

**ARFAN KHAN**

**Chambers of Mark Littman QC  
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**Areas of Practice**

Call to the bar : 2001

Chancery, Commercial and Public Law

Advisory, drafting and litigation work in a range of chancery, commercial, civil and public law fields including trusts, wills, probate, the administration of estates and family provision, personal and corporate insolvency, company and EC law, property litigation (including landlord & tenant), contract, professional negligence, defamation, and human rights.

**Cases**

Secretary of State v Geert Wilders [2009] UKAIT (freedom of expression/exclusion). Represented Appellant. Appeal allowed. Sole counsel.

For a comprehensive press coverage of this appeal see:

<http://defendgeertwilders.wordpress.com/2009/10/17/the-weekly-wilders-round-up-special-geert-wilders-in-the-uk-edition/>

Attorney General of St Lucia & The Judicial Legal Services Commission v Horace Fraser UKPC [2009] 2 LRC 26 (constitutional legality of a contract to remove a member of the judiciary). Privy Council. Represented Appellant. Appeal allowed. Awarded a Red Bag. Led by Nicholas Padfield QC.

Richard Frederick v Joseph Owen & Others [2009] UKPC (nature of a disbursement/costs practice and procedure). Forthcoming for a hearing in the Supreme Court. Sole counsel.

M v M [2009] EWCA Civ, LTL 21/10/2009 (meaning of “irrecoverable” payments in the case of Moses Taiga [2006] 1 FLR 1074 and the effect of arrears under an interm order pending suit where the suit was discontinued). Court of Appeal Civil Division. Represented the Appellant. Permission to appeal allowed. Appeal to Supreme Court pending. Sole counsel.

Moore v Moore [2009] F.L.R. 957 (variation of security for costs order/jurisdiction to vary). Court of Appeal Civil Division. Represented the Applicant. Application granted. Sole counsel.

Secretary of State v Property Investor's Courses Ltd & Anor [2009] EWCA Civ 104 (application to re-open appeal). Court of Appeal Civil Division. Application heard. Appeal pending before the ECHR. Sole counsel.

Hughes v Alan Dick & Co [2009] EWCA Civ 272 No.2 (Lord Justice Keene gave the only available guidance on whether the test for malice in defamation cases is subjective or objective). Sole counsel.

Daudo v Odunsi [2009] EWHC 1764 (Ch), LTL, 7/9/2009 (counterclaim/declaration for beneficial interest in land). Acted for the Claimant and successfully resisted the counterclaim). Led by Nicholas Padfield QC.

Hathurani v Jassat (2009-2010) Ch D (recoveries of sums due pursuant to a joint venture and/or partnership in excess of £35 million). Forthcoming proceedings in the Chancery Division. Led by John Brisby QC.

Silvernoinnen v Creating Solutions Ltd & Anor (2009-2010) Ch D (claim concerning the validity of a share buy back arrangement and unpaid dividends in excess of £1 million). Forthcoming proceedings in the Chancery Division. Sole counsel.

JR v Intel Corporations (2009 - 2010 ) (a complaint to the European Commission regarding unfair pricing by a major manufacturer of computer software). Forthcoming. Sole counsel.

HM Revenue & Customs v MC (a firm) 2010 (Ch) (forthcoming on whether a bankruptcy order can be set aside in circumstances where it was obtained as a result of the Appellants voluntary but mistaken declaration of monies due and owing to HM Revenue & Customs). Sole counsel.

Spencer Michael v John Hellard (Trustee in Bankruptcy of Spencer Michael) & Fairview Holmes Ltd [2009] Ch D (re-opening of the bidding process). Successfully argued that the bidding process for the purchase of a counterclaim should be re-opened. Led by David Oliver QC.

Go v Secretary of State & 7 Others [2009] I.N.L.R 16 (meaning of the phrase “a course of study” in Rule 60 (iv) of HC39). Court of Appeal. Represented the Appellant GO. Appeal allowed. Led by Nicholas Padfield QC.

Osita v United Kingdom [2009] ECHR (whether breach of article 6 of the ECHR and Protocol 1 Article 1 of the ECHR where the validity of a trust instrument is determined without affective legal representation and the issue of an application notice as prescribed by statute). Appeal to be determined by the ECHR. Sole counsel.

Day v Haine & Anor; re Compound Sections Ltd [2008] 2 BCLC 517 (whether a protective award made after the date a company went into liquidation was provable in respect of redundancies made prior to that date). Court of Appeal. Represented the Appellant employees. Appeal allowed. Sole counsel.

Attorney General of Zambia v MCD [2008] Lloyd's Rep. F.C. 587 (whether an innocent partner was vicariously liable for the acts of his co-partner under section 10 of the Partnership Act 1890). Court of Appeal. Represented the innocent partner. Claims, pursued against the innocent partner during a six-month trial which the Lawyer described as one of the biggest trials of 2007, were dismissed). Led by Nicholas Padfield QC.

Day v Haine & Anor [2008] BCC 281 Ch D (whether (1) a protective award made after the date of liquidation in respect of redundancies made prior to that date was a provable debt or a necessary disbursement under rule 4.218 (m) of the Insolvency Rules 1986, and (2) the Employment Tribunal was under an obligation to exercise its discretion in favour of the employees). The latter argument was advanced only on behalf of the former employees and was subsequently successful on appeal. Although the Secretary of State did not adopt this argument below, he adopted this argument on appeal. Represented the former employees. Sir Donald Ratee gave permission to appeal. Sole counsel.

Hughes v Alan Dick & Co No.1[2008] EWHC 2695 QB LTL 12/11/2008 (claim for slander not an abuse of process). Represented the Claimant. Sole counsel.

The Government of Equatorial Guinea v HSBC (2007) (instructed as sole counsel on behalf of the Government of Equatorial Guinea in a claim for professional negligence against a bank worth £80,000 which was settled in favour of the Government). Sole counsel.

Global Steele v Fawaz 10/11/2007 QBD (before Mr Justice Teare successfully enforced an arbitration Award against worth £3 million). Sole counsel.

In the matter of SW (Trans-atlantic airline liquid bomb conspiracy), QBD, 30/8/06, Mr Justice Ouseley (a landmark judgment where the court extended detention without charge time for suspects accused of terrorism to 28 days, thereby holding that the time in question was compatible with article 5 (3) of the ECHR). Case heard under reporting restrictions. Sole counsel.

## Recommendations

Times Lawyer of the Week 29/10/2009

Described by the Birkenhead Society in close consultation with Lord Pearson of Rannoch as “One of the best legal minds at the English Bar”. See: [http://birkenheadsoc.org/page\\_1215132794105.html](http://birkenheadsoc.org/page_1215132794105.html)

Judicial comments from Lord Justices of Appeal include the following:

“The grounds of appeal to this court take a large number of points but Mr Khan, who appears for the applicant this morning, has confined himself to two principal matters and put it very concisely” (Lord Justice Keene in Hughes v ADC).

When representing the Applicant in Moore v Moore, their Lordships (Lord Justice Wall and Mr Justice Holman ruled):

“Lord Justice Wall..

The case has a hugely complex background, and I have before me some eight or nine files. It has fluctuated as a jurisdictional issue.... The husband has today, if I may say so, been ably represented by Mr Arfan Khan, who, in the best traditions of the Bar, has acted pro bono... We have before us detailed skeleton arguments and, speaking for myself, I feel, though I was not here on 17 March, I have ample information upon which to decide the application itself..

“the highest that the matter can be put on her behalf, as Mr Khan in his able submissions, both in writing and orally this afternoon, has put it....” (Lord Justice Lloyd in Property Investors).

“Finally, I wish to record that the claimant was represented on a pro bono basis by... Mr Arfan Khan of Counsel, instructed by Weil Gotschal & Manges, also acting pro bono. The court is grateful to .. them for their generous assistance”. (Mr Justice Donaldson in Daudo v Odunsi).

## Education/Scholarships

University College London (LLM Commercial & Corporate Law (Merit) with Distinction in Insolvency Law).

Sheffield (LLB Hons) (Upper Second (First Division)).

Hardwicke Scholar, Lincoln’s Inn.

Potts Scholar, UCL (for excellence in the all UK Universities Postgraduate Essay Competition in Commercial Law - awarded after an oral defence of thesis).

Mitchell’s Scholar (for participation in the Quarter Finals of the World Universities Debating Championships).

Nathanson Scholar (for first place in the Nabarro Nathanson National Mooting Competition).

## Academic position/publications

Tutor and examiner in Property Law, The University of Sheffield (2004).

Setting Aside Statutory Demands: A Revisit, *The Law Quarterly Review*, (2007), 211, 44 (Sweet & Maxwell).

The Commencement of Laytime in a Voyage Charterparty, *The Journal of Business Law*, May (2003), pp. 248 – 298 (Sweet & Maxwell).