

# Ajay Ratan

Year of call: 2014  
Degree: BA (Hons) Law (Cantab., Starred First, top of year); BCL (Oxon., Distinction, top of year); BPTC (BPP, Outstanding, top of year)



Ajay practises across all the main areas of Chambers' work. He has appeared as an advocate in the Commercial Court, Administrative Court, Upper Tribunal, FCA Regulatory Decisions Committee and a variety of First-Tier Tribunals (employment, immigration, social security, special educational needs, war pensions) and disciplinary panels (NCTL, EBU).

Ajay is a member of the Attorney General's C Panel of Junior Counsel. He has worked as a Specialist Adviser to the Treasury Select Committee (2016-17) and a secondee to the Enforcement Division of the Financial Conduct Authority (seven months in 2015-16).

Before coming to the Bar, Ajay taught the law of trusts at University College London. Ajay is a published writer on the law of unjust enrichment and has spoken at conferences in London, Melbourne and All Souls College, Oxford.

## EXPERIENCE

### Commercial

Ajay accepts instructions in all areas of commercial litigation and has particular experience of high-value multi-jurisdictional disputes. Current major instructions include a substantial offshore dispute in which the sum claimed is approximately US\$1 billion.

### Cases

#### **Renova Industries Ltd (& ors.) v. Emerson International Corporation (& ors.)**

BVI Commercial Court

Claim in the BVI Commercial Court concerning a joint venture in relation to various power generation and distribution assets in Russia. The sum claimed is approximately US\$1 billion. Ajay is junior counsel for the Defendants and for most of the Claimants by way of Counterclaim and Ancillary Claim.

### **Trial of claim under section 423 of the Insolvency Act 1986**

[2018] EWHC 2876 (Ch)

Successfully acted for the Claimant in this two-day Chancery Division trial before Mr Justice Marcus Smith (with Barbara Dohmann QC).

### **Strike out of inadmissible expert opinion evidence**

[2018] EWHC 2742 (Ch)

Successfully applied to strike out inadmissible expert evidence of New York and Ukrainian law in ongoing Chancery Division litigation (with Barbara Dohmann QC).

### **AMT Futures Ltd v Gloeggler**

[2017] EWHC 836 (Comm)

Successfully obtained summary judgment on construction of a jurisdiction and choice of law clause in a contractual dispute over financial services.

### **Trial of preliminary issue on estoppel and abuse of process**

[2017] EWHC 2334 (Ch)

Acting for the claimant in a dispute stretching across several jurisdictions regarding a corporate reorganisation (with Barbara Dohmann QC). Successfully resisted the defendant's proposed amendments on estoppel and abuse of process grounds.

### **CPR Part 11 jurisdiction challenge**

[2016] EWHC 2221 (Ch)

Successfully resisted jurisdiction challenge raising novel points regarding the new 'third country' provisions in Articles 33-34 of the Brussels (Recast) Regulation (with Barbara Dohmann QC).

### **Baturina v Chistyakov**

[2015] EWHC 1653 (Comm)

Dispute between two Russian businesspeople concerning the operation of a €100m property investment in Morocco (assisting Barbara Dohmann QC, Andrew George QC and Tom Mountford for the Claimant).

### **Libyan Investment Authority v Goldman Sachs**

US\$1 billion Chancery Division claim by a sovereign wealth fund arising out of actions by Goldman Sachs in Gadaffi-era Libya which are alleged to constitute undue influence and unconscionable bargain (assisting Andrew George QC for the Claimant).

### **Libyan Investment Authority v Société Générale**

US\$2 billion Commercial Court claim by a sovereign wealth fund involving allegations of bribery by a large French bank in Gadaffi-era Libya (assisting Andrew George QC for the Claimant).

### **American Leisure Group v Canaccord Genuity and others**

Substantial Chancery proceedings alleging professional negligence in relation to Florida property investments (assisting Andrew George QC for the First Defendant).

### **LCIA arbitration**

Acting for the Claimant sports franchisor in an LCIA arbitration concerning payment for the provision of facilities and equipment (assisting Andrew George QC).

### **Corporate governance arbitration**

Acting for the Respondent investment company in a large commercial arbitration concerning the corporate governance of a joint venture in the hospitality industry (assisting Andrew George QC).

## **Financial Services**

In 2015-16, Ajay was seconded to the Enforcement Division of the Financial Conduct Authority for seven months. He advised on a wide range of investigative and sanctioning powers and enforcement policy issues.

Ajay is now frequently instructed for and against regulators in a variety of sectors. To give three recent examples: Ajay acted for the FCA in its successful defence of a judicial review challenge to the deadline for PPI complaints; he appeared in the Regulatory Decisions Committee as sole counsel for the FCA in a recent decision on systems and controls for identifying and reporting potential market abuse; and he acted for the claimants in a judicial review challenge to a warning notice issued by the Pensions Regulator.

Ajay has also worked as a Specialist Adviser to the Treasury Select Committee in a team led by Andrew Green QC. The team's report on Maxwellisation was published in November 2016 and is available [here](#).

## **Cases**

### **Interactive Brokers (UK) Limited**

FCA Final Notice, January 2018

The Financial Conduct Authority (FCA) imposed a financial penalty on Interactive Brokers (UK) in the amount of £1,049,412 for failings in its post-trade systems and controls for identifying and reporting suspicious transactions. Ajay acted for FCA Enforcement and presented the case to the Regulatory Decisions Committee.

### **R (We Fight Any Claim Ltd) v Financial Conduct Authority**

[2017] EWHC 2264 (Admin)

Acted for the FCA in successfully defending a judicial review challenge to the new deadline for bringing complaints about payment protection insurance (with Monica Carss-Frisk QC and Iain Steele). The claim raised a number of issues including as to the effect of the ADR Directive.

## **R (Grace Bay II Holdings Sarl) v Pensions Regulator**

[2017] EWHC 7 (Admin)

Acted for the claimants in this judicial review challenge to the issuing of a warning notice under the Pensions Act 2004 (with Michael Fordham QC and Iain Steele).

## **Focused Resolution Agreements, expedited references to Upper Tribunal**

Ajay drafted the FCA Handbook provisions for partly contested cases and expedited references to the Upper Tribunal while on secondment in the FCA Enforcement Division (working inter alia on FCA Consultation Paper 16/10). One version of the consulted-upon proposals has since been adopted (FCA Policy Statement 17/1) and came into force on 1 March 2017.

## **Interim permission (consumer credit) advice**

Advising firm with interim permission to conduct consumer credit activities on application for full permission under Part 4A FSMA (with Monica Carss-Frisk QC).

## **Peer-to-peer lending advice**

Advising lender on Article 36H of the Regulated Activities Order (with Javan Herberg QC).

## **R (Holmcroft Properties) v 1) KPMG, 2) Financial Conduct Authority and 3) Barclays Bank**

Acting for the FCA in an important case that will determine whether an independent reviewer in a banking redress exercise is amenable to judicial review when appointed as a 'skilled person' under section 166 FSMA (assisting Monica Carss-Frisk QC, Daniel Burgess and Kerenza Davis).

## **Section 90 FSMA claim**

Acting for a former finance director defending a claim under section 90 FSMA concerning a prospectus for a rights issue (assisting Andrew George QC).

## **Internal investigation advice**

Advising a partner exercising an FCA-controlled function on a number of issues of contractual interpretation in the context of an internal investigation (assisting Javan Herberg QC and Diya Sen Gupta).

## **Interim relief advice**

Advising a director on potential urgent applications for interim relief in a dispute at an FCA-regulated firm (assisting Diya Sen Gupta).

## Public & Regulatory

Ajay has wide experience of public law and judicial review challenges acting for both claimants and defendants. He is a member of the Attorney General's C Panel of Junior Counsel (and in this role has worked as junior to Sir James Eadie QC, the 'Treasury Devil').

## Cases

### **Interim injunction application against the Parole Board**

Queen's Bench Division (October 2018)

Appeared in the High Court as sole counsel for the Parole Board and successfully resisted the application against it. The Court dismissed the application as an abuse of process seeking to litigate public law matters by private law process.

### **X v Secretary of State for the Home Department**

Upper Tribunal (2018)

Acted for the Appellant who sought asylum under the Refugee Convention and Articles 3 and 8 ECHR based on fear of persecution on the grounds of religion and sexuality.

### **Trojan Horse confidential informants**

National College for Teaching and Leadership Disciplinary Panel (2017)

Acted for National Association of Head Teachers and its members who gave information to the public investigation into Birmingham schools after the 'Trojan Horse' letter. Successfully intervened before a disciplinary panel which had ordered disclosure of 50 interview transcripts. The panel accepted the NAHT's submissions on confidentiality and narrowed its order to cover only 4 transcripts.

### **R (We Fight Any Claim Ltd) v Financial Conduct Authority**

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### **R (Grace Bay II Holdings Sarl) v Pensions Regulator**

[2017] EWHC 7 (Admin)

Acted for the claimants in this judicial review challenge to the issuing of a warning notice under the Pensions Act 2004 (with Michael Fordham QC and Iain Steele).

### **Judicial review application**

Advising SME on potential judicial review of a decision by a domestic public body administering EU funding.

**General Medical Council v Adeogba and Visvardis**

Pending Court of Appeal cases concerning (1) the circumstances in which a Fitness to Practise Panel can proceed in the absence of a doctor and (2) the admissibility of fresh evidence on appeal to the High Court (assisting Ivan Hare for the GMC in relation to Visvardis).

**R (Whapples) v Birmingham Crosscity Clinical Commissioning Group and Secretary of State for Health**

[2015] EWCA Civ 435

Court of Appeal decision establishing that NHS bodies are entitled to take account of the fact that accommodation may be provided from other sources in cases where accommodation may form part of a patient's continuing health needs (assisting Ivan Hare for the Secretary of State for Health).

**Schodlok v General Medical Council**

[2015] EWCA Civ 769

Court of Appeal decision giving obiter consideration to whether and when findings of non-serious misconduct can permissibly be taken into account to justify a disciplinary sanction against a medical practitioner (assisting Ivan Hare for the GMC).

**Commercial judicial review advice**

Advising on the procedural aspects of an intended commercial judicial review of a decision by a stock exchange (assisting Andrew George QC).

**Nicholas-Pillai v General Medical Council**

[2015] EWHC 305 (Admin)

Appeal in which the Appellant sought to rely on the negligent representation he had received from his then Counsel as the main ground for overturning the Panel's determination (assisting Ivan Hare for the GMC).

**Professional regulatory body advice**

Advising a professional regulatory body as to the powers and procedures of its investigating committee (assisting Ivan Hare).

**Lawrance v General Medical Council**

[2015] EWHC 586 (Admin)

Appeal under section 40 of the Medical Act 1983 against a disciplinary finding of dishonesty and consequent erasure from the Medical Register (assisting Ivan Hare for the GMC).

**Judicial review claim advice**

Advising a non-departmental public body on a judicial review claim concerning its investigation of alleged misconduct. The case raised issues over the limits of the *functus officio* doctrine (assisting Ivan Hare).

## Civil Liberties & Human Rights

Ajay accepts instructions in all areas of civil liberties and human rights litigation.

### Cases

#### **X v Secretary of State for the Home Department**

Upper Tribunal (2018)

Acted for the Appellant who sought asylum under the Refugee Convention and Articles 3 and 8 ECHR based on fear of persecution on the grounds of religion and sexuality.

#### **Trojan Horse confidential informants**

National College for Teaching and Leadership Disciplinary Panel (2017)

Acted for National Association of Head Teachers and its members who gave information to the public investigation into Birmingham schools after the 'Trojan Horse' letter. Successfully intervened before a disciplinary panel which had ordered disclosure of 50 interview transcripts. The panel accepted the NAHT's submissions on confidentiality and narrowed its order to cover only 4 transcripts.

#### **R (Vinter) v Secretary of State for Justice and R (Du) v Secretary of State for Justice**

Two Article 5 ECHR challenges to the Secretary of State's policy on release of prisoners with a whole life tariff or (as in Du's case) a tariff which is likely to extend beyond their lifetime (assisting Ivan Hare, with James Eadie QC in Vinter, for the Secretary of State for Justice).

#### **R (Henry) v Secretary of State for Justice and R (Christie) v Secretary of State for Justice**

Two cases challenging decisions on behalf of the Secretary of State for Justice regarding the security categorisation of prisoners (assisting Ivan Hare for the Secretary of State for Justice).

#### **Department of Health v Information Commissioner and Lewis**

[2015] UKUT 159

Appeal by the Department of Health against the First-tier Tribunal's decision to require disclosure of parts of the ministerial diaries of Andrew Lansley MP when he was Secretary of State for Health in the run-up to the enactment of the Health and Social Care Act 2012 (assisting James Eadie QC and Ivan Hare for the Department of Health).

## Employment

Ajay accepts instructions in all areas of employment litigation.

## Cases

### **Global Bank Employment Tribunal Litigation**

Instructed by global bank with Paul Goulding QC.

### **General Medical Council v Michalak**

Significant case before the Court of Appeal concerning the scope of a qualifications body's liability under the Equality Act 2010 in the Employment Tribunal (assisting John Bowers QC and Ivan Hare for the GMC).

### **Costs shifting and costs sharing**

Advising on the relationship between the rules on costs shifting and costs sharing in the Employment Tribunal, on the one hand, and the Tax Chamber of the First-Tier Tribunal, on the other (assisting Ivan Hare).

### **Taylor v Governing Body of the Potters Gate CE Primary School**

UKEAT/0227/14/DXA

Pro bono appeal alleging apparent bias in circumstances where the Employment Judge was a governor of another school in the same county as the defendant school (accompanying Ivan Hare for the Appellant).

### **Team move and diversion of acquisition opportunities**

Acting for the First Defendant in a substantial High Court employment dispute concerning an alleged team move and alleged diversion of acquisition opportunities (assisting Paul Goulding QC and Diya Sen Gupta).

### **Disability discrimination**

Acting for the Respondent in a claim alleging discrimination arising from disability and failures to make reasonable adjustments under the Equality Act 2010 (assisting Diya Sen Gupta).

### **Unfair and wrongful dismissal**

Acting for the Respondent in unfair and wrongful dismissal claims arising against the backdrop of an FCA investigation (assisting Diya Sen Gupta).

### **Unfair dismissal, whistleblowing and discrimination**

Advising an employee on potential claims for unfair dismissal, whistleblowing detriment and discrimination following his dismissal purportedly on the grounds of redundancy (assisting Diya Sen Gupta).

### **Non-dealing and non-solicitation covenants**

Advising a senior director on the interpretation and enforceability of non-dealing and non-solicitation covenants in his contract of employment under Jersey law (assisting Diya Sen Gupta).



### **Constructive dismissal**

Advising an employer facing a claim for constructive dismissal and potential claims under the Jersey (Discrimination) Law 2013 (assisting Diya Sen Gupta).

## **EU & Competition**

Ajay accepts instructions in all areas of EU law.

## **Cases**

### **Judicial review application**

Advising SME on potential judicial review of a decision by a domestic public body administering EU funding.

### **R (Western Sahara Campaign UK) v Secretary of State for the Environment, Food and Rural Affairs**

[2015] EWHC 1798 (Admin)

Challenge by a campaigning body to the legality under EU and public international law of the Fisheries Partnership Agreement between Morocco and the EU. The claim raises novel questions concerning the justiciability of claims which impugn the conduct of foreign states (assisting Brian Kennelly for the Secretary of State).

### **R (Western Sahara Campaign UK) v Revenue and Customs Commissioners**

[2015] EWHC 1798 (Admin)

Parallel challenge to the legality of the UK's implementation of the EU-Morocco Association Agreement under EU and public international law (assisting Brian Kennelly for HMRC).

### **Arcadia Group Brands Limited and others v Visa International Inc. and others**

Private damages actions by various large retailers against Visa alleging anti-competitive behaviour in the setting of multi-lateral interchange fees (assisting Dinah Rose QC and Brian Kennelly for Visa Inc).

### **R (Gibraltar Betting & Gaming Association) v HM Treasury**

Judicial review of the remote gambling tax regime contained in Part 3 of the Finance Act 2014 on the basis that it is an unjustified interference with the EU freedom to provide services under Article 56 TFEU (assisting Dinah Rose QC and Brian Kennelly for GBGA).

### **C-299/14 Garcia-Nieto and others**

Preliminary reference concerning inter alia the classification of benefits as social assistance for the purposes of the EU Citizenship Directive (attending the CJEU with Brian Kennelly for the UK as intervener).

### **Major air transport-related arbitration**

LCIA arbitration raising competition issues in a dispute in the EU air transport sector (assisting Brian Kennelly).

### **HM Treasury licensing advice**

Advising HM Treasury on a number of issues concerning the compatibility of its licensing system with EU sanctions regimes (assisting Brian Kennelly).

### **HM Treasury information sharing advice**

Advising HM Treasury on information sharing pursuant to EU sanctions regimes and the relationship of such regimes with EU data protection law (assisting Brian Kennelly).

### **Francovich claim advice**

Advising the Secretary of State for Transport on an intended Francovich claim concerning the implementation of the EU Motor Insurance Directives (assisting Brian Kennelly).

### **CPR Part 11 jurisdiction challenge**

[2016] EWHC 2221 (Ch)

Successfully resisted jurisdiction challenge raising novel points regarding the new 'third country' provisions in Articles 33-34 of the Brussels (Recast) Regulation (with Barbara Dohmann QC).

## **Professional Discipline**

Ajay accepts instructions in all areas of professional discipline. Ajay has advised various healthcare regulators on points concerning their statutory frameworks and procedural rules.

## **Cases**

### **General Medical Council v Adeogba and Visvardis**

Pending Court of Appeal cases concerning (1) the circumstances in which a Fitness to Practise Panel can proceed in the absence of a doctor and (2) the admissibility of fresh evidence on appeal to the High Court (assisting Ivan Hare for the GMC in relation to Visvardis).

### **Schodlok v General Medical Council**

[2015] EWCA Civ 769

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**Nicholas-Pillai v General Medical Council**

[2015] EWHC 305 (Admin)

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**Professional regulatory body advice**

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**Lawrance v General Medical Council**

[2015] EWHC 586 (Admin)

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## ACHIEVEMENTS

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### Education

BA (Hons) Law (Cantab., Starred First, top of year)

### Prizes & Scholarships

- Peter Taylor Scholarship (Inner Temple, 2014)
- Vinerian Scholarship for best overall performance on BCL (Oxford University, 2013)
- John Morris Prize for the Conflict of Laws (Oxford University, 2013)
- Peter Birks Prize for the Law of Unjust Enrichment (Oxford University, 2013)
- Michael and Judith Beloff Scholarship (Trinity College, Oxford, 2013)
- Slaughter and May Prize for top first in the year (Cambridge University, 2012)
- Clifford Chance David Gottlieb Prize for top first in the year (Cambridge University, 2011)
- Sweet and Maxwell Prize for top first in the year (Cambridge University, 2010)
- George Long Prize for Jurisprudence (Cambridge University, 2011)
- ECS Wade Prize for Constitutional Law (Cambridge University, 2010)
- Glanville Williams Prize for Criminal Law (Cambridge University, 2010)
- George Long Prize for Civil Law (Cambridge University, 2010)

## Publications

- 'The Unity of Pre-Receipt and Post-Receipt Detriment' in Andrew Dyson, James Goudkamp and Frederick Wilmot-Smith (eds), Defences in Unjust Enrichment (Hart Publishing, December 2015)

## Other relevant experience

### Treasury Select Committee

Ajay has worked as a Specialist Adviser to the Treasury Select Committee to produce a report on Maxwellisation in public inquiries and investigations as part of a team led by Andrew Green QC.

### Pro Bono Legal Work

Ajay works with the Free Representation Unit and has undertaken seven cases ranging across social security and employment law. He has represented claimants in social security entitlement appeals and defendants in claims to the repayment of allegedly overpaid benefits.

VAT registration number: 447008068

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