



Credit: Living Legend/Adobe Stock

## FEATURES

## 'It's Cut-Throat': What Elite Barristers Really Think About Their Instructing Solicitors

Law.com International spoke with silks and senior juniors at the major London commercial sets about the 'beauty pageant' of selection, getting 'screwed' on fees, and the evolving barrister-solicitor bond.

October 11, 2023 at 07:01 AM

10 minute read

Dispute Resolution

By Tom Parry | October 11, 2023 at 07:01 AM

In the British legal system, there are few relationships more important than that between a solicitor and the barrister representing their client in court.

For top-end law firms with international clients boasting the deepest pockets, choosing a silk with the acumen and pedigree to tick all the necessary boxes is never a swift procedural exercise.

Rather, selecting counsel for a major litigation is a fundamental decision which moulds the way a case progresses from initial instruction right up to final resolution.

As a leading KC at one of the main London commercial sets told me: "It is cut-throat; the financial and reputational stakes are too high for sentiment. In a way, it's like the Premier League. If you don't perform well, you get dropped."

To unpick this rigorous dynamic, Law.com spoke with silks and senior juniors at some of the main London commercial sets about the 'beauty pageant' of selection, how Magic Circle firms try to "screw you on fees", as well as evolving, often prosperous, bond between barrister and solicitor.

### Building a Profile

While some of the old austere traditions are now less common, the way in which barristers become more sought-after by solicitors remains similar. They are judged purely by their talent and track record.

What is different is the way in which barristers can sell themselves and pitch for a case, which would have been unthinkable when silks only entered the fray as proceedings neared a court date.

"So much of it is about getting your profile out there, building your reputation and making relationships," said Alastair Tomson, at 4 Stone Buildings Chambers.

"The more senior you get it becomes your own brand as much as the chambers' brand. Certainly, when you get to silk level, people tend to seek you out because you have a reputation in a particular area.

"They may recommend you; they may have seen you in court. You might have been against them in a case, and they have been impressed and approach you.

#### TRENDING STORIES

**Vanessa Ford: Inquest Into Pinsent Masons Partner Death Spotlights Intense Work Life**

INTERNATIONAL EDITION

**Simpson Thacher Swoops For Weil Gotshal Partner Duo in the UK**

INTERNATIONAL EDITION

**Slaughter and May Promotes Five To Partner**

INTERNATIONAL EDITION

**The Asia Market Continues to Baffle Law Firm Leaders. In Singapore, Cracks Have Emerged**

INTERNATIONAL EDITION

**Bonuses With Strings Attached Play Role in Partner Retention for Firms Such as Shearman**

INTERNATIONAL EDITION

#### LAW.COM PRO

**People, Places & Profits, Part III: Are Law Firm Financial Metrics Keeping Pace With Inflationary Growth?**

**People, Places & Profits, Part II: A Look at the Geographic Destinations of the Am Law 200**

They prefer you to be on their side than the other side.”

Tomson, who is renowned for his expertise in international arbitration in the banking and financial services sectors, contrasted the ability to attract work as a leading barrister with starting out after being called to the bar.

“At the lower end, you’re sort of a commodity,” he said, “Chambers tend to be approached and trusted with putting someone on who’s good—that’s down to the reputation of the chambers.”

Geraint Webb, KC, based at Henderson Chambers, said: “While a solicitor may seek a recommendation from clerks for a junior barrister, more senior barristers tend to be selected because of their own personal reputation. Somebody wants you rather than wanting Joe Bloggs.

“On big cases and group actions the selection process will often be a sort of beauty parade. The client and their solicitors will go to several different silks and sit down with them, exploring issues and queries with them to see who fits best.”

As a silk with an top reputation in commercial dispute resolution, product liability and group litigation, Webb admitted that he cannot recall the last time work came in through a chambers clerk on an unnamed basis.



Event

## **Women, Influence & Power in Law US Awards 2024**

Women, Influence & Power in Law Awards honors women lawyers who have made a remarkable difference in the legal profession.

[Get More Information](#) 

“A lot of it is personal recommendation,” he continued, “and you don’t always know who has recommended you to a solicitor that you haven’t worked with before.”

### **Picking the Right One**

A KC regarded as one of the leading silks at the Commercial Bar talked of how barristers are now just as unsentimental in their dealings with law firms as solicitors are when picking the right one.

The barrister, a silk for several decades, complimented corporate law firms on their knowledge of the marketplace.

“The relationships that have developed are because the market for a commercial barrister is one of the most sophisticated around,” the KC said, “in the sense that you have a consumer base, namely the big commercial law firms, who are also unbelievably sophisticated and knowledgeable about what they

need and where they are most likely to get it in terms of which barrister they should instruct.

“That’s because a lot of what barristers do is to stand up in court very publicly and do what they do. What you are good at is visible to the whole world, so people can work out who they think is good for what they need to do.”

The barrister reiterated that longstanding loyalties built up over years of collaboration never get in the way of what is effectively a cold and rational business decision.

“One week you might be with them and one week you might be against them. You could be working with Linklaters one week and then against them with Slaughter and May the following,” the KC said.

“There is really nothing fancy or sentimental about it. They don’t come back to one chambers or barrister because they have the best offer. They will pay the market price. It is a vibrant market at law firms and at the bar.”

## **A Tragic Death: How Should Big Law Respond to the Industry's Mental Health Crisis?**

### FEATURED FIRMS

**Law Offices of Gary Martin Hays & Associates P.C.**  
(470) 294-1674

**Law Offices of Mark E. Salomone**  
(857) 444-6468

**Smith & Hassler**  
(713) 739-1250

Another development that has gathered pace at the Commercial Bar, according to barristers, is their direct involvement with general counsel.

With clients paying eye-watering billable-hour fees to law firms, it is not surprising that in-house lawyers may also want to talk directly with barristers about the selection of the legal team.

“It’s far more of a two-way street than it was 20 years ago,” said Webb. “That’s more common than it used to be.

“A key thing in the last ten years has been the developing role of general counsel in big commercial organisations who are often very sophisticated, savvy, and high-quality lawyers with detailed knowledge of their sector. They will have their own views on barristers.

“If I’d done a long-running case for a major commercial group you’re bound to come to get to know the in-house lawyers quite well, so when the next thing crops up for them it’s quite natural for them to get in touch and ask for your thoughts if they are putting together a new legal team.”

### The Sticky Issue of Fees

While most barristers have only good things to say about the major law firms they deal with, there are dissenting voices.

One barrister at another leading commercial set complained that Magic Circle and Silver Circle firms do create problems when it comes to agreeing fees.

“Sometimes Magic Circle firms trade off their reputation and the promise of work to drive down fees,” the barrister said. “It can be more difficult working with firms like that. Some of them really try to screw you down on rates. It can be more difficult working with them.

“Magic Circle firms and big U.S. firms tend to expect the Earth and are not necessarily as keen to pay the kind of fee levels required.”

Another said that, while the ruthlessness of the working relationship is generally accepted, some law firms can be especially brutal if there is any hint that the case is not proceeding exactly as they hoped.

“There can be friction if they feel that a barrister is not paying enough attention when a hearing is taking place, as barristers are always working on more than one case, and in that instance, they will get someone else,” the barrister said.

“You must perform up to your level or you will be quietly removed. They will just say to the clerk they are going to get someone else. It’s not a club with secret deals; you live by your wits.”

For Tomson, who is on the Bar Council’s International Committee, there can be advantages in dealing with smaller boutique firms.

“I tend to do more work with more boutique firms that work at very high levels, who are run by people who were in Magic Circle firms, and they get work off the network,” said Tomson, who does much of his work in the Chancery Bar. “They pick up a lot of interesting work, often with Magic Circle on the other side.

“You tend to build up a more personal relationship. There are smaller teams involved, and so repeat work comes through. I’ve made good friendships with solicitors I’ve worked with.”

For most barristers, the size of the law firm is far less significant than the individual approach of the partners they work with.

Webb said: “I’ve been in situation where different partners from the same Magic Circle law firm have instructed me on different cases with completely different

approaches. It really does come down to individuals; it's impossible to generalise. There can be real differences between partners at the same firm."

For Edward Levey KC, one of the big advantages of the bar is that top commercial barristers are not only instructed by the Magic Circle giants.

"The model works well because you can have a smaller, less experienced firm of solicitors and yet they still have access to the same barristers," he contended.

"Commercial litigation does not always involve disputes between major corporations or financial institutions, but can also involve smaller companies or individuals, many of whom can't afford to instruct Magic Circle firms.

"Of course, plenty of my cases are with large City firms, but I am also instructed by smaller or boutique firms. That's the beauty of the system."

## Fewer Barriers

Though it might be a sometimes cold and awkward relationship, the solicitor-barrister relationship has developed in positive ways too, particularly during the pandemic.

Called to the bar in 1999, Levey, a highly regarded silk who specialises in commercial litigation and civil fraud, has observed the dramatic benefits of how modern communications have broken down the rigid formality of dealings between solicitors and barristers.

"When I think back to my days as a pupil," recalled Levey, a member at Fountain Court Chambers, one of the leading commercial sets, "silks still tended to be more aloof and less accessible and there was much less interaction with lay clients.

"In some cases, the only interaction between the silk and the lay clients would be at set-piece conferences which would take place every few months."

He remembered how some silks would not even contemplate giving out their own direct phone number whereas nowadays that is par for the course, and he sometimes even uses WhatsApp to liaise with some of his solicitors.

"With the advent of emails and all the technology that's come along, the relationship has really changed," he continued.

"Over the years, the barriers between solicitors and barristers naturally started to break down because there was more accessibility."

Prior to the advent of Zoom conference calls involving barristers, solicitors, and their clients, set-piece meetings in chambers would be meticulously stage-managed.

These days, barristers work hand in glove with solicitors, their advice being sought on matters like correspondence with the other side in a way which would never have happened before.

The pandemic just accelerated the new way of working, stripping away some of the stuffy tradition and bringing barristers and solicitors even closer together.

"I think this is a positive thing," said Levey. "It makes the whole process more collaborative and helps achieve a better outcome for the clients."

---

NOT FOR REPRINT

© 2024 ALM Global, LLC, All Rights Reserved. Request academic re-use from [www.copyright.com](http://www.copyright.com). All other uses, submit a request to [asset-and-logo-licensing@alm.com](mailto:asset-and-logo-licensing@alm.com). For more information visit [Asset & Logo Licensing](#).

---

## You Might Like

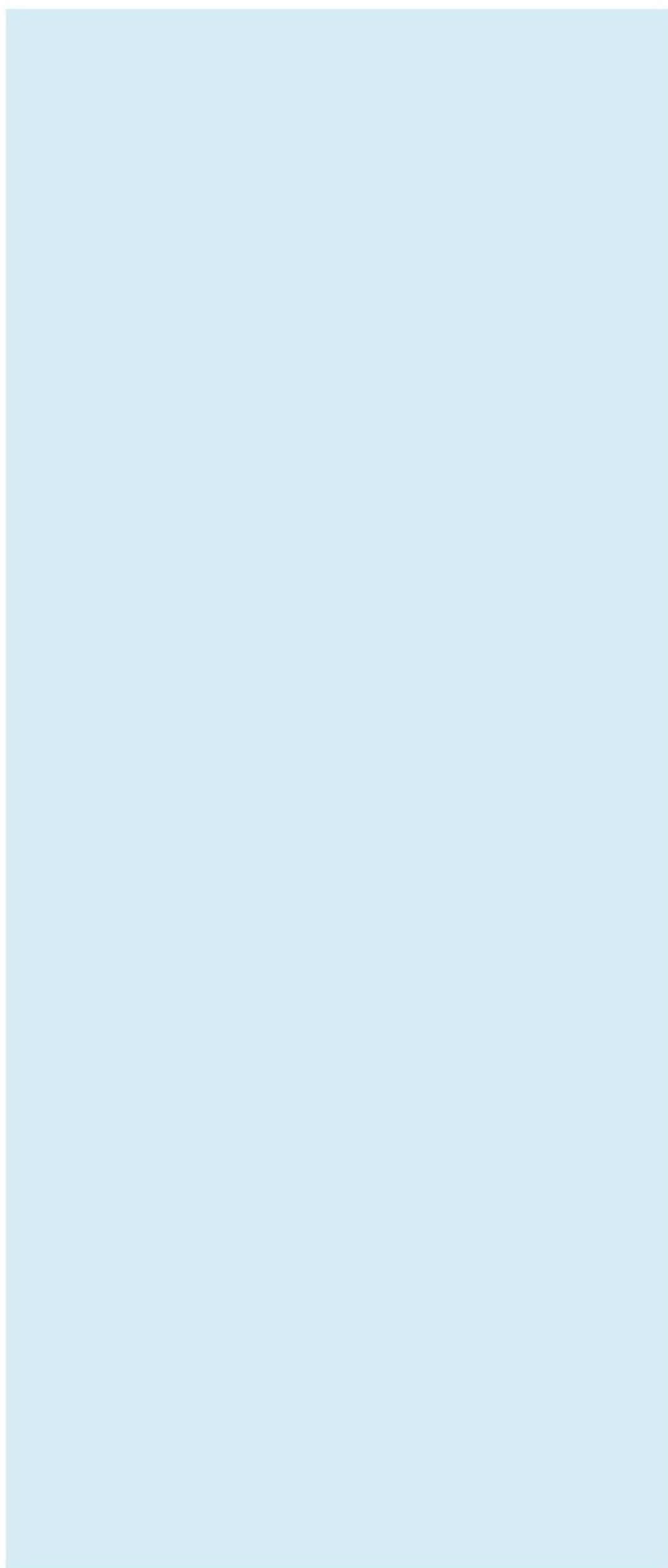


March 20, 2024

### **Simpson Thacher Swoops For Weil Gotshal Partner Duo in the UK**

By Habiba Cullen-Jafar

🕒 3 minute read



February 14, 2024

### **The Future of Partner Compensation: How Profit-Sharing Systems Shape the Firm's Culture and Success**

By Corinne Staves, CM Murray

🕒 5 minute read

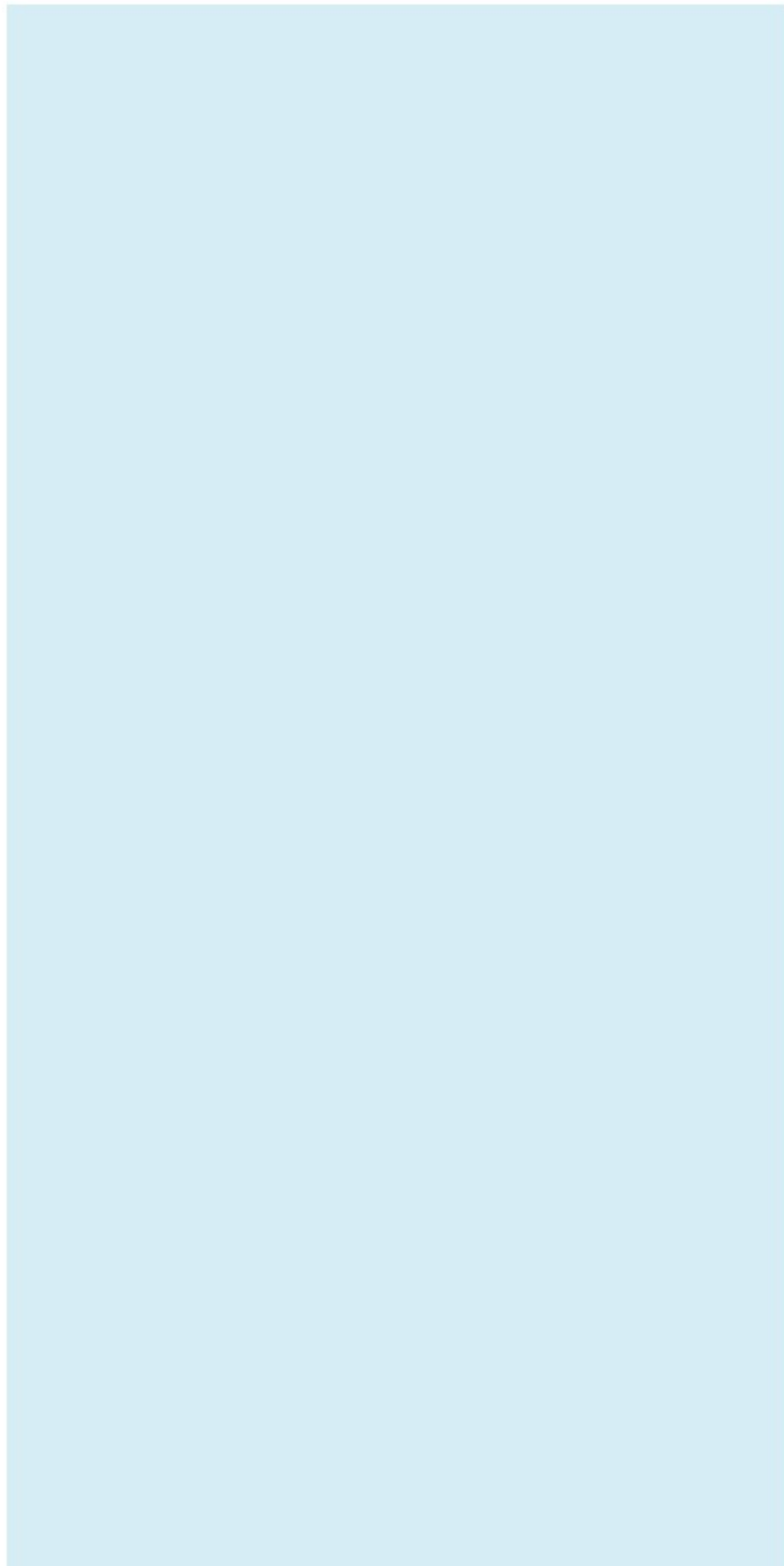


March 21, 2024

### **Slaughters and Simmons Suit Up for Ted Baker Administration**

By Habiba Cullen-Jafar

🕒 3 minute read



March 18, 2024

### **Class-Action Reform in France Awaits Parliament's Pleasure—and Waits, and Waits...**

By Rick Mitchell

🕒 8 minute read

**More From ALM**