***KENNETH MCGUIRE***

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June 2010: admitted to Faculty of Advocates (currently member of Westwater Advocates).

2008 – 2010: Maclay Murray & Spens LLP (now Dentons), Glasgow.

2007 – 2008: Rickerbys Solicitors, Cheltenham.

July 2000: called to the Bar in England and Wales (former tenant at 12 Old Square, 36 Bedford Row and 3 Paper Buildings, Temple, London) and practised at the Bar until 2007.

**Appointments**

2018 – Standing Junior Counsel to the Scottish Ministers

2019 – Preferred Counsel for the Equality and Human Rights Commission (B Panel)

**Main Areas of Practice**

Employment and Discrimination Law

I have a busy litigation and advisory practice representing employers, employees and trades unions in all areas of employment and discrimination law. I am ranked as a leading junior in the current editions of Chambers & Partners and The Legal 500. I represent employers and employees in employment tribunals throughout the UK (often appearing against senior counsel) and I also appear regularly in the Employment Appeal Tribunal and the Court of Session. I have a busy practice in the commercial aspects of employment law I advise frequently on the enforceability of restrictive covenants in contracts of employment and regularly appear in the civil courts to obtain interim interdicts against employees for breach of covenants. I worked for Macaly Murray and Spens LLP (now Dentons) for two years before coming to the Bar in Scotland and regularly drafted employment contracts for senior employees and directors service agreements. In the employment tribunal I have been instructed in lengthy whistleblowing, discrimination and TUPE claims. I frequently appear on behalf of banks and other financial institutions. My recent Court of Session and EAT cases include:

* *Westerton (UK) Limited v Keith* Armstrong 2018 UKEATS/0016/17/AT, EAT appeal
* *Bluebird Buses v Mr Piotr* Borowicki UKEATS/0009/17/JW, eat
* Aldridge *& Others v Amey Services* [2016] EAT, test case on multiple historical holiday pay claims.
* *Kidron House v Howie* [2014] UKEATS/0030/13/B1, successful appeal in EAT concerning compensation for pregnancy related dismissal.
* *Graham Wallace v Energy Support Management Partnership Limited* [2014] UKEATS/0043/13/JW, successful appeal in EAT concerning interpretation of collective agreement for offshore oil workers in the North Sea.
* *Andrew Sneddon v Carr-Gomm Scotland Limited* [2012] CSIH 28, [2012] IRLR 820 CA successful appeal against decision of the EAT concerning unfair dismissal and ‘substitution mindset’.
* Acted on behalf of the Public and Commercial Services Union in July 2012 to defend application by Home Office for interdict in Scotland in recent ‘airport strike before Olympics’ case (parallel litigation in England which ended in settlement on morning of hearing).
* *Sodexho v Unite and RMT* [2012] CSIH, successfully appeared on behalf of Unite and RMT to resist application by employer for interim interdict to prevent strike ballot in a case involving workers on North Sea oil installations.
* *Argyll Coastal Services Ltd v Stirling & Others* [2012] UKEATS/0012/11/B1, TUPE ‘service provision’ case.
* *Forrest v Renfrewshire Council* [2012] UKEATS (unreported), unfair dismissal appeal and application for expenses in the EAT.
* *Paterson v MOD and BAE* [2012] UKEATS/0003/12/BI, TUPE ‘service provision’ appeal concerning transfer of activities at RAF Leuchars.

Public/Administrative Law and Human Rights

I am regularly instructed in petitions for judicial review and statutory appeals often raising matters of European Law and Human Rights Law. I have been instructed in a wide range of matters including immigration, education, public procurement and competition law, and regulatory and disciplinary proceedings. I have recently been appointed as a Standing Junior Counsel to the Scottish Ministers and can be instructed by the Scottish Government. My recent reported cases include:

* *Dryburgh v NHS Fife* [2016] CSOH 116, petition for judicial review raising issues of Article 6 ECHR and scope of reviewable decisions in Scots law.
* *Petition of MASH Holdings Ltd v The Scottish Football Association and Mr Dave King* [2016] CSOH 86, successfully represented Dave King in petition for judicial review brought by MASH Holdings Ltd.
* *Sturridge v General Teaching Council for Scotland*, [2014] S.C. 478, successful statutory appeal against refusal by the regulatory body to permit him to teach in Scotland. Widely reported in the press as a ‘landmark’ decision that led directly to change in practices of the regulatory body.
* *Fox Solicitors Limited v Advocate General for Scotland* [2013] CSOH 133, instructed by the Equality and Human Rights Commission in a challenge against the legality of the introduction of fees for employment tribunals.
* *TN (Petitioner)* [2014] CSOH 85, successful challenge against a decision of the Secretary of State depriving him of a right of appeal.
* *JN (India) v Secretary of State for the Home Department* [2014] CSOH 49, represented teacher of traditional Indian dance and culture against refusal of a visa application.
* *MBR v Secretary of State for the Home Department* [2013] CSIH 66, ‘test case’ raising important issues as to the quorum for a Division in the Inner House of the Court of Session.
* *OWA (United States) v Secretary of State for the Home Department* [2013] CSOH 52, successfully represented a citizen of the USA in challenge against a decision refusing entry to the United Kingdom.
* *L v Angus Council* 2011 S.L.T. 853, and *TL [Assisted Person] No 2* [2011] CSOH 196. Represented applicant in the first reported ‘age assessment’ case in Scotland.
* *RA (AP)* [2011] CSOH 42. Successfully represented petitioner in a matter concerning the right to private and family life under Article 8 ECHR.
* *MO (Assisted Person)* [2012] CSIH 20, successfully represented Respondent in reclaiming motion by the Secretary of State.
* *AKA (Petitioner*) [2012] CSOH 86, leading case concerning the application of the ‘second appeals test’ in judicial review proceedings in Scotland.
* *Ian Hay v HMA* (and 6 other related cases) [2012] HCJAC 28. Seven conjoined criminal appeals relating to sexual offences in which I was instructed with senior counsel on behalf of the Respondent. The appeals raised issues relating to the right to a fair trial under Article 6 ECHR and the compatibility of the sexual offences register with Article 8 ECHR.

Civil Litigation & Commercial Law

* I regularly advise on commercial law matters arising out of employment and partnership disputes, including claims for breach of contract, bonus claims, pensions issues and tax matters on termination of employment.
* I regularly advise on shareholder and director disputes within companies.
* I frequently advise and appear in the Sheriff Court and Court of Session in actions of interim interdict in employment related matters.
* I recently acted for Rangers FC by in a multi-million pound action against several former directors of that club for breach of fiduciary duties (now successfully settled). I am currently acting for Rangers FC in action against to recover monies paid to a former director under a settlement agreement.
* I am currently instructed in four separate proofs in the Court of Session in actions based on the Commercial Agents Regulations 2003.
* I was previously an academic for seven years in the Law Department at the London School of Economics and taught commercial law, contract law and company law.
* I am dual-qualified at the Bar in Scotland and England and I am able to advise on matters arising in both jurisdictions and on issues of cross-border jurisdiction.

**Academic Career** (prior to being called to the Bar in 2000)

1989 – 1997: Lecturer in Law,Law Department, London School of Economic and Political Science. Subjects taught: Commercial Law, Contract Law and Company Law.

1997 – 2000: Senior Lecturer in Law, University of East London. Subjects taught: Contract Law and Public and Human Rights Law

**Education**

1999 – 2000 Bar Vocational Course, (Very Competent)

1986 – 1989 European University Institute, Florence (Research student).

1985 – 1986 Dundee University. Postgraduate Diploma in Energy Law.

1981 – 1985 Dundee University. LL.B (Hons) (Upper Second)

1976 – 1981 Notre Dame High School, Greenock – 7 ‘O’ levels and 5 ‘H’ levels.

**Publications**

* ‘Punishing Decision: Protective Awards Punitive Not Compensatory’ Solicitors’ Journal 6 August 2004 (Note on decision of CA in *Susie Radin Ltd v GMB* 2004 IRLR 400)
* 'No Entry': A Critical Reading of the Asylum and Immigration Act 1996", in Shah and Doebbler (eds.) United Kingdom Asylum Law in its European Context (1999, Platinum/GEMS)
* ‘State Liability for Breach of European Law', Legal Action (1996) December
* ‘Challenging Exclusion Orders', Legal Action (1996) September
* ‘Discretionary Lifers and Parole', Legal Action (1995) December
* ‘Banking Beyond the Single Market: Monetary Policy and the European Central Bank', in Cranston (ed.) The Single Market and the Law of Banking (London, 1994)
* ‘The Role of Auditors in Protecting Against Bank Fraud', in Norton (ed.) Banks, Fraud and Crime (London, 1994)
* ‘Emergent Trends in Bank Supervision in the United Kingdom' (1993) 56 Modern Law Review
* ‘Banking Supervision after Bingham: The end of an era?' (1993) Vol. 4, Issue 2 International Company and Commercial Law Review
* ‘The Europeanisation of Banking Regulation' (1990) Vol. 3 Journal of the International Economic Law Society of Canada
* Fulham Football Club v Cabra, Note (1992) Vol. 3, Issue 11 International Company and Commercial Law Review
* ‘Cross-Border Electronic Banking: Opportunities or Risk?' Banking World, March 1994
* Bank of Credit and Commerce International SA v Aboody and Another, Note (1993) Volume 8 Issue 3 Journal of International Banking Law
* Blumberg, The Multinational Challenge to Corporation Law: The Search for a New Corporate Personality (Oxford, 1993), Review (1994) 57 Modern Law Review
* Robert C Effros (ed.) Current Legal Issues Affecting Central Bankers: Volume 1 (1992, International Monetary Fund), Review (1993) Vol. 8, Issue 4, Journal of International Banking Law
* Michael Gruson and Ralph Reisner (eds.) Regulation of Foreign Banks: United States and International (London, 1993), Review (1992) Vol. 7 Issue 11 Journal of International Banking Laws.