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Joe McBrien



Called: 2017
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"Joe is very easy to work with as a barrister, and I always see it as a team effort when he is instructed. Joe will always go above and beyond the instructions and will provide a number of options to the clients. Joe is a good advocate and is particularly good at dealing with litigants in person. His calm nature allows for sensible discussions with the opponents to be had. I have great trust and respect in the advice provided by Joe and consider him a very safe pair of hands." The Legal 500 UK 2027

PROFILE

Joe has a busy commercial chancery practice, with an emphasis on commercial litigation, civil fraud, banking and finance litigation and insolvency. Joe is an experienced advocate with both trial and appellate experience. He frequently appears in the High Court and County Court.

Joe has experience in applying for and responding to urgent commercial injunctions. He works both as sole counsel and as part of a counsel team.

Joe is a co-contributor to the 2022 edition of Atkin's Sale and Supply of Goods and Services. He is also a contributor to the Civil Court Practice 2024 on Consumer Contracts.

Prior to starting pupillage, Joe worked as a Solicitors' Agent where he gained substantial advocacy experience. Joe was also a manager in a firm of solicitors who provide advocacy services. In this role Joe worked closely with clients to provide practical, cost effective solutions to litigation. In 2018, he received a travel scholarship from the Middle Temple which allowed him to intern with a boutique commercial litigation law firm in the USA.

EXPERTISE

Commercial and Civil Fraud

Joe has a broad commercial litigation practice. In addition to his paper practice, Joe frequently represents lenders, companies and consumers at hearings, including at trial.
An increasingly amount of Joe's practice involves allegations of civil fraud and has an international element.

For example, Joe has particular experience with claims governed by the laws of Jersey and Sweden.

Recent work includes:

- Acting as junior counsel for the Claimant in a high profile claim involving the alleged breaches of fiduciary duty, trust, and breach of directors' duties regarding monies advanced to directors of a Multi-Academy Trust.
- Being led on a multi-million pound civil fraud claim involving allegations of fraudulent misrepresentation, deceit and conspiracy. The case has involved responding to both a worldwide freezing injunction and a passport order, as well as the settling the defence. The case also involved issues of foreign law.
- Sole counsel on a Part 8 claim seeking a declaration that a expert in an expert determination had materially departed from his instructions. The claim explored the novel point of law of whether, if there was such a finding, that only part of the determination
- Successfully resisting an application to cross-examine a respondent on his assets under a freezing injunction.
- Prosecuting a claim of the fraudulent misrepresentation of overage agreements at an auction.
- Settling particulars of claim for various misrepresentation regarding the sale of a classic car.
- Attending a 4 day trial regarding claims in breach of contract and unjust enrichment.
- Settling a defence in a high value wrongful interference with goods claim with numerous parties.
- Applying for an interim injunction for the delivery up of goods in the Circuit Commercial Court.
- Settling a defence and counterclaim in building dispute which also involved consideration of the law on VAT relief.
- Successfully defending a building company at trial on the basis of merger in judgment following an ombudsman's decision.
- Assisting in advising a client on how to manage conflicting duties which were owed both as a director and executrix.
- Assisting in advising on the merits of a defending a claim of allegations of misrepresentation in context of a vehicle hire purchase agreement worth c.£250,000.

Insolvency

Joe frequently acts and advises in relation to both corporate and personal insolvency proceedings. Joe is familiar with bankruptcy proceedings and voluntary arrangements, as well as Insolvency Practitioner's enforcement actions. Joe has also a good knowledge of Directors Disqualification proceedings.

Recent work includes:

- Successfully setting aside the disposition of property as being a transaction at an undervalue.
- Obtaining without notice search and seizure orders pursuant to section 365 of the IA 1986.
- Advising on the jurisdiction and merits of challenging the actions of an IVA Supervisor.
- Restraining the presentation of a winding up petition where there were concerns about the petitioning creditor's capacity.
- Advising and settling pleadings seeking to set aside the disposition of property as being a sham transaction or alternatively pursuant to section 423 IA 1986
- Extending an administration to enable the pursuit of claims of professional negligence.
- Seeking a bankruptcy order against a deceased person.

- Resisting a third-party debt order being made final pursuant to s.183 IA 1986 where allegations of impropriety were made against the Insolvency Practitioner.
- Advising on the presentation of a winding up petitions to enforce a Russian arbitral award.
- Representing a high-profile debtor in resisting a bankruptcy order.
- Assisting in advising on whether Malaysian bankruptcy proceedings can prevent the presenting of a bankruptcy petition in the England and Wales.

Banking and Finance

Joe regularly acts in a broad range of business and personal banking disputes. In particular, Joe drafts and advises upon the enforcement of security documents and the recovery of assets. Frequently, Joe's work in this area involves allegations of fraud and forgery, as well as misrepresentation and undue influence.

Recent work includes:

- Acting for LPA Receivers in a complex claim where there are issues regarding whether a property was sold at an undervalue, whether a duty of care is owed to a particular party under the equity of redemption, as well as whether the LPA Receiver's actions led to an unfair relationship within the meaning of the Consumer Credit Act 1974.
- Successfully acting for a lender on a multi-day trial in resisting allegations of undue influence and forged security documents.
- Acting for a lender at trial and on appeal where the borrower sought a Time Order pursuant to the Consumer Credit Act 1974.
- Successfully appealing the striking out of possession proceedings brought pursuant to a legal charge.
- Advising on rectifying the Land Registry following accidental discharge of a legal charge.
- Drafting a guarantee and indemnity for a Jersey trust company.
- Bringing a claim for the recovery of high value assets following the termination of an asset finance agreement.
- Settling pleadings in which a mortgagor lacks capacity and, through the litigation friend, asserts undue influence.
- Advising a bank on the security documents to recover unpaid fees on a commercial loan.
- Settling pleadings to bring a claim against an offshore guarantor.
- Settling particulars of claim to seek specific performance of a contract for the sale of land.

FURTHER INFO

Directory Quotes



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Publications

- Atkin’s Sale and Supply of Goods and Services (2022)
- Consumer Contracts in the Civil Court Practice (2024)

Education/Qualifications

- LLB – University of Bristol (2013 -2016)
- BPTC – University of Law (2016-2017)

Memberships

- COMBAR
- R3 Association of Business Recovery Professionals

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