



Marianne Butler

Call date: 2003

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Practice Areas

Marianne has particular expertise in the following practice areas, listed in alphabetical order:

- Arbitration
- Banking and Finance
- Civil Fraud
- Commercial Litigation
- Professional negligence
- Regulatory and disciplinary law

Professional Experience

Descriptions of Marianne in Legal 500 include:

“Formidable” (2011)

“a great junior for tricky cases, capable of dealing with the unusual. Extremely hardworking, but fun and sassy too” (2009)

Marianne acts and advises in a wide range of commercial disputes, both in her own right and as a part of solicitor and counsel teams in high value, complex litigation. Particularly regular clients include a number of the major retail and investment banks and The Law Society/SRA. Details of Marianne’s practice areas and recent cases are listed below.

Very recent cases include acting with Mark Simpson QC for Mills & Reeve solicitors in *Mason v Mills & Reeve* [2011] 1 W.L.R. 2735 (CA) (now the leading case on late amendments) and at the trial of the action *Mason v Mills & Reeve* [2011] EWHC 410 (ChD) (solicitors’ duty of care – management buy out – IHT and CGT advice).

Current Work

Please do not hesitate to contact Marianne or her clerks (Oliver Miney and Chris Paterson) if you would like further details about any aspect of her practice. Current workload includes the following:

- Acting with Richard Handyside QC on behalf of an international investment bank in relation to derivative transactions (including interest rate swaps) entered into between the bank and a foreign local authority involving a jurisdiction dispute.



- Acting with Mark Simpson QC in the case of *Mason v Mills & Reeve* [2011] EWHC 410 (ChD) (solicitors' duty of care – management buy out – IHT and CGT advice). Appeal listed for March 2012.
- Acting with Tim Dutton QC defending disciplinary proceedings brought against a solicitor by the SRA. Hearing in the SDT listed May 2012.
- Acting for a major retail bank in respect of claims concerning PPI.
- Acting with Adam Tolley for a financial advisory business in proceedings brought by the company against individuals and a competitor business for breach of restrictive covenants, conspiracy and breach of confidence, involving an 8 week trial in the QBD. Judgment pending.
- Acting with Tim Dutton QC for an individual in respect of prospective proceedings against a prominent investment bank for breach of contract and negligent misstatement.

Other Recent Practice

General Commercial Litigation and Arbitration

Marianne has a broad commercial and civil practice in line with Chambers' profile. Her instructions have included:

- Acting with Finola O'Farrell QC in a multi-million pound contractual dispute concerning the biggest transport advertising contract in the world. The case was due for trial in the Commercial Court in January 2012 but was settled in December 2011.
- Acting with James Lewis QC for the defendant company (the holding company of a substantial multinational enterprise) in a dispute involving allegations of fraudulent misrepresentation listed for trial in the Chancery Division in February 2012. The case was settled in December 2011.
- Acting with Mark Simpson QC for a private bank in proceedings before the TCC.
- Acting with Craig Orr QC in long-running and complex UNICTRAL arbitration proceedings arising out of the construction of a major strategic defence facility for an African government involving allegations of bribery and corruption.
- Acting with Craig Orr QC in ICC arbitration proceedings arising out of the construction and supply of a naval vessel to African state government.
- Experience of dealing with claims by vexatious litigants (including a successful application for an extended civil restraint order in *Bezant v Rausing and others* [2007] EWHC 1118).
- Acting for a large telecommunications company in respect of a multi-million pound third party debt order.
- Instructed with Anthony Boswood QC by a high profile individual to strike out a substantial claim against him for want of prosecution.
- Acting for an individual in setting aside a substantial 2-year old judgment obtained against him by the Inland Revenue.
- Acting and advising in a full range of general commercial disputes. Recent subject matter has included share purchase agreements, issues arising under the Commercial Agents Regulations and in respect of claims against builders and other construction contractors.
- Advising an educational establishment with regard to recovery of unpaid funding from the European Regional Development Fund.



- Instructed on an application for detailed assessment pursuant to section 70(4) of the Solicitor's Act 1974.

Banking & Finance

Advised and acted for major high street banks, private banks and other parties in relation to a wide variety of matters including:

- Acting with Richard Handyside QC on behalf of an international investment bank in relation to derivative transactions (including interest rate swaps) entered into between the bank and a foreign local authority involving a jurisdiction dispute.
- Acting with Mark Simpson QC for a private bank in proceedings for breach of contract and negligence in the TCC.
- Acting for the Bank of Cyprus in a claim involving alleged undue influence.
- Advising with Bankim Thanki QC with regard to the merits of a substantial breach of warranty claim.
- Instructed for Barclays and Lloyds in numerous fraud claims against third parties including against ex-employees.
- Advised and acted for a variety of major high street banks concerning claims under mortgages with particular experience of issues of undue influence, mistake and rectification.
- Advised and acted for a major high street bank in a case involving alleged false imprisonment.
- Advising in connection with claims for compound interest in the light of the judgment in *Sempra metals*.
- Advising and appearing for Barclays, HSBC and others in the County Court concerning issues arising out of the bank charges test case against the OFT.
- Advised and acted for an individual against Barclays in successfully discharging and removing a legal charge of substantial value from the Charges Register on the grounds of limitation.
- Advising and acted for Barclays Bank in numerous cases involving issues such as breach of mandate; the construction and enforceability of guarantees, loans and terms and conditions.
- Advising the Consumer Action Group with regard to bringing claims against debt collectors and/or banks for harassment.
- Acting for a lender in respect of a claim for breach of warranty of authority.

Civil Fraud

Marianne has experience of acting for both claimants and defendants in complex fraud disputes:

- Acting with James Lewis QC for the defendant company in a multi million pound dispute involving allegations of fraudulent misrepresentation listed for trial in the Chancery Division in February 2012. The case was settled in December 2011.
- Acting with Craig Orr QC in long-running and complex UNICTRAL arbitration proceedings arising out of the construction of a major strategic defence facility for an African government involving issues of alleged bribery and corruption.
- Instructed for Barclays and Lloyds (as defendant and claimant) in numerous fraud claims in the High Court and County Court.



- Acting with Adam Tolley for a claimant company in an 8 week trial in June 2011 involving allegations of conspiracy.
- Acting with Craig Orr QC in ICC arbitration proceedings arising out of the construction and supply of a naval vessel to African state government involving alleged fraud.

Professional discipline and regulation

Recommended in Legal 500 in Professional Discipline. Author (with Michael McLaren QC) of a chapter on the new regulatory regime under the *Legal Services Act 2007* in *The Guide to the LSA 2007* eds. Miller & Thorne, 2009 (Butterworths Lexis-Nexis).

Advised and acted on various matters concerning solicitors for both the regulator and the regulated including:

- Acting with Tim Dutton QC defending disciplinary proceedings brought against a solicitor by the SRA. Hearing listed in the SDT in May 2012.
- Instructed with Patricia Robertson QC for the SRA in a substantial hearing before the Solicitors' Disciplinary Tribunal.
- Instructed by the Law Society/SRA in relation to appeals to the Master of the Rolls under the Solicitors Act 1974: see e.g. *Re a Solicitor No. 18 of 2008* [2008] EWCA Civ 1358. Instructed in another appeal with Nigel Giffin QC.
- Advising solicitors as to regulatory compliance (e.g. Marianne recently advised a firm of solicitors with regard to whether they were required to make a report of serious misconduct under Rule 20.04 of the Solicitors' Code of Conduct).
- Regularly appearing for the SRA in judicial review proceedings.
- Advising the Law Society/SRA with regard to the construction of the Solicitors' Indemnity Insurance Rules 2005 (advising as to, *inter alia*, the liability of salaried partners and regarding issues concerning successor practices).
- Instructed by a mortgagee in a substantial claim against solicitors for breach of warranty of authority and negligence.
- Acting in proceedings brought pursuant to s70 of the Solicitor's Act 1974.

Professional negligence and related instructions:

- Acting with Mark Simpson QC in the case of *Mason v Mills & Reeve* [2011] EWHC 410 (ChD) (solicitors' duty of care – management buy out – IHT and CGT advice). Appeal listed for March 2012.
- Acting with Mark Simpson QC for a private bank in proceedings for breach of contract and negligence in the TCC.
- Advising and acting for a liquidator in successfully striking out multi-million pound proceedings brought pursuant to s212 of the Insolvency Act 1986. *Bezant v Cork* [2006] All ER (D) 19 August.
- Advising and acting for the same liquidator in successfully striking out a subsequent multi-million pound claim against him in negligence; *Bezant v Rausing and others* [2007] EWHC 1118 (QB).
- Instructed as junior with Michael Green by the Treasury Solicitors in a substantial trial concerning proceedings brought pursuant to s8 of the Company Directors Disqualification Act 1986.
- Acting in a number of other cases involving issues of alleged negligence against professionals across a wide range of disciplines.



Aviation and Travel Law

Advised and acted for airlines on a variety of matters including liability under the Montreal Convention. Recently acted for an airline in a trial concerning an interpretation of Article 5(3) of EC Regulation 261/2004.

Reviewed the airlines' defence to rebut compensation claims for cancelled flights in *Unfit to Fly?* New Law Journal, 2 February 2007. Presented a paper at the Seventh International Travel and Tourism Policy, Law and Management Conference in Edinburgh in September 2007 entitled "*The Travel Industry and the Corporate Manslaughter and Corporate Homicide Act*". Published an article of the same name in the International Travel Law Journal.

Education

BVC, BPP Law School (Very Competent)

CPE/Diploma in Law, BPP Law School (Commendation)

BA (Hons) Philosophy, Politics and Economics, Hertford College, Oxford (First)

Prizes & Scholarships

Lincoln's Inn BVC Lord Denning Scholarship, 2002-3

BBP Constitutional and Administrative Law prize, 2002

Lincoln's Inn CPE Lord Bowden Scholarship, 2001-2

Hertford College, Oxford, PPE Prize, 2000

Hertford College, Oxford, Distinguished Achievement Award, 2000