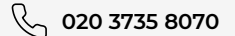
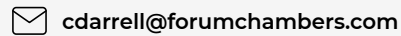
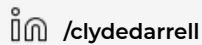




CLYDE DARRELL

CALL - 2014

"Clyde is extremely responsive, very approachable and his advice is concise and effective."



Clyde specialises in banking, finance, financial services regulation and commercial litigation but accepts instructions in all of Chambers' core practice areas. He is particularly experienced in civil fraud claims and other commercial cases with a quasi-criminal element.

He has considerable trial experience and is regularly instructed on matters in both the High Court and County Court by some of the largest law firms and financial institutions.

He also undertakes a large amount of advisory work, advising on all stages of the dispute resolution process from pre-issue through to enforcement.

Clyde is approachable, hardworking and dynamic, and has developed a reputation for his ability to advise on complex legal issues.

AREAS OF EXPERTISE

BANKING, FINANCE & FINANCIAL SERVICES REGULATION

Clyde is regularly instructed for and against banks and financial institutions in disputes arising out of financial instruments (derivatives and related products), mortgages, guarantees, charges and other securities. He is also well versed in advising and acting in consumer credit matters particularly those arising out of allegations of unfairness under s.140A.

Clyde also advises and acts for claimants and defendants in respect of claims for financial miss-selling including mortgage miss-selling, negligent investment and pension advice and secret and half secret commissions.

Clyde has particular knowledge of the provisions of the FCA Handbook and experience advising on COBS, CASS, COND, MCOB, FIT, TC, PERG, CONC, MiFID, MiFID II, MIFIDPRU and DISP. Clyde is

currently advising and assisting an EU bank with their post-Brexit application for FCA authorisation (part 4A permissions).

Clyde has particular experience in the following:

- Payment services disputes (including the impact of fraud on bank payments)
- Financial miss-selling
- FCA authorisations (part 4A permissions)
- FCA Approved Persons/Senior Managers Regime
- Analysing and amending client facing documents to ensure compliance with UK mandatory legal and regulatory provisions
- Consumer Credit (in particular, unfair relationship claims under s.140A)
- Taking security over choses in action
- Enforcement of securities, guarantees and indemnities (in particular, bringing and defending possession claims by mortgagees, LPA Receivers and charge holders)

Recent Notable Cases:

- Currently acting for a claims management company in its potential claims against defendant bank for breach of duty and breach of money laundering requirements arising from client's ex-employee who fraudulently transferred over £1 million from the client's company account to the ex-employee's personal account.
- Currently acting for SME on a potential claim against its bank for breach of its express and implied contractual duties of care, breach of statutory duties and economic duress arising from the collapse of the client's business as a direct result of its relationship with the potential defendant bank.
- Currently advising and assisting an overseas bank on their post-Brexit applications for FCA authorisation (part 4A permissions)
- Currently advising on and reviewing client facing documents of a large EU bank who are currently seeking FCA authorisation to ensure compliance with its legal and regulatory obligations while offering investment advisory, portfolio management and execution only services to its UK clients. The UK legal and regulatory issues advising on include, for example, compliance with UK GDPR, DPA 2018, ICO guidance, COBS, BCOBS, CONC, UK EMIR, Consumer Rights Act 2015, Consumer Credit Act, the consumer duty, financial promotions and the Economic Crime (Transparency and Enforcement) Act 2022.
- Currently advising large investment management company on the legal and regulatory impact of its group demerger on its employee Share Incentive Scheme and the related consumer credit impact on its employee loans valued at £18 million.
- Routinely advises finance companies on the updates required to their consumer credit fixed sum loan agreements and pre-contract credit information documents so as to comply with legal developments and to mitigate risk.
- Currently advising a large EU bank on taking security over its HNW UK clients life insurance policies and bank accounts under English law.

- Successfully acted for finance company in a claim against a borrower who argued that the loan agreement had given rise to an unfair relationship under section 140A of the Consumer Credit Act 1974 by reason of the interest charged in the context of short-term bridging finance.
- Appear for claimants in PPI miss-selling claims against defending banks. Well versed in resisting the defending banks arguments on compromise, abuse of process and unfairness under s.140A.
- Successfully represented a major high street bank in resisting an appeal of a possession order brought by the executor of the estate. The court dismissed the appeal and awarded costs on the indemnity basis.
- Successfully acted for a finance company in proceedings to enforce their security over real property in the context of a regulated mortgage contract.

COMMERCIAL DISPUTE RESOLUTION

Clyde has a wide range of experience in commercial litigation matters having been instructed in matters for a range of clients including SME's, high net worth individuals and consumers both in the High Court and County Court. Clyde is particularly proficient in grappling with complex legal issues as well as understanding the commercial needs of his clients to ensure the best possible outcome.

Clyde has particular experience in the following areas:

- Breach of contract
- Misrepresentation in tort and contractual claims
- Sale of Goods and Supply of Goods and Services
- Debt recovery
- Shareholder disputes (including unfair prejudice petitions and derivative actions)
- Partnership disputes
- Conflict of laws
- Restrictive covenants
- Consumer related claims

Recent Notable Cases:

- Currently acting for large manufacturer of generators in a claim for breach of contract by the Nigerian Government for failing to manufacture generators valued at over £1.5 million in accordance with the claimant's particular specifications.
- Currently advising Deputy authorised by the Court of Protection in potential claim against crypto exchange for recovery of over £1 million worth of crypto assets fraudulently invested by former power of attorney.
- Acted for IT company in obtaining a Quia Timet injunction against an ex-employee who, resigned and, in breach of their restrictive covenant, commenced employment at the client's sole competitor and failed to return confidential company equipment or provide an undertaking not to disclose the client's business and intellectual property.

- Currently acting for lease management company in a claim for breach of contract valued at £200k against logistics company for failing to indemnify the client for losses caused by the defendant's breach of contract.
- Represented leading solicitors firm specialising in family law in claim against ex-client for recovery of unpaid fees in excess of £100k.
- Advised and acted for a Swedish governmental body in a number of breach of contract claims arising from loan agreements governed by the law of the Kingdom of Sweden. The claims involve complex legal issues of limitation and the appropriate *lex fori*.
- Successfully settled a £1.2 million unfair prejudice petition for a client where the majority shareholders in a property management company had taken steps to remove the client from the business by diluting their shareholding and unlawfully removing the client from the share register.
- Successfully obtained the return of £2 million for a client whose bank had unlawfully retained funds by relying on the principle as set out in *Astro Exito Navegacion SA v Southland Enterprise Co Ltd (No.2)* [1982] Q.B. 1248 in obtaining mandatory injunctions.
- Successfully represented a group of consumers in their cross-border claim that an exclusive jurisdiction clause which required them to bring any legal action exclusively in Bulgaria was unfair under the UTCC Directive 1993. This involved detailed consideration of the interplay between Brussels I (recast) and the UTCC Directive.
- Advised and represented a respected business owner whose silent partner had taken steps to remove the client from the business, dissolve the Partnership and misappropriate Partnership assets valued at over £300k.
- Acted in a claim valued at £75k for breach of contract of a loan agreement which raised issues of beneficial interests in joint bank accounts, proprietary estoppel and issues under section 5 and 6 of the Limitation Act 1980.

CIVIL FRAUD

Clyde has a growing civil fraud practice having been instructed to advise and appear in a wide range of civil fraud matters. Clyde originally qualified at a leading criminal law set in London specialising in white collar fraud and gained extensive experience advising and representing clients in such matters.

Clyde has particular experience in the following:

- Bank related fraud claims
- Fraudulent misrepresentation
- Breach of fiduciary duty
- Dishonest assistance
- Economic Torts (e.g. conspiracy, intimidation, causing loss by unlawful means, inducing or procuring breach of contract, malicious procurement)
- Misappropriation of assets
- Bribery

- Confiscation proceedings
- Rate rigging

Recent Notable Cases:

- Acted as independent counsel in a SFO investigation of widespread and systematic fraud and financial misconduct in a large multinational company trading in raw steel and steel products. The investigation has involved detailed consideration of 38 trade finance advances from trade finance banks culminating in losses to the banks of over US\$170m.
- Acted as Junior Counsel for a businessman in his claim for damages for malicious procurement, unlawful act conspiracy and unlawful interference arising out of a Serious Fraud Office investigation into the collapse of Kaupthing Bank. The case was widely reported in the press and was one of The Lawyer's Top 20 Cases of 2018.
- Successfully advised and represented a client in a section 10A application in POCA proceedings before a High Court Judge. The proceedings were brought by the Environment Agency against the client's ex-partner. The issues before the court were the interrelationship between the client's respective beneficial interest in a number of co-owned businesses and domestic properties and the confiscation provisions under POCA.

EDUCATION

- Bar Professional Training Course (BPTC) – University of West of England
- LLM (International Commercial Law) – Cardiff University
- LLB (Hons) – Cardiff University

PROFESSIONAL MEMBERSHIPS

- Commercial Bar Association (COMBAR)
- Bermuda Bar Association
- London Young Lawyers Group
- ADR Group Accredited Mediator
- The Honourable Society of Gray's Inn (2012)

AWARDS

- Dame Lois Browne-Evans Scholarship - 2015 (Bermuda Bar Association)
- Cox Hallett Wilkinson, Legal Bursary Award - 2008- 2009
- Appleby, Legal Bursary Award – 2008- 2009
- Chairman, Staff Student Panel, Cardiff University - 2009-2011