

ARFAN KHAN

Born: 1976

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Call to the bar: 2001, Lincoln's Inn

- Practice Chancery, Commercial, and Public Law
- Career 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 law, property litigation (including landlord & tenant), contract, professional negligence, personal injury and human rights.
- Education LLM, University College London (Merit, with Distinction in the subject of Insolvency Law).
- LLB Honours, Sheffield (Upper Second, First Division, with First Class Honours in part 3 subjects).
- A level's, The Sheffield College: Law (A), Religious Studies (A), Urdu (A).
- Scholarships 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 Final of the World Universities Debating Championships, Sydney Australia).

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

Publications *Setting Aside Statutory Demands: A Revisit*,
The Law Quarterly Review, (2007), 122, 41
(Sweet & Maxwell).

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

Researched and Drafted fifteen chapters for publication in the Clyde & Co textbook on Marine Insurance. This entailed a complete coverage of the main chapters in the traditional textbooks on Marine Insurance and then providing a recent overview and analysis of the law not dealt with in those textbooks. Cases were cited extensively in footnotes on points of construction or principle.

Employment Herbert Smith, Clyde & Co, Irwin Mitchell and a former part time tutor and examiner in Property Law at the University of Sheffield.

Cases of interest

Attorney General of St Lucia & The Legal Services Commission v Horace Fraser (2008) UKPC (on the constitutional legality of a contract conferring on the executive the exclusive right to remove a member of the judiciary) – awarded a Red Bag by my leader Nicholas Padfield QC. Judgment is pending.

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

HSBC bank worth £80,000 which was recently settled in favour of the Government).

Ronald Haine (and others) v Compound Sections Limited (In Liquidation – Secretary of State Intervening) Ch D, Times, December 28, (2007) (represented former employees of Compound Sections before Sir Donald Ratee on whether protective awards made under section 188 of the Trade Union (Labour Relations) Consolidation Act 1992 constitute provable debts in the liquidation of a company in circumstances where they were obtained after the commencement of liquidation).

Ronald Haine (and others) v Compound Sections Limited (In Liquidation – Secretary of State Intervening) (2008) CA (appeared as sole counsel on behalf of the former employees in the Court of Appeal).

Richard Fredrick v Owen Joseph & Others (2008) UKPC (instructed to draft skeleton and appear in a forthcoming application for special leave in the Privy Council involving the following question of law: whether an order made by the High Court is a nullity, as opposed to a procedural irregularity, where the proceedings in which such an order is made are time barred).

M Munu v Great Ormond Street NHS Trust & Others LTL 7/11/2007 (instructed to appear in the forthcoming permission to appeal hearing in the Court of Appeal involving the following question: whether the employment tribunal in this reported case was correct not to have applied the reverse burden of proof in the Race Relations Act 1976 s. 54 to claims of victimisation).

Attorney General of Zambia v MCD & Others [2007] EWHC 952 (Ch) Mr Justice Peter Smith (acting on behalf of the defendant, Mr Desai, successfully defended an application to strike out defence evidence, in a case involving claims for conspiracy, dishonest assistance, knowing receipt and liability under Section 10 of the Partnership Act 1890).

Adekunle v Adekunle (2008) Ch D (mandatory injunction to remove a restriction – case settled in favour of my client after service of a skeleton).

Adekunle v Adekunle (2009) Ch D (forthcoming three day trial on the extent of beneficial interest in land).

M v P (2008) (advised on the validity of a share buy back agreement worth £4m and merits of proposed proceedings in the Chancery Division).

Global Steele v Fawaz, 10/11/2007 QBD (before Mr Justice Teare successfully enforced an arbitration Award against a company owned by the Indian billionaire Lakshmi Mittal worth £3 million).

Buxton Water v M & S (2007) (Advised a leading mineral water company on whether working papers used to undertake the mathematical computations necessary to produce accounts constitute accounting records within the meaning of section 221 of the Companies Act 1985).

In the matter of SW (Trans-atlantic airline liquid bomb conspiracy), QBD, 30/8/06, Mr Justice Ouseley (on the scope of article 5 (3) of the ECHR).

Victor Evans & CO v The Law Society, QBD, 24/9/06, Mr Justice Stanley Burton (successfully obtained an *ex parte* and *inter partes* injunction against the Law Society, thereby preventing the enforcement of conditions on a solicitor's practising certificate).

JPM Aggregates, Aggregate Industries and Aggregate Supplies v Lane (2007) (advice on claim for £135,000 commission on new business under TUPE and entitlement to receive compensation for the loss of agency pursuant to Regulation 17 of the Commercial Agents (Council Directive) Regulations 1993).

Raja v Hansraj (2007) (acting on behalf of the respondent, successfully defended an application for relief from forfeiture through the submission that the County Court had no equitable jurisdiction to entertain such an application where the statutory time period for bringing the claim in question had expired).

(b) Advisory and drafting experience

(i) Commercial contract

- Drafting supply of goods and services contracts for a famous film company;
- Drafting partnership agreements;
- Advising in the sale of goods and services claims for breach of contract/misrepresentation by and against recruitment consultants and travel agents – consideration of UCTA;
- Drafting Skeleton arguments in cases involving the construction and validity of arbitration agreements;
- Advising on the scope of liabilities stemming from a tripartite merger and acquisition;
- Advising on the existence of an implied contract.
- Advising on the merits of pursuing a claim for rectification of a written sale contract and a collateral contract where the latter had been tainted with illegality.
- Drafting particulars of claim in a case involving the specific performance of a lease.

(ii) **Wills and trusts**

- Advising on as to whether a UK and Italian Will could co-exist where the former and latter were purportedly rendered nugatory by simultaneous revocation clauses;
- Advising on international aspects of probate jurisdiction;
- Advising on the general validity of wills;
- Advising solicitors in a claim that they had wrongly distributed monies held on trust.
- Advised on the extent to which the decision of the House of Lords in *Neste Oy v Lloyds Bank plc [1983] 2 Lloyd's Rep 658* could be reconciled with the line of authorities

stemming from House of Lords decision in *Westdeutsche Landesbank Girozentrale v Islington London BC, Kleinwort Benson Ltd v Sandwell BC [1994] 4 All ER 890*, so that the proposed claimant could claim a remedial, as opposed to an institutional constructive trust.

(iii) Company

- Advising a leading mineral water company on as to whether working papers used to undertake the mathematical computations necessary to produce accounts constitute accounting records within the meaning of section 221 of the Companies Act 1985;
- Advising on disputes involving directors and shareholders.

(iv) Insolvency

- Drafting skeleton arguments on issues concerning the setting aside of statutory demands;
- Advised on the appropriate methods of enforcement under CPR 70.2.2;
- Advised on a winding up petition based on just and equitable grounds in s122 (1) (g) of the Insolvency Act 1986.

(v) Intellectual property

- Drafting patent claims for a leading company covering the use of polynucleotide arrays, the enabling technology in genetic analysis.

(vi) Landlord and tenant

- Advised on the merits of pursuing the landlord for damages where the landlord and tenant were in breach of expressed and implied covenants in a business lease.

(vii) Professional negligence

Part time tutor and examiner in property law.

**Clyde & Co, London
2003**

24 September 2002 - 22 August

Legal research assistant to Nigel Chapman and Margaret Curzon.

Drafted and researched fifteen chapters for publication in the Clyde & Co textbook on Marine Insurance.

Mooting/Debating

Quarter Finalist of the World Universities Debating Championships, Sydney Australia 2000.

Winner of the Nabbarro Nathanson Internal University Mooting Competition.

Outside Interests

Cricket (played for Warwickshire under eighteen cricket club), Cinema and Music.