



Fenner Moeran QC

Call: 1996

QC: 2014

fmoeran@wilberforce.co.uk

Clerks' Details

Colin Everson

Stewart Cameron

Robert Leach

Scott Harvey

+44 (0)20 7306 0102

tcjqsj@wilberforce.co.uk

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.

*“Tremendous
in every way”*

Chambers & Partners, 2016

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 mis-selling 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.

Fenner is ranked in Chambers & Partners, 2016 as a Leading Silk in the areas of Chancery Commercial, Chancery Traditional, Trusts, Civil Fraud and Pensions. He is described as *“incredibly user-friendly, bright and enthusiastic.”* *“He is excellent for both advisory and court work, is extremely thorough, and has a great way of explaining technically difficult issues.”*

Memberships

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

Publications

- Contributor to Palmer on Bailment.
- Contributor to Tolley's Pensions Law.
- "Advertising for Missing Beneficiaries" November 2011.



Commercial

Fenner has also 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. *"If you want a barrister who you can rely on to impress the court and your client, he is your person."* *"Constantly energetic and enthusiastic, he's an extremely fast thinker, who throws himself into every argument and gives his best every time."* (Chambers 2015 – Civil Fraud). *"Very good with clients and a great lateral thinker."* *"Extremely pragmatic and to the point, he's a pleasure to work with."* (Chambers 2015 – Commercial Chancery).

Earlier editions have said *"He is hard-working and creative, realistic about his workload and he gets really excited about cases. He is a joy to work with."* Described as *"an impressive litigator, whose experience spans freezing orders, asset tracing, shareholder disputes and professional negligence claims"* and *"a junior with first-class chancery knowledge who really makes a difference"* 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"*.

Recent Case Include:

- *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.
- *Ballinger v Mercer Ltd* [2014] EWCA Civ 996: 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.
- *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 & Wales v Habitable Concepts Ltd* [2010] EWHC 1449 (Ch). More solicitors mortgage fraud...
- *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.
- *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.
- *Genesis Housing Group Ltd v McKibbin* [2008] All ER (D) 51 (Jun). Freezing orders and discharge by reason of material non-disclosure.
- *Powell v Benney* [2007] EWCA Civ 1283. Bargains, consensual
- *First Discount Ltd v Cranston* [2007] All ER (D) 363 [2007] EWCA Civ 378 Court of Appeal. Jurisdiction of the Court of Appeal to reopen an appeal 10 years after original judgment on allegation of fraud on bills of exchange
- *Federal Republic of Nigeria v Santolina Investment Co & others* [2007] All ER (D) 103 [2007] EWHC 437 (Ch) Availability of summary judgment on allegations of corruption by state governor.



Pensions

Fenner is widely recognised as a leading practitioner in his fields of expertise.

He has been recommended for some years in Pensions in both Legal 500 and Chambers & Partners which say he is "**Commercial, pragmatic and astute, he's someone you want on your side**", "**An articulate advocate who gives practical and workable advice.**" (Chambers 2015) and "**A perfect legal mind**" (Legal 500 2015).

Earlier editions have said he is "**well known to the industry as being someone who is exceptionally capable**", he "**goes beyond the call of duty and matches this with outstanding technical knowledge.**" Described 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**".

- *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.
- *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.
- *Capita ATL Pension Trustees Ltd v Zurkinkas* [2010] EWHC 3365 (Ch). Compromise of trust dispute.
- *PMPF 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.
- *re A.C. Skelton Pensions & Life Assurance Scheme, Capital Canfield Trustees Ltd v Beck* [2009] PLR 71. Equalisation of benefits in occupational pension schemes.



Pensions continued

- *British Vita Unltd v British Vita Pension Fund Trustees Ltd & Anor* –Dec 2007 – approval of compromise of [2007] EWHC 953 (Ch) – validity of contribution demands.
- *Hodgson v Toray Textiles Europe Ltd* [2006] All ER (D) 364 [2006] EWHC 2612 (Ch) and *Hodgson v Toray Textiles Europe Ltd (2)* [2007] All ER (D) 153 [2007] EWHC 444 (Ch) High Court. Equalisation of benefits in occupational pension schemes.
- *Cornwell v Newhaven Port & Properties Ltd* [2005] PLR 329 [2005] OPLR 277 High Court. Pensions Act 1995 section 75 debts and actuaries certificates.

Trusts, Tax, Probate and Estates

Fenner has more recently developed a leading reputation in the field of Traditional Chancery and Private Client litigation. *"A renowned trusts expert, who has a particularly effective real property practice. Commentators further note that he is an expert in highly sensitive family and matrimonial disputes"*(Chambers 2015 – Chancery:Traditional). *"Extremely bright with a thorough knowledge of the law"* (Legal 500 2015 – Private Client:Trusts and Probate).

Earlier editions have said he has *"a much-admired practice in property and trust litigation"* and is known as being *"An excellent advocate, [who] comes up with creative solutions."* *"He is able to distil complex issues into understandable terms for lay clients."* *"He has boundless enthusiasm and energy, puts himself out to be available for urgent matters, and always provides clear and logical written advice."* 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.

- *Preedy v Dunne* [2015] EWHC2713 (Ch); Proprietary estoppel and trustees/beneficial interests.
- *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.
- *Powell v Benney* [2007] EWCA Civ 1283. Bargains, consensual arrangements and reliance in proprietary estoppel.