



## Philip Jones QC

Year of Silk: 2006

Year of Call: 1985

Email address: [pjones@serlecourt.co.uk](mailto:pjones@serlecourt.co.uk)

### Overview

For each of the last 10 years Philip has been named as one of fewer than 20 'Stars at the Bar' by Chambers & Partners. He is recommended in 8 different practice areas.

He has a broad commercial and chancery practice but having been Junior Counsel to the Crown from 1994 to 2006 he also has considerable experience of advising on all aspects of public law, human rights and judicial review.

He frequently advises on the commercial, company, trusts and insolvency laws of Jersey, Guernsey, the Isle of Man, Bermuda, Cayman Islands, the British Virgin Islands and various Caribbean jurisdictions. He was called to the BVI Bar in 2002 and has frequently appeared in the BVI High Court and the Court of Appeal. In 2009 he was called to the Isle of Man Bar.

### Areas of expertise

- Civil Fraud
- Insolvency
- Company
- Partnership and LLP
- Commercial Litigation
- Trusts and Probate
- Property
- Chancery
- Professional Negligence
- Charities
- Arbitration
- Private International Law
- Administrative and Public Law
- Intellectual Property
- Tax
- Offshore

## Recommendations

*Chambers & Partners (UK Guide):* Chancery Commercial; Commercial Dispute Resolution; Restructuring/Insolvency; Company; Professional Negligence; Fraud: Civil; Partnership; Tax, Offshore  
*Chambers & Partners, The World's Leading Lawyers:* Commercial Litigation; Restructuring/Insolvency; Company.  
*Legal 500:* Commercial Litigation; Company; Fraud: Civil; Insolvency; Partnership; Private Client: Trusts and Probate; Professional Negligence; Property Litigation; Tax: Corporate and VAT.  
*Legal Experts:* Company; Insolvency and Corporate Reconstruction; Professional Negligence; Tax.  
*Citywealth Leaders:* recommended as a prominent barrister for trusts.  
*Who's Who Legal: UK Bar:* Civil Fraud; Company & Partnership.

## Quotes

*"He is affable without compromising his technical knowledge and very good at quickly getting on top of complex cases"*  
*"A port of call for HMRC in complex cases"*  
*He is very accessible and enjoyable to work with"*  
*"He provides excellent legal knowledge and analysis, but is also pragmatic and commercial"*  
*"He is a superstar"*  
*"...an amazing breadth of knowledge"*  
*"Wonderful; he's a team player and a great advocate"*  
*"analytical and razor sharp mind"*  
*"exceptional talents"*  
*"Most impressive is his ability to analyse an extremely complex matter, at any stage of the proceedings, and draw out the most significant points"*  
*"He is a superstar – his work speaks for itself"*  
*"Calm, collected, no-nonsense and highly effective"*  
*"he has such a wise air about him"*  
*"strikes up a pleasant and easy going relationship with the lay client"*  
*"Urbane, calm and unflappable"*  
*"His analytical mind is second to none – the way he frames his arguments is lucid and concise"*  
*"Wonderful; he's a team player and a great advocate"*  
*"He has an amazing breadth of knowledge and knows how to make the right points"*  
*"He commands the attention of a room"*  
*"outstanding intellectual capacity"*  
*"marvellous silk"*  
*"one of the best QCs I have used"*  
*"meticulous approach to cases"*  
*"excellent bedside manner"*

## Civil Fraud

Philip is recommended for Civil Fraud work in both Chambers & Partners and Legal 500. He has had extensive experience in this area since he came to the Bar.

In 2012 he was successful in two appeals before the Supreme Court in the SOCA v Perry litigation. This litigation concerns a civil recovery claim by SOCA (now the NCA) in relation to the proceeds of crime.

In 2012 and 2013 Philip acted for the Kazakh bank JTA Bank in its fraud claims against Ablyazov and others. Reported decisions include the following:

*BTA v Ablyazov* (Bannister J, BVI High Court) – litigation concerning the registration in the BVI of a \$2bn judgment against Ablyazov. This is due to be heard shortly by the Eastern Caribbean Court of Appeal.

*BTA v Ablyazov* (Eder J) – obtaining Norwich Pharmacal order against a resident in Russia.

*BTA v Ablyazov* (Flaux J) – obtaining order requiring Ablyazov to intervene in proceedings in Russia.

*BTA v Ablyazov* (Teare J) – appointment of a receiver over assets in Russia.

Other reported decisions include the following:

*Aeroflot v Berezovsky* (Court of Appeal) – circumstances in which a judgment for fraud in Russia is unenforceable in England due to res judicata and abuse of rights.

*Sterling Mortimer Global Property v ELS International Lawyers* (Leggett J) – circumstances in which a subsequent fraud action should be struck out as an abuse of process where a related earlier fraud action had been compromised.

*Barks v Rosser* (Nicol J) – strike out application on appeal involving allegations of fraud against a company director.

*Cherney v Neuman* – (Lindsay J) circumstances in which a person who is subject to a European Arrest Warrant can give evidence to an English Court by video link to avoid arrest.)

*Mobilx v HMRC* (Floyd J) – whether a company knew it was buying goods which were part of a carousel fraud.

*Havai v Solland* (Henderson J) – whether allegations of fraud could be introduced shortly before trial when only allegation then alleged concerned breaches of fiduciary duty.

*Cherney v Neuman* (Judge Waksman QC) – the extent to which delay should prevent the granting of a freezing injunction.

*Fiona Trading v Privalov* (House of Lords) – alleged \$500m fraud against Sovcomflot, Russia's state shipping corporation – whether the entering into of charterparties as a result of alleged bribery entitles the victim to rescind the arbitration agreements in the charterparties as well as the charterparties themselves.

*Fiona Trading v Privalov* (David Steel J) – circumstances in which it is appropriate to grant an inter parties freezing injunction where no ex parte application has been made.

*Fiona Trading v Privalov* (David Steel J) – significance of alleged illegal investigations and breaches of Data Protection Act in relation to applications for freezing injunctions.

*Lexi Holdings Plc v Luqman* (Peter Smith J) – extent to which the power of the court to restrain a person from leaving the jurisdiction and requiring him to deliver up his passport might be fettered by the Debtors Act 1869.

*HMRC v Richmond & Jones* (Etherton J) – trial of misfeasance proceedings brought on behalf of a company in liquidation against former directors.

*R (Kent Pharmaceuticals Ltd) v Director of the Serious Fraud Office* (Court of Appeal) – whether documents

seized by the SFO during a criminal investigation could be disclosed to a government department to assist with its civil litigation.

*Halifax v Curry Pocock* (Norris J) – whether a transfer of land for fraudulent purposes can be made for valuable consideration within the meaning of s.28 Land Registration Act 2002.

*Re Company* (Harman J) – winding up of company on grounds of a gross fraud on the public.

## Insolvency

Philip is recommended for Insolvency in *Chambers & Partners, UK Guide and Chambers & Partners, The World's Leading Lawyers*. He is also recommended for Insolvency in both Legal 500 and Legal Experts.

He has been involved in many of the major insolvencies that have occurred over the last 20 years and has been involved in many Government, FSA and SFO investigations regarding the corporate governance of companies which have become insolvent, including most recently RBS and HBoS.

He has experience of advising in relation to, and acting in litigation involving, the insolvency regimes in Jersey, Guernsey, the Isle of Man, Bermuda, Cayman Islands, the British Virgin Islands and other Caribbean countries

He has been involved in numerous reported decisions, many of which are set out below.

Technical insolvency matters relating to companies:

*Lehman Brothers International* (Briggs J) – circumstances in which one member of a group of insolvent companies acting as settlement broker for other group companies held assets on trust for the other members.

*Lehman Brothers International* (Briggs J) – appropriate costs order where all parties to litigation are insolvent companies in a former group of companies.

*Save Group, Squires v AIG Europe* (Court of Appeal) – the case raised numerous issues in relation to the liquidation of a group of companies and the respective rights of creditors and different liquidators to the assets therein.

*Hawk Insurance* (Court of Appeal) – appointed by the Attorney-General to be Amicus Curiae in the first Court of Appeal case to consider company schemes of arrangement for over 100 years.

*Spectrum Plus* (House of Lords) – test case challenging the decision in Siebe Gorman that a bank could create a fixed charge over book debts and thereby achieving priority in an insolvency by a mere direction to pay the proceeds into a current account.

*Toshuku Finance* (House of Lords) – whether payment by liquidators of post liquidation corporation tax is an expense of the liquidation.

*Compass Funds* (Bannister J, BVI High Court) – circumstances in which there is jurisdiction to appoint a provisional liquidator over a hedge fund in the BVI.

*HMRC v Richmond & Jones* (Etherton J) – trial of misfeasance proceedings brought on behalf of a company in liquidation against former directors.

*Re CCG International Enterprises Ltd* (Lindsay J) – whether the proceeds of an insurance claim were subject to a

fixed or floating charge in a debenture.

*Re Loquitur* (Lloyd J) – determination of the proper parties to a liquidator’s application for directions.

*IRC v Lawrence* (Court of Appeal) – the priority of payments of PAYE and NICs in an administration.

*Compaq Computers v Abercorn Group* (Mummery J) – priority of debts in insolvency between a finance house and a supplier of goods with no registration of a retention of title clause.

*Re Company* (Harman J) – winding up of company on grounds of a gross fraud on the public.

*Re W & A Glaser Ltd* (Harman J) – the circumstances in which the liquidation committee has a right to inspect the liquidator’s records.

## Director Disqualification Proceedings & Public Interest Winding-up Proceedings

Philip has vast experience of directors’ disqualification proceedings and public interest winding up petitions. For 12 years he was Junior Counsel to the Crown and undertook many claims for disqualification orders on behalf of the Crown and the winding up of companies on public interest grounds. He has continued acting for the Government since became Queen’s Counsel and acted for the Secretary of State in the MG Rover disqualification proceedings against ‘the Phoenix Four’.

Since becoming Queen’s Counsel Philip has also acted for defendants. He has undertaken the defence in four substantial cases, in all of which case the Secretary of State has discontinued such claims. These have included *Farepak Savings Club Ltd* (the Christmas Savings Club that spectacularly collapsed a few months before Christmas) and *Secretary of State v Rosser*.

Other reported decisions in this area include:

*Re Pantmaenog Timber, Official Receiver v Meade King* (House of Lords) – appointed by the Attorney-General to be Amicus Curiae at the request of the House of Lords to represent the public interest at the first hearing before the highest tribunal to deal with the jurisdiction under the Company Directors Disqualification Act 1986.

*Secretary of State v Carr* (David Richards J) – circumstances in which director disqualification proceedings should be stayed pending related criminal proceedings.

*Secretary of State v Nimley* (Judge Rich QC) – whether it is an abuse of process for the Secretary of State to bring civil director disqualification proceedings where defendants had been convicted for similar matters and no disqualification order had been imposed.

*Secretary of State v Crane* (Ferris J) – whether civil disqualification proceedings should be stayed pending related criminal charged.

*Secretary of State v Hinchliffe* (Rattee J) – whether disqualification proceedings should continue notwithstanding a possible change in the law.

*Secretary of State v Carter* (Neuberger J) – circumstances in which an inactive director should be disqualified from being a director.

*Official Receiver v Pafundo* (Court of Appeal) – whether disqualification proceedings commenced in the wrong court could be transferred or whether they were a nullity.

*Official Receiver v Moore* (No 2) (Robert Reid QC) – whether a full disqualification order could be made where only more limited relief had been sought in the application.

*Official Receiver v Moore* (No 1) (Blackburne J) – whether a company had become insolvent for the purpose of director disqualification proceedings.

*Secretary of State v Stokes* (Lloyd J) – circumstances in which a person could be said to be a shadow director.

*Re Working Project* (Carnwath J) – test case relating to the jurisdiction of different court to hear director disqualification proceedings.

*Official Receiver v Kelly* (Cherryman J) – circumstances in which leave should be given to commence disqualification proceedings out of time.

*Official Receiver v Jacob* (Hoffmann J) – time when a company becomes insolvent for the purposes of directors' disqualification proceedings.

## Bankruptcy and Individual Voluntary Arrangements

*Re Kashmir Chand Tack* (Rimer J) – whether there material omissions and irregularities in a proposal for, and approval of, an individual voluntary arrangement.

*Re Debtor* (Ferris J) – whether an individual voluntary arrangement unfairly prejudiced creditors.

*Re Omar* (Jacob J) – circumstances in which a trustee in bankruptcy is entitled to pass legally privileged material to creditors of the bankrupt.

*Khan v Breezevale Sarl* (Evans-Lombe J) – circumstances in which a statutory demand can be said aside where there is a failure to state the amount of security to be held.

## Company

Philip is recommended for company law in *Chambers & Partners, UK Guide and Chambers & Partners, The World's Leading Lawyers*. He is also recommended for company law in both *Legal 500* and *Legal Experts*.

Philip has had considerable experience of Government, FSA and SFO investigations regarding the corporate governance of large companies, including, most recently, RBS and HBoS

Philip has also been involved in numerous shareholder and management disputes in small and medium sized companies involving claims that the affairs of the company have been managed in an unfairly prejudicial manner. These frequently settle before trial and so do not lead to any reported decisions.

He has experience of advising in relation to, and acting in litigation involving, companies in Jersey, Guernsey, the Isle of Man, Bermuda, Cayman Islands, the British Virgin Islands and other Caribbean countries. He recently provided expert evidence on BVI company law to the Royal Court in Guernsey.

Much of Philip's civil fraud work (see separate section) involves breach of duties by directors of companies. Much of insolvency work (see separate section) also involves issues of breach of duties by directors.

Reported decisions include:

*Hawk Insurance* (Court of Appeal) – appointed by the Attorney-General to be Amicus Curiae in the first Court of Appeal case to consider company schemes of arrangement for over 100 years.

*Spectrum Plus* (House of Lords) – test case challenging the decision in Siebe Gorman that a bank could create a fixed charge over book debts by a mere direction to pay the proceeds into a current account.

*Lehman Brothers International* (Briggs J) – circumstances in which one member of a group of companies acting as settlement broker for other group companies held assets on trust for the other members.

*Illiffe v HMRC* (John Walters QC) – One of the issues in the case was whether there had been unlawful distributions. It was one of the first cases to seek to apply the Supreme Court decision in Progress Property.

*Topham v Charles Topham Group* (Blackburne J) – proceedings seeking to rectify negligent company reconstruction scheme.

*Re CCG International Enterprises Ltd* (Lindsay J) – whether the proceeds of an insurance claim were subject to a fixed or floating charge in a debenture.

*Compaq Computers v Abercorn Group* (Mummery J) – priority of debts between a finance house and supplier of goods with no registration of a retention of title clause.

*Ali v Top Marques Car Rental Ltd* (Michael Furness QC) – validity of a certificate of registration issued by the registrar of companies.

*R (POW Trust) v Chief Executive and Registrar of Companies* (Lightman J) – whether power to impose a penalty exceeded the powers of the registrar of companies.

Reported decisions in respect of director disqualification proceedings include the following:

*Re Pantmaenog Timber, Official Receiver v Meade King* (House of Lords) – appointed by the Attorney-General to be Amicus Curiae at the request of the House of Lords to represent the public interest at the first hearing before the highest tribunal to deal with the jurisdiction under the Company Directors Disqualification Act 1986.

*Secretary of State v Carr* (David Richards J) – circumstances in which director disqualification proceedings should be stayed pending related criminal proceedings.

*Secretary of State v Nimley* (Judge Rich QC) – whether it is an abuse of process for the Secretary of State to bring civil director disqualification proceedings where defendants had been convicted for similar matters and no disqualification order had been imposed.

*Secretary of State v Crane* (Ferris J) – whether civil disqualification proceedings should be stayed pending related criminal charged.

*Secretary of State v Hinchliffe* (Rattee J) – whether disqualification proceedings should continue notwithstanding a possible change in the law.

*Secretary of State v Carter* (Neuberger J) – circumstances in which an inactive director should be disqualified from being a director.

*Official Receiver v Pafundo* (Court of Appeal) – whether disqualification proceedings commenced in the wrong court could be transferred or whether they were a nullity.

*Official Receiver v Moore (No 2)* (Robert Reid QC) – whether a full disqualification order could be made where only more limited relief had been sought in the application.

*Official Receiver v Moore (No 1)* (Blackburne J) – whether a company had become insolvent for the purpose of director disqualification proceedings.

*Secretary of State v Stokes* (Lloyd J) – circumstances in which a person could be said to be a shadow director.

*Re Working Project* (Carnwath J) – test case relating to the jurisdiction of different court to hear director disqualification proceedings.

## Partnership and LLP

Philip has enormous experience in advising on all aspects of disputes involving general partnerships, limited partnerships and limited liability partnerships, both in England and Wales and in the Crown Dependencies and British Overseas Territories. Philip is recommended in both *Chambers & Partners* and *Legal 500* for partnership and LLP work.

He has also frequently been called on by HMRC to advise in relationship to partnerships and, in particular, limited liability partnership, not just in relation to tax aspects but in relation to the law generally.

Most of this work remains confidential, particularly as most disputes are resolved by arbitration. However, in recent years he has been involved in the following three partnership cases that have resulted in determinations by courts:

*Boghani v Nathoo* (Morritt VC) – whether an order obliging partners to complete unfinished property developments after the dissolution of their partnership was necessary to wind-up the affairs of the partnership for the purposes of s.38 Partnership Act 1890.

*Pick v Pick* (Lindsey J) – circumstances in which partnership property and separate freehold land should be partitioned or bought out by the majority partners rather than be sold.

*Christie Owen & Davies Plc v Raobgle Trust Corp* (Court of Appeal) – whether a joint venture to run a restaurant amounted to a partnership.

## Commercial Litigation

Philip is recommended for commercial litigation in both *Chambers & Partners*, *UK Guide* and *Chambers & Partners*, *The World's Leading Lawyers*. He is also recommended for commercial litigation in *Legal 500*.

Details of Philip's work in this area can be found in the other detailed practice areas.

## Trusts and Probate

Philip is recommended by *Legal 500* for Private Client: Trusts and Probate work and named by *Citywealth* as one of the leaders in the trusts and private wealth management sector.



Philip has extensive experience of advising in relation to not only English trusts, but also trusts established in Jersey, Guernsey, the Isle of Man, Bermuda, Cayman Islands, the British Virgin Islands and other Caribbean countries.

In 2013 he appeared in the UK Supreme Court in *Pitt v Holt*, probably the most important trust case to be considered by the English courts for many years. Philip was successful in overturning the so-called rule in *Hastings-Bass*. The case was also important for setting the boundaries on the ability of the courts to set aside transactions entered into as a result of mistake.

In 2011 he successfully appeared in the Privy Council case of *Hutcheson v Spread Trustees*, an appeal from Guernsey dealing with the scope of trustee exemption clauses.

Other reported decisions include the following:

*Barnes v Tomlinson* (Kitchen J) - claim against trustee for breach of trust.

*Cawdron v Merchant Taylors' School* (Blackburne J) – whether a gift was void for perpetuity and whether trustees could sale property and compromise a claim.

*Sheppard v Thompson* (Hart J) – trial relating to breach of trust and misappropriation of trust monies.

*Adam & Co International Trustees v Theodore Goddard* (Evans-Lombe J) – whether the appointment of a sole trustee was ineffective and incapable of discharging two retiring trustees.

*Trusted v Clifford Chance* (Jonathan Parker J) – circumstances in which a solicitor owed a duty of care to a potential beneficiary of a will when advising the testator.

*Stanway v Attorney General* (Lloyd J) – charity proceedings against former trustees of the Royal Masonic Hospital for breach of fiduciary duty and negligence.

## Property

Philip is recommended in *Legal 500* for Property Litigation. He advises and acts on all aspects of real property law, both freehold and leasehold. The following are some of his reported cases.

*Halifax v Curry Pocock* (Norris J) – whether a transfer of land for fraudulent purposes can be made for valuable consideration within the meaning of s.28 Land Registration Act 2002.

*Pick v Pick* (Lindsey J) – circumstances in which pursuant to the Trusts of Land and Appointment of Trustees Act 1996 property held on trust should be partitioned or bought out by the majority rather than sold.

*R (Lord Chancellor) v Chief Land Registrar* (Stanley Burnton J) – whether the Lord Chancellor had power to effect a grant by a local authority of a lease of part of a building.

*Lloyd's TSB v Twiddy* (Lands Tribunal) – depreciation effect on market value of land where there is a restrictive covenant requiring property to be used for agriculture.

*Dear v Robinson* (Court of Appeal) – circumstances in which the discretion to sell land held on trust should be exercised where a right of pre-emption expired in 7 years time.

*Dear v Reeves* (Court of Appeal) – whether a right of pre-emption to land is “property” for the purposes of the

Insolvency Act.

*Butigan v Negus-Fancy* (Eady J) – whether a solicitor had been negligent in the in advising on the granting of a charge over property in circumstances where the grantor was vulnerable to undue influence.

*Eaton Square Properties v O'Higgins* (Court of Appeal) – whether a tenancy agreement with a company was a sham.

*Caerns Motor Services v Texaco* (Judge Paul Baker QC) – whether a landlord's covenant to supply petrol to tenant petrol station touched and concerned the land for the purpose of an assignee of the reversion enforcing the covenant against the tenant.

Philip has been involved in many insolvencies of retail tenant groups and has considerable experience of advising both landlord and tenants in relation to insolvency issues.

## Professional Negligence

Philip is recommended in Chambers & Partners, Legal 500 and Legal Experts for professional negligence.

He has considerable experience in acting for both claimants and defendants in respect of professional negligence claims involving solicitors, accountants, insolvency practitioners, financial advisers and financial service providers.

Reported cases include the following:

*Hutcheson v Spread Trustees* (Privy Council) – claim against professional trust corporation for its management of a trust fund.

*Axa Insurance v Akther & Darby* (Court of Appeal) – claim against solicitors - whether the limitation period starts to run in respect of contingent liabilities.

*Quayle v Rothman Pantell* (Peter Smith J) – claim against accountants and tax advisers arising out of a company reconstruction.

*IC Mutual v PKF* (Simon J) – whether a new claim for professional negligence against accountants could be made after the expiry of the limitation period.

*Butigan v Negus-Fancy* (Eady J) – whether a solicitor had been negligent in the in advising on the granting of a charge over property in circumstances where the grantor was vulnerable to undue influence.

*Adam & Co International Trustees v Theodore Goddard* (Evans-Lombe J) – professional negligence claim against solicitors in relation to whether the appointment of a sole trustee was ineffective and incapable of discharging two retiring trustees.

*Trusted v Clifford Chance* (Jonathan Parker J) – circumstances in which a solicitor owed a duty of care to a potential beneficiary of a will when advising the testator.

*Zappia v Clifford Chance* – numerous court appearances including a hearing before the Court of Appeal dealing with the circumstances in which will be given for failure to provide security for costs, a hearing before Siber J as to the extent to which costs orders ought to be set off against each other and a hearing in front of Blofeld J on

the principles applicable to applications for permission to amend statements of case.

## Charities

Philip has advised many charities both in relation to contentious and non-contentious matters.

Reported cases include the following.

*Cawdron v Merchant Taylors' School* (Blackburne J) – whether a gift to charity in 1917 was void for perpetuity and whether trustees could sell property and compromise a claim.

*Stanway v Attorney General* (Lloyd J) – charity proceedings against former trustees of the Royal Masonic Hospital for breach of fiduciary duty and negligence.

*Scargill & Cave v Charity Commissioners* (Neuberger J) – acting for the Charity Commissioners on an appeal by trustees against their removal.

## Arbitration

Philip was counsel in one of the most important arbitration cases heard in recent years, *Fiona Trading v Privalov* (House of Lords). This case altered the way that English law approached the construction of arbitration clauses, bringing the law into line with the modern international approach.

Philip was counsel in *re Vocam*, the first case in English law to establish the efficacy of arbitration clauses in a company's articles of association.

He appeared in the Isle of Man High Court in *Santa Maria v Wilms*. This was an appeal from an arbitration organised under the rules of the Belgian Centre for Arbitration and Mediation in relation to a property dispute in Spain.

Philip has been involved in numerous arbitrations concerning partnerships, limited liability partnerships and limited companies, both in England and Wales and abroad, all of which remain confidential.

In addition Philip has acted in many ordinary commercial arbitrations under the auspices of the LCIA, ICC, AAA and SIAC, all of which are again confidential, the most recent of which have concerned:

- a dispute in the Caribbean relating to the building of an oil refinery plant
- a dispute in South East Asia regarding the shipping of goods
- a dispute in England concerning a joint venture property development
- a dispute in England concerning the construction of a sports stadium.

## Private International Law

Many of Philip's cases have an international element which involves consideration of private international law issues.

Philip has recently been involved in the following reported cases:

In 2012 he successful appeared in the Supreme Court in two appeals in the *SOCA v Perry* litigation. These

involved consideration of the extent to which there was jurisdiction to make a confiscation order in respect of foreign property and the extent to which a person resident abroad could be required to provide information to a public body in the UK.

In 2012 he acted in *Aeroflot v Berezovsky & Glushkov*. This involved the attempted enforcement of a Russian judgment. Floyd J struck out the claim by Aeroflot on the grounds that the judgment was in breach of English public policy. The Court of Appeal has just heard the appeal but judgment has not yet been given.

In 2013 he appeared in front of Bannister J in the British Virgin Islands High Court in *BTA v Ablyazov*. This involved issues as to the enforcement of an English judgment in the BVI where it was alleged that the defendant had not had a fair hearing. An appeal is due to be heard shortly by the Eastern Caribbean Court of Appeal.

## Administrative and Public Law

In acting for the Crown and various Government bodies for over 20 years Philip has huge experience of advising in relation to all aspects of administrative and public law and the judicial review issues that arise.

Some of his reported cases include the following.

*R (des Pallieres) v HMRC* (Parker J) – judicial review of HMRC’s decision to settle J P Morgan liabilities.

*R (Kent Pharmaceuticals Ltd) v Director of the Serious Fraud Office* (Court of Appeal) – whether documents seized by the SFO during a criminal investigation could be disclosed to a government department to assist with its civil litigation.

*R (POW Trust) v Chief Executive and Registrar of Companies* (Lightman J) – whether power to impose a penalty exceeded the powers of the registrar of companies.

*R (Lord Chancellor) v Chief Land Registrar* (Stanley Burnton J) – whether the Lord Chancellor had power to effect a grant by a local authority of a lease of part of a building.

*R (Ford) v Inland Revenue* (Richards J) – judicial review of a decision awarding child benefit to mother not father).

*Islington LBC v Camp* (Richards J) – Philip was appointed by the Attorney-General to be Amicus Curiae in relation to the power of the court to grant declaratory relief in respect of whether a local authority councillor was disqualified from membership of the authority by reason of her employment.

## Intellectual Property

Although Philip does not hold himself out as a specialist in Intellectual Property matters, he has a good understanding of the law relating to copyright, trademarks, goodwill and passing off, which he has frequently dealt with as part of wider commercial disputes.

Reported decisions include:

*Experience Hendrix v Times Newspapers* (Blackburne J). This was a claim for damages for breach of copyright. It led to a substantial 3 week trial. It concerned difficult issues of copyright law, including the extent to which damages suffered outside the UK could be claimed for infringement of UK copyright or whether it is necessary

to claim damages for infringement of the relevant foreign copyright.

*Illiffe v HMRC* (John Walters QC) – One of the issues in this case was the extent, if at all, to which an unregistered trade mark could be assigned separately from the goodwill of the underlying business. Philip was successful in persuading the tribunal that any such assignment was void and of no effect. Daniel Alexander QC, a leading intellectual property silk, was brought in by the other side to argue this point.

*Experience Hendrix v PPX* (Court of Appeal and Buckley J) – claim for royalties by the estate of Jimi Hendrix and whether restitutionary damages available.

*Balloon Promotions* (Judge Tildesley). This involved a detailed analysis of what the legal concept of goodwill consists of and how it is to be valued.

## Tax

Philip has extensive experience in tax litigation, mainly acting for HMRC. Philip does not undertake tax planning advice.

He is recommended in *Chambers & Partners, Legal 500* and *Legal Experts* for tax litigation.

Reported cases include:

*HMRC v Forde & McHugh* – successfully overturned in the Court of Appeal a line of authorities which stated that National Insurance Contributions were not payable in respect of payments by an employer into an funded unapproved retirement benefit scheme. A further appeal is due to be heard by the Supreme Court in January 2014.

*HMRC v Rex Bretten* – the efficacy of a tax avoidance scheme involving the disposal of discounted securities.

*Oysten v HMRC* – judicial review application by the owner of Blackpool FC in relation to the failure by HMRC to waive interest on tax due.

*Illiffe v HMRC* – tax avoidance scheme seeking to exploit transitional provisions in the tax treatment of intellectual property.

*Blackpool FC v HMRC* – tax relief in relation to the enterprise investment scheme.

*Hadfield v HMRC* – tax implications of merger between Royal Dutch with Shell Transport and Trading.

*Helena Housing v HMRC* – tax implications of a tax avoidance scheme used by housing associations.

*Mobilx v HMRC* – carousel fraud case in relation to alleged fraudulent reclaiming of VAT rebates.

*BT v HMRC* – whether a surrender of rights in a merger agreement is a capital sum derived from assets from the point of view CGT.

*Irving v HMRC* – whether income tax payable in respect of payments by employer to a funded unapproved retirement benefits scheme are liable for National Insurance Contributions.

*R (Collins) v Branigan* – judicial review of decision by Inspector of Taxes to request documentation relating to possible tax avoidance scheme.

# serle court

*Maco Door v HMRC* – whether cost of building a warehouse was a capital allowance deductible against corporation tax.

*Telent Plc v HMRC* – liability of payments to retirement benefits scheme for National Insurance Contributions.

*Hudson Contract Services v HMRC* – (trial involving recovery of money paid to HMRC).

*Green King v HMRC* – whether the novation of liabilities by one company to another company in the same group were within the loan relationship provisions of the Finance Act 1996 Sch 9.

*Triage Service v HMRC* – whether payment made on management buyout deductible for corporation tax purposes.

*Balloon Promotions v Wilson* – whether any part of the sale of a franchised pizza restaurant business was attributable to goodwill.

*R (Ford) v HMRC* – judicial review of a decision awarding child benefit to mother not father.

*Lloyd's TSB v Twiddy* – depreciation effect on market value of land where there is a restrictive covenant requiring property to be used for agriculture.

*New Angel Court v Adam* – whether an inter group transfer of property amounted to the acquisition of the property as 'trading stock' by the transferee company.

*Ahajot v Inspector of Taxes* – right of a bankrupt to pursue an appeal before the Special Commissioners of Tax.

*Finance Ltd v Inspector of Taxes* – whether loans were fixed debts for the purposes of the Exchange Gains and Losses (Transitional Provisions) Regulation 1994.

*Toshuku Finance* – whether payment by liquidators of post liquidation corporation tax is an expense of the liquidation.

*FJL Realisations Limited* – priority of PAYE/NIC payments by companies in administration.

## Qualifications

MA, BCL, Oxford University; LLM, Dalhousie University, Canada

## Appointments

Queen's Counsel: 2006

Junior Counsel to the Crown (A Panel): 1994 – 2006

Chairman, Disciplinary Appeal Panel of LIFFE 2001 -

Bencher, Lincoln's Inn: 2013

## Publications

The Practice and Procedure of the Companies Court (LLP, October 1997) Joint Author

## Other

Appointed on numerous occasions by the Attorney General to act as Amicus Curiae

Previously acted as Counsel to the former Financial Services Tribunal

## Note

Philip Jones QC does not accept Direct Public Access instructions