

## Ian McDonald

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**Ian joined 4 New Square in October 2018 following the successful completion of his pupillage and is developing a broad practice across several of Chambers' core areas, with a particular focus on commercial litigation, the conflict of laws, professional liability, public law and human rights, international arbitration, and civil fraud.**

His recent led work includes:

- Acting for a development manager in a multi-party professional liability claim arising out of the procurement and development of a multi-million pound retail and residential project (led by Graeme McPherson QC);
- Junior to Helen Evans in an urgent application for freezing and proprietary injunctions and a *Norwich Pharmacal* order, arising out of a former solicitor's fraudulent misconduct;
- Assisting with advising a travel and lifestyle services provider upon a jurisdiction challenge under the recast Brussels I Regulation (in particular, the choice-of-court and *lis pendens* provisions);
- Junior to Matthew Bradley in *Ang v. Reliantco Investments Ltd* [2019] EWHC 879 (Comm), involving a jurisdiction challenge under the recast Brussels I Regulation (in particular, the choice-of-court and consumer contract provisions);
- Acting for a firm of conveyancers in professional liability proceedings instituted on behalf of hundreds of property purchasers (led by George Spalton);
- Junior to Can Yeginsu as part of a legal team instructed in an international commercial arbitration, under the ICC Rules, arising out of a construction project in South America;
- Acting for a public sector services provider in commercial litigation against a local authority (led by George Spalton);
- Junior to Can Yeginsu in an international commercial arbitration, under the LCIA Rules, in connection with a share purchase agreement relating to a renewable energy project in Eastern Europe; and,
- Acting for an insurer in an insurance coverage dispute arising out of a former solicitor's fraudulent misconduct (led by Patrick Lawrence QC and Helen Evans).

Prior to coming to the Bar, and after originally training and working as a journalist, Ian spent five years at Liberty, the human rights



organisation, in senior media and campaigns roles. Accordingly, he has a strong interest in public law and human rights - and the rights to liberty and security and freedom of expression, in particular - and has recently been instructed as part of legal teams in applications to the European Court of Human Rights and petitions to the United Nations Working Group on Arbitrary Detention.

Ian has particular expertise, too, in the conflict of laws. He has worked as a teaching assistant on the Conflict of Laws module on the BCL at the University of Oxford, and has delivered tutorials in the same subject to visiting students at St Catherine's College, Oxford.

Ian has also been instructed as sole Counsel in a range of matters. He regularly appears in his own right at interim and final hearings in the High Court and County Court, and has advised upon, and settled pleadings in, actions across Chambers' core practice areas, including professional liability proceedings against lawyers (both solicitors and barristers), financial practitioners, and construction professionals.

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Ian is also an editor of *Jackson & Powell on Professional Liability* (Sweet & Maxwell, Third Supplement to the 8th edition, 2019).

For more examples of Ian's recent work, please see the individual practice areas below.

### **Privacy Policy**

Click here for a **Privacy Policy** for Ian McDonald.

## **Areas of Expertise**

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### **THE CONFLICT OF LAWS**

Ian has particular expertise in the conflict of laws. His recent work in this area includes:

- Junior to Matthew Bradley in *Ang v Reliantco Investments Ltd* [2019] EWHC 879 (Comm), involving a jurisdiction challenge under the recast Brussels I Regulation (in particular, the choice-of-court and consumer contract provisions);
- Assisting with advising a travel and lifestyle services provider upon a jurisdiction challenge under the recast Brussels I Regulation (in particular, the choice-of-court and *lis pendens* provisions);
- Assisting with advising upon service out of the jurisdiction in a large multi-jurisdictional action for deceit; and,
- Assisting with advising upon conflict of laws questions – in particular, the applicable law pursuant to Article 4 of the Rome II Regulation – arising in a multi-million pound unlawful means conspiracy claim.

Ian has also worked as a teaching assistant on the Conflict of Laws module on the BCL at the University of Oxford, and has delivered tutorials in the same subject to visiting students at St Catherine's College, Oxford.

During pupillage, Ian also taught BPTC Commercial Dispute Resolution classes on jurisdiction and foreign judgments at BPP University, and won The Bar Council's Law Reform Essay Competition for his paper "One rule for all: An end to the *Abouloff* double standard on fraud and foreign judgments".

### **Cases**

- *Ang v Reliantco Investments Ltd*

## **Qualifications & Memberships**

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LLB, University of London (First Class Honours); BCL, University of Oxford (Distinction); BPTC, BPP University (Very Competent)

## Insights

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### **Professional liability update: 2020 year in review**

5 January 2021

The core issues considered in the most important professional negligence cases of 2020 cover five main themes, as follows: The practical consequences of the broad policy-based test laid down in recent years to determine when a claimant's claim is "tainted" by his wrongdoing; When it is an abuse of process to attack the outcome of previous proceedings in a subsequent claim; Challenges posed by the separate legal personalities of a company and its shareholders, creditors or other associates; The need for more certainty in the area of vicarious liability; and The extent to which the filtering mechanism based on scope of duty can cut down damages in a claim framed in breach of fiduciary duty rather than negligence. In this review of the year, Helen Evans, Ben Smiley, Pippa Manby, and Ian McDonald of 4 New Square explain what the 2020 cases tell us, how the various strands of development interact, and what to watch out for as we go into 2021.

### **Enka v. Chubb in the Supreme Court: Which Law is it Anyway?**

14 October 2020

Where the law governing a contract containing an arbitration agreement differs from the law of the nominated "seat" of the arbitration, which law – absent any express choice – governs the arbitration agreement itself? That was the question that the Supreme Court had to grapple with in *Enka Insaat Ve Sanayi AS v. OOO Insurance Company Chubb* [2020] UKSC 38, in which judgment was handed down on 9 October 2020. George Spalton and Ian McDonald of 4 New Square consider the decision.

### **Why is the "illegality" defence back in the spotlight?**

4 May 2020

It is not uncommon for defendants to professional negligence claims to argue that the claimant should be barred from recovering damages because his or her cause of action is tarred by illegality. However, over recent years, the law has taken a variety of approaches to when illegality will provide a defence. With the issue about to come before the Supreme Court again, Helen Evans and Ian McDonald of 4 New Square explain.

### **Brussels I (recast) and third states**

17 October 2019

This practice note considers the impact of the Brussels I (recast) on jurisdictional issues arising in disputes involving non-EU Member States.

### **Big Brother Watch and ors v. the UK**

16 October 2018

*Big Brother Watch and Others v. the UK*: the ECtHR ruled last week that aspects of the UK's mass surveillance programmes violate various Articles of the European Convention on Human Rights. Ian McDonald and John Williams consider the ECtHR's decision, in which Can Yeginsu and Anthony Jones acted as counsel for Center for Democracy & Technology and PEN America.

### **'No injunction to restrain enforcement of section 1782 order for disclosure and deposition' (LexisNexis)**

2 September 2018

Ian McDonald of 4 New Square reflects on the Commercial Court's latest judgment in the *Dreymoor Fertilisers Overseas v EuroChem Trading* litigation, in which Mr Justice Males dismissed Dreymoor's application to continue an injunction restraining ECTG and EuroChem from enforcing an order for discovery made by a US court pursuant to section 1782(a) of Title 28 of the United States Code.

### **'High Court dismisses pre- and post-award challenges to jurisdiction in LCIA and ICC proceedings' (LexisNexis)**

3 May 2018

George Spalton and Ian McDonald of 4 New Square discuss the Commercial Court decision in *Dreymoor Fertilisers Overseas v EuroChem Trading*, where Mr Justice Butcher dismissed two jurisdiction challenges brought by Dreymoor under sections 32 and 67



of the Arbitration Act 1996, in relation to ongoing LCIA and ICC arbitrations.