



John Machell QC

Year of Silk: 2012 Year of Call: 1993

“A strong commercial chancery silk with an excellent reputation for his partnership work. He carries out both advisory work and litigation, and is regarded as a hard-working and technically astute practitioner.” “Works tremendously hard and has a good brain.”

Chambers & Partners

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Practice Overview

John has a broad commercial chancery practice, and particular experience of large-scale litigation involving trusts, fiduciary duties, and fraud and trusts, particularly with an international dimension.

John is regarded as one of the leading partnership and LLP silks and has experience of a wide range of both contentious and non-contentious matters across the whole range of business sectors. A large part of his work involves issues arising from the use of partnerships and LLPs in hedge fund and private equity structures; in international commercial group structures; and as part of wealth planning strategies.

A substantial part of John's practice relates to trusts, mostly offshore, and he has appeared in the Grand Court in Cayman on a number of occasions in the last few years.

John acts as an arbitrator and as an expert pursuant to expert determination agreements. As a member of the Football Premier League Panel, John sat as the chair of an inquiry into Hull City's ticketing policy. John has conducted internal inquiries on professional conduct and other matters for firms of solicitors.

Areas of Expertise

Partnership and LLP

John is regarded as one of the leading partnership and LLP silks and has experience of a wide range of both

contentious and non-contentious matters across the whole range of business sectors from professional services and financial services to farming, doctors and dentists.

A large part of his work involves issues arising from the use of partnerships and LLPs in hedge fund, private equity and other financial services structures; in international commercial group structures; and as part of wealth planning strategies.

John has extensive experience of advising and drafting documentation in relation to professional service firms; including issues relating to restrictive covenants; team moves; retirements; expulsions; dissolutions; liability to third parties; indemnity insurance; international structuring; domestic and international mergers; LLP conversions; and regulatory matters.

Most of the matters John is involved in are highly confidential, but cases of note include:

Grupo Mexico v Infund LLP [2019] EWCA Civ 1673 and [2018] EWHC 1306 (Ch) Carr J: Rectification of LLP register pursuant to s.1096 of the Companies Act 2006 (instructed by Cooke Young & Keidan LLP).

Flanagan v Liontrust Investment Partners LLP [2017] EWCA Civ 985 Court of Appeal and [2015] EWHC 2171 (Ch) Henderson J: Unfair prejudice claim under Companies Act 2006; and applicability of the doctrine repudiatory breach to LLPs (instructed by Macfarlanes LLP).

Campbell v Campbell [2018] EWCA Civ 80, [2017] EWHC 2747 (Ch), [2017] EWHC 182 (Ch), [2016] EWHC 2237 (Ch) and [2016] EWHC 1828 (Ch): Dispute as to the extent of a jewellery partnership.

Hosking v Marathon Asset Management Ltd [2016] EWHC 2148 (Ch) Newey J: Whether the profit share of a partner/member of an LLP is liable to be forfeited under the fiduciary remuneration forfeiture rule (instructed by Orrick).

King v Hg Capital LLP (2016): Dispute as to the discretionary reallocation of carried interest (instructed by Mishcon de Reya).

Salem v Salem (2016): Acting for the Defendants in major commercial partnership/trust litigation (instructed by Quinn Emanuel).

Bottrill v Harling [2015] EWCA Civ 564 Court of Appeal: Terms of oral partnership agreement and right to repayment of capital (instructed by Brachers).

Bates van Winkelhof v Clyde & Co LLP [2014] 1 WLR 2047 Supreme Court: Acting for intervener in appeal concerning whistleblowing and worker status of LLP members (instructed by CM Murray LLP).

Archer v Nubuke Investments LLP [2014] EWHC 3425 (Ch): Acting for the successful Defendants in a claim by a former member of a financial services LLP (instructed by Dentons).

Wah v Grant Thornton [2013] 1 All ER (Comm) 1226; [2012] EWHC 3198 (Ch) Hildyard J: Enforceability of ADR provisions in member firm agreement (instructed by Locke Lord).

Tiffin v Lester Aldridge (pro bono) [2012] 1 WLR 1887 Court of Appeal: Employment status of fixed share members of LLPs and meaning of section 4(4) of the Limited Liability Partnerships Act 2000.

Re Y (2011): Arbitration arising from the collapse of a national law firm (instructed by SNR Denton).

Price v Farnsworth (2011): Claim arising from misappropriation of partnership assets (instructed by Maxwell Winward).

O'Leary v Standen (2010) Briggs J: Dissolution of partnership; and appropriate costs order where Part 36 offer made before order for dissolution (instructed by Allen & Overy).

Private Client Trusts and Probate

A substantial part of John's practice relates to trusts, particularly with an international dimension. John's experience extends across the range of trust issues and he has particular experience of trust issues arising as part of wider commercial and fraud disputes.

Cases of note:

H v L (2020): Advising trustee in relation to insolvent trust and trustee lien issues.

C v D (2020): Advising trustee of a substantial Cayman trust in relation to trust issues arising from English Commercial Court proceedings (instructed by Maples).

M v N (2020): Advising beneficiary of a Bahamian trust in relation to distribution proposals (instructed by Archerfield).

Schwartz v VGV (UK) Limited (2020): Acting for beneficiary before Trower J on an application for a proprietary injunction against the trustee (instructed by McDermott Will & Emery).

A v B (2019): Acting for trustees before Morgan J and Mann J in November 2019 to obtain an injunction against a person purportedly appointed as the protector of a trust to restrain him from removing the trustee (instructed by Burges Salmon).

Re B (2019): Acting for the guardian ad litem appointed to represent a class of beneficiaries in relation to a restructuring of a \$1b Cayman trust. Hearings before the Chief Justice in July and September 2019 (instructed by Harneys).

Danilina v Chernukhin (2018/19): Advising on trusts issues arising in Commercial Court action (instructed by Clifford Chance).

Re L Trust (2018): Advising on breach of trust claim and removal application against trustees (instructed by Mishcon de Reya).

Re C Trust (2018): Advising on claim for distribution from a discretionary trust (instructed by Clifford Chance).

Re B Trust (2018): Advising trustee of a substantial Cayman family trust in relation to various issues including the liability of the trust to indemnify an ex-protector and the ownership of various chattels (instructed by Maples & Calder).

Re Y Trust (2018): Advising and appearing before Kawaley J for the trustee in Cayman proceedings relating to the validity of a decision by the settlor to change the beneficiary of the trust (instructed by Harneys).

Re Z Trust (2017): Advising on issues arising in relation to the termination of a trust (instructed by Harneys).

Re M Trust (2017): Advising the beneficiary of a Jersey trust in relation to various issues (instructed by Collas Crill).

Re V Trusts (2017): Advising and appearing for the trustees of Cayman trusts in relation to various issues arising from criminal forfeiture proceedings in the US and in relation to an application to replace the trustee (instructed by Harneys).

Re Y Trust (2017): Advising and appearing for the trustee in Cayman proceedings relating to the validity of a decision by the settlor to change the beneficiary of the trust (instructed by Harneys).

Re C Trust (2016): Appearing for the trustee in a Beddoe application in the Cayman court as to whether the trustees should defend English High Court proceedings (instructed by Clifford Chance and Collas Crill).

Liongate v various defendants (2016): Acting for Defendants to a constructive trust claim in Cayman proceedings relating to a hedge fund structure (instructed by Turners).

Re X Trust (2015): Acting for the trustee of a substantial family trust in relation to Cayman proceedings concerning the status and removal of the protector (instructed by Mourant).

Salem v Salem (2015/16): Acting for the Defendants in major commercial partnership/trust litigation (instructed by Quinn Emanuel).

Hardwick v Hardwick (2013): Substantial farming proprietary estoppel claim (instructed by Quality Solicitors Burroughs Day).

North Shore Ventures Ltd v Anstead Holdings Inc [2012] WTLR 1241: Important Court of Appeal decision on orders for the production of trust documents against de facto settlers / discretionary beneficiaries (instructed by Cooke, Young & Keidan).

AB Jnr v MB (2012): Acting for the claimants in a substantial claim for breach of trust culminating in a 10 week trial in the Cayman Islands in 2012 (instructed by Farrer & Co and Conyers, Dill & Pearman).

Stow v Stow and HMRC (2009): Dispute concerning the beneficial ownership of assets settled on the terms of offshore trusts (instructed by Fladgate).

Re Rendell-Reynolds deceased (2008) Sir Andrew Morritt: constructive and secret trust claim to assets held by deceased (instructed by Mills & Reeve).

Nissim v Wettreich (2008): international trusts and fraud claim (instructed by Fladgate).

Re Northcott (2008 and 2010) (instructed by Blake Laphorn): Application by trustees for directions where an issue of parentage had arisen in respect of one of the putative beneficiaries.

Tait v Wedgwood [2003] WTLR 121 Rimer J: Winding up bare trust where beneficiary under mental disability.

Commercial Litigation

John deals with a wide range of commercial and contractual cases, and has particular experience of large-scale litigation, particularly with an international dimension.

Cases of note include:

Circumference v Martin (2020): Acting for Claimants in claim for rescission of an SPA for fraudulent misrepresentation (instructed by Dentons).

Green Elite Limited (in liquidation) v Fang (2020): Acting for the Appellant in a BVI appeal concerning the discharge of a freezing injunction (instructed by Harneys).

M v N (2020): Advising in relation to BVI proceedings concerning alleged breach of fiduciary duty and conspiracy (instructed by Mourant).

Deripaska v Chernukhin [2019] EWHC 173 (Comm) Acting for defendants in substantial commercial court action (instructed by Clifford Chance). John was instructed specifically to deal with a number of urgent and difficult disclosure and privilege issues.

S v A (2018): Acting for the claimants in a substantial arbitration arising in relation to shareholder agreements (instructed by Clifford Chance)

Principal Investors Global LLC v various defendants (2017): Acting for Rothschild in relation to a breach of warranty claim brought for £50m+ arising from the sale of shares in Liongate Limited (instructed by Clifford Chance).

Liongate SPC v various defendants (2017): Acting for various defendants in respect of Cayman proceedings in which proprietary and personal claims are made in respect of alleged breaches of fiduciary duty arising from

investment decisions (instructed by Turners).

Salem v Salem (2016): Acting for the Defendants in major commercial partnership/trust litigation (instructed by Quinn Emanuel).

BTA Bank v Ablyazov (2013/14): Acting for a Norwich Pharmacal respondent at a number of hearings, including in respect of an important decision relating to the recovery of costs by Norwich Pharmacal respondents [2015] 1 WLR 1547 (instructed by Boodle Hatfield).

Grupo Mexico v Pearse Trust International Limited (2014/15): Acting for a Norwich Pharmacal defendant in relation to disclosure of documents in connection with Mexican proceedings (instructed by Cooke Young & Keidan).

Re L (2013): Acting for a shareholder in a hedge fund structure in relation to the alleged wrongful disposal of corporate assets (instructed by Clifford Chance).

\$1b claim relating to a Russian joint venture (2013).

Icer Brands Europe Limited v Beyond Productions LLC (2013): Acting for the defendant in a claim for damages for alleged breach of a licensing agreement (instructed by Dentons).

Mains v Harrison (2012): Proceedings to set-aside compromise agreement for fraud (instructed by Fladgate LLP).

Conarco Partnership v Grillo (2012) Mann J: Freezing injunction application (instructed by Peters & Peters).

Woodrow Inc v Karchava (2012) Warren J: Freezing injunction application (instructed by Boodle Hatfield LLP).

Wah v Grant Thornton [2012] EWHC 3198 (Ch) Hildyard J: Enforceability of ADR provisions in member firm agreement (instructed by Locke Lord).

McKellar v Kingston Smith (2012) HHJ Waksman: Third party costs application (instructed by Kingston Smith).

Cherney v Neuman (2011) Henderson J: Commercial, joint venture and fiduciary duty dispute involving individuals from the former Soviet Union (instructed by SNR Denton).

Intercontinental Bank v Akingbola [2011] EWHC 605 (Comm): Alleged breach of fiduciary duty by director of Nigerian bank (instructed by Peters & Peters).

North Shore Ventures Ltd v Anstead Holdings Inc [2011] Times 22 April, Floyd J: Whether hearings had taken place in public or private (instructed by Cooke, Young & Keidan).

North Shore Ventures Ltd v Anstead Holdings Inc [2012] Ch. 31 Court of Appeal and [2010] 2 Lloyd's Rep 265 Newey J: Setting aside guarantee for non-disclosure (instructed by Cooke, Young & Keidan).

North Shore Ventures Ltd v Anstead Holdings Inc [2010] EWCA Civ 1634 Court of Appeal: Stay of execution and conditions for permission to appeal (instructed by Cooke, Young & Keidan).

Bexbes LLP v Beer [2009] EWCA Civ 628: Calculation of performance sharing payment under an agency agreement (instructed by Bird & Bird).

Hitchcox v Handlesman (2006): Joint venture dispute arising out of the development of St Pancras station (instructed by Denton Wilde Sapte).

Enron (Thrace) v Clapp and Others [2005] EWCA Civ 1511 Court of Appeal; [2005] EWHC 401 (Comm) Aikens J; [2004] EWHC 1612 (Comm) Langley J: Liability of subsidiary for fraud of parent; guarantee of liability under a joint venture agreement (instructed by DLA).

BAS Capital Funding v Medfinco Ltd [2004] LLR 652 Lawrence Collins J: Non-exclusive jurisdiction clause; extra territorial injunction (instructed by Peters & Peters).

Civil Fraud

John has been involved in a number of substantial fraud cases, including:

Circumference v Martin (2020): Acting for Claimants in claim for rescission of an SPA for fraudulent misrepresentation (instructed by Dentons).

Green Elite Limited (in liquidation) v Fang (2020): Acting for the Appellant in a BVI appeal concerning the discharge of a freezing injunction (instructed by Harneys).

S v A (2018): Acting for the claimants in a substantial arbitration arising in relation to shareholder agreements. The dispute concerned wide ranging allegations of fraud and dishonesty in several jurisdictions (instructed by Clifford Chance).

Mains v Harrison (2012): Proceedings to set-aside compromise agreement for fraud (instructed by Fladgate LLP).

Conarco Partnership v Grillo (2012) Mann J: Freezing injunction application (instructed by Peters & Peters).

Cherney v Neuman (2011) Henderson J: Commercial, joint venture and fiduciary duty dispute involving individuals from the former Soviet Union (instructed by SNR Denton).

Intercontinental Bank v Akingbola [2011] EWHC 605 (Comm): Alleged breach of fiduciary duty by director of Nigerian bank (instructed by Peters & Peters).

Enron (Thrace) v Clapp and Others [2005] EWCA Civ 1511 Court of Appeal; [2005] EWHC 401 (Comm) Aikens J; [2004] EWHC 1612 (Comm) Langley J: Liability of subsidiary for fraud of parent; guarantee of liability under a joint venture agreement (instructed by DLA).

BAS Capital Funding v Medfinco Ltd [2004] LLR 652 Lawrence Collins J: Non-exclusive jurisdiction clause; extra territorial injunction (instructed by Peters & Peters).

Mattos Junior v MacDaniels Ltd 22 November 2002 Peter Smith J: security for costs against claimant outside jurisdiction and fortification of cross-undertaking in damages (instructed by Peters & Peters).

Insolvency

John has acted in a wide range of insolvency cases and often advises on insolvency issues arising in cases in other practice areas.

Cases of note:

Sisu Capital v Tucker and Others [2005] EWHC 2321 (Ch); [2005] EWHC 2170 (Ch) Warren J: Unfair prejudice challenge to company CVAs in the TXU administration (instructed by Fladgate).

Secretary of State v Collins [2000] BCC 998 Court of Appeal: Application by disqualified director for leave to act as a manager.

Harper v O'Reilly [1997] BPIR 656 Michael Hart QC: Proprietary effect of a matrimonial property adjustment order in circumstances in which the husband or wife is subsequently made bankrupt.

Razzaq v Pala [1997] 1 WLR 1336 Lightman J: Validity of a re-entry effected by a landlord when the tenant was bankrupt; meaning of "secured creditor" in the Insolvency Act 1986.

Company

John advises on the full range of company law issues, particularly section 994 claims, derivative claims, reflective loss issues, claims against directors and issues arising in relation to share sales and shareholder resolutions.

During 2013 and 2014 John has advised on issues relating to drag along provisions in connection with two high value takeovers; and the validity of class resolutions in the light of alleged defects in the directors' circular.

Wilcox v Snell & Wilcox (2007): Company law and restitution case involving issues relating to the authority of the directors (instructed by Blake Laphorn).

DTC v Sergeant [1996] 1 WLR 797 Michael Crystal QC: Scope of an accountant's lien over clients' papers and the meaning of "accounting records" in s.221 of the Companies Act 1985.

Arbitration

Chancery

International and Offshore

Recommendations

Company and Partnership (Who's Who Legal, 2020)

Private Client (Who's Who Legal, 2020)

Partnership, Chancery: Commercial, Chancery: Traditional, Offshore, Commercial Dispute Resolution (Chambers & Partners, 2019)

Dispute Resolution: Commercial, Dispute Resolution: Commercial Chancery (Chambers Global, 2019)

Chancery: Commercial, Chancery: Traditional, Commercial Dispute Resolution, Partnership Star Individual (Chambers UK, 2018)

Partnership, Offshore, Private Client: Trusts and Probate (The Legal 500, 2017)

Chancery: Traditional (Chambers & Partners High Net Worth, 2017 & 2019)

Dispute Resolution: Commercial, Dispute Resolution: Commercial Chancery (Chambers Global 2017)

Private Client, Corporate (Who's Who Legal UK Bar)

Quotes

"Has a strong command of the brief and is excellent if there are complex issues at play." "Extremely able, intellectually impressive and good both in court and on the papers." (Chambers & Partners, 2020)

"John Machell is one of the leading lights in the partnership arena. We generally turn to him because he's one of the leaders in his field." "He's very cerebral, a good advocate and good in terms of strategic thinking and advising clients." (Chambers & Partners, 2020)

"He doesn't opine from on high and is fantastically clear with clients. He works very hard with the solicitor teams and has a collaborative approach."

(Chambers & Partners, 2020)

"He gives clear, strategic advice." (Chambers & Partners, 2020)

"An excellent all-rounder, he's a hard-working barrister with supreme intelligence and an incisive eye for detail."

"John combines excellent written work with persuasive advocacy skills." (Chambers & Partners, 2020)

"A very modern-type Silk with a very sharp mind." (The Legal 500 2020)

"Super user-friendly, commercial, practical and really knows his stuff." (The Legal 500, 2020)

"He's one of the best silks you could work with, a total team player – he doesn't opine from on high, and is fantastically clear with clients. He works very hard with the solicitor teams, and has a collaborative approach,"
(Chambers High Net Worth 2019)

a *"sound strategist with excellent client communication skills"*, say sources who consider him a *"very good tactician with excellent advocacy skills."* (Who's Who Legal, 2019)

"Completely on top of deadlines, he always delivers when he says he will. He is a very nice guy to deal with, a very bright man and a very strong advocate. Quite measured in his approach, he's not somebody who goes in for fireworks and theatricals. What he says is always very balanced and extremely well reasoned." "He's a very technical lawyer, so you know you'll always get the right answer." (Chambers Global 2019)

"A go-to silk for contentious trust matters. He is very approachable and cuts straight to the point, addressing issues directly and succinctly." "A brilliant advocate and a great performer in court who explains difficult concepts with ease." (Chambers Global 2019)

"He is extremely good on his feet and good with clients." "A true expert in his field, he's a pleasure to work with, technically excellent and highly responsive. He's a persuasive advocate with plenty of trial experience." (Chambers & Partners, 2019)

"Works tremendously hard and has a good brain." "A very experienced advocate at all levels, he has a very wide and deep legal understanding." (Chambers & Partners, 2019)

"Brilliant at private clients matters, especially when there is a partnership element." "A brilliant advocate. He is a great performer in court and can explain difficult concepts with relative ease." (Chambers & Partners, 2019)

"As good on his feet as he is in his writing, he has the rare ability to make highly complex concepts and arguments appear simple." "What he says is always balanced, extremely well reasoned and presented." (Chambers & Partners, 2019)

"A hard-working team player, as good on his feet as he is in writing, who has the rare ability to make highly complex concepts and arguments appear simple." (Chambers & Partners, 2019)

"The leading partnership silk; he is clever, quick, hardworking." (The Legal 500, 2019)

"User friendly and down to earth, he handles difficult clients very well." (The Legal 500, 2019)

"Works tremendously hard and has a good brain." "A very experienced advocate at all levels, he has a very wide and deep legal understanding." (Chambers & Partners, 2018)

"His legal expertise is exemplary and his brain works very logically. He can process and understand very complex matters and explain them to the client well." "A fabulous, thoughtful and considerate advocate, who is very commercially aware and takes his roles and duties very seriously. He ensures he achieve equitable results and is a pleasure to work with." (Chambers & Partners, 2018)

"He's Mr LLP: any difficult LLP point and you pick up the phone to John." (Chambers & Partners, 2018)

"He tells it as it is and will give you a very authoritative and great on his feet." (Chambers & Partners, 2017)

"He cuts to the chase, gives robust and practical advice, and is impressive on his feet." "Very clever, creative and decisive"

. (Chambers & Partners, 2017)

"The only specialist partnership silk, and far and away the best QC handling this type of work." "The counsel of choice in this area, particularly in respect of LLP issues. He is authoritative, excellent in conference and user-friendly." (Chambers & Partners, 2017)

"His legal expertise is exemplary and his brain works very logically. He can process and understand very complex matters and explain it to the client," enthuses one lawyer, who continues: "You know he is a very safe pair of hands." He is also noted for his offshore expertise; another legal source enthuses: "He is a fabulous, thoughtful and considerate advocate. He is very commercially aware and takes his roles and duties very seriously." (Chambers & Partners High Net Worth 2017)

"His advice and guidance are top-notch." (The Legal 500 2017: Partnership)

"He is popular with clients as he can unravel complex arguments and to get right to the heart of the problem." (The Legal 500 2017: Offshore)

"His advice is top-notch." (The Legal 500 2017: Private client trusts and probate)

"He is a superb lawyer and clients value the fact that he is measured yet intensely commercial. He immediately holds the confidence of the client and he is very engaging - I consider him the best in the field." "His knowledge of LLP and partnership law is encyclopaedic and he is a very impressive advocate." (Chambers & Partners 2014)

"He is a go-to practitioner for a wide variety of commercial and chancery disputes, but has an especially prominent reputation on breach of fiduciary duty cases, and litigation involving complex joint venture elements or allegations of fraud. "He is a skilled advocate who is great with the clients. He is able to understand their problems and the emotions that run through them." (Chambers & Partners 2014)

Publications

[Forfeiture of Fiduciaries' Remuneration](#), Trusts and Estates Law, With [Jennifer Haywood](#), March Edition 2018

A third way? A review of cases relevant to trustees' liability to forfeit remuneration for breach of fiduciary duty T.E.L. & T.J. 2018, 194(Mar), 11-13

The Law of Limited Liability Partnerships 4th edition 2016 (Bloomsbury Professional)

Consultant Editor, Halsbury's Laws Partnership (5th edition)

Limited partnerships: limited partners fight back? (2014) B.J.I.B. & F.L. 29(3), 152-153

Discretionary decision making in a commercial context (2013) B.J.I.B. & F.L. 28(4), 195-198

In the matter of the AB Trust (2013) T. & T. 19(5), 486-490

Equitable compensation: a free-standing remedy for breach of fiduciary duty (2013) T. & T. 19(8), 811-815

LLP Legislation Handbook 2010 (Bloomsbury Professional)

Fishing for your talent, Legal Week 2009, 11(1), 33-34

Forging a union based on mutual obligations, Law Society Gazette 2008, 105(13), 17

Covering all bases, New Law Journal 2008, 158(7324), 804-805

Vicarious Liability for equitable wrongs: partners beware! New Law Journal 2003, 153(7071), 405, 409

Education & Qualifications

LLB (First Class) University of Southampton

Appointments

Memberships

Association of Partnership Practitioners

Commercial Bar Association

Chancery Bar Association
