

# Carmine Conte

*“Carmine has an encyclopaedia knowledge of black letter law, with rigorous attention to detail.”*

– LEGAL 500, 2024

Year of call: **2017**  
Degree: **BA (Hons), LLB (Hons) (Melb), BCL (Dist), MPhil, DPhil (Oxon), BTT (First) (BPP)**  
Languages: **Italian (working knowledge)**



Carmine has a broad practice across the full range of commercial disputes, with specific expertise in commercial contracts, commercial remedies, civil fraud, equity and trusts, insolvency and arbitration. He frequently acts in high value and complex multi-jurisdictional commercial litigation and international arbitration. Carmine is frequently instructed in connection with litigation abroad, being admitted to practise in the British Virgin Islands and being an Australian Legal Practitioner. He also brings a diverse professional and academic background to bear on his practice.

Carmine appears both as sole Counsel and led in various jurisdictions (including the English High Court, English Court of Appeal and BVI Commercial Court), as well as acting as a member of larger teams on heavyweight litigation. Recently, he has been instructed in various significant Commercial Court cases, including: JSC BTA Bank v Ablyazov, a complicated multi-jurisdictional fraud claim where the claimants sought damages of over USD6 billion; and Vale SA v Steinmetz, a deceit and unlawful means conspiracy claim involving a claim to proprietary relief valued at £1.25 billion. Carmine was also recently sole Counsel representing a Kuwaiti businessman seeking to recover £8 million for various breaches of contract in Circuit Commercial Court proceedings.

Before being called to the Bar, Carmine was a Senior Lecturer in Private Law at Keble College, Oxford, and a Law Fellow and Director of Studies at Homerton College, Cambridge. He taught subjects including Contract Law, Equity, Trusts and Legal Reasoning. Carmine's research has been published in several leading academic journals. Previously, Carmine completed his doctorate in commercial remedies at Oxford, under the supervision of Lord Burrows of the Supreme Court.

Also, before being called, Carmine practised for several years as a solicitor at Arnold Bloch Leibler, a top-tier commercial law firm in Melbourne. He maintained a broad commercial litigation practice, which included appearing in various Federal and Victorian courts and tribunals. Carmine advised on a range of high-profile and complex disputes for market leading corporates and high net worth individuals.

## EXPERIENCE

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### Commercial

Carmine is an experienced commercial litigator. He acts and advises in relation to a wide range of commercial disputes, across all industries and sectors. Carmine appears regularly in the Commercial Court, Circuit Commercial Court, the Chancery Division and in arbitrations. He appears with and without leaders, but also as a member of larger teams in substantial disputes. Carmine also assists foreign lawyers in substantial overseas litigation, and has experience of acting in disputes before the Australian, BVI and Cayman Islands courts.

Carmine has a particular interest and expertise in commercial contract disputes, commercial remedies (including specific performance and injunctions), and interim relief. His specialism in commercial contracts and remedies comes partly from his time in academia, when he completed a doctorate on damages, contractual penalties and relief against forfeiture at Oxford University, and he taught Contract Law, Equity and Trusts at both Oxford and Cambridge University.

Carmine's commercial law practice also draws on his considerable experience as a solicitor in Australia, where he acted for industry leading and high net worth clients in the financial services, communications and construction industries.

***“He is personable, responsive and engaging to deal with.”***

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### Cases

#### **Manek v 360 ONE WAM Limited**

Commercial Court, 2023

Acting (with Lord Falconer of Thoroton) for an asset and wealth management company and its subsidiaries in a claim brought against them for £42 million, arising out of a sale of shares in an Indian company. The causes of action alleged include deceit, intimidation, conspiracy and joint liability.

#### **[Shareholder] v [Shareholder]**

[2022] EWHC 2399 (Comm)

Acting (with Tony Peto KC) for a shareholder of a Saudi company who brings claims in unlawful means conspiracy and breach of contract against other investors, seeking relief of over £10 million. The case has involved various interim applications, including an application for a domestic freezing order and a jurisdiction challenge.

#### **Transomas Ltd v Lime Green Investments Ltd**

Circuit Commercial Court, 2022

Acting for an asset-holding entity and an operator of business properties suing two related entities for debts owing under two complex loan note instruments.

**Dismatrix SPC v Equiti Capital UK Ltd**

Commercial Court, 2022

Acting (with Tony Peto QC) for investors in a Belizean company which traded in the foreign current markets. The investors allege that the company obtained the investments fraudulently and misappropriated most of those monies. The investors therefore claim relief of about USD3 million from an FCA-regulated broker who was involved with the trading, based on unconscionable receipt.

**Re [Several Investment Fund Companies]**

Cayman Grand Court, 2021

Acting (with Andrew Hunter QC, Tom Weisselberg QC and Tom Mountford) for an asset management and investment company resisting winding up petitions brought against several investment fund companies. The contributory petitioner contends that serious misconduct (including conspiracy, breach of directors' duties and charging of unlawful fees) occurred in relation to a total USD300 million investment. The case has also involved an application to discharge an order appointing a provisional liquidator.

**[Shareholder] v [Shareholder]**

BVI Commercial Court, 2021

Acting (with Andrew Hunter QC and Tom Mountford) for a shareholder resisting a winding up petition which another shareholder has brought against an investment fund. The shareholder petitioner alleges that various forms of wrongdoing (including conspiracy, breach of directors' duties and misrepresentation) occurred in connection with a USD200 million investment. The case has also involved an application to discharge an order appointing a provisional liquidator.

**PJSC National Bank Trust v Mints**

Commercial Court, 2021

Acted (with Lord Falconer of Thoroton) for an individual defendant in a case in which the claimant banks alleged conspiracy, fraud and breach of statutory duty under Russian law and sought damages of about USD800 million. The case arose out of the Central Bank of Russia's nationalisation of both claimant banks in 2017.

**LPCM v Utkan**

[2021] EWHC 423 (Comm); [2021] EWHC 830 (Comm)

Acting (with Tony Peto QC) for a regulated financial services provider in a claim against its former de facto CEO and his company alleging fraudulent misappropriation of assets worth approximately EUR146 million and seeking extensive personal and proprietary relief. The case has involved various interim applications, including an application for a search and imaging order, a proprietary injunction and ancillary disclosure order, and a complex summary judgment application.

**ASSIA Inc v British Telecommunications Plc**

Chancery Division, 2021

Acting (with James Segan QC) in a Part 8 claim concerning the proper construction of various clauses in a Patent Licence Agreement and a Settlement Agreement.

**JSC BTA Bank v Ablyazov**

Commercial Court, 2020

Acted (with Robert Anderson QC and Andrew Scott) for several defendants regarding their successful challenge to a range of orders, including an unlimited worldwide freezing order and a provision of information order. The underlying proceedings involved claims for unlawful means conspiracy and transactions to defraud creditors seeking over USD6 billion.

**Vale SA v Steinmetz**

Commercial Court, 2020

Acted (with Robert Weekes) for an individual defending a claim for deceit, unlawful means conspiracy and proprietary relief for £1.25 billion, arising out of a failed joint venture agreement. The case involved various interim applications, including regarding the proper scope of the relevant worldwide freezing order.

**Vale SA v BSG Resources Ltd**

[2020] EWHC 2021 (Comm)

Acted (with Robert Weekes) for a director of a judgment debtor held liable for fraud and owing approximately USD2.2 billion. The director applied to vary or set aside an order requiring him to produce documents regarding the debtor's affairs, and to attend for cross-examination.

**Industrial and Commercial Bank of China Ltd v Ambani**

Commercial Court, 2020

Acted (with Robert Howe QC, Harish Salve QC and Peter Head) for an individual defending a personal guarantee claim for a sum of USD657 million. The case raised issues of contractual interpretation and the authority of agents.

**[Real Estate Development Group] v [Real Estate Development Group]**

ICC Arbitration, 2020

Acted (with Adam Baradon and Barnaby Lowe) for a leading real estate development group in its multi-jurisdictional USD3 billion breach of trust and breach of contract claim against its former joint venture partner.

**Alsanad v Kuwaiti European Holding Company KSC and Al-Humaidi**

London Circuit Commercial Court, 2020

Representing a businessman in his claim under a personal guarantee to recover the sum of £8 million. The case has included a complicated jurisdiction challenge.

### **Matrix Alternative Asset Management LLP (in liq) v Foster**

High Court, 2020

Acted for a former member of a limited liability partnership sued by a liquidator who is seeking to recover an alleged debt. The case has included various interim applications, including an application to set aside an order obtained without notice and a jurisdiction challenge.

### **ArcelorMittal USA v Essar Steel**

Commercial Court, 2019

Acted (with Tony Peto QC, Harish Salve QC, Victoria Windle and Andrew Scott) for a steel and mining company who sought to enforce a foreign arbitral award of USD1.5 billion. The case involved applications for worldwide freezing and information orders in England and abroad, including in the USA, India and the Cayman Islands.

### **Chernovetskyi v Velvet Travel Ltd and Le Barthélemy Hotel and Spa**

London Circuit Commercial Court, 2019

Represented a luxury hotel in its defence of a holidaymaker's claim for relief against forfeiture of his deposit.

### **[Art collector] v [Exhibition Organiser]**

Business and Property Courts, 2019

Acted (with Mark Vinall) for an art collector who claimed against an exhibition organiser alleging that, whilst on loan, the organiser damaged a rare and valuable artwork by the artist Banksy. The case involved technical expert evidence regarding restoration and valuation.

### **PCP Capital Partners LLP v Barclays Bank Plc**

Commercial Court, 2018

Acted (with Robert Weekes) for a private equity firm in its deceit claim for in excess of £700 million against Barclays, arising out of the Bank's recapitalisation at the height of the financial crisis in 2008.

### **Ukraine v Law Debenture Trust Corp Plc**

[2018] EWCA Civ 2026, [2019] 2 WLR 655

Acted (with Ben Jaffey QC) in a successful appeal against summary judgment regarding the Russian Federation's claim against Ukraine for its failure to repay a loan of USD3 billion. The case raised difficult and important issues concerning duress and authority of agents.

## Civil Fraud, Asset Recovery & Injunctive Relief

Carmine has a specific interest in and experience of civil fraud litigation. He is frequently instructed in high value, international fraud claims, which often raise complex conflict of laws issues. Carmine has particular experience of applying for and resisting applications for interim relief, including freezing orders, search and imaging orders, Norwich Pharmacal orders and disclosure orders.

As a commercial litigator, Carmine routinely acted for banks, business leaders and listed companies in complicated civil fraud and asset-tracing and recovery matters. For instance, he represented: several Singaporean banks in a long-running cross-border dispute involving allegations of fraud and breach of fiduciary duty; a leading merchant banker in a deceit claim worth over AUD20 million arising out of an allegedly fraudulent ski resort development; and a major Australian corporation in an extended Australian Federal Police bribery and fraud investigation.

Whilst a Senior Lecturer and Law Fellow, Carmine taught on aspects of fraud and asset recovery whilst teaching Contract, Equity and Trusts. Further, his research on bribery and constructive trusts has been published in distinguished journals such as the Law Quarterly Review and the Restitution Law Review.

## Cases

### **Manek v 360 ONE WAM Limited**

Commercial Court, 2023

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**LPCM v Utkan**

[2021] EWHC 423 (Comm); [2021] EWHC 830 (Comm)

Acting (with Tony Peto QC) for a regulated financial services provider in a claim against its former de facto CEO and his company alleging fraudulent misappropriation of assets worth approximately EUR146 million and seeking extensive personal and proprietary relief. The case has involved various interim applications, including an application for a search and imaging order, a proprietary injunction and ancillary disclosure order, and a complex summary judgment application.

**JSC BTA Bank v Ablyazov**

Commercial Court, 2020

Acted (with Robert Anderson QC and Andrew Scott) for several defendants regarding their successful challenge to a range of orders, including an unlimited worldwide freezing order and a provision of information order. The underlying proceedings involved claims for unlawful means conspiracy and transactions to defraud creditors seeking over USD6 billion.

**Vale SA v Steinmetz**

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## Equity, Trusts & Restitution

Carmine's equity and restitution practice covers all disputes involving actions for equitable wrongs, equitable remedies, unjust enrichment claims and restitutionary remedies. He often acts in legally difficult cases involving claims for breach of trust and breach of fiduciary duty, dishonest assistance and unconscionable receipt, and where both proprietary relief (including following tracing) and personal relief is sought.

As an academic, Carmine published pieces on breach of fiduciary duty, trusts and restitutionary relief in leading journals and books, whilst he also taught undergraduates at Oxford and Cambridge in these areas. Further, his doctoral thesis – supervised by Lord Burrows of the Supreme Court – covered various commercial remedies which included contractual penalties and relief against forfeiture. As a solicitor, Carmine was involved in a broad range of equity and trusts disputes and advisory work, including several high-profile and complex matters.

## Cases

### **Dismatrix SPC v Equiti Capital UK Ltd**

Commercial Court, 2022

Acting (with Tony Peto QC) for investors in a Belizean company which traded in the foreign current markets. The investors allege that the company obtained the investments fraudulently and misappropriated most of those monies. The investors therefore claim relief of about USD3 million from an FCA-regulated broker who was involved with the trading, based on unconscionable receipt.

### **[Energy Company] v [Financial Services Provider]**

LCIA Arbitration, 2021

Acting for a leading energy company in a cross-jurisdictional dispute with a regulated financial services provider, arising out of a fiduciary employee's misappropriation of assets and unauthorised trading. The energy company seeks relief of about £3 million for various wrongs, including for dishonest assistance, unconscionable receipt, breach of contract and breach of the Qunicecare duty.

### **Re Lendy Ltd; Webb v Taylor (No 1)**

[2021] EWHC 2285 (Ch)

Acted (with Andreas Gledhill QC) for a group of investors in a directions application brought by the administrators of a high-profile peer-to-peer lending platform that collapsed. The case raised issues regarding breach of fiduciary duty and equitable proprietary relief, trustee discretions and the proper analysis of 'limited recourse' arrangements. The Court decided each contested issue in favour of the investor group.

### **Re Lendy Ltd; Webb v Taylor (No 2)**

High Court, 2021

Acting (with Andreas Gledhill QC) for a group of investors in a second directions application brought by the administrators of a former high-profile peer-to-peer lending platform. This directions application raises issues concerning breach of fiduciary duty, 'miselling' claims and Berkeley Applegate orders.



### **Vale SA v Steinmetz**

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## **Restructuring & Insolvency**

Carmine has been involved in several high value and complicated insolvency matters, acting for various parties, including officeholders, shareholders and investors. He appears in all divisions of the High Court, and has experience of both trial work and interlocutory proceedings. Carmine's recent insolvency experience includes officeholder's applications for directions, winding up and unfair prejudice petitions, provisional liquidator applications and claims regarding transactions to defraud creditors.

## **Cases**

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High Court, 2020

Acted for a former member of a limited liability partnership sued by a liquidator who is seeking to recover an alleged debt. The case has included various interim applications, including an application to set aside an order obtained without notice and a jurisdiction challenge.

## Financial Services & Banking

Carmine's practice covers a range of financial services disputes, arising both in England and overseas. He appears in financial services matters as sole Counsel or with a leader. In 2020, Carmine acted for the regulators in the first appeal to be heard under the Qatar anti-money laundering regime, in which the regulators successfully secured financial penalties of USD8.5million.

## Cases

### **Manek v 360 ONE WAM Limited**

Commercial Court, 2023

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**LPCM v Utkan**

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Acting (with Tony Peto QC) for a regulated financial services provider in a claim against its former de facto CEO and his company alleging fraudulent misappropriation of assets worth approximately EUR146 million and seeking extensive personal and proprietary relief. The case has involved various interim applications, including an application for a search and imaging order, a proprietary injunction and ancillary disclosure order, and a complex summary judgment application.

**Horizon Crescent Wealth LLC v QFCA and QFCRA**

[2020] QIC (RT) 1

Acted (with Ben Jaffey QC) for the Qatar Financial Centre Authority and Qatar Financial Centre Regulatory Authority in successful appeals concerning breaches of the Qatar anti-money laundering regime and involving financial penalties of USD8,500,000.

## Arbitration

Carmine has been involved in several institutional arbitrations (including under the LCIA and ICC Rules). He also has experience in enforcing arbitral awards.

## Cases

**[Energy Company] v [Financial Services Provider]**

LCIA Arbitration, 2021

Acting for a leading energy company in a cross-jurisdictional dispute with a regulated financial services provider, arising out of a fiduciary employee's misappropriation of assets and unauthorised trading. The energy company seeks relief of about £3 million for various wrongs, including for dishonest assistance, unconscionable receipt, breach of contract and breach of the Qunicecare duty.

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**ArcelorMittal USA v Essar Steel**

Commercial Court, 2019

Acted (with Tony Peto QC, Harish Salve QC, Victoria Windle and Andrew Scott) for a steel and mining company who sought to enforce a foreign arbitral award of USD1.5 billion. The case involved applications for worldwide freezing and information orders in England and abroad, including in the USA, India and the Cayman Islands.

## Offshore

Carmine is frequently instructed in connection with high value, complex commercial litigation abroad. He has experience of acting in disputes before various overseas courts, including those in the BVI, the Cayman Islands and Australia.

## Cases

**Re [Several Investment Fund Companies]**

Cayman Grand Court, 2021

Acting (with Andrew Hunter QC, Tom Weisselberg QC and Tom Mountford) for an asset management and investment company resisting winding up petitions brought against several investment fund companies. The contributory petitioner contends that serious misconduct (including conspiracy, breach of directors' duties and charging of unlawful fees) occurred in relation to a total USD300 million investment. The case has also involved an application to discharge an order appointing a provisional liquidator.

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## ACHIEVEMENTS

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### Education

Bachelor of Arts (First Class Honours) (University of Melbourne)

Bachelor of Laws (First Class Honours) (University of Melbourne)

Bachelor of Civil Law (Distinction) (University of Oxford)

Master of Philosophy in Law (University of Oxford), for the thesis 'Penalties and Forfeitures Reinterpreted' (supervised by Lord Burrows)

Doctor of Philosophy in Law (University of Oxford), for the thesis 'Penalties Reworked: The Rule against Penalties Restated, Justified and Refined' (supervised by Lord Burrows)

Bar Transfer Test (Top of Year) (BPP University)

### Scholarships and awards

- Allan Myers Oxford Law Faculty Scholarship (to read for the BCL)
- Leggatt Melbourne Law Faculty Scholarship (for outstanding academic performance)
- Highest ranked student (Advanced Torts, Contract Law, Civil Litigation, Political Theory, Property Law, Insolvency Law and Modern Political Thought)

### Publications

- 'Deposit Clauses' in Graham Virgo and Sarah Worthington (eds), *Commercial Remedies: Resolving Controversies* (CUP 2017)
- 'The Penalty Rule Revisited' (2016) 142 LQR 382
- 'From Only the 'Bottom-up'? Legitimate Forms of Judicial Reasoning in Private Law' (2015) 35 OJLS 1
- 'No Proprietary Relief for Breach of Fiduciary Duty' (2012) 128 LQR 184
- 'The Death Knell Tolls for Attorney-General for Hong Kong v Reid' [2012] RLR 118
- 'The Continued Obscurity of Economic Duress' [2011] LMCLQ 333
- 'The Jurisdiction to Relieve Against Penalties and Forfeitures' (2010) 126 LQR 529
- Edwin Peel, *Treitel on the Law of Contract* (13th edn, Sweet and Maxwell 2011) (Research Assistant)

VAT registration number: 331021273

Barristers regulated by the Bar Standards Board