

STEFAN RAMEL SUCCESSFULLY REPRESENTS OPENWORK LIMITED IN THE COURT OF APPEAL AGAINST MR ALESSANDRO FORTE



19 Apr, 2018

Openwork Limited brought proceedings against Mr Alessandro Forte in the High Court claiming substantial sums in unpaid commission clawback. Mr Forte made a counterclaim which raised numerous defences and alleged breaches of contract. Stefan Ramel represented Openwork on the instruction of DAC Beachcroft LLP. At first instance, Openwork succeeded on its claim and defeated the entirety of the counterclaim. Mr Forte appealed to the Court of Appeal. On Wednesday 18 April 2018, the Court of Appeal handed down its judgment. A copy can be found [here](#).

Mr Forte's appeal was dismissed. He had raised two points on appeal. Firstly, that the relevant clawback clause in the contract was too uncertain to be enforced, and secondly, that Openwork hadn't actually demonstrated, on the facts, that it had repaid the product provider (Sterling) the commission.

On the first point, Simon LJ (who gave the Court's judgment with which Arden and Newey LJ agreed), applying *WN Hillas & Co Ltd v Arcos Ltd* (1932) 43 Ll. L. Rep. 359 and *G Scammell and Nephew Ltd v HC&JG Ouston* [1941] A.C. 251 (as reviewed by Leggatt J, as he then was, in *Astor Management AG and anor v Antalaya Mining Plc and anor* [2017] EWHC 425 Comm) held that the clause wasn't too uncertain to be enforced. As regards the factual challenge, and having been referred to *Fage UK Ltd v Chobani UK Ltd* [2014] EWCA Civ 5, held that the judge was fully entitled, on the evidence, to reach the conclusion that he did. Accordingly, Mr Forte's appeal failed.

