

STEVEN FLYNN

Year of call: 2006

Clerked by: Avais Saleem Gary Young

AREAS OF EXPERTISE:

Arbitration Banking & Finance Commercial Litigation
Company Employment International & Offshore Partnership
Sport



Profile

Steven is 'one of the top sports law juniors in the UK' (Legal 500), working across the gamut of sports law. He frequently advises various participants including professional athletes, teams, governing bodies, agents, and players' associations on contractual, commercial and regulatory matters.

During this Covid-19 crisis, Steven has been heavily involved in advising players, clubs and governing bodies on contractual and regulatory issues, as well as assisting them to bring and defend proceedings. Some of the work he has undertaken includes:

- Guiding Clubs through the legal and regulatory framework that applies when seeking to agree a wage deferral;
- Advising Players on their legal rights in the event of a unilateral salary/benefit variation;
- Assisting a governing body to develop a strategy that will limit the financial impact on the sport in the event that the season cannot resume;
- Conducting multi-party disciplinary and sports arbitration proceedings via video link (including those before the Court of Arbitration for Sport); and
- Dealing with disciplinary matters arising from Clubs using coronavirus related issues to conceal wrongdoing.

Given Steven's employment, commercial and regulatory background, he is incredibly well positioned to advise on problems faced by sports arising from the global pandemic, as well as the issues that will arise in its aftermath.

Away from the sports sector, Steven's practice is directed towards business protection. He is regularly instructed to deal with issues arising from employment contracts, breach of confidence, partnerships, restrictive covenants, and shareholder rights/obligations.

Steven is recognised as being, 'technically very astute' and 'liked by judges' (Chambers UK), with ability to "put clients at ease in an instant in even the most stressful of cases." (Legal 500)

Steven has a wealth of experience in arbitration and has been admitted as a Member of Chartered Institute of Arbitrators. He accepts appointments to sit as a sole arbitrator or as a member of a panel (including as chair).

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Areas of Expertise

Arbitration

Steven also offers his service as an arbitrator in sporting disputes. This includes both sitting as a sole arbitrator or as a member of a panel. Steven has particular experience in arbitrations that involve contractual and employment issues in a sporting context, as well as challenges to the decisions of governing bodies. He is willing to accept instruction to carry out a paper-based exercise or to offer a fixed fee service (to include directions, the hearing and drafting of the award).

Steven's work also involves him representing participants before disciplinary and appeals panels, as well in court and at arbitration. This has included Rule K arbitration, the EFL Player Related Dispute Commission, the British Boxing Board of Control Regulation 24 arbitration and referrals to the Court of Arbitration for Sport. Steven has been appointed by British Gymnastics, British Cycling and England Boxing to sit on their disciplinary/appeals panels.

Reflective of his experience and expertise in the sector, Steven has been appointed a Visiting Sports Law Fellow at the Centre for Sports Law Research at Edge Hill University and is regularly invited to lecture on sports law LLMs at a variety of universities.

Banking & Finance

Steven is regularly instructed by banks and other companies operating within the financial services sphere to assist in disputes involving issues of guarantees, mortgages, cheques, mistaken payments, negligent advice, undue influence and restitutionary claims. He also has considerable experience in dealing with disputes arising from consumer credit and leasing agreements.

Steven has also been involved in a number of cases that have involved whistleblowing allegations of market manipulation and insider trading.

Examples of recent cases include:

- Whistleblowing and market manipulation – Advising a director of a publicly traded company on his position in the event that he chose to blow the whistle to the FCA on market manipulation within his company.
- Consumer Credit – Successfully representing a finance company in a conjoined claim where a number of defendants were disputing the enforceability of a credit agreement.
- Insider trading – Advising a PLC where it was suspected that a director had been trading in company shares during the closed period.
- Hire Purchase – Obtaining delivery up of a motor vehicle following conversion.
- Discrimination – Representing banks against claims that they have unlawfully discriminated in the provision of services.
- Appeal – Successfully representing a bank in an appeal where the Defendant sought to appeal a judgment debt three years out of time on the basis that the bank had fraudulently withheld details relating to the enforceability of a credit agreement.

Commercial Litigation

Steven's practice is directed towards business protection, with particular experience in dealing with issues arising from employment contracts; breach of confidence; partnerships; restrictive covenants; and shareholder rights/obligations. He is regularly instructed by both national and international companies including banks, airlines, construction companies, car manufacturers and those within the financial services industry. Steven also represents directors, company secretaries, office holders and shareholders, as well as individuals in disputes with corporate bodies and other individuals.

A summary of recent work can be found below:

Directors' Contracts & Duties

Steven represents directors and companies in matters relating to bonuses; breach of fiduciary duties; claw-backs; misuse of confidential information; removal; and restrictive covenants. Due to Steven's strong employment law background, he is also regularly instructed to represent both companies and individuals in contractual negotiations.

Examples of recent work include:

- Breach of fiduciary duty – Representing a company in a claim for damages arising where a director had set up in competition whilst still engaged.
- Misuse of confidential information - Representing a large insurance broker in a claim against its former CEO who had used its database and pricing formulas to set up in competition.
- Advising on the TUPE status of directors, shareholders and business owners who are also employees.
- Drafting employment service agreements for company directors.
- Advising whether share option entitlements are discretionary or not.
- Representing a company secretary who was alleged to have received high value gifts from a third party as a reward for ensuring a deal was completed.
- Exit packages – Advising a senior safety executive on his exit from a market leading automotive company in circumstances where he may be required to give evidence in the event of a product recall.
- Advising a director of a PLC on his position in the event that he chose to blow the whistle to the FCA on insider trading and market manipulation.

Restrictive Covenants

Steven has considerable experience in dealing with cases involving the drafting and enforcement of restrictive covenants. He is often instructed to seek/resist injunctions and damages in both the High Court, as well as being instructed to provide advice during mediation.

Examples of recent work include:

- Obtaining springboard injunction against a PLC who had poached a senior executive.
- Advising a senior executive as to whether he had been constructively dismissed so as to render void the restrictive covenants contained within his employment contract.
- Representing a solicitors' firm in circumstances where an associate who had been made redundant set up in competition and attempted to poach clients.
- Drafting restrictive covenants for former owner/directors where a company has been bought out and they are to be engaged as employees.

Shareholder Rights

Steven regularly advises individuals and companies on the rights, roles and duties of shareholders. This includes both contentious and non-contentious issues such as share sale agreements, minority shareholder's rights and unfair prejudice petitions.

Examples of recent work include:

- Share Options - Advising a company whether employee share option entitlements were discretionary or not so as to allow for the accurate valuation of the Company prior to sale.
- Representing a group of members in an unfair prejudice petition.
- Representing the owners of a football club in resisting an unfair prejudice petition presented by a fans' group.
- Representing a CEO of a publicly traded company who alleged that he was the subject of anti-Semitic comments by directors in an attempt to force him to resign and sell his substantial shareholding.
- Providing guidance to a national company on the offering, implementation and consequences of Employee Shareholder Agreements.

Partnerships & LLPs

Steven has considerable experience in advising on the establishment and dissolution of partnerships and LLPs. He is often instructed to advise partners on their legal obligations and, when necessary, to assist them in disputes arising from said partnerships. Steven is also one of a limited number of practitioners who has experience of representing partners and LLP members in claims alleging discrimination against the partnership.

Examples of recent work include:

- Representing a member who was unlawfully expelled from an LLP because of his age.
- Advising as to the division of assets following the dissolution of a partnership.
- Providing guidance to an individual who believed he had entered into partnership with a solicitor only for it to become apparent that the solicitor was prevented from doing so by the Code of Conduct (as in operation at the time).
- Representing a former partner in a dispute over whether she was liable to make payment towards an unfair dismissal award where she had opposed the other partner's decision to dismiss.

Sale of Goods/Supply of Goods and Services

Steven is regularly instructed by both Claimants and Defendants in actions involving the sale of goods and/or the supply of goods and services. These cases range from the sale of horses to disputes relating to the supply and carriage of large quantities of steel to Asia; many of which are in the High Court. He also has experience in assisting in the recovery of possessions that have been the subject of conversion.

Examples of recent cases include:

- Advising a rider who purchased a horse that she intended to compete. Upon purchase it became apparent that the seller had withheld the material fact that the animal's leg had been operated upon; thereby making it unsuitable for show jumping.
- Representing a potato farmer in his dispute with an international crisp manufacturer who refused to pay for the goods on the basis that a foreign object in the potatoes had caused damage to their factory.
- Successfully representing a construction firm in a dispute where a client alleged that a number of buildings were substantially defective.
- Representing an individual who purchased what he understood to be a fully restored EType Jaguar. The vehicle turned out not to have been restored and the individual was allowed to reject the vehicle and recover the money he had paid out.

Company

Directors' Contracts & Duties

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- Advising on the TUPE status of directors, shareholders and business owners who are also employees.
- Drafting employment service agreements for company directors.
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- Representing a company secretary who was alleged to have received high value gifts from a third party as a reward for ensuring a deal was completed.
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- Representing the owners of a football club in resisting an unfair prejudice petition presented by a fans' group.
- Representing a CEO of a publicly traded company who alleged that he was the subject of anti-Semitic comments by directors in an attempt to force him to resign and sell his substantial shareholding.
- Providing guidance to a national company on the offering, implementation and consequences of Employee Shareholder Agreements.

Employment

Steven's practice is directed toward business protection. He has particular experience of dealing with employment related issues in the High/County Court. These include:

- Breach of Contract claims in the High/County Court;
- Breach of confidence;
- Misuse of confidential information;
- Partnership disputes;
- Restrictive Covenants.

Some examples of his work in different areas can be found below.

Contracts and Exit Agreements

- Office Holders - Advising on the establishment of a QUANGO; including the transfer of employees and the employment status of Office Holders.
- Service Agreements - Drafting employment service agreements for company directors.
- Share Options - Advising whether share option entitlements are discretionary or not.
- Exit packages - Advising a senior safety executive on his exit from a market leading automotive company in circumstances where he may be required to give evidence in the event of a product recall.
- Financial Services - Advising a director of a publicly traded company on his position in the event that he chose to blow the whistle to the FCA on insider trading and market manipulation within his company.

- Collective agreements – providing guidance as to whether collective agreements were incorporated into contracts of employment following numerous TUPE transfers and an absence of detail as to the date of agreement.

Restrictive Covenants

- Obtaining springboard injunction against a PLC who had poached a senior executive.
- Advising a senior executive as to whether he had been constructively dismissed so as to render void the restrictive covenants contained within his employment contract.
- Representing a solicitors' firm in circumstances where an associate who had been made redundant set up in competition and attempted to poach clients.
- Drafting restrictive covenants for former owner/directors where their company has been bought out and they are to be engaged as employees.
- Advising a professional football coach as to whether his media work could amount to a breach of his contract of employment.

High Court/County Court

- Advising a stockbroker on his claim for breach of contract against his former employer. Value of claim is £4,3 million.
- Injunction to prevent use of information obtained during course of employment.
- Reference – representing a company that was accused of giving an inaccurate reference.
- Advising a long-term, senior employee who has been promised a payment of £10m upon sale of a company.
- Breach of a restrictive covenant – claim for losses arising from breach of covenant.
- Bonus claim by employee for \$300,000.
- Representing a director-employee who was alleged to have misappropriated funds from his employer.
- Claim by company to recover £110,000 that had been lent to an employee but never repaid.

International & Offshore

Partnership

Steven has considerable experience in advising on the establishment and dissolution of partnerships and LLPs. He is often instructed to advise partners on their legal obligations and, when necessary, to assist them in disputes arising from said partnerships. Steven is also one of a limited number of practitioners who has experience of representing partners and LLP members in claims alleging discrimination against the partnership.

Examples of recent work include:

- Representing a member who was unlawfully expelled from an LLP because of his age.
- Advising as to the division of assets following the dissolution of a partnership.
- Providing guidance to an individual who believed he had entered into partnership with a solicitor only for it to become apparent that the solicitor was prevented from doing so by the Code of Conduct (as in operation at the time).
- Representing a former partner in a dispute over whether she was liable to make payment towards an unfair dismissal award where she had opposed the other partner's decision to dismiss.

Sport

Steven is recognised as *'one of the top sports law juniors in the UK'* (Legal 500), dealing with contractual and commercial disputes in this sector, as well as disciplinary and regulatory issues. He is noted as having *'best knowledge of on-field disciplinary work and [as] a go-to in this area'* (Chambers UK) and for his *'niche experience of handling employment disputes within the professional sports world'* (Legal 500). He regularly appears on his own against QCs or leading a multi-disciplinary team in complex disputes.

Steven is regularly instructed by players, clubs, agents, governing bodies, players' unions, fans and sponsors across a wide variety of sports including football, rugby union and league, boxing, tennis and golf. He has advised at all levels of sport and has acted for and against many high profile participants and organisations including matters involving: the FA; the RFU; the Premier League; Manchester United FC; Manchester City FC; Chelsea FC; Liverpool FC; the LTA; Rotherham Titans RFC; Bradford Bulls RLFC; Toronto Wolfpack RLFC; Chester Racecourse; Archery GB; the PFA; the RLPA; the FSF; and many others. He has also been instructed by high profile companies who wish to enter into commercial rights/sponsorship agreements with such organisations.

In addition to dealing with commercial and regulatory matters, Steven is also regularly instructed in cases relating to discrimination in sport. He

has experience in advising on the rights and obligations imposed on players, clubs and governing bodies by the Equality Act 2010 including appearing in a trial due to last 6 weeks where a participant claimed £120 million from a governing body.

Steven's work also involves him representing participants before disciplinary and appeals panels, as well in court and at arbitration. This includes Rule K arbitrations, the EFL Player Related Dispute Commission, the British Boxing Board of Control Regulation 24 arbitration and before the Court of Arbitration for Sport. Steven has been appointed by British Gymnastics, British Cycling and England Boxing to hear disciplinary/appeals panels.

Reflective of his experience and expertise in the sector, Steven has been appointed a Visiting Sports Law Fellow at the Centre for Sports Law Research at Edge Hill University and is regularly invited to lecture on sports law LLMs at a variety of universities.

A summary of his work in different areas can be found below:

Agents

Steven is regularly instructed by sports agents who seek his assistance in the drafting of agency agreements so as to adequately protect their interests. He also advises participants as to the legal implications of any agency agreement that they are planning to enter and represents both agents and participants in breach of contract/unpaid fee disputes. He has recently:

- Represented a manager in a British Boxing Board of Control Regulation 24 Arbitration in a £30 million claim against his former client.
- Represented a player in Rule K arbitration proceedings relating to a claim for commission arising from his transfer to the Chinese Super League.
- Advised an English international footballer on the enforceability of a contract he had entered with a sports agency.
- Represented a professional darts player in his dispute with his former manager.
- Advised a sports agency on a claim for non-payment of fees by a club and the referral of the dispute to the Court of Arbitration for Sport. Drafted an agency agreement for use by a World Champion boxer.
- Advised a footballer as to the potential remedies available to him against an agent whose actions had prevented his move to a Premier League club.
- Representing agents accused of inducing a player to breach their contract.

Anti-Doping & Mechanical Doping

Steven is instructed by governing bodies, clubs and participants to assist in relation to anti-doping matters. This includes investigations, internal disciplinary proceedings and hearings before the National Anti-Doping Panel.

Steven also has experience of dealing with mechanical/electronic doping in cycling, having represented a cyclist who was accused of manipulating data to improve his access enhanced eRacing equipment.

Recent cases include:

- Representing a governing body before the NADP in a case where the athlete contended that the source of the prohibited substance was training supplements that he had been provided with from a reputable source.
- Football – Representing a professional footballer alleged to have provided a sample that contained a prohibited substance.
- Rugby – Acting for a player who was accepted that he had committed an ADRV but who sought to argue that he bore no fault, or, in the alternative, no significant fault.
- Rugby – Acted for 3 players who were found to have taken recreational drugs who sought to argue that the drugs were taken out of competition so as not to attract a ban. Steven also advised them on the internal disciplinary matters arising from the same allegations.
- Boxing – Instructed by the boxer's manager to review and advise on tactical response to an allegation that the boxer had injected nandrolone. The boxer contended that the source of the nandrolone was contaminated food. This involved an examination of the testing process and expert evidence as to whether the source of the elevated nandrolone was exogenous and endogenous.

Disciplinary and other internal proceedings

As well as representing clubs and participants who were subject to disciplinary action before the RFU, FA, RFL and PGA, Steven has also sat as a disciplinary officer for British Gymnastics, British Cycling and England Boxing. He has also represented participants seeking to overturn disciplinary sanctions through Rule K arbitration. Recent cases include:

- Representing the RFU at the disciplinary hearing where an England international was found to have made homophobic remarks during the course of the game.
- Representing a governing body in a 'tapping-up' case where both the agent and the approaching club were found to have acted in breach of the sports regulations.
- Representing an English rugby union international who was cited the week before the 6 Nations Championship. If the citing was upheld, the player would have missed the Championship. The citing was dismissed, and the original yellow card rescinded.
- Representing a high-profile football coach accused of having made racist comments towards players.
- Representing a football club charged by the FA with failing to control their players in circumstances where they were alleged to have racially abused their opponents during a match. The club was cleared before an FA disciplinary panel of any wrongdoing.
- Advising an owner who was banned from all football related activity as he challenged the sanction through the Rule K arbitration.
- Represented a professional footballer accused of match-fixing/manipulation.
- Representing a football league that was called before an FA Commission of Inquiry arising from a fundamental breakdown in the relationship between the league and the County FA.
- Representing a golfer who was called before the PGA Disciplinary Committee for alleged misconduct.

Discrimination in Sport

Steven has a great deal of experience of cases involving discrimination in a sporting context. He represents participants at all levels, from those who are attending their first coaching session through to elite athletes who have suffered loss of funding or career damage because of discrimination. He also advises service providers (e.g. clubs, governing bodies, venues) as to their duties under the Equality Act 2010. Examples of his work include:

- Representing a talented tennis player in a claim alleging discrimination, harassment and victimisation against the Lawn Tennis Association. The player alleged that the LTA's actions had caused career long losses exceeding £120 million. The case was listed before HHJ Hand in the Central London County Court for a 6 week trial at which Steven was led by David Berkley QC.
- Advising a Paralympian who had been subjected to harassment by the governing body of his sport.
- Advising a disabled supporters' group seeking to challenge a Premier League Club's compliance with its duty to make reasonable adjustments and failure to comply with the Accessible Stadia guidance issued by the Sports Grounds Safety Authority.
- Representing a child who was excluded from a sports club because of his disability.

Player/Participants Contracts and Transfers

Agents, players and clubs regularly instruct Steven to consider issues surrounding employment/funding contracts. He also provides guidance on legal issues that arise during transfers and representation in breach of contract claims. Some of his recent cases include:

- Advising a football scout accused of conspiracy, including a breach of contract and breach of fiduciary duties in a claim for in excess of £4 million.
- Representing the owners of a football club in a £20 million plus unfair prejudice claim.
- Assisting a football coach to secure a high value exit package from a Premier League football club.
- Representing 43 ex-players and staff dismissed by a professional rugby league team.
- Advising 3 professional athletes who were subject to disciplinary proceedings following drugs-related allegations.
- Advising senior coaches/executives on their exit packages.
- Representing a professional rugby club in a breach of contract claim pursued by their former first-team coach.
- Advising a professional football club on player contracts in light of amendments to the FIFA Regulations.
- Representing a football player before the EFL Player Related Dispute Commission.
- Advising a professional football coach as to whether his media work could amount to a breach of his contract of employment.
- Advising a Championship level football coach on the form and content of his contract.
- Advising on the contractual status of a professional golfer.

Sale and Purchase of Clubs/Sporting Venues

Given Steven's commercial law background and sports sector experience, he is positioned to advise on issues relating to the sale and purchase of sports clubs and venues. His work has included drafting an agreement for use in a £100 million deal. Some of the work he has done includes:

- Being instructed by the sellers of a Premier League club to advise on the terms of sale and to redraft the proposed Share Purchase Agreement.
- Representing the owners of a football club in a £20 million plus unfair prejudice claim.
- Advising a 'fans group' on their buy-out of a football club in administration. This included advising on the purchase of items that vested with the Crown; drafting a new constitution; and providing guidance on the terms and conditions of player contracts.
- Dealing with a minority shareholder dispute in relation to the ownership of a race course.

Sponsorship/Image Rights

Steven has a particular interest in sponsorship and image rights agreements. He has been instructed by numerous agents, clubs, participants and sponsors to assist with the negotiating and drafting of such agreements and advise and represent them when such agreements breakdown.

Recent examples of his work in this area include:

- Advising a French international football player on his image rights agreement and its interaction with the Premier League contract and other global sponsorship agreements.
- Advising a football club in circumstances where their sponsors sought to exert influence over the club's transfer policy.
- Representing a sponsor in a claim against a Super League team for failure to provide services detailed in the sponsorship agreement.
- Advising commercial enterprises on the use of player image rights (soft IP).
- Representing a sponsor who sought to terminate their contract with a football club and seek damages in circumstances where the club's conduct had caused the sponsor reputational damage.
- Providing guidance to agents on how to arrange sponsorship deals so as to maximise the value of their players' image rights across multiple global regions.

Arbitration

Steven also offers his service as an arbitrator in sporting disputes. This includes both sitting as a sole arbitrator or as a member of a panel. Steven has particular experience in arbitrations that involve contractual and employment issues in a sporting context, as well as challenges to the decisions of governing bodies. He is willing to accept instruction to carry out a paper-based exercise or to offer a fixed fee service (to include directions, the hearing and drafting of the award).

Steven's work also involves him representing participants before disciplinary and appeals panels, as well in court and at arbitration. This has included Rule K arbitration, the EFL Player Related Dispute Commission, the British Boxing Board of Control Regulation 24 arbitration and referrals to the Court of Arbitration for Sport. Steven has been appointed by British Gymnastics, British Cycling and England Boxing to sit on their disciplinary/appeals panels.

Reflective of his experience and expertise in the sector, Steven has been appointed a Visiting Sports Law Fellow at the Centre for Sports Law Research at Edge Hill University and is regularly invited to lecture on sports law LLMs at a variety of universities.

Memberships

British Association for Sport and Law

Employment Law Association

Employment Law Bar Association

The British Irish Commercial Bar Association

Appointments

Visiting Sports Law Fellow at the Centre for Sports Law Research, Edge Hill University

British Gymnastics Disciplinary Appeal Panel Member

British Cycling Disciplinary Appeal Panel Chair

England Boxing Disciplinary Panel Member

Sports Resolutions' Pro Bono Legal Services Panel

Qualifications

Member of the Chartered Institute of Arbitrators

Cardiff University

Cardiff Law School

Gray's Inn

Recommendations

Chambers UK 2021

"Thoroughly confident and liked by judges."

"Technically very astute"

Legal 500 2021

"Steve is one of the top sports law juniors in the UK, with experience across a number of sports and expertise in commercial and regulatory disputes."

"Steve is very knowledgeable of the sports sector, and extremely user friendly. He is contactable at all times, day or night and can put clients at ease in an instant in even the most stressful of cases."

"Consistently good and very reliable."

Chambers UK 2020

"Very clear and concise in his advice to clients. Extremely knowledgeable when it comes to rugby, in particular when dealing with regulatory matters." "He has the best knowledge of on-field disciplinary work and is a go-to in the area."

Legal 500 2019

"A very grounded barrister with a great intellect."

"[Has] niche experience in handling employment disputes within the professional sports world."

Legal 500 2017

"Very knowledgeable, thorough and technical."

