



#### Year of Call

1994

#### Devil Masters

The Hon Lord Pentland (then Paul B Cullen KC)

Sheriff Principal CAL Scott KC

Frances McMenamin KC



## Practice Profile

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Eric is a highly experienced litigator with a diverse civil practice, which covers commercial and property related issues in the Commercial Court, Court of Session and Sheriff Courts. Eric also represents parties in arbitrations and, on occasion, carries out the duties of commissioner in recovering documentary and electronic evidence.

Eric has a wide range of knowledge and experience in contract (including building contracts); reparation; professional negligence; commercial property; partnership and agency; and company law (including unfair prejudice petitions, director disqualification and insolvency). Other areas of expertise include judicial review, unjustified enrichment, data protection and intellectual property cases involving patents, copyright and passing off claims.

An important aspect of Eric's skill set is his use of principled negotiation to resolve disputes. He has represented and advised parties in mediations and is adept at using negotiating skills and insights in a variety of contexts.

## Education & Professional Career to Date

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Associate Partner, Litigation, Dundas & Wilson CS, Edinburgh (1990-93)

Litigation Assistant, Dundas & Wilson CS, Edinburgh (1985-90)

Trainee Solicitor, Maclay Murray & Spens, Glasgow and Edinburgh (1983-85)

LLB (Hons), 2:1 (Edinburgh, 1982); Diploma in Legal Practice (Edinburgh, 1983)

Further qualifications: Law Society EC Law (1992); Faculty of Advocates exams in IPL, Evidence and Professional Conduct (1994); NITA Advocacy Programme (1994)

## Appointments

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- Advocate Depute (2017–present)
- Stable Director of Arnot Manderson Advocates (April 2011 –October 2013)

## Selected Cases

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- **Soccer Savings (Scotland) Limited v Scottish Building Society (PBA before Lord Hodge, January 2013)**  
Commercial dispute about misrepresentations inducing contract and Data Protection Act breaches
- **Trunature Ltd v Scotnet [1974] Ltd 2008 SLT 653**  
Second Davison case upholding the respondents' submissions about the interaction of agent and clients' awards and additional fee provisions
- **Narden Services Ltd v IRBP [2008] SC 335**  
Human rights aspects of admissibility of evidence recovered by specification where there was delay in asserting confidentiality
- **Wilson v Jaymarke Estates Ltd, no. 2 [2006] SCLR 510, and affirmed in the House of Lords [2007] BCC 883**  
Shareholder's petition complaining of unfairly prejudicial conduct in the running of a private company
- **McGraddie v McGraddie [2012] SCIH 23; [2012] GWD 15-310**  
Successful argument on appeal to Extra Division that the Lord Ordinary was "plainly wrong" in his treatment of property transfer evidence
- **Aziz v Whannel [2010] CSOH 136; [2010] GWD 33-682**  
Issues of construction in relation to unclear and incoherent missive provisions
- **Macdonald v Free Presbyterian Church [2010] SCLR 475**  
Successfully repelling a mora plea in a judicial review of church procedures
- **Watts v Bell & Scott WS [2007] SLT 665 [2007] PNLR 30**  
The principled approach to the loss of development profit in a lost bargain
- **AR Communications v HMRC (First-tier Tax Tribunal) [2011] UKFTT 637 (TC)**  
Analysis of detailed technical evidence and submissions concerning VAT claim in the context of contra trading schemes

## Areas of Practice

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- Clinical and Professional Negligence
- Commercial
- Property
- Public Law
- Taxation

## Publications & Seminars

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Regular advocacy skills instructor in the Faculty of Advocates Foundation and Supplementary Courses for Devils; has given talks on written pleadings, appeals and thorough approaches to handling evidence and argument.

In 2015 was judge in Edinburgh University Commercial Law Group Negotiating Competition and in the Scottish Final of the International Negotiating Competition at Glasgow University.

In 2014 devised and presented Scottish Property Law Course for CLT, tailored to the needs and experience of their English qualified in house lawyer clients.

Instructed and reviewed young court lawyers in advocacy skills courses for SYLA provided by Arnot Manderson Advocates in 2011, 2012 and 2013

Coached Northern Irish barristers in 2010 and 2011

Imparted advocacy skills training to Children's Panel Reporters in 2009

Has delivered talks on specific implement and interim remedies, unfair prejudice petitions, competition law and property related issues to the Law Society, Glasgow Bar Association, CLT and in-house lawyers and at Arnot Manderson conferences

## Directories

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Chambers and Partners 2021 Bar Guide: Scotland (Bar) Commercial Dispute Resolution, Band 2

"He has the ear of the court as he is charming, yet forceful, in submissions. An all-round great litigator with a variety of experience."

"Excellent and thorough."

## Additional Information

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Principal devilmaster to 5 devils and subsidiary devilmaster to others

Reasonable IT proficiency

Reasonable knowledge of French

CEDR-accredited mediator (1993) followed by additional mediation training with Core (2007)

Trainer as Advocacy Skills Instructor by NITA at Harvard University (2000)