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Ajay Ratan

"Ajay is exceptionally bright and on top of that, is a pleasure to work with. He shows the thoughtfulness of a barrister well beyond his call and is responsive to a fault."

— LEGAL 500, 2024

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. Domestically he has appeared as an advocate in many forums including (for example) the Commercial Court, Administrative Court, Court of Appeal, Upper Tribunal, FCA Regulatory Decisions Committee and a variety of First-Tier Tribunals. He is also called to the BVI bar and has appeared as an advocate in the Commercial Division of the BVI High Court.

Ajay 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 (in 2015-16).

Ajay is recognised by Legal 500 and Chambers & Partners as a leading junior. Recent directory quotes include:

- "Ajay is exceptionally bright and on top of that, is a pleasure to work with. He shows the thoughtfulness of a barrister well beyond his call and is responsive to a fault."- Legal 500, 2024
- "He is incredibly clever, really commercial and user-friendly."- Chambers UK, 2024
- "Ajay Ratan is responsive, hard-working and user-friendly. He has an interest and knowledge of regulatory enforcement and is a strong strategic thinker too."- Chambers UK, 2023
- "Ajay is highly intelligent and hard working. He gets to grips with the case quickly and offers clear and pragmatic advice. A great team player. "- Legal 500, 2022

Before coming to the Bar, Ajay graduated top of his class every year in Cambridge (undergraduate) and Oxford (postgraduate) and then 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.

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EXPERIENCE

Commercial

Ajay accepts instructions in all areas of commercial litigation and has particular experience of high-value multi-jurisdictional cases. Current major instructions include substantial disputes (both onshore and offshore) in which the sums claimed are in excess of US$1 billion. Ajay also has considerable experience in specialist areas including trusts and restitution of unjust enrichment, having appeared (for example) as an advocate at trial and in the Court of Appeal in a Commercial Court claim to restitution of sums in excess of £200 million.

Cases

Bourlakova & Ors v Bourlakov & Ors

Chancery Division, ongoing

Counsel for one of the Defendants in claims for approximately US$1.2 billion arising out of the breakdown in marital relations between a Russian couple and the death of one of the spouses (with Andrew Scott KC).

Renova Industries Ltd & Ors v. Emmerson International Corporation & Ors

BVI Commercial Court, ongoing

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 (with Robert Weekes KC).

Various claimants v A Bank

Ongoing

Acting for a bank in litigation concerning the lawfulness of interest rate variation provisions in standard variable rate mortgages (with Javan Herberg KC, Hanif Mussa KC and Emmeline Plews).

XL Insurance Co SE v IPORS Underwriting Ltd

[2021] EWHC 474 (Comm)

Commercial Court claim to restitution of allegedly overpaid income tax raising “interesting and potentially difficult issues” regarding the bona fide purchase defence to equitable proprietary claims (and analogous defences to personal claims in unjust enrichment). The reserved judgment of Cockerill J noted Ajay’s “highly skilful submissions” on behalf of HMRC.

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Pleshakov v Sky Stream Corp & Ors

[2021] UKPC 15

Acted (with Barbara Dohmann QC and Barnaby Lowe) for the Second and Third Respondents to a Privy Council appeal from a decision of the Eastern Caribbean Court of Appeal. The appeal concerned issues regarding the creation of bare trusts, the distinction between bare trustees and nominees, and the ability to run an allegedly new case before a final appellate court.

Telefonica UK Ltd v Office of Communications

[2020] EWCA Civ 1374; [2020] Costs L.R. 1461

Ajay was sole counsel for the respondent in this appeal concerning Part 36 offers (and in particular the principles governing enhanced relief under CPR r.36.17(4)).

Vodafone Ltd & Ors v Ofcom

[2020] QB 200; [2020] QB 857 (CA)

Acting for Ofcom in four related Part 8 Claims, and appeals to the Court of Appeal, in respect of over £200 million in licence fees levied under regulations held to be ultra vires, concerning counterfactual defences to Woolwich claims in unjust enrichment. (with Tom Weisselberg KC and Andrew Trotter). Ajay did a substantial part of the oral advocacy both at trial and on appeal.

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.

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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).

Financial Services & Banking

Ajay is ranked as a leading junior in financial services. He has acted for and against the regulators in a number of the leading financial services enforcement cases in recent times, as is evidenced by the Parliamentary and national press attention that these cases have often received. For example, he successfully acted for one of the former senior managers of HBOS (the FCA and PRA decided to take no action after a six-year investigation) and is currently acting for the FCA in the ongoing proceedings concerning Carillion plc. He frequently appears as an advocate in front of the FCA's Regulatory Decisions Committee and has been instructed in numerous regulatory judicial reviews.

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 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. here.

> ***"Ajay is extremely client-friendly and efficient, producing quality written analysis of complex matters, and is able to adapt his advocacy to the relevant forum at which he is presenting."***
>
> — CHAMBERS UK, 2023

Cases

FCA v Carillion & Ors

(Ongoing)

Acting for the FCA in proceedings against Carillion plc and three of its former directors in relation to allegations of market manipulation (with Javan Herberg KC and Rayan Fakhoury). Further information available here.

FCA v Metro Bank & Ors

(Ongoing)

Acting for the FCA in proceedings against Metro Bank and two of its former executive directors in relation to alleged breaches of the Listing Rules by publishing incorrect information to investors. Further information available here.

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BlueCrest Capital Management (UK) LLP v Financial Conduct Authority

(Ongoing)

Acting for the FCA in respect of a challenge by hedge fund to a penalty and redress requirement imposed on the basis of an alleged failure to manage a conflict of interest fairly (with Andrew George KC and Ava Mayer). Further information available here.

Various claimants v A Bank

Ongoing

Acting for a bank in litigation concerning the lawfulness of interest rate variation provisions in standard variable rate mortgages (with Javan Herberg KC, Hanif Mussa KC and Emmeline Plews)

FCA and PRA v Senior manager of HBOS

(2022)

Ajay successfully acted for a former senior manager of HBOS in defending the regulatory enforcement proceedings brought by the PRA and FCA. Following a six-year investigation, the regulators' decision-making committees decided to take no action in August 2022. The FCA's press release is available here. Ajay was led by Tom Weisselberg KC.

R(T and another) v FCA

[2021] EWHC 396 (Admin); [2021] 1 W.L.R. 3246.

Acted for the FCA in respect of this application to the Administrative Court seeking a stay of FCA enforcement action in light of parallel Commercial Court proceedings (with Monica Carss-Frisk KC).

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.

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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).

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).

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

R(T and another) v FCA

[2021] EWHC 396 (Admin); [2021] 1 W.L.R. 3246.

Acted for the FCA in respect of this application to the Administrative Court seeking a stay of FCA enforcement action in light of parallel Commercial Court proceedings (with Monica Carss-Frisk KC).

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.

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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

[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).

Judicial review application

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

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.

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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).

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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).

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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.

ACHIEVEMENTS

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 .

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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

Barristers regulated by the Bar Standards Board