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## Prof. Gerard McMeel KC

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Gerard McMeel is a leading commercial, banking and financial services lawyer, both as a practitioner, and an academic. He has over two decades experience of trial work, appellate advocacy, urgent commercial applications, arbitration, ADR and advisory work. He was appointed Queen's Counsel in March 2020. Gerard practises in all areas of commercial dispute resolution, with a particular focus on banking and financial services litigation. Gerard's commercial practice regularly includes advising on the construction or interpretation of contracts and other business documents, where he is the author of a leading text. He has a particular interest in unjust enrichment and restitution. His financial services practice includes: investor claims; commercial disputes involving financial firms and intermediaries; collective investment schemes; judicial review of the statutory bodies; and authorisation, regulatory and disciplinary matters under the Financial Services and Markets Act 2000.

Since taking silk in 2020 he has had a number of successful appeals and reported cases in the Court of Appeal. First, in what is now the leading case on the meaning "investment advice" in UK law, in *Adams v Options UK Personal Pensions LLP (formerly Options SIPP UK LLP and Carey Pensions LLP)* [2021] EWCA Civ 474, [2021] Bus LR 1568. This was a test case on the responsibilities of pension provider firms for esoteric assets introduced by an unauthorised intermediary, under sections 27 and 28 of the Financial Services and Markets Act 2000, and the Financial Conduct Authority's investment conduct of business sourcebook (COBS). The Financial Conduct Authority intervened. Secondly, in the same litigation, an interesting judgment on the impact of a CPR Part 36 offer: *Adams v Options SIPP UK LLP* [2021] EWCA Civ 1188. Thirdly, in the commercial and arbitration sphere, in *Adactive Media Inc v Ingrouille* [2021] EWCA Civ 313, [2022] 1 Lloyd's Rep 235, which concerned the construction of an allegedly inconsistent choice of court agreement and arbitration clause, and the impact of section 32 of the Civil Jurisdiction and Judgments Act 1982 on the recognition in England and Wales of a multi-million Californian judgment, entered in the face of an arbitration agreement. Fourthly, *Dooley v Castle Trust & Management Services Ltd* [2022] EWCA Civ 1569, where he acted for 65 investors against a Gibraltar pension provider firm in respect of esoteric assets introduced by an unauthorised intermediary. The appeal raised difficult questions at the interface of private international law and investor protection law. The Court of Appeal confirmed the distinct nature and width of the consumer contract jurisdictional gateway, which is likely to prove important for cross-border financial services disputes against offshore firms, and platforms offering derivatives and cryptoassets.

Gerard's recent cases also include: *Anderson and others v Sense Network Ltd* (Court of Appeal) [2019] EWCA Civ 1395, [2020] Bus LR 1, and (Jacobs J) [2018] EWHC 2834 (Comm), [2019] Bus LR 1601, the first appellate authority on responsibility for appointed representatives under section 39 of the Financial Services and Markets Act 2000, and concerned the meaning of collective investment scheme under section 235 of FSMA, and in which he was trial advocate for 95 victims of a Ponzi scheme; and two cases involving foreign exchange trading platforms, *R (on the application of TF Global Markets (UK) Ltd) v Financial Ombudsman Service Ltd* [2020] EWHC 3178 (Admin) where he was successful in obtaining a judicial review and quashing orders in respect of the Financial Ombudsman Service's upholding of complaints by investors who were suspected of market manipulation, and *Target Rich International Ltd v Forex Capital Markets Ltd* [2020] EWHC 1544 (Comm) which concerned investment platforms, COBS and force

majeure provisions.

Gerard's significant cases also include: *Swynson Ltd v Lowick Rose LLP* [2017] UKSC 32, [2017] AC 313 in the Supreme Court; *Bull v Gain Capital Holdings Inc* [2014] EWHC 539 (Comm); *TFL Management Services Ltd v Lloyds TSB Bank plc* [2013] EWCA 1413, [2014] 1 WLR 2006, where Beatson LJ praised his "excellent submissions"; *Worthing v Lloyds Bank Ltd* [2015] EWHC 2836 (QB); *Westwood Independent Financial Planners v Financial Conduct Authority* (22 November 2013; Upper Tribunal); *AXA Sun Life Services plc v Campbell Martin Ltd* [2011] EWCA Civ 133, [2011] 2 Lloyd's Rep 1; *Wincanton Group Ltd v Garbe Logistics UK 1 SARL* [2011] EWHC 905 (Ch); *CFH Total Document Management Ltd. v OCE (UK) Ltd* [2010] EWHC 541 (TCC), [2010] *Bus LR Digest D154*; *Baker v J E Clark & Co (Transport) UK Ltd* [2006] EWCA Civ 464, [2006] Pens LR 131; *Seymour v Caroline Ockwell & Co* [2005] PNLR 758; and *21st Century Logistic Solutions v Madysen* [2004] 2 Lloyd's Rep 92.

Gerard routinely acts in multiple investor claims. He also regularly represents high net worth individuals and professional sportspersons, including acting for Alan Shearer in his claim against his financial adviser and his pension provider, Suffolk Life. The claims related to permissible assets in a life insurance-based pension, unregulated collective investment schemes and traded life policy investments. The trial, before Mr Justice Leggatt in the Commercial Court, was settled, after opening, on commercial terms. As against the financial adviser, who recommended the investments, the dispute has rumbled on, most recently involving enforcement and contempt of court issues: *Alan Shearer v Kevin Neal* [2020] EWHC 3272 (Comm).

As an academic lawyer, Gerard specialises in contract law, commercial law, banking law and financial services law and regulation. He is the author of *McMeel on the Construction of Contracts – Interpretation, Implication and Rectification* (Oxford University Press, 3rd edn, 2017; 4th edn, 2023, forthcoming). He is a co-author of the leading text on personal property law. He has held Chairs at three leading UK universities. From 2020 he has been Professor of Commercial and Financial Law at the University of Reading, and the Director of the Centre for Commercial Law and Financial Regulation. Gerard was previously the Professor of Commercial Law at the University of Manchester, a Professor of Law at the University of Bristol, and he is a prolific legal author. He has held visiting positions at Duke University, Tel-Aviv University, the University of South Carolina, Hong Kong University and Singapore Management University. In 2023 he will be a Visiting Professor at the National University of Singapore.

Gerard also acts as an expert witness on English law issues.

## What the directories say

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- "Excellent with clients" (Chambers & Partners: Banking & Finance)
- "He is an expert in this field and very good on his feet." (Chambers & Partners: Professional Negligence)
- "He's very likeable, and few barristers have a greater grasp of financial services regulations." (Chambers & Partners: Commercial Dispute Resolution).
- "Gerard has encyclopaedic knowledge of financial services law and remains pre-eminent in the field." (The Legal 500; Ranked No 1 Junior).

## Publications

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Gerard is the author of *McMeel on the Construction of Contracts – Interpretation, Implication and Rectification* (Oxford University Press, 3rd edition, 2017) which has been cited by courts in England, Ireland, Australia, New Zealand, Canada, Singapore and Jersey.

He also writes widely in law journals and has co-authored: *McMeel and Virgo on Financial Advice and Financial Products* (Oxford University Press, 3rd edition, 2014) and *The Law of Personal Property*, (Sweet & Maxwell, 3rd edn, 2021).