



Fenner Moeran QC

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QC: 2014

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Clerks' Details

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Qualifications and Appointments

- Fenner Moeran read Politics and Philosophy at Bristol University, before reading for his C.P.E. at City University.
- He was a Hardwick Scholar and Walter Wigglesworth Scholar of Lincoln's Inn.

"He demonstrates excellent legal analysis, strategy and advocacy." Chambers & Partners 2022

Memberships

- Chancery Bar Association
- Commercial Bar Association
- Association of Pension Lawyers

Publications

- Contributor to Palmer on Bailment.
- Contributor to Tolley's Pensions Law.

Practice Overview

Fenner has a broad based chancery / commercial practice with an emphasis on litigation. Whilst he has particular specialities in pensions and civil fraud and asset recovery, he also regularly acts in general litigious chancery matters as well as insolvency, insurance, property and general commercial matters.

He is recommended in Chambers and Partners, The Legal 500 and Chambers Global as a leading practitioner in his fields, as well as being named in the Chambers 100: UK Bar list of the top 100 junior barristers in 2013, before he took silk in 2014.

Within the commercial chancery field his work in recent years has been focused on civil fraud and dishonesty disputes, with particular emphasis on breaches of fiduciary duties and money laundering / asset recovery work. With regard to asset recovery, Fenner has extensive experience of obtaining and defending freezing, search, disclosure (including third party disclosure) and gagging orders. His clients range from international financial institutions, through regulatory bodies to individual financial traders and customers.

Within the pensions field, he acts for trustees, employers, members and professionals in both litigation and advisory work. He also acts for the Pensions Regulator and various Government departments. His work has in recent years included litigation of pensions liberation and misselling claims, moral hazard claims (on both sides), professional negligence claims against actuaries and solicitors, advising on occupational pension scheme wind-ups and interpreting the statutory provisions of the PPF as well as various public sector pension schemes.

Fenner practices in the following areas: general commercial litigation, civil fraud and asset tracing/recovery (including interim relief), company law (in particular breach of fiduciary duty and shareholder disputes), regulatory (pensions, financial services and legal professions), contentious trust, insolvency (both personal and corporate), professional liability, pensions and general contract disputes.

The 2022 edition of Chambers & Partners describes Fenner as *"very pragmatic, sensible and commercially minded."* *"Fenner gets to the point very quickly and puts his clients at ease because he is very approachable. He tailors his advice to the issues and is a very good advocate."* He is *"really intellectual and always on top of the detail in a case, he has huge empathy for the client's perspective of a case. Excellent on cross-examination as well, he really leaves no stone unturned."* *"He has a really calm manner and a great ability to focus on the key points in a case. He can really see the wood for the trees."*



Practice Overview continued

The Legal 500 2022 edition notes he is "a master in pensions law, particularly with an international dimension. Unusual to find a barrister with such a keen intellect, but who can also see the bigger picture. Delivers extremely insightful advice as a result." "He has a brilliant analytical brain, communicates wonderfully with clients. Picks up essential points in a case very quickly." "Fenner identifies essential issues in cases very quickly. He has a brilliant analytical brain and communicates wonderfully with clients." "A first-rate counsel who solicitors go back to time and time again. He is always enthusiastic and pleasant to deal with – clients love him for that."

Commercial

Fenner has been recommended in the directories for some years in both general Commercial Chancery (including in Chambers Global) and in specialist Civil Fraud and asset recovery.

"Fenner gets to the point very quickly and puts his clients at ease because he is very approachable. He tailors his advice to the issues and is a very good advocate." He is "very pragmatic, sensible and commercially minded." (Chambers & Partners, 2022: Commercial Chancery)

Earlier editions have described him as "an impressive litigator, whose experience spans freezing orders, asset tracing, shareholder disputes and professional negligence claims" who "has a thorough grounding in the law, and just tenaciously goes for it in court". He is an "alert performer in court", who is "clever, sensible and approachable" and a "fount of knowledge when it comes to obscure legal points, and also has the ability to quickly identify the right issues." Clients like working with him because he is "great at cross-examination and has a sound grasp of mathematical concepts".

Notable cases Include:

- **Gavigan v Norton** [2020] EWHC 2583 (Ch): Tribunal and procedure for committal applications in cases transferred from High Court to County Court.
- **Bostani v Pieper** [2019] 4 WLR 44 [2019] 2 All ER (Comm) 276 [2019] EWHC 547 (Comm): Enforcement of Tomlin orders / lifting stays of proceedings, and how limitation periods / passage of time applies to this.
- **Caribonum Pension Trustee Ltd v Pelikan Hardcopy Production AG** [2019] EWHC 314 (Ch), and [2019] 6 WLUK 362: Construction and enforcement of a guarantee, abuse of process.
- **Jones v Hamilton** [2017] EWHC 3361 (Ch) and [2017] EWHC 1065 (Ch). Forgery of share documentation, and taking an account between business partners.
- **Kanev-Lipinski v Lipinski** [2016] EWHC 475 (QB). Discharging worldwide freezing and search orders made in support of Israeli proceedings under Civil Jurisdiction and Judgments Act 1982 s.25 where there was no real risk of dissipation.
- **Re Bovey Cranbrook RBS** [2013] EWHC 4346 (Ch): Inherent jurisdiction of the Court, freezing injunctions and cross-undertakings by public bodies and office holders.
- **JSC BTA Bank v Solodchenko** [2012] EWHC 1247 (Comm): Third party delivery up of documents, cross-examination of third parties, passports and restraint orders.
- **Redpath v Shefford** [2011] All ER (D) 12 (Mar). Adjournment of proceedings on first day of fraud trial.
- **Law Society of England and Wales v Isaac & Isaac International Holdings Ltd** [2010] EWHC 1670 (Ch). Mortgage fraud by solicitors, dishonest assistance and conspiracy, tracing and asset recovery.
- **Law Society of England & Wales v Habitable Concepts Ltd** [2010] EWHC 1449 (Ch). More solicitors mortgage fraud...
- **Chan Sui v Appasmy** [2008] BPIR 18. Setting aside a statutory demand on the basis of cross-demands and equitable set-off.
- **PNC Telecoms plc v Thomas & others** [2008] 2 BCLC 95 Director's breach of fiduciary duties, relief from liability and conflicts of interest.



Trusts, Tax, Probate and Estates

Fenner has a leading reputation in the field of Traditional Chancery and Private Client litigation.

"Really intellectual and always on top of the detail in a case, he has huge empathy for the client's perspective of a case. Excellent on cross-examination as well, he really leaves no stone unturned." (Chambers & Partners, 2022: Traditional Chancery)

"He has a really calm manner and a great ability to focus on the key points in a case. He can really see the wood for the trees." (Chambers & Partners, 2022: Trusts)

Earlier editions have described Fenner as *"a renowned trusts expert"* who is *"very bright and very diligent, he has a mind that is incredibly lucid and he can recall every detail"*. He is *"an excellent advocate, [who] comes up with creative solutions."* *"He is able to distil complex issues into understandable terms for lay clients."* In this area Fenner again specialises in the more litigious areas, including in particular property disputes arising out of or parallel to matrimonial proceedings (*"He is especially well regarded for his expertise in cases arising from divorce proceedings"*), and misfeasance of trustees, directors and other fiduciaries.

Notable cases include:

- *Wynne-Finch v Natural Resources Body for Wales* [2020] EWHC 1924 (Ch): Manorial mineral rights, construction of reservations in conveyances and adverse possession of mineral rights.
- *Re 8th Earl Bathurst* [2018] EWHC 21 (Ch). Construction of statutory wills, executor's duty to assent assets.
- *Baker v Dunne* [2016] WTLR 1489. Abuse of process and Beddoe proceedings.
- *Preedy v Dunne* [2016] EWCA Civ 805. Proprietary estoppel, estoppel by convention and trustees.
- *Morley-Clarke v Brooks* [2011] WTLR 297. Court's discretion to capitalise life interest of widow on intestacy. Impact of non-consummation of marriage and lack of capacity to marry.
- *MCP Pension Trustees Ltd v Aon Pension Trustees Ltd* [2009] EWHC 1351 (Ch). Notice, knowledge and forgetfulness for Trustee Act 1925 s.27 advertisements.

Pensions

In Pensions, Fenner has been recommended for many years in the directories. The Legal 500 2022 edition describes Fenner as *"A master in pensions law, particularly with an international dimension. Unusual to find a barrister with such a keen intellect, but who can also see the bigger picture. Delivers extremely insightful advice as a result."* The Chambers & Partners 2022 edition says *"He demonstrates excellent legal analysis, strategy and advocacy."*

Earlier editions have said he is *"charming, efficient and prepared to go the extra mile"*, as well as being a *"dependable advocate"*. Fenner is *"commercial, pragmatic and astute, he's someone you want on your side"*. He is *"an articulate advocate who gives practical and workable advice"* with *"a perfect legal mind"*. Fenner is describes as *"a tireless worker who will peer into every nook and cranny of a case"*, a *"bright and practical barrister with plenty of experience who provides spot-on, commercial advice"*, he is *"unremittingly enthusiastic and always ready to find an answer"*. Commentators are keen to highlight his level of consciousness with regards to the wider pensions industry: *"He is very well up to date and alive to a range of various issues"* and is *"commended for his enthusiastic engagement with the pensions sector and his detailed approach to work"*.

Notable cases include:

- *Board of the PPF v Dalriada Trustees Ltd* [2020] EWHC 2906 (Ch): Admissibility of 'pensions liberation' schemes to the Fraud Compensation Fund.
- *Adams v Options SIPP UK LLP* [2020] EWHC 1229 (Ch): FSMA based duties of SIPP providers to supervise investments in 'execution only' transactions.



Pensions continued

- *Caribonum Pension Trustee Ltd v Pelikan Hardcopy Production AG* [2019] EWHC 314 (Ch), and [2019] 6 WLUK 362: Construction and enforcement of a PPF-type guarantee, abuse of process.
- *Capita Pension Trustees Ltd v Sedgwick Financial Services Ltd* [2019] EWHC 313 (Ch): Admission of evidence after hearing of application.
- *Caribonum Pension Trustee Ltd v Pelikan Hardcopy Production AG* [2019] Pens. L.R. 2. Construction of guarantee, and abuse of process.
- *Unipart Group Ltd v UGC Pension Trustees Ltd* [2018] Pens. L.R. 18 [2018] EWHC 2124 (Ch): Rectification and use of confidential opinions in unopposed hearings.
- *Unipart Group Ltd v UGC Pension Trustees Ltd* [2018] Pens L.R. 18. Use of confidential opinions on unopposed rectification proceedings with representative parties.
- *Dalriada Trustees Ltd v Bluefin Trustees Ltd* [2017] Pens.L.R. 12. Court's inherent jurisdiction over trustees.
- *Dalriada Trustees Ltd v McCauley* [2017] Pens. L.R. 8 Freezing orders and breaches of statutory duty.
- *Granada Group Ltd v Law Debenture Pension Trust Corp plc* [2017] Bus L.R. 870, [2017] BCC 57, [2017] Pens L.R. 5, [2017] 2 BCLC 1. (CA).
- *Hughes v Royal London Mutual Insurance Society Ltd* [2016] Pens. L.R. 69: Whether a member of a pension scheme has a right to a cash equivalent transfer to an OPS where they are not an employee of one of the receiving scheme's employers.
- *Garvin Trustees Ltd v Pensions Regulator* [2015] Pens. L.R. 1. Legal professional privilege and *bona vacantia*.
- *Bellinger v Mercer Ltd* [2014] 1 WLR 3597 (CA): Amending particulars of claim after the expiry of a period of limitation.
- *Re Bovey Cranbrook RBS* [2013] EWHC 4346 (Ch): Inherent jurisdiction of the Court, freezing injunctions and cross-undertakings by public bodies and office holders.
- *Pi Consulting (Trustee Services) Ltd v Pensions Regulator* [2013] Pens LR 433: Status of pensions liberation vehicles as occupational pension schemes under the PSA 1993.
- *Konica Minolta Business Solutions (UK) Ltd v Applegate (2)* [2013] EWHC 2536 (Ch): Rectification of serial deeds of amendment.
- *Konica Minolta Business Solutions (UK) Ltd v Applegate (1)* [2013] ICR 625, [2013] Pens. L.R. 105: Calculation of early leaver benefits and rectification.
- *Entrust Pension Ltd v Prospect Hospice Ltd (2)* [2013] Pens. L.R. 73. Exercise of trustees discretion over 30 year period.
- *Re Sea Containers Services Ltd (In Liquidation)* [2012] Pens. L.R. 569. 2012] Pens. L.R. 569. Construction of deeds, equalisation of male and female pension benefits.
- *Entrust Pension Ltd v Prospect Hospice Ltd (1)* [2012] Pens. L.R. 341. Exercise of trustees powers late – matters to take into consideration.
- *Dalriada Trustees Ltd v Woodward* [2012] EWHC 21626(Ch) [2012] All ER (D) 98 (Jun): Trustees rights of action against third parties for breach of trust, fraud on a power, excessive exercise of power, *locus standi*.
- *Dalriada Trustees Ltd v Faulds* [2011] EWHC 3391 (Ch) [2012] Pens. L.R.15: Unauthorised payments under Finance Act 2004, fraud on a power, breach of trust.
- *HR Trustees Ltd v Wembley plc* [2011] EWHC 2974 (Ch): Faulty amendment of trust deed, maxim of equity "equity will treat as done that which ought to be done".
- *Capita ATL Pension Trustees Ltd v Gellately* [2011] EWHC 485 (Ch) [2011] Pens. L.R. 99. Faulty amendment of trust deed, equalisation of pension benefits.
- *Capita ATL Pension Trustees Ltd v Gellately* [2011] EWHC 485 (Ch). Amendment of trust deed, equalisation of pension scheme, estoppel and contractual variation.



Pensions continued

- *Capita ATL Pension Trustees Ltd v Zurkinkas* [2010] EWHC 3365 (Ch). Compromise of trust dispute.
- *PNPF Trust Co Ltd v Taylor* [2010] EWHC 1573 (Ch). The Pilots National Pension Fund Case, dealing with amendments to schemes, who an 'employer' is for s.75 and SSF purposes, and various other matters.
- *MCP Pension Trustees Ltd -v- Aon Pension Trustees Ltd* [2009] EWHC 1351 (Ch). Notice, knowledge and forgetfulness for Trustee Act 1925 s.27 advertisements.
- *Re A.C. Skelton Pensions & Life Assurance Scheme, Capital Canfield Trustees Ltd v Beck* [2009] PLR 71. Equalisation of benefits in occupational pension schemes.