova v The London Borough of Hounslow [2008] ICR 396**. Court of Appeal consideration of the rights of those in breach of immigration legislation.
 - **Madarassy v Nomura International PLC [2007] ICR 867, [2007] IRLR 246**. City banker sex-discrimination appeal in the Court of Appeal.
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