



Gerard Clarke

Year of call: 1986

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Practice Summary

I am an experienced dispute resolution lawyer, with expertise in litigation, mediation and negotiation, as well as in strategic and tactical legal advice covering a variety of business, regulatory, and governmental sectors. I have wide experience in commercial disputes, regulatory, constitutional and administrative law, the sports and media sectors, and in employment law. I have acted for international corporates, advised national Governments at Ministerial level, and challenged and defended regulators. I have strong advocacy skills and have argued cases before every level of Court and Tribunal in the UK, in Cayman and the BVI, and also in the European Court of Justice and the European Court of Human Rights. I am an experienced trainer and mentor of junior lawyers, and know how to lead and motivate a team. I have a track record in pro bono work with NGOs, charities and individuals, and have been a Visiting Lecturer at the University of Bedfordshire.

Commercial

I have extensive experience of commercial litigation covering a wide range of business sectors, and recent specialist expertise in the growing fields of litigation funding and ATE insurance. Funder clients include Orchard, McQuarie, Burford and Sparkle, and ATE clients include Elite Insurance, AmTrust, DAS and Acasta. Recent work includes:

- cross border insolvency litigation for ATE insurers and litigation funders *Glasgow v ELS and others (re Harlequin (SVG) Ltd)* [2017] EWHC 3004 (Ch)
- large scale BVI company/commercial litigation for Russian, PRC, Hong Kong, Malaysian, and Canadian clients
- advice on large scale UK banking fraud claim *Singularis v Daiwa*

- major pensions litigation in Guernsey
- claims against major UK banks for LIBOR fixing and forced insolvency
- review of interest rate swap mis-selling for HSBC investment banking arm
- Advising the Corporation of Hamilton, Bermuda on financial guarantee *Mexico Infrastructure Finance v Corporation of Hamilton*
- leading relief from sanctions case *Denton v TH White* [2014] EWCA Civ 906
- advisory work for various UK and offshore investment companies on regulated financial services activities
- advice and litigation on public procurement for UK Ministry of Defence, UK local authorities, and UK/EU private contractors
- advice re Brexit impacts on UK businesses
- advice on GDPR implementation for UK and offshore businesses
- substantial damages claim in Jersey

Cases include -

- Various recent and ongoing BVI high value cases (details may be provided, subject to client confidentiality)
- *Glasgow v ELS and others (re Harlequin (SVG) Ltd* [2017] EWHC 3004 (Ch) Claim by ATE insurers for lien on litigation proceeds in cross border insolvency.
- *Mexico Infrastructure Finance v Corporation of Hamilton Bermuda* [2017] CA (BDA) 11 Civ - Power of public corporation to give financial guarantee
- *Wey Education PLC v Atkins* [2016] EWHC 1663 (Ch) - Breach of directors' duties.
- *Denton v T H White Ltd* [2014] EWCA Civ 906 - Relief from sanctions in civil litigation

Regulatory, Constitutional, and Public Law

My clients have included the UK Home Office, HMRC, DTI, DfT, and other UK central government departments, the UK Civil Aviation Authority, Environment Agency, Lloyds of London, several UK police forces, the UK Independent Police Complaints Commission, HMCI, the UK Audit Commission, the Standards Board for England and Wales, the General Medical Council, several Royal Colleges, as well as the Governments of Jersey, Guernsey, the Cayman Islands, the Isle of Man, and Hong Kong.

I have argued a Constitutional case before the Grand Court of the Cayman Islands, and worked on a judicial review of the Cayman Islands aviation regulator.

Cases include -

- *R (Durand Academy) v Ofsted* [2017] EWHC 2097 (Admin) - Challenge to education regulator.
- *Roberts v Attorney General* [2016] EWHC 3219 (QB) - Duty of care of Police inspectorate
- *R (Barda) v Mayor of London* [2015] EWHC 3584 (Admin) - Freedom of assembly and expression: protests in Parliament Square
- *Axis International v Civil Aviation Authority of the Cayman Islands* [2014] CILR - Judicial review of aviation regulator.
- *R (Plantagenet Alliance) v Minister of Justice* [2013] EWHC 3164 (Admin) - Protected costs orders in judicial review.
- *R (Gallastegui) v Westminster City Council* [2012] EWHC 1123 - Protest in Parliament Square - freedom of assembly and expression.

- *Stafford Hospital Public Inquiry 2011-2014* www.midstaffspublicinquiry.com - Public Inquiry into preventable deaths at NHS hospital.
 - *R (Associated Newspapers) v Leveson Inquiry [2012] EWHC 57 (Admin)* -Challenge to Leveson Inquiry re witness anonymity
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Sport, Media & Entertainment

I have advised and represented media organisations and individuals in the film, television and record industries, with clients including Bryan Ferry and the late Sir Roger Moore. I acted for the UK Daily Mail in judicial review proceedings relating to the Leveson Inquiry. Sports law experience includes representing the UK Premier League, Football League, and their member clubs in disputes with the Professional Footballer's Association, advising the Premier League and UEFA on the player transfer system, advising leading Formula One teams on driver contracts, advising and representing Tottenham Hotspur FC, Manchester United FC, and West Ham United FC, and disciplinary and doping cases before the governing bodies and tribunals of various sports.

Other experience includes:

- advising the UK Attorney General re internet publications about the killers of James Bulger;
 - representing TV companies in challenges to regulatory decisions;
 - advising the BBC on digital TV licensing and regulation;
 - advising on internet advertising and promotional competitions;
 - acting in e-commerce litigation concerning domain name registrations and e-mail contracts;
 - data protection and freedom of information work.
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Other relevant experience

I have extensive experience as counsel in mediations, and have a positive attitude to ADR.

I have acted as an expert witness on English contract law in a Paris lawsuit and on English regulatory law in a Hawaii lawsuit.

I have undertaken *pro bono* work for the UK Bar Pro Bono Unit, the UK Free Representation Unit, and for the UK NGO Liberty.

I have given numerous lectures and seminars for law firms, professional associations and training organisations, and have conducted witness familiarisation training for Assurety Ltd.

Member of the UK Chancery Bar Association and the UK Bar European Group.

Former Director of a UK registered charity providing educational support for children with dyslexia.

Interests include skiing, light aviation, classic cars and motorcycles, opera, history and literature, and cooking.

Publications

Contributor to *Administrative Court Practice and Procedure*, Sweet & Maxwell (2006) and *Employee Competition: Covenants, Confidentiality and Garden Leave*, OUP (2007, 2011 and 2016). Articles in *New Law Journal* and other professional publications.

Education

First Class Honours, Modern History, Wadham

College, Oxford, 1984 (BA and MA)

Diploma in Law University of Westminster, 1985

Bar Examination, Inns of Court School Of Law, 1986

Middle Temple Harmsworth Scholar, 1986
