

Will Bordell

Year of call: 2019
Degree: BA English (Cambridge, Starred First Class), Henry Fellow (Harvard), GDL (City, Distinction), BPTC (City, Outstanding)
Languages: French (working knowledge), Spanish (some knowledge)



Will has a broad practice that spans all of Chambers' main areas of work. He enjoys collaborating with others in both large and small teams, and has also acted as sole counsel in various public law, employment and commercial matters. Will has appeared unled in the Administrative Court, the Employment Tribunal, the County Court and before the RFU's Appeal Panel, and has had further trial advocacy experience as junior counsel in the Chancery Division.

Will's clients have ranged from asylum-seekers made subject to the Home Secretary's policy to send them to Rwanda, to local residents affected by their local Council's development plans, and an under-18 academy rugby team. He has also acted for the General Secretary of the Labour Party, the BBC, Natural England, various UK government departments, and energy companies like Octopus and National Grid Electricity Transmission. Will is committed to undertaking pro bono work.

EXPERIENCE

Public & Regulatory

Will accepts instructions in all areas of public and administrative law. Will has experience in commercial judicial reviews as well as in immigration-related matters. He has also worked on a number of matters related to parliamentary and local government election law. His experience includes urgent/expedited proceedings in high-profile litigation (on behalf of the Labour Party, asylum-seekers at risk of removal from the UK to Rwanda, and the energy company Octopus).

Cases

R (AAA & ors) v Secretary of State for the Home Department

[2023] UKSC 42; [2023] EWCA Civ 745; [2022] EWHC 3230 (Admin)

Acted for the Claimants in their successful challenges to the Home Secretary's policy and decisions to send certain asylum-seekers to Rwanda (with Raza Husain KC, Phillippa Kaufmann KC, Sam Grodzinski KC, Christopher Knight, Paul Luckhurst, Jason Pobjoy and others). The challenge involved complex issues of public law, immigration law, human rights law and refugee/asylum law. All of the decisions by which the Home Secretary proposed to remove the individual Claimants to Rwanda were held to be unlawful and were quashed at first instance. The Claimants then succeeded in the Court of Appeal and the Supreme Court in challenging the Rwanda policy as a whole: both courts decided that the Claimants' Article 3 ECHR challenge succeeded on the basis that there were substantial grounds to believe that there would be a real risk of them suffering Article 3 harm (in the form of refoulement) if removed to Rwanda.

At the start of the litigation, this case also involved urgent applications for interim relief to prevent eight individuals from being removed to Rwanda on the first planned flight on 14 June 2022. The High Court and Court of Appeal refused interim relief, and the Supreme Court refused permission to appeal, but a rule 39 application to the European Court of Human Rights succeeded and ultimately precipitated the cancellation of the flight.

R (British Gas & Ors) v Secretary of State for Energy Security and Net Zero

[2023] EWHC 737 (Admin)

Acting for the energy company Octopus in expedited judicial review challenges brought by rival energy companies against the Secretary of State's decision to approve Octopus's acquisition of Bulb out of administration (with Lord Pannick KC). Following a rolled-up hearing, the Divisional Court refused permission on the ground of undue delay and indicated that in any event it would have rejected all of the Claimants' arguments on their merits: see the judgment here. The proceedings raised arguments including on conventional public law grounds of irrationality and procedural unfairness, as well as alleging that the Secretary of State has acted unlawfully under the subsidy control principles in the EU-UK Trade and Cooperation Agreement.

R (Duff) v Secretary of State for Justice

[2024] EWHC 917 (Admin)

Acted for the Secretary of State for Justice in the first ever case in which the power to terminate the membership of a Parole Board member was exercised (with Mark Vinall).

In dismissing the claim, Mr Justice Kerr found that the Claimant's handling of the release decision which had led to the termination of her membership did not fall within the scope of the protection accorded to judicial acts done in good faith. Instead, it fell into the category of a failure to act judicially, applying the distinction set out in *Durity v AG of Trinidad and Tobago* [2008] UKPC 59. The panel's findings were clear findings of misconduct and gross negligence, on the basis that the Claimant had not read the papers or prepared the case properly before directing release. Termination of the Claimant's membership in that context did not represent an interference with judicial independence and was not unreasonable.

The full judgment can be found here.

R (Evans) v Electoral Commission

[2021] EWHC 1818 (Admin)

Acted for the General Secretary of the Labour Party, seeking an order requiring the Electoral Commission to approve amended party description on ballot papers in time for the 2021 Scottish Parliamentary elections (with Fraser Campbell). This judicial review raised several issues under the Political Parties, Elections and Referendums Act 2000, and involved breach of statutory duty and unlawful fettering of discretion challenges.

BBC

(Ongoing)

Advising and acting for the BBC on media, regulatory and public law issues, including First-tier Tribunal proceedings under the Freedom of Information Act 2000, the BBC Charter, the Communications Act 2003, and matters relating to the imposition and enforcement of the BBC licence fee (with Jason Pobjoy and unled).

National Grid Electricity Transmission and National Grid Gas v Gas and Electricity Markets Authority

(CMA, 2020-2021)

Advising and acting for NGET and NGG in statutory appeals to the CMA against GEMA's decision to impose licence conditions reflecting its RIIO-2 price controls (with Brian Kennelly QC and Hanif Mussa).

Advice on JR of Council decision

(2021)

Advised on a potential judicial review of a local Council's decision to submit a planning application for the construction of a new Gypsy, Roma and Traveller transit site (with Fraser Campbell). This matter raised complex political and legal issues pertaining to the Council's decision-making processes.

R (Coughlan) v Minister for the Cabinet Office

[2020] EWCA Civ 723

Assisted with acting for respondent in successfully resisting an appeal to the Court of Appeal on whether the government was permitted to use voter identification requirements at the local government elections in May 2019 (assisting Hanif Mussa).

R (Halabi) v Crown Court at Southwark and others

[2020] EWHC 1053 (Admin)

Divisional Court case concerning whether the statutory regime for imposing notification requirements on sexual offenders is compatible with human rights under Article 8 ECHR (assisting Hanif Mussa).

Advising Government department

(2021)

Advising a Government department on how best to respond to various subject access requests relating to prominent individuals, raising issues under the Data Protection Act 2018 (unled and with Jason Pobjoy).

Advice to London trading venue

(2021)

Advised a London trading venue regarding certain public, regulatory and company law matters pertaining to an ongoing consultation related to a proposed major change in its manner of operating (with Javan Herberg QC).

Phone-paid Services Authority

(2020-21)

Advised the PSA on matters relating to its new Code of Practice (with Ravi Mehta and Ajay Ratan). This involved helping to advise on issues arising from the Communications Act 2003 as well as to draft sections of the Code.

R (Andrews) v Minister for the Cabinet Office (No. 2)

[2021] EWHC 2233 (Admin)

Assisted in defending early stages of judicial review/human rights challenge to provisions made by the government to assist blind and partially sighted voters at the 2019 general election (assisting Hanif Mussa).

Civil Liberties & Human Rights

Will accepts instructions in all areas of civil liberties and human rights law. Since June 2022, he has been acting for asylum-seekers at risk of removal from the UK to Rwanda pursuant to the Migration and Economic Development Partnership between the two countries.

Cases

R (AAA & ors) v Secretary of State for the Home Department

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Re: A police documentary

(2020)

Advised on trespass and human rights implications of allowing a TV documentary crew to conduct tag-along filming with police officers (unled). This raised issues under Article 8 ECHR and the Human Rights Act 1998, as well as contractual issues based on a proposed draft filming contract.

Pro Bono Family Reunion case

(First-Tier Tribunal, Immigration and Asylum Chamber, 2019)

Appeal against a decision refusing appellant's entry into the UK on human rights and family reunion grounds (assisting Diya Sen Gupta QC and Jason Pobjoy).

Commercial

Will accepts instructions in all areas of commercial litigation. He has recently been led as junior counsel in two hard-fought, high value and lengthy commercial trials: *Revoker LLP & anor v Irakli Rukhadze & ors* [2022] EWHC 690 (Comm), and *Gray v Smith* [2022] EWHC 1153 (Ch). He also has experience of appellate commercial proceedings.

Cases

Moderna v Pfizer & BioNTech

Ongoing

Acting (led by Michael Bloch KC) for Pfizer as part of patent infringement and revocation proceedings pertaining to Pfizer/BioNTech's COVID-19 mRNA vaccine, Comirnaty. One issue is the legal meaning and significance of Moderna's public pledge not to enforce its intellectual property rights in relation to its COVID-19 mRNA vaccine technology.

Commercial Bank of Dubai v Al Sari & ors

(Commercial Court)

Acted for the Commercial Bank of Dubai and other Claimants against members of a wealthy Emirati family and companies alleged to be owned or controlled by them in respect of claims to enforce a foreign judgment and other economic torts. Obtained summary judgment on the enforcement claim and dealt with issues relating to an application for committal of the Defendants for contempt of court (with Anthony Peto KC).

Revoker LLP & anor v Irakli Rukhadze & ors

[2022] EWHC 690 (Comm); [2023] EWCA Civ 305

Acting for Claimants seeking an account of profits at the quantum stage of a dispute concerning the management of the estate of the deceased Georgian billionaire Arkadi Patarkatsishvili (with Shaheed Fatima QC, Tom Cleaver and Marlina Valles). The Phase II trial took place for just over six weeks between October and December 2021. The Commercial Court ordered the Defendants to account for over \$100m: its judgment can be found here. Both parties' appeals to the Court of Appeal (with Tom Weisselberg KC, Tom Cleaver and Marlina Valles) were unsuccessful but clarified some important principles in accounts of profits cases.

Re: LBNS Limited

(Companies Court, 2020)

Acted for respondent in a £100m claim for unfair prejudice in relation to a major pharmaceutical import and distribution business (with Fraser Campbell).

Surkis v Poroshenko

[2021] EWHC 2512 (Comm)

Assisted in early stages of unlawful means conspiracy claim concerning the nationalisation of a Ukrainian bank, dealing with jurisdiction and state immunity issues (assisting Andrew Scott). The claim was ultimately summarily dismissed on grounds of state immunity, foreign act of state, and as having no real prospect of success.

AXA S.A. v Genworth Financial International Holdings

[2019] EWHC 3376 (Comm)

Assisted Andrew Green QC and Fraser Campbell acting for AXA, the successful party at the liability trial of a breach of contract claim for over £260 million in losses arising from historic PPI mis-selling by two of Genworth's subsidiary insurance businesses.

Advice to London trading venue

(2021)

Advised a London trading venue regarding certain public, regulatory and company law matters pertaining to an ongoing consultation related to a proposed major change in its manner of operating (with Javan Herberg QC).

Recorded Picture Company Ltd v Branco and another

(Chancery Division, 2020)

For the Part 20 Claimants at the trial of a dispute arising from the production of Terry Gilliam's *The Man Who Killed Don Quixote* (assisting Andrew Scott).

Bin Obaid and others v Al-Hezaimi and others

(Business List, 2020)

Trial of a Part 8 claim involving a dispute as to provisions made in a settlement agreement for distributing a fund of cash held for the parties' benefit (assisting Andrew Scott).

Re: Crop farmers

(2020)

Advised a company in response to claims of unjust enrichment, personal injury, intimidation, deceit and false imprisonment experienced by African crop farmers in an international supply chain (assisting Shaheed Fatima QC and Andrew Scott).

Re: A beer company

(2020)

Advised a global beer company on its position and the position of its subsidiaries under a framework rental agreement with its supplier of kegs (assisting Andrew Scott). This raised interesting questions about the nature of the contractual agreement between the beer company and its keg supplier, as well as over the beer company's ability to assert liens or proprietary claims over the kegs in respect of certain unreturned deposits.

Re: An African telecommunications company

(London Court of International Arbitration, 2019)

For the claimant telecoms company in a multi-million dollar dispute arising out of its Chinese supplier's repudiation of a long-standing maintenance and support contract (assisting Andrew Green QC and Fraser Campbell).

[Global manufacturer] v [Private equity firm]

(London Court of International Arbitration)

Fraudulent misrepresentation claim seeking rescission of a Deed of Amendment and payment of fair value for shares pursuant to a Shareholders Agreement (assisting Harish Salve QC and Fraser Campbell).

[Art collector] v [Art dealer]

(2019)

Defending claim concerning disputed acquisition of good title to a valuable artwork (assisting Fraser Campbell).

Employment

Will accepts instructions in all areas of employment law, with a particular interest in discrimination and equality issues.

Cases

[Former employee] v [Gaming club]

(Employment Tribunal, ongoing)

Represented (unled) the Respondent to a claim for unfair dismissal and disability discrimination. The claim was struck out.

[Former director] v [Logistics company]

(Employment Tribunal, 2022)

Acted (unled, pro bono) for Claimant in unauthorised deductions claim. The central issue was whether the Claimant, who was appointed as a director of the Respondent company for the period when she was performing services, was a worker within the meaning of s.230 of the ERA 1996, and was therefore entitled to remuneration. The claim settled just before trial.

[Former employee] v [Insurance consultancy company]

(Employment Tribunal, 2022)

Acted (unled, pro bono) for Claimant in disability discrimination claim, obtaining a substantial settlement.

Jones v BT Facilities Services Ltd

(Employment Tribunal, 2021)

Represented (unled, pro bono) Claimant in one-day ET hearing on remitted issue of whether there was a redundancy situation satisfying s. 139(1)(b)(i) ERA 1996 in an unfair dismissal claim.

Liebenberg v DS Smith Packaging

(Employment Tribunal, 2020)

A former Commercial Director's claims against a global packaging company for direct sex discrimination, indirect sex discrimination and victimisation (assisting Diya Sen Gupta QC).

[Temporary Worker] v [Employment Agency]

(Employment Tribunal, 2020-21)

Represented Respondent in relation to notice pay, arrears of pay and whistleblowing claims (unled). This case involved issues around worker/employment status and issues of contractual interpretation.

[Former employees] v [Bank]

(County Court, 2020)

A claim brought by several former employees of a bank in respect of their redundancy upon the closure of its London branch. This matter involved consideration of complex bonus claims (assisting Diya Sen Gupta QC).

Beevers v FMSB and others

(Employment Tribunal, 2019)

Preliminary hearing for strike-out and deposit orders in respect of a former employee's whistleblowing allegations against a UK financial markets regulator (assisting Diya Sen Gupta QC).

[Former trader] v [Bank]

(2019)

A former trader's potential claim against a leading bank arising out of a major banking scandal. This case involved consideration of redundancy, constructive dismissal, stigma damages, bonus payments, direct discrimination on the grounds of nationality and the impact of criminal proceedings in a foreign jurisdiction (assisting Diya Sen Gupta QC).

Sport

Will accepts instructions in all areas of sports law.

Cases

[Individual] v [Sports Association]

(2022)

Acted successfully (unled) for an individual pursuing an internal appeal of his sports association's decision to suspend him. The suspension was lifted with immediate effect. This matter involved challenging the association's decision-making process on natural justice grounds (procedural unfairness) as well as challenging the substance of its conclusions about the individual's conduct.

Tonbridge Juddians RFC's Appeal Against Disqualification from U18 National Cup

(2022)

Successfully represented (unled) a U18 academy rugby team that had reached the Final of the National Cup in their appeal against an RFU Disputes Committee's decision to disqualify them from the competition due to alleged player registration and eligibility issues. The team were able to compete in the Final as a result. The RFU Appeal Panel's judgment appears here.

Media & Entertainment

Will accepts instructions in all areas of media and entertainment law.

Cases

BBC

(Ongoing)

Advising and acting for the BBC on media, regulatory and public law issues, including First-tier Tribunal proceedings under the Freedom of Information Act 2000, the BBC Charter, the Communications Act 2003, and matters relating to the imposition and enforcement of the BBC licence fee (with Jason Pobjoy and unled).

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Environment

Will accepts instructions in all areas of environmental law.

Cases

[Local residents] v [Owner of landfill site]

(High Court)

Assisted in acting for respondent in group litigation concerning odour nuisance caused by landfill site (assisting Hanif Mussa). This case involved advising on a response to an application for a group litigation order and various disputes over its terms.

Natural England

(Ongoing)

Advising (unled) on environmental issues raised by (a) planning applications, including issues concerning the potential destruction of habitats for birds on functionally linked land; and (b) public law issues such as the grant of licences for scientific research.

Civil Fraud, Asset Recovery & Injunctive Relief

Will accepts instructions in all areas of civil fraud.

Cases

Commercial Bank of Dubai v Al Sari & ors

(Commercial Court)

Acted for the Commercial Bank of Dubai and other Claimants against members of a wealthy Emirati family and companies alleged to be owned or controlled by them in respect of claims to enforce a foreign judgment and other economic torts. Obtained summary judgment on the enforcement claim and dealt with issues relating to an application for committal of the Defendants for contempt of court (with Anthony Peto KC).

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(London Court of International Arbitration)

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[Art collector] v [Art dealer]

(2019)

Defending claim concerning disputed acquisition of good title to a valuable artwork (assisting Fraser Campbell).

ACHIEVEMENTS

Education

- BPTC, City Law School: Outstanding; top of year (2018-19)
- GDL, City Law School: Distinction; top of year in EU law, contract law and tort law (2017-18)
- Henry Fellow, Harvard University (2015-16)
- BA English, Trinity Hall, University of Cambridge: Starred First Class; top of year (2012-15)

Scholarships

- Stephen Chapman Award (Inner Temple, 2018)
- Princess Royal Scholarship (Inner Temple, 2017)

Prizes

- Senior Scarman Scholarship for highest overall mark on the BPTC (City Law School, 2019)
- Oxford University Press Prize for Excellence in Advocacy & Procedure for highest marks in Advocacy, Civil Litigation and Criminal Litigation (City Law School, 2019)
- Incorporated Council of Law Reporting Busfield Prize for best performance in Opinion Writing and Options (Employment and Commercial Law) (City Law School, 2019)
- Jean Monnet Prize in EU Law (City Law School, 2018)
- Maitland Advocacy Prize (Maitland Chambers mooted award judged by McCombe LJ, 2017)
- Four faculty awards for best academic performance in English at Part I and Part II (University of Cambridge, 2014-15)
- Three college awards and Bateman Scholarship for academic performance in English (Trinity Hall, 2013-15)

Other relevant experience

During his time in the US, Will worked at Harvard Law School's International Human Rights Clinic. He co-authored a filing to the Inter-American Court of Human Rights in 2016 requesting the maintenance of provisional measures at Anibal Bruno prison in Brazil, as well as drawing attention to overcrowding, violence and failures to investigate.

Before coming to the Bar, Will wrote for a number of publications as a journalist, including *The Economist* and *The Guardian*. He also wrote regularly for *The Justice Gap*, an online publication about the law and access to justice, on topics including miscarriages of justice and crowdfunding legal cases, and was a writer and deputy editor of *The Justice Gap's* print magazine, *Proof*. Will was a research assistant for Jon Robins's 2018 book, *Guilty Until Proven Innocent: The Crisis in our Justice System*.

In 2016, Will spent time working in Boston for the NGO, *Beyond Conflict*, on efforts to address racial division and inequality in American cities. Will has also worked as a volunteer at the Public Law Project, Refugee Connection and for René Cassin's modern slavery campaign team. In 2018, he delivered presentations on 'Access to Justice, the Media and Legal Aid' at Public Law Project's North Conference and the Law Centres Network's National Conference.

Will has also acted as a mentor with *Bridging the Bar*.

VAT registration number: 447008068

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