



serle court

serle court in 2006

In 2006 Serle Court justified its reputation as 'a commercial powerhouse of the Chancery Bar' (Chambers & Partners 2006) and continued to pioneer a uniquely balanced combination of heavyweight commercial work and commercial and traditional chancery expertise.

cases in which points of law were examined or clarified

Regan v Paul Properties & Ors [2006] 3 WLR 1131

Andrew Francis appeared for the Defendants against whom an injunction was sought restraining them from building the top storey of a new building in central Brighton so as to interfere with the claimant's right of light to his maisonette. The Court of Appeal reaffirmed the 19th Century guidelines set out in *Shelfer v City of London Electric Lighting Co* as to when an injunction will and will not be granted.

Proform Sports Management Ltd v Proactive Sports Management Ltd [2007] 1 All ER 542

Victor Joffe QC acted for the Defendant who was alleged to have induced a breach of a management agreement by Wayne Rooney. At a preliminary issues hearing it was determined in the Defendant's favour that the tort of inducing a breach of contract could not have been committed in circumstances where the contract was voidable by Wayne Rooney because of his minority at the time it was entered into.

Alhamrani v Russa Management Ltd & Ors [2006] JRC081

Douglas Close advised a corporate trustee in its appeal of various taxation decisions of a costs judge (the Greffier Substitute) in relation to certain orders as to costs made in its favour. In the circumstances of the case, the taxation of the bills of costs was remitted to the Greffier Substitute with a warning that his jurisdiction should be exercised generally against the background of the general rule that a trustee acting reasonably (as the trustee was found to be) is entitled to a full indemnity from the trust fund.

Re Rogers [2006] 1 WLR 157 Will Henderson acted as *amicus curiae* in a test case concerning the operation of a standard form clause in a will appointing partners in a firm as executors following the firm's conversion to a limited liability partnership (LLP). It was held that the clause extended to the profit sharing members of the new LLP. Thousands of wills were affected by the decision.

Re C Frank Hinks QC appeared in the Grand Court of the Cayman Islands for the trustees of a trust fund who were successful in invoking the principle in *Hasting-Bass* thereby getting the principal beneficiary reinstated who had been removed under an unfortunate mistake of fact.

Brewer & Bakker v Shakespeare's Globe Theatre Andrew Francis appeared for Shakespeare's Globe

in litigation in which the duties of a Third Surveyor when making an Award under the Party Wall Act legislation were clarified. In particular the decision states that the Third Surveyor is not obliged to go beyond the questions put to him by the appointed surveyors.

Tritton Developments v Fortis Bank (Cayman) & Ors Daniel Lightman is acting for the claimant in an ongoing \$200m claim in the Cayman Islands against its former professional director and financial consultant for breach of contract and breach of duty. In July 2006 Chief Justice Smellie gave an important judgment on the applicability to Cayman law of the doctrine of applying limitation periods by analogy to claims for equitable relief.

Nearfield Ltd v LNL Ltd & Lincoln Trust Co (Jersey) Ltd [2006] EWHC 2421 James Corbett QC appeared in the Chancery Division on behalf of a trust company in proceedings concerned with its liability under an agreement by which it had undertaken to procure repayment of a loan made to enable a beneficiary to invest in development of property in the City. The hearing before Peter Smith J in October 2006 concerned the proper meaning of the word "procure".

Kilmartin SCI (Hulton House) Ltd v Safeway Stores [2006] 1 EGLR 59 Christopher Stoner acted for the successful Claimant. The case provided the first opportunity for the application and construction of the RICS Code of Measuring Practice to be considered by a Court. The claim was for specific performance of an agreement for a lease.

Carr v Isard [2006] Hugh Norbury acted for the main Defendant in litigation in which it was established that entry into non-mutual wills by married testators at the same time, each giving the other a life interest in a property and disposing of their interest on the other's death, was insufficient to effect a severance of the joint tenancy in the property in question.

Scottish & Newcastle plc v Raguz (No 3) [2006] 4 All ER 524 Christopher Stoner appeared for *Scottish & Newcastle* in a dispute turning on the question whether financial assistance given by the original tenant to the occupying tenant disentitled the original tenant from relying upon his indemnity pursuant to section 24 of the Land Registration Act 1925. The case also dealt with the service of notices pursuant to section 17 of the Landlord & Tenant (Covenants) Act 1995.



other high-profile cases

Barrett v Universal-Island Records Ltd, Rita Marley & Ors [2006] EMLR 21

Elizabeth Jones QC and Daniel Lightman represented 13 Defendants comprising record companies and members of the Marley family, including Rita Marley, in their successful defence of the claim brought by Aston Barrett (a former Wailer) that he and his late brother Carlton Barrett were partners with Bob Marley and were entitled to damages and injunctions for breach of copyright.

Harley Street Capital Ltd v Tchigirinsky [2006] BCC 209

Daniel Lightman acted for a minority shareholder in a derivative claim brought on behalf

of Sibir Energy plc against directors and majority shareholders for in excess of £100m. It was alleged that the Defendant had allowed the dilution of its shareholding in a joint venture with a Roman Abramovich company.

Philip Marshall QC, David Blayney and Ruth Holtham are acting for the Claimant in proceedings against SLEC, the parent company of various subsidiaries holding commercial and other rights relating to Formula One, and Bambino Holdings Ltd, a member of the Bambino Group of companies associated with Bernie Ecclestone, in respect of the recovery of a loan in the sum of \$235m.

Natwest v Rabobank Phillip Marshall QC is acting for Rabobank in a claim for \$220m for fraudulent misrepresentation relating to the taking over of certain loans of Natwest by Rabobank.

Re Guana Cay Jonathan Adkin and Ruth Jordan appeared in the Privy Council on behalf of an environmental organisation and successfully obtained and defended an interlocutory injunction restraining an environmentally sensitive multi-million dollar development in the Bahamas.

Serle Court is recommended in 20 different practice areas across the legal directories, and a selection of our work can be found below:

Wahr-Hansen v Compass Justin Higgo continues to act as junior counsel for the Plaintiff in substantial fraud proceedings worth in excess of \$250m in the Cayman Islands in which the Plaintiff seeks to recover assets misappropriated from the Estate of a Norwegian national and a charitable trust. In 2006 the Plaintiffs were successful in a preliminary determination that the Estate's claims are not an indirect attempt to enforce a foreign revenue law.

Maersk Oil UK Ltd v Dresser-Rand (UK) Ltd Peter McMaster and Thomas Braithwaite appeared in the Technology and Construction Court for Maersk Oil in a trial lasting 24 days concerning the operation of an offshore oil and gas platform. The case was technically complex, involving issues of process engineering, pipe-stress and torsional vibration. Expert evidence was given in three separate engineering disciplines. Judgment has been reserved.

J P Morgan Chase Bank v Springwell Navigation Corp [2006] PNLR 28 Nicholas Lavender acted as junior counsel for Springwell in successfully resisting JP Morgan Chase's appeal against the dismissal of its application to strike out Springwell's consequential damages claim. It was held that Springwell's claim to recover both the reduction in value of an investment portfolio and the loss of profits which Springwell would have received from ships which would have been purchased on the realisation of the value of the investment portfolio did not amount to double recovery.

Marlwood Commercial Inc & Ors v Kozeny [2006] EWHC 872 (Comm) Dominic Dowley QC and Andrew Bruce appeared in the Commercial Court for the Claimants and successfully resisted the Defendants' applications for the discharge of a freezing order and summary judgment in a \$156m claim in deceit arising out of an unsuccessful investment venture in Azerbaijan.

Fiona Trust & Holding Company v Privalov & Ors Philip Jones QC, Philip Marshall QC, Justin Higgo and Jennifer Haywood have been acting for the Claimant in substantial fraud and bribery proceedings involving circa \$450m arising out of the operations of the Russian state commercial shipping enterprise. In 2006 judgment was received on the question whether an allegation of non-disclosure constitutes a material change of circumstances ([2006] EWHC 758) and the impact of a bribery allegation on an arbitration clause ([2006] EWHC 2583).

Re G Trust Frank Hinks QC and Jonathan Adkin successfully appealed an order of the Family Division establishing a Jersey trust on behalf of a minor 5 years out of time to the Court of Appeal on the grounds that the judge acted under mistakes of fact. The effect was to save the fund \$45m in gift tax.

Precision Development Ltd & anr v Jeanette Caribbean Co Ltd James Corbett QC appeared in the Turks and Caicos Supreme Court for the successful Defendant in an action arising out of an agreement for the development of 17.1 acres of land in Providenciales at a contract price of \$23m – the largest remaining development plot for hotels and condominiums in Grace Bay.

Simply Loans Direct Ltd v Wood & Ors Victor Joffe QC, Daniel Lightman and Tim Collingwood represent the Claimant in a multi-million pound fraud claim against the former managing director of a mortgage-provider. In the course of proceedings to date the Claimants have obtained and policed multiple freezing and search orders together with information orders against banks and other parties.

Andrew Moran and Ruth Holtham are instructed in the "TAG Litigation" arising from the collapse of The Accident Group, an after-the-event insurance scheme which offered to protect litigants who

brought "no win, no fee" personal injury claims. The litigation, worth some £150m, comprises two actions, one brought in negligence, the other in respect of the recovery of referral fees paid by various panel solicitors, and is currently pending before the Commercial Court. The litigation raises substantial issues as to coverage and the extent of insurers' subrogated rights.

Coekin v Bishop of Southwark [2007] 9 Ecc LJ 145 James Behrens appeared for Mr Coekin in an appeal to the Archbishop of Canterbury against the revocation of Mr Coekin's licence by the Bishop of Southwark. The Archbishop held that the procedure leading up to the Bishop's decision to revoke Mr Coekin's licence was seriously flawed, that summary revocation of the licence was inappropriate, and ordered the revocation to be cancelled without any conditions.

Alternative Dispute Resolution

We also have an exceptional number of experienced and eminent mediators and arbitrators who provide a domestic and international service which maintains our position 'at the forefront of the ADR revolution' (*Chambers & Partners*). Beverly-Ann Rogers and Liz Jones QC are highly recommended for mediation in *Chambers & Partners* and with two other of our mediators are in the most experienced band in the Bar Council list of barrister mediators.

They mediate regularly across a broad spectrum of disputes, including all major commercial and chancery areas, for example, company, property, trusts and probate, professional negligence and banking and financial services.

and finally...

The scope of Serle Court's excellence is recognised in the *Chambers & Partners* directory for 2007. We are recommended in 11 practice areas, a total surpassed by only 4 other sets in the country and by no other chancery set. Equally in the *Legal 500* directory for 2006 we had the broadest range of recommendations of any chancery set in 9 practice areas. In *Chambers & Partners* Serle Court remains in the top five in the country for its barrister recommendations as a proportion of the size of chambers. Our success in the past year culminated in our winning Insolvency Set of the Year at the *Chambers Bar Awards 2006*, as well as being nominated as Chancery Set of the Year and Client Service Set of the Year.

On an individual level Khawar Qureshi QC and Philip Jones QC were appointed Queen's Counsel and Serle Court now houses 4 Stars at the Bar: Alan Boyle QC, Philip Jones QC, Philip Marshall QC and David Blayney. At the *Chambers Bar Awards 2006* Khawar Qureshi, Philip Jones and Douglas Close were nominated as Junior of the Year in their respective practice areas.