Simon Devonshire KC



Silk: 2009 Call: 1988

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Simon was called in 1988 and took silk in 2009. He is a leading KC practicing in all areas of statutory and contractual/commercial employment law, but with a particular emphasis on (i) inter-business competition issues (including confidential information, restrictive covenants and the poaching of employees in unlawful team moves), (ii) employee/business owner fraud, (iii) the attempted diversion of business opportunities by employee fiduciaries, and (iv) whistle-blowing, discrimination and TUPE disputes. He also has considerable experience in the sports forum, in disputes between LLP members, in the management and control of repeated/vexatious litigation, and in the conduct of internal investigations.

> ***… His advocacy skills were very good – he made mincemeat of his opponents and he did an extremely good job***
>
> CHAMBERS & PARTNERS

Expertise

Commercial Litigation

Simon has a busy High Court practice in the fields of commercial and business law, typically (though not exclusively) arising out of commercial disputes with an employment twist. Simon's practice encompasses: (i) civil fraud and associated injunctive, monetary and proprietary remedies; (ii) the construction and interpretation of commercial contracts; (iii) partnership and LLP disputes; and (iv) business protection, including the enforcement of post termination restrictive covenants, the enforcement of obligations of confidence, fiduciary obligations, data recovery, and associated injunctive and springboard relief. He also has particular experience in cases involving judicial control of vexatious and abusive litigation.

Civil Fraud

In the fraud context, Simon regularly acts for employers seeking to recover and/or trace stolen money into substitute assets. He recently acted for a FTSE 100 property development company arising out of the unlawful diversion by its JV partner of the opportunity to acquire a substantial development site, and against a director who had diverted the opportunity to open a multi-million pound luxury car dealership in the Midlands. He acted for the claimant in a £50M fraud action arising out of the alleged miss-sale of a freight forwarding business. He acted for three venture capital funds in **Capital for Enterprise -v- Malik & Ors** [2010] EWHC 343 (Ch), in successfully resisting claims by multiple defendants to set aside freezing inunctions obtained on the basis of an alleged fraud/conspiracy in running a 'Ponzi Scheme' bridging loan business.

Commercial Contract

Simon is frequently called upon to advise on the meaning, effect, enforcement and proper construction of commercial contracts, including post termination restrictions, indemnities and repayment clauses, Romalpa or retention of title clauses, and commercial TUPE provisions. He has been noted in the Directories for "taking a commercial, practical approach to problems … [and] his ability to boil things down and explain them concisely".

Partnership

In the LLP context, Simon has acted in a large number of confidential arbitrations, including for a hedge fund in a multi-million pound claim against a departing member alleged to have orchestrated a team move, for a substantial solicitor's practice in the enforcement of anti-team move covenants agreed by the membership as a whole after serious damage to its business from a series of team moves, and for a leading London Firm on the question whether the repudiatory breach doctrine can be relied upon to terminate an LLP agreement.

Business Protection

Simon regularly acts in business protection cases, in cases involving the misuse of confidential information, breaches of fiduciary obligation, pre-termination employee competition and post termination restrictive covenants. Simon has been noted in the directories for his excellence on "restrictive covenants, team move and breach of fiduciary duty cases … He's outstanding – his depth of knowledge and his ability to consolidate serious issues and make sense of it all is superb". Recent reported and/or important cases include Red Bull -v- Fallows [2021] EWHC 3502 (QB) (restraint of trade and garden leave); Capita -v- Darch {2017] IRLR 718 (threshold for interim injunctive relief in team move disputes); **Dorma UK Ltd –v- Batemen** [2015] EWHC 4142 (QB) [2016] IRLR 616 (springboard relief arising out of an alleged team move); **Thomson Ecology –v- APEM** [2014] IRLR 184 (summary judgment and disclosure orders in team move cases); **CEF Holdings -v- Mundey & Ors** [2012] FSR 35 (the limits of springboard relief and the obligations of a party moving the court without notice);); **BGC –v- Rees & Tullett Prebon** [2011] EWHC 2009 (QB) (Tullett did not procure Rees to breach his contract of employment with BGC when recruiting him); **New ISG –v- Vernon** [2008] ICR 319 (the enforcement of restrictive covenants against an employee who had opted out of TUPE); and **Allan Janes –v- Johal** [2006] ICR 742 (the enforceability of a restrictive covenant in a solicitor's contract).

Procedural

Simon has particular experience in the judicial control of vexatious litigation. Examples include: **Samara –v- MBI Partners** [2016] EWHC 441 (QB) (abuse of process arising out of recidivist litigation); **Miller –v- Gardiner & Ors** [2015] EWHC 1712 (Ch) & [2015] EWHC 288 (Ch) (extended CRO against litigant repeatedly bringing misconceived claims in respect of his alleged rights to exploit recordings of performances by the late Jimmi Hendrix); **Bezant –v- Rausing & Ors** [2007] EWHC 1118 (QB) (it was an abuse of process for a claimant, after his claims under employment law had failed, to seek to invoke the law of tort against directors and other professionals associated with his employment/dismissal, to seek to recover his alleged losses, and such conduct justified the making of an Extended CRO); and (in the statutory employment context); and **Allsop –v- Christiani & Nielsen Ltd (in Administration)** [2012] UKEAT/0241/11/JOJ (dismissal of wages act claims brought substantially out of time by an 'employee' on long term sick leave, alleging the adoption of his contract by the administrators).

Achievements

News, Articles & Publications

For Simon's analysis of a number of the key recent cases, see the 11KBW Employment Law Blog. Copies of his papers and slides for the annual Chambers employment law conference are on the 11KBW website.

Garden Leave Injunctions in the Sporting Arena [2004] ISLR 15

Education

Kings School, Canterbury

Magdelen College, Oxford (BA, Jurisprudence)

Other

Professional memberships:

- Employment Law Bar Association
- Employment Lawyers Association
- London Commercial Law Bar Association

Simon has owned and raced the Thames Sailing Barge Marjorie since 1993, and holds an MCA/DTI Master's ticket. He has exhibited his own paintings with the Royal Society of Marine Artists on a number of occasions.

... a go-to silk for non-compete disputes ... provides excellent client service – he is very responsive and happy to roll up his sleeves in a case.

CHAMBERS & PARTNERS

An extremely hands-on barrister who gives excellent service.

CHAMBERS & PARTNERS

... His advocacy skills were very good – he made mincemeat of his opponents and he did an extremely good job

CHAMBERS & PARTNERS

... He is extremely responsive and very good with clients – we feel that we are in safe hands

CHAMBERS & PARTNERS

... His advocacy ... robustness and tenacity always places the client in the strongest position

LEGAL 500

...a wonderfully pragmatic barrister who is a joy to work with

CHAMBERS & PARTNERS

...he has a quiet, confident, comfortable style

CHAMBERS & PARTNERS

... works incredibly hard on his preparation ... particularly strong in structuring his arguments in a way that finds favour with the Employment Tribunal, and in making persuasive submissions. A safe bet on every occasion.'

LEGAL 500

...is incredibly bright and hugely persuasive in court

LEGAL 500