

David Massaro

Year of Call: 2014

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Professional Career to date

Devil Masters: Gavin Walker, Morag Ross, Susan Duff, Claire Mitchell

July 2014: Admitted to the Faculty of Advocates

2013 – July 2014: Devil at the Faculty of Advocates

2012 – 2013: Senior Solicitor, Commercial Dispute Resolution, HBJ Gateley

2010 – 2012: Solicitor, Commercial Dispute Resolution, HBJ Gateley

2008 – 2010: Trainee Solicitor, HBJ Gateley

2006 – 2007: Legal Assistant, Scottish Law Commission

2006: Researcher at the University of Edinburgh (standard securities, E-commerce)

Education & Professional Qualifications

Currently studying part-time for an LL.M (Public Law), University of London (2014 – 2018)

Faculty of Advocates' Joint Lord Reid Scholar (2013- 2014)

Postgraduate Diploma in Legal Practice, University of Edinburgh (2008)

LL.B (Hons) (1st Class), University of Edinburgh (2006)

Areas of Expertise

- Commercial Contracts
- Commercial Property
- Company, Corporate Finance and Tax
- Insolvency
- Professional Liability
- Public Law, Judicial Review and Human Rights
- Construction and Engineering

Professional Experience

David's areas of practice are commercial and public law.

David is recommended by Chambers UK for commercial dispute resolution in Scotland. He has a particular expertise in property and contract matters. He also regularly acts for clients in professional negligence actions, insolvency and corporate cases, and construction disputes.

David is a Standing Junior to the UK Government. He represents the UK Government in judicial review cases, including cases concerning human rights and EU law, and in civil and commercial matters. He also acts for local authorities and other public bodies.

David appears regularly in the Court of Session and the Sheriff Court. He has appeared in the UK Supreme Court, the Sheriff Appeal Court, the First Tier Tribunal and other specialist tribunals. He often represents clients in adjudications, arbitrations and mediations.

Prior to calling to the Bar, David practised as a senior solicitor for HBJ Gateley. He was the joint recipient of the Faculty's Lord Reid Scholarship in 2013-14. He is a court reporter for Session Cases, a contributor to Court of Session Practice, and teaches property, trusts and succession law at the University of Edinburgh. He is studying part-time for an LLM in public law.

Recent Cases

Commercial Contracts

As Counsel:

Acting for an engineering company in a dispute about whether a consultancy agreement can be terminated (Court of Session Commercial Action)

Acting for a developer in a dispute with his lender about whether payments were due following termination of a loan agreement (Sheriff Court Commercial Action)

Acting for a bank in a dispute about the validity of a personal guarantee (Court of Session)

Acting for a property owner seeking damages for misrepresentation, including success at obtaining interim diligence (Court of Session)

As a solicitor:

Success in a six day proof before answer about whether a purchaser was entitled to rescind a contract and claim damages (Sheriff Court)

Acting for a bank in the enforcement of a personal guarantee (Royal Bank of Scotland plc v O'Donnell 2013 CSOH 78)

Commercial Property

As Counsel:

Acting in two large dilapidations claims for commercial landlords (one in the Court of Session and one at arbitration)

Acting for a commercial tenant in seeking to establish a right of access to its premises (Court of Session)

Acting for a property owner seeking damages for nuisance, including success at debate (Sheriff Court)

Advising a commercial tenant on the prospects for terminating its lease on account of the landlord's breach

Acting for a tenant in seeking interdict against the landlord from breaching the terms of the lease: agreement reached just before the interim interdict hearing (Court of Session)

As a solicitor:

Acting for a commercial tenant in an Arbitration concerning disputed service charges in a Deed of Conditions

Acting for a commercial landlord in a dispute about the validity of a break notice (Court of Session)

Acting for a property owner in a mediation in a boundary dispute for land with development potential

Advising a commercial tenant on whether consent to an assignation had been unreasonably withheld

Company, corporate finance and tax

As Counsel:

Acting for a company seeking damages from its former director for a breach of fiduciary duty (Sheriff Court Commercial Action)

Advising a director on an application for leave to remain as a director following disqualification

Acting for a shareholder in a petition seeking remedies for unfair prejudice (Court of Session)

As a solicitor:

Acting for a company director defending an application for leave to bring derivative proceedings (Sheriff Court) Construction and Engineering

As Counsel:

Acting for a public body in two large adjudications: one with Senior Counsel and one as lead Counsel

Acting for a sub-contractor in defending a large, six party dispute about defects in a commercial building (Court of Session)

Acting for a building owner seeking to recover damages for defects in a large commercial building (Court of Session)

Insolvency

As Counsel:

Acting for liquidators pursuing misfeasance claims against former directors (Court of Session and Sheriff Court)

Acting for a trustee in sequestration in seeking to reduce an unfair preference (Sheriff Court)

Acting in an appeal concerning gratuitous alienations to the Supreme Court

As a solicitor:

Acting for the Liquidator seeking directions from the Court on whether he could disclaim onerous property in Joint Liquidators of Scottish Coal Ltd, Noters 2013 SLT 1055

Acting for a trustee in sequestration in conducting a private examination of a debtor

Professional Liability

As Counsel:

Acting for Bank in professional negligence claims against surveyors and solicitors (Court of Session)

Acting for a borrower in a claim against a bank for mis-selling and breaches of the FCA Handbook

Public Law, Judicial Review and Human Rights

As Counsel:

Acting for the Home Secretary in judicial reviews in immigration cases, including both human rights and EU law matters

Advice to owners of land in a dispute about the amount of compensation payable following a compulsory purchase

Representing a local authority in a dispute about liability for business rates

Acting in an appeal to the First Tier Tribunal from a monetary penalty notice issued by the Information Commissioner

Advocates Courts & Tribunals

UK Supreme Court, Court of Session (Inner and Outer House), Sheriff Appeal Court, Sheriff Courts, First Tier Tribunal, High Court of Justiciary, local authority sub-committee. David also has experience of adjudication, arbitration and mediation.

Advocates Appointments & Memberships

2015 - Present: Standing Junior to the Advocate General for Scotland
2015 – Present: Member, Faculty of Advocates Human Rights and Rule of Law Committee
2014 – Present: Contributor, Court of Session Practice (Bloomsbury Professional)
2014 – Present: Law Reporter for Session Cases, Scottish Council of Law Reporting
2006 – Present: Part-time Tutor in Law, University of Edinburgh (Property, Trusts and Succession Law)

Publications

2015 – Present: Contributor, Court of Session Practice (Bloomsbury Professional)
2008: Standard Securities and Variation to the Standard Conditions 2008 SLT (News) 271, co-written with Dr Andrew Steven (Scottish Law Commissioner)

Directories

In 2016, David was ranked by Chambers UK (2017) for commercial dispute resolution in Scotland: "He is recommended by several market sources as an advocate to watch, with his client-handling skills singled out for particular praise." The comments they received from instructing solicitors included: "He is an excellent technical lawyer." "He is a bright and diligent advocate with a growing practice." "He is definitely a star of the future."

Advocates Additional Information

Learning French at the French Institute, Edinburgh