

# Curriculum Vitae

## Eoghainn CM Maclean, Advocate With leading Scottish set, Ampersand Advocates

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### Profile

Eoghainn (pronounced "A1") is a leading commercial litigator, ranked by [Chambers](#) and [the Legal 500](#).

In 2020, he returned full time to the commercial bar after a year as permanent Crown Counsel, leading High Court (i.e. Crown Court) prosecutions in back to back jury trials, preliminary and sentencing hearings.

Eoghainn has handled hundreds of commercial, competition, property (including planning and IP) and professional liability cases before the highest civil courts. He conducts them as lead counsel.

### Practice

- Accounting & fraud; administrative; agency
- Banking & finance
- Competition; company; contracts; construction; crime
- Defamation & media; diligence
- EU law; evidence & procedure; HR
- International private law, insolvency; insurance; IP & IT; interim remedies
- Land & property; leasing; lending & securities; moveable property
- Partnerships; professional negligence; public law; public procurement; prescription & limitation
- Shipping & transport; sports; supply of goods & services
- Tax; trusts & succession
- Unjustified enrichment

### Experience

Eoghainn regularly appears in the civil, commercial and appeal courts of Scotland, as well as other courts, tribunals and inquiries, including parliamentary hearings. He has been instructed for extended proofs, as well as individual hearings. He has long experience of negotiating settlements of commercial disputes. (see his [webpage](#)).



Eoghainn MacLean



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## Recent Reviews

***“If you need someone in your corner instruct Eoghainn. Quick to get up to speed. Superb on his feet in court - and he explains what is going on to clients. Best at complex commercial cases. Superb legal brain. Good with clients and wins cases.”*** Stuart MacFarlane, partner & office head, Weightmans, solicitors, Glasgow

***“Eoghainn is consistently thorough and very user-friendly. He is exceptionally good at analysing complex issues and explaining difficult concepts to clients.”***

Fraser Geddes, partner & head of dispute resolution, Anderson Strathern, solicitors, Glasgow

***“Eoghainn is a determined and focused litigator who pounces on the relevant facts and applicable law. He makes the complex understandable and navigates your case in the correct direction. You definitely want him on your side!”***

Richard Frenz, partner & head of court department, Miller Hendry, solicitors, Perth

***“Eoghainn relishes mastering complex issues ...and will not shy away from running difficult cases.”***

John McHugh, partner, Harper MacLeod, solicitors, Edinburgh

***“Eoghainn’s careful approach is invaluable in complex commercial cases”***

Graham Craik, Partner, Levy & McRae Solicitors, Glasgow

***“Eoghainn is particularly good at presentation of the client’s case in Court. He has shown he “can deliver” in the most complex of cases.”***

Drew Taylor, Consultant, Shepherd and Wedderburn, solicitors, Edinburgh

***“Eoghainn is an outstanding advocate who gave us the confidence to pursue our case and win.”***

Eileen Gallagher OBE & Ann McManus, co-founders Shed Productions, London

## Professional Background

- 1995 called to Bar
- 1993-94 commercial litigation, McGrigors (now Pinsent Masons)
- 1989-93 traineeship & commercial, McClure Naismith
- 1989 DipLP, Glasgow (general excellence & accountancy prizes)
- 1988 LLB, Glasgow (Private Law Honours, tax 1<sup>st</sup> prize, multiple distinctions)





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### Recent Appointments

- 2018-2019 Advocate-Depute: Full time Crown Counsel in High Court prosecutions
- Since 2011 *ad hoc* Advocate-Depute: Crown Counsel in High Court prosecutions
- Since 2015 Faculty of Advocates Disciplinary Investigating Committee
- Since 2015 Director of Armstrong & Armstrong Ltd, property investment company

### Recent Teaching

- 2017-18 Law Society Leadership Programme
- 2017 Fraud in Commercial Contracts lectures, Law Society
- 2014 Advocacy skills workshops for solicitors-written pleadings
- 2013 Cross border football club transfers: competition law, lectures
- 2013 Prescription (i.e. Limitation) of commercial claims, lectures
- 2012 Procedure in commercial, judicial review & others causes, lectures
- 2011-12 Advocacy skills workshops for solicitors-expert evidence
- 2011-13 Advocacy skills workshops for solicitors-examinations in chief & cross  
    *"Eoghainn Maclean was brilliant..."* feedback 2011 course for Law Society

### Recent Publications

- Competition Law: cross border football club transfers:  
    Sunday Express, sports section, 14<sup>th</sup> September 2014  
    <http://tinyurl.com/m5e8svq>
- Daily Record newspaper, sports section, 6<sup>th</sup> February 2013  
    <http://tinyurl.com/addx5ao>
- Scotsman newspaper, sports section, 26<sup>th</sup> January 2013  
    <http://tinyurl.com/belamdww>
- Scotsman newspaper, law section, 30<sup>th</sup> July 2012  
    <http://tinyurl.com/csd8vlu>
- Error in property and contract law  
    Journal of Law Society of Scotland, 21<sup>st</sup> January 2013  
    <http://tinyurl.com/cft7cy3>
- Greens Civil Practice Bulletin, Court of Session Reports

### Recent Law Reviews

- 2012 Faculty committee on UK legislative proposals on private actions in competition law
- 2011 Faculty committee on EU legislative proposals for bank account preservation orders



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### Selected Cases

- Counsel for parties in *italics*
- Cross border cases marked “#”

### Commercial

**Guidi v Clydesdale Bank plc & Promontoria (Chestnut) Limited 2021** Complex commercial action to over-turn pursuer’s bankruptcy following liquidation of his multi-£m property group by wealthy US vulture fund.

**Paterson v Angelline (Scotland) Ltd 2021** Complex commercial court dispute for £1.5m due under agreement for sale of pharmacy group on finalisation of completion accounts.

**The Rangers Football Club Ltd v Scottish Professional Football League Ltd & Doncaster 2020** High profile cooperate governance dispute with league body over its decision to end season 19/20 early due to pandemic and award championship to Celtic.

**Hugh Hodge Ltd v R&C Rettie 2019** Defence of action and counterclaim in complex contract farming dispute.

**KPBOS Ltd v Burnhead Ltd & others 2018** Commercial actions in unjustified enrichment for repayment of £1m paid in advance of failed commercial and property transactions; interim security.

**MKGH Ltd v HMRC, Root 2 Tax Ltd & EDF Tax LLP 2018#** Advising on £4½m tax assessments, from EBT and Alchemy schemes, appeals, DOTAS notifications, accelerated payment, and follower, notices, judicial review and negligence proceedings.

**MT Properties v RBS plc 2018#** Complex £½m claim for mis-selling interest rate swaps.

**EDQ Travel Ltd v Barrhead Travel Services Ltd 2017#** Commercial action for accounting and payment following termination of franchise agreement.

**Melville v Secretary of State for Business Innovation & Skills 2016** Complex application for leave to be a director of multiple companies while disqualified.

**City Refrigeration Holding (UK) Ltd v Dawn Construction Ltd & Others 2016** For design & build contractors at extensive proof in complex commercial action for £2.5m in damages for defective construction of headquarters building, involving design team & sub-contractors.

**Retail Property Holdings Ltd v Dunne Building & Civil Engineering Ltd, WSP UK Ltd & Others 2015#** For engineers at extensive proof in complex commercial action for £7m in damages for defective construction of large multi storey car park at leading retail shopping complex, involving contractors, professional team & sub-contractor.

**BA Law Ltd, McManus & Gallagher v Conway 2015** Complex incorporated professional practice deadlock and private equity funding dispute and proceedings; protracted structured negotiations resulting in successful buy-out and debt restructuring.

**Nemo Personal Finance Ltd v Millar 2015#** Defence of borrower’s claim for invalidation of lender’s fixed security under new unfair credit relationship jurisdiction.

**Nemo Personal Finance Ltd v Lauchlan 2014** Action for unjustified enrichment by

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discharge of prior indebtedness with bank's funds conferred by third party's fraud.

**Ransome v Dueck & CEO Wealth Management Inc 2014#** \$1.3m action for payment and damages in offshore wealth management partnership dispute.

**Skelly v Payne 2014#** Action for damages against third party for fraudulent participation in agent's breaches of fiduciary duties; complex recovery of evidence & confidentiality.

**Lujo Properties Ltd v Bar 396 Ltd & RBS plc 2014** Commercial action for orders transferring premises licences for city centre night clubs and bars.

**National House-Building Council v McMahon & McLean 2013#** Action for indemnity under directors' guarantees of development company's obligations.

**Baxters Food Group Ltd v Kelkin Ltd 2011#** £1m commercial action for damages for failure to use best endeavours in breach of international distributorship agreement.

**Hegarty v Sherriff 2011#** Action against company's former solicitor for recovery of fraudulently misappropriated funds; diligence and foreign interim security; jurisdiction.

**McCann v HMRC & Scottish Charity Regulator 2011#** Registration and recognition for UK tax purposes of charity to investigate and prevent child abduction in EU.

**Duffield Morgan Ltd v Sportsgrounds Ltd 2010** Damages action for delay and defective construction of championship golf course; complex design, construction and valuation evidence.

**Alexander George & Co (Investments) Ltd & Campbell v Corbett 2009#** Multiple proceedings preventing winding up of leisure development company and sequestration of its managing director on a commercial debt instrument.

**Corbett v Corbett 2009 GWD 27-437** Challenge to competency of Inner House appeal.

**Sunderland Marine Mutual Insurance Co Ltd v BOC Ltd 2008#** Defence at extended proof in damages action for sudden death of ½m salmon supposedly due to loss of oxygen supply to fish farm; complex scientific and technical evidence and multiple experts.

**Production Systems Modelling Ltd v Pringle 2006#** Defence of action for damages for breach of director's fiduciary duties; complex law and evidence.

**Headrick's Trustee 2005 SCCR 787#** Bank's counsel at extensive bankruptcy inquiry to trace assets from £8m fraud on foreign bank into offshore trusts and property.

**Prestwick International Airport Facilities Ltd v Scott Wilson Kirkpatrick & Partners (Scotland) 2005#** £4.5m damages action for delay and defective completion of airport railway station; complex design, engineering and technical evidence and multiple experts.

**Universal Steel Ltd v Skanska Construction UK Ltd 2004#** Defence of commercial action on production, testing and storage of engineering components for nuclear munitions facility; Inner House appeal; multiple commissions for recovery of evidence; complex proof.

**Semple Cochrane plc v Clark 2003 SLT 532#** Defence of damages action against chairman for fraudulent £15m overstatement in accounts; extensive recovery of commercially sensitive documents; legal professional privilege.

**Atlantic Telecom Group plc 2001#** Petition for sanction of £200m creditor's scheme of arrangement under the now section 899, Companies Act 2006.

**NWS Trust Ltd v Siwek 1999 GCCR 3545#** Banking appeal to Inner House on statutory default procedures and supposed harassment by creditor.



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### Competition

**Geek Gear Ltd v Geekycraftstuff Ltd & Lenaghen 2020** Commercial action to exclude the defenders from competing worldwide in the conduct of e-commerce business for the retail sale of Harry Potter and other wizardry themed products.

**City Cabs (Edinburgh) Ltd v City of Edinburgh Council 2016** Defence of public procurement action and recovery of evidence at hearings before proof.

**Goodfellow Environmental Maintenance Ltd v Perth & Kinross Council 2014** Action for damages for bid-rigging and fraudulent disclosure of tenders in public procurement.

**C&F Green Energy Ltd v Secretary of State for Energy and Climate Change 2011#** Judicial review against restrictions on competition and loss of £20m of production caused by new scheme for accreditation of wind turbines for Feed-in Tariff payments.

**Culture & Sport Glasgow (Trading) CIC v Glasgow City Council 2010#** Public procurement dispute on application of rules, under EU and national law, to municipal authority's "in-house" contracting structures.

**Prestwick International Airport Facilities Ltd v Watson's Ayr-Park Ltd 2005 SLT 1041, Prop LB 2006, 80, 6, to 2009#** Private competition action to exclude off-site car parking competitor's shuttle buses from airport's roads opposed as an abuse of a dominant position; interim remedies; complex economic and technical evidence and multiple experts; Inner House appeal; extended proof.

**Glasgow Prestwick International Airport plc: Transport (Scotland) Act 2005#** <http://tinyurl.com/pl7tzso> Airport's counsel in written and oral submissions to Scottish Parliament and Enterprise Committee on airport parking and transport competition issues.

**Morton Machine Co Ltd v WAM Spa 2004#** £2m private competition action for damages against Italian manufacturer for receipt of illegal state aids under EU law.

### Property (including Planning & IP)

**Duke of Argyll v Ministry of Defence 2021** Novel £7m damages action for depositing explosive ordnance on land used as military range in WWII.

**Hingston v Craigellen Assets Ltd 2021** Defence of commercial tenants' action for declaration that office lease had been terminated 5 years early on invalid break notice.

**Howard v Howard's Executor 2020** Defence of complex action for reduction of testamentary disposal of rural land supposedly in breach of historical lifetime agreement.

**Josephine Marshall Trust v Charlton 2019 UT 34#** For rural estate in successful appeal for repossession of private rented property which it intended to demolish in the face of an outstanding repairing standards enforcement order.

**Buxton, McLeod & McAliece v Stoneywood Developments Ltd 2018** Batch of actions against housing developers for damages for reducing the size and value of pre-purchased houses during construction.

**Blackhouse Watersports, Tiree v Argyll & Bute Council 2017 (PPA-130-2062)** Public hearing of planning application and planning appeal for controversial island beach development.

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**Galbraith v Hope Homes (Scotland) Ltd 2017** Defence of test action against housing developer for misrepresentations in sales of houses in mixed development.

**Schaufuss v Glendola Leisure (Holdings) Ltd 2016#** Defence of commercial action for implement of planning conditional sale of £2m city centre property, founded on application of the condition in light of the planning procedure and outcome.

**Miller Developments Regeneration Ltd v A&D Logistics Ltd 2016** Defence of commercial action for implement of planning conditional £3m development land purchase, founded on application of the condition in light of the planning procedure and outcome.

**Ruxton v Haggart 2015** Defence at proof of action for implement of property purchase agreed in settlement of prior litigation, founded on lack of common contractual intention.

**St Columba Gaelic Church v Presbytery of Glasgow 2015** Appeal to Church of Scotland's appellate committee against closure and sale of city centre church.

**City of Edinburgh Council 2014** Petition for authority to sell common good land, within UNESCO world heritage site, for multi-million-pound Market Street Hotel development.

**Don Valley Ltd v LCP Securities Ltd 2014** Action for termination of commercial lease and guarantee and defence of dilapidations counterclaim.

**Donaldson v Bank of Scotland 2013** Defence of action for reduction of bank's security for supposed fraud and counterclaim for unjustified enrichment by discharge of prior indebtedness with the bank's funds.

**McSorley v Drennan 2013 SLT 505 (IH); Edin LR 2013, 17(1), 68-71; JLSS 2013, 58(1), 34-35** Successful defence of damages claim arising from solicitors' error that resulted in additional land being conveyed to their clients and then on to a third party on a subsequent sale, with implications for law of contract, property and unjustified enrichment; debate and two appeals.

**Motor Components LLC & Purolator Inc v Walker 2012#** Commercial action to prevent import of motor components by on-line retailer in breach of trade-marks and payment of prior profit earned from it.

**NHS Greater Glasgow & Clyde v MacTaggart & Mickel Ltd 2011** Claim on construction of multi-million pound development agreement and party's obligations to negotiate variations.

**Lujo Properties Ltd v RBS plc & Schuch Ltd 2009 SLT 553** Commercial actions for declaration of tenants' liabilities for shares of reconstructing common parts of recent multi-million pound retail development in Glasgow city centre; complex engineering, construction, surveying and other technical evidence, multiple experts; interim remedies; expenses.

**Systems Division Inc v Teknek Electronics Ltd 2007 CSOH 85#** Defence of action to enforce \$3.7m US judgment for patent infringement; extensive domestic and international authority on IP, enforcement, human rights and IPL.

**Kenneil v Kenneil 2006 S.L.T. 449** Action of division and sale of £3m rural estate; challenge to prior unfavourable remit and report; new remit and report; multiple hearings on detailed orders for sale and implement of sale process.

**Minorplanet Ltd v Geo-Net Telematics Ltd 2004#** Action to prevent use of confidential customer database unlawfully obtained by departing senior management and damages.

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***Lujo Properties Ltd v William Hill Organization Ltd 2003*** Commercial action by landlord to enter unit and reconstruct common parts of recent multi-million pound retail development in city centre and declaration of tenant's liability for share of works; complex engineering and technical evidence; interim remedies; expenses.

***Miller Homes Ltd v Frame 2001 SLT 459*** Commercial action to enforce option agreement for purchase of £10m residential development site; interim remedies.

***CGL Cometec Ltd v McIntyre 2001#*** IP action for declaration of right to property in an industrial invention and to patent it; interim remedies.

### Professional Liability

***Huntaven Properties Ltd v Gunner 2018#*** Defence of complex £5m damages action for civil engineer's supposed negligence in his expert evidence in prior construction dispute.

***Bank of Ireland (UK) plc v Turner Macfarlane Green LLP & Another 2016*** Defence of complex damages actions against solicitors for supposedly failing to prevent multiple mortgage frauds and hearings for enhanced indemnity expenses.

***Bank of Scotland v Golds & Stirling, Eunson & Ferguson 2014*** Complex commercial action for damages for two solicitors' firms' negligence in protracted property dispute.

***Mortgage Express v Dallas McMillan 2013#*** Damages case for solicitors' negligence in failing to prevent multiple mortgage frauds.

***A Picken & Sons v South Ayrshire Council 2012*** Public body's liability in damages for losses caused to food retailer by mistaken identification of e-coli.

***Forth Housing Association Ltd v McGhie, Chambers Ltd & Cheine & Tait 2011#*** Defence of damages action for financial advisors' and auditors' negligence; indemnity; personal bar; complex investment and accounting evidence and multiple experts.

***Alexander George & Co (Investments) Ltd & Campbell v Burness 2010*** £1m damages action for Solicitors' negligence in failure to complete long term debt instrument re-negotiation and discharge; prescription (i.e. limitation); expert evidence.

***Wallace Hodge & Co v MTS Properties Ltd 2010*** Defence of counterclaim by group company for solicitors' negligence in multiple transactions; complex evidence.

***Elie House Proprietors v Zurich Insurance Company 2010*** Dispute on building construction insurance and solicitors' professional negligence arising from defects in common parts of new residential development.

***Unchained Growth plc v Gray 2005 CSOH 99#*** Defence of complex £1m damages action for directors' negligence in operation of tax efficient property investment scheme; Inner House appeal.

***Ferrier Pumps Ltd v Dundas & Wilson 2004*** Damages action for solicitors' negligence in engineering arbitration dispute; complex factual and expert evidence.

***Gooch Webster Ltd v McGrigors 2002#*** £5m damages action for solicitors' negligence in UK management buy-out; prescription (i.e. limitation); IPL; complex expert evidence.