

ANNUAL CASE REVIEW 2019

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RAISES THE BAR IN CHANCERY AND COMMERCIAL





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Chambers UK

I am extremely proud to introduce the 2019 Annual Review. In 2019 Serle Court has been involved in some of the most complex and interesting Commercial and Chancery cases across a wide range of practice areas, some high profile, some legally complex, and others establishing key legal principles. The selection of cases in this Annual Review include many before the higher courts, the Court of Appeal and Privy Council and others offshore, from a range of jurisdictions.

Alan Boyle QC
Head of Chambers

In 2019 Serle Court was involved in some substantial and high-profile cases, and in a number of precedent-setting cases in the Court of Appeal, Supreme Court, and Privy Council.

Elizabeth Jones QC, Justin Higgo, Gareth Tilley, Paul Adams, Zahler Bryan and Oliver Jones continue to act for Kea Investments in the ongoing litigation against Eric Watson, following the judgment obtained in July 2018 on the basis of deceit and breach of fiduciary duty. So far this year there have been decisions on equitable interest ([2019] 4 W.L.R 145 (CA)) and the availability of gateway 3(1) for service out of the jurisdiction of enforcement proceedings ([2019] EWHC 309), several freezing and notification injunctions, and a claim launched against the former solicitors to the joint venture company which underlay the original fraud. Committal proceedings are also underway.

James Brightwell appeared for India and Jonathan McDonagh appeared for Prince Muffakham Jah in **High Commissioner for Pakistan in the UK v National Westminster Bank Plc** [2019] EWHC 2551 (Ch), where the Court ruled at trial that funds transferred in 1948 from a bank account held by the Government of Hyderabad had remained thereafter held on trust for the 7th Nizam of Hyderabad. Giles Richardson has also acted for the administrator of the Nizam's English estate.

Philip Marshall QC and Oliver Jones continue to represent Emmerson International Corporation and others in proceedings in the BVI in a dispute worth

circa US\$1 billion between two prominent Russian businessmen concerning a joint venture relating to power generation assets in Russia (**Renova Industries Ltd v Emmerson International Corporation**). The proceedings involve contractual claims and claims for breach of trust and dishonest assistance, deceit, conspiracy to injure and other economic torts. There have been numerous interlocutory hearings and appeals in 2019, including a successful appeal by Emmerson to the Privy Council, where it was held that provisions for ancillary disclosure in a freezing injunction are not severable and amount to "an injunction" for the purpose of the rules governing leave to appeal in the BVI ([2019] UKPC 24).

David Blayney QC, Sophie Holcombe and Sophia Hurst act for over 6000 claimants in a group action against British Airways arising out of the well-publicised breach of its website and mobile app resulting in the theft of over 500,000 customers' data. A landmark decision in October 2019 granted a Group Litigation Order in what is the first group action arising out of a mass data breach, and the first case to be heard in the new specialist Media and Communications List.

John Machell QC, James Weale and Stephanie Thompson acted for the successful Defendants following a

5-week trial before Teare J in **Chernukhin v Deripaska** [2019] EWHC 173 (Comm). The case involved a substantial property development in central Moscow and an alleged armed takeover by Oleg Deripaska.

Philip Marshall QC and Matthew Morrison continue to act for Business Energy Solutions (BES) in respect of proceedings arising from the obtaining and execution of search warrants, and an ongoing trading standards investigation into BES's affairs. The claims, which seek damages for misfeasance in public office and just satisfaction under the Human Rights Act 1998 (HRA 1998), raise novel points of public and private law including immunity

from suit. These matters were the subject of an interlocutory appeal to Turner J determined in BES's favour ([2019] EWHC 748 (QB)). The trial is listed for late 2020.

Emma Hargreaves acts for Equity Trust (Jersey) Ltd and Giles Richardson acts for the executor in the ongoing Z Trusts litigation concerning "insolvent" trusts in Jersey. Following Equity Trust's successful appeal before the Jersey Court of Appeal on the question of the priority of its equitable lien ([2019] JCA 106), the executor has been granted leave to appeal to the Privy Council ([2019] JCA 188).

We remain at the forefront of Commercial Litigation and Civil Fraud work

Public Institution for Social Security of Kuwait v Man Group PLC plus 37 other defendants, involving Jonathan Adkin QC and Charlotte Beynon for the fourth defendant and Philip Marshall QC and Simon Hattan for the fifth defendant, is one of the largest fraud disputes ever heard in the commercial court. In its High Court claim, the Public Institution for Social Security alleges it is owed \$847.7 million as a result of a large-scale fraud by its former director general, Fahad Maziad Rajaan Al-Rajaan. With allegations of bribery and corruption spanning three decades. **This case featured in The Lawyer's Top 20 Cases of 2020.**

Justin Higgo and Stephanie Thompson acted for a private equity fund in proceedings for breach of fiduciary duty against its former solicitor in **Spokane v CMS**, billed as one of the top 10 commercial court trials for 2019.

In proceedings which have their origin in the successful judgment in **Novoship v Mikhaylyuk** [2012] EWHC 3586 (Comm) in which Dominic Dowley QC acted for the **Novoship** parties, Dominic Dowley QC, Justin Higgo and Eleni Dinenis represented the **Novoship** parties in the interlocutory stages of further commercial court proceedings for alleged breach of confidence.

Jonathan Adkin QC and Adil Mohamedbhai continued to act in **Magdeev v Tsvetkov & Ors**, one of the most high-profile pieces of civil fraud litigation in the High Court involving various Russian individuals who had invested in a jewellery business in the UAE and Cyprus. The case is set for a three-week trial in the Commercial Court.

Zoe O'Sullivan QC acts for Rontech, the leading owner of petrol station forecourts, in its claim against a former director for invoice fraud and recovery of secret commissions.

David Drake acted for the successful respondent in the Court of Appeal in **SPI North Ltd v Swiss Post International (UK) Ltd** [2019] 1 WLR 2865, which clarified an important point of practice governing when a defendant can plead a non-admission in response to an allegation made in particulars of claim.

Lance Ashworth QC and Matthew Morrison represented the Appellant in **Blackstar v Cheyne Capital** in the Court of Appeal on its claim for 25 million of introducer's fees.

Hugh Norbury QC and Dan McCourt Fritz acted for a corporate defendant in **ArcelorMittal USA LLC v Essar Steel Ltd**, part of the ongoing multi-jurisdictional dispute between the rival steel businesses.



Adil Mohamedbhai acted for a wealthy Italian family which had been the subject of an audacious theft of 15 million from a Cayman bank account. Adil successfully applied for, and obtained, Norwich Pharmacal relief and freezing orders against several potential defendants. The Court's developing "persons unknown" jurisdiction was considered.

Jonathan Adkin QC successfully acted for one of the Defendants in **Yukos Finance BV & Others v Lynch & Others** in a five-week Commercial Court trial arising out of the Yukos Oil saga, in which allegations of corrupt participation in a rigged Russian auction were dismissed.

Justin Higgo continues to represent the Trafalgar Multi Asset Segregated Fund in Chancery proceedings to recover the misappropriated pension funds of numerous small fund holders from the issuers of fictitious bond instruments.

John Machell QC, James Weale and Stephanie Thompson acted for the successful Defendants following a 5-week trial before Teare J in **Chernukhin v Deripaska** [2019] EWHC 173 (Comm). The case involved a substantial property development in central Moscow and an alleged armed takeover by Oleg Deripaska.

Elizabeth Jones QC, Hugh Norbury QC and Oliver Jones have been acting for the Entertainment One Group in a claim to set aside foreign exchange contracts and recover secret commissions paid to individuals in the Treasury team in order to persuade them to use a particular dealer, with freezing injunctions obtained against the individuals concerned.

Having secured the discontinuance of proprietary claims against a Jersey trust, alleged by Dubai Islamic Bank (DIB) to contain the proceeds of a fraud perpetrated by Mr Charles Ridley, Matthew Morrison is now acting for Mr Ridley in English Commercial Court proceedings. These seek to bring to an end Mr Ridley's ongoing imprisonment in Dubai under Dubai's Law 37 of 2009, which allows certain judgment creditors to apply for the imprisonment of debtors for up to twenty years.

Lance Ashworth QC and Dan McCourt Fritz successfully represented the Claimant in **O'Brien v Moneycorp** in Commercial Court proceedings concerning the sale and purchase of the entire share capital of a foreign exchange trading business.

Jonathan Harris QC (Hon.) and Adrian

de Froment appeared in the trial of the governing law of an agency contract to distribute poultry equipment in North America, **Anglia Autoglow North America LLC v Anglia Autoflow Ltd**.

Daniel Lightman QC and Zahler Bryan acted for the successful claimants in **Mahdavi v Sterling Avram**, a case arising from a multi-million-pound property fraud by a consultant engaged by a solicitors' firm. The proceedings raised novel questions about (i) the legal protection available against property fraud where the fraudster operates within a solicitors' firm and (ii) the availability of relief under s 61 of the Trustee Act 1925 to solicitors who have paid away client monies in breach of trust.

Lance Ashworth QC continues to represent the claimant in **Grove Park Properties v Royal Bank of Scotland** due to be heard in May 2020, in which allegations of forgery are made against the bank's employees, with the result that the Claimant is excused from repaying £16 million.

In **Punjab National Bank (PNB) v Srinivasan** [2019] EWHC 3495 (Ch), Matthew Morrison appeared for the Third Defendant in connection with an appeal from a judgment setting aside permission to serve the Defendants out of the jurisdiction. PNB's claims in respect of loans totalling US\$37m were based on personal guarantees and allegations that the loans had been procured by fraudulent misrepresentation. The decision to set aside permission on the grounds of non-disclosure of existing foreign proceedings, and the absence of viable claims in contract and deceit, was upheld on appeal.

James Weale appeared for the Defendants in the Court of Appeal in **Filatona Trading Ltd v Navigator Equities Ltd**. The appeal concerns the interrelationship between contractual estoppel and principles of agency law in the context of a \$100 million arbitration dispute.

In **Satfinance Investment Ltd v Inigo Philbrick**, Zoe O'Sullivan QC and Zahler Bryan are acting for Athena Art Finance Corp, a New York based company specialising in providing finance secured on works of art. These proceedings arise from an alleged fraud concerning a Jean-Michel Basquiat which was subsequently used to raise a multi-million-dollar loan from Athena.

In **Munkenbeck + Marshall v The Vinyl Factory** [2019] EWHC 3255 (TCC) Justin Higgo, assisted by Mark Wraith, successfully defended unjust enrichment claims commenced by an architect in respect of the redevelopment of the Marshall Street Baths in Westminster.

Jonathan Harris QC (Hon.) and Zahler Bryan successfully argued that an

investor in Bitcoin futures was a consumer for the purposes of the European rules of jurisdiction in **Ang v Reliantco** [2019] 3 W.L.R. 161.

Lance Ashworth QC represented the Russian Defendant in a 6-day LCIA arbitration brought by a Panamanian Foundation relating to the sale of a luxury yacht, worth many millions of euros.

...and our Intellectual Property practice has remained as active as ever.

Michael Edenborough QC has been involved in probably the largest trademark enforcement campaign brought before the English courts, covering 3 separate actions (leading Thomas Elias in some) against 28 defendants in 12 countries. He continues to be involved in many trade mark procedural actions, e.g. the consequences of failure to file a TM8 [2019] FSR 20, and those involving unusual trademarks, such as the Babybel red 3D mark, and the Crystal Head bottle (in the shape of a human skull).

Stephanie Wickenden represented Glaxo Group Ltd in trial against Sandoz and Vectura in a passing off case related to the colour of an asthma inhaler.

In **IPCom GmbH & Co KG v Vodafone Group PLC** [2019] EWHC 1212 (Pat) and [2019] EWHC 1255 (Pat) Jonathan Harris QC (Hon.) and Sophia Hurst acted for Vodafone in a challenge to the court's jurisdiction to hear claims for infringement of standard essential patents and FRAND, where parallel proceedings had been ongoing in the German courts.

In an IPEC design and shape trademark case relating to whisky glasses, Stephanie Wickenden resisted an application to restrain her instructing solicitors from acting. Stephanie will appear on the appeal from this decision in spring 2020.

In **Freshasia Foods Ltd v Lu** [2019] EWHC 638, Stephanie Thompson successfully defended Mr Lu both at the interim injunction stage and at trial from claims that he had breached restrictive covenants and should be enjoined from working for his new employer. Arnold J found that that the covenants were both void for uncertainty and unenforceable for being in breach of public policy and awarded indemnity costs to Mr Lu. The case also raised important questions of severability and was discussed in the recent Supreme Court decision of **Egon Zehnder v Tillman**.

Adrian de Froment acted for the successful defendants in **INVISTA v Botes** ([2019] EWHC 58 (Ch)), a dispute involving allegations that research scientists formerly employed by the claimant had acted in breach of confidence and of employment covenants, and had procured breaches of contract by a third party. This was one of the rare cases in which a Part 36 offer was found not to have been a genuine offer to settle and it would therefore have been unjust to enforce the costs consequences in CPR 36.17 ([2019] EWHC 1086 (Ch)).

Stephanie Wickenden continues to act for easyGroup. An application for permission to appeal against the Court of Appeal's decision in "Easy Rent a Car", where Stephanie represented easyGroup unled, is pending.



Our presence in domestic and offshore trusts, probate and private client cases goes from strength to strength.

Richard Wilson QC has appeared in two of the most high-profile claims under the Inheritance Act: **Cowan v Foreman** [2019] EWHC 349 and **Bhusate v Patel** [2019] EWHC 470 (Ch), both of which involved permission to bring a claim out of time.

Dakis Hagen QC and Emma Hargreaves act for the Plaintiffs, and Jonathan Adkin QC and Adil Mohamedbhai act for the Defendant trustee in **Wong v Grand View Private Trust Company Ltd**, a claim to recover substantial trust property transferred to a trustee of a purpose trust. The Plaintiffs successfully obtained summary judgment on the ground that powers of addition and exclusion cannot be exercised in a manner which alters or destroys the substratum of the trust ([2019] SC (Bda) 37 Com (5 June 2019)), but the judgment of the Bermuda Court of Appeal on that issue is awaited. Richard Wilson QC and James Weale act for an intervenor in the appeal.

John Machell QC and Dakis Hagen QC appeared before the Chief Justice of the Cayman Islands in **Re B**, a *Public Trustee v Cooper* application approving the restructuring of a \$1bn trust. Emma Hargreaves was junior counsel to the Protection Committee.

Richard Wilson QC continues to act for Ashley Dawson-Damer in trust litigation in three jurisdictions. In England, he appeared in **Dawson-Damer v Taylor Wessing** [2019] EWHC 1258 (Ch) the leading case on obtaining trust documents by way of subject access

requests under data protection legislation. In **Dawson-Damer v Lyndhurst** [2019] SC (Bda) 8 Richard obtained an injunction from the Bermudian Court preserving trust funds pending the determination of the Bahamian breach of trust proceedings.

Jonathan Adkin QC and Sophie Holcombe act on behalf of the former Prime Minister of Georgia and his family as beneficiaries of a Singapore Trust in **Bidzina Ivanishvili v Credit Suisse Trust**. Claims have been commenced against Credit Suisse entities for losses arising from the mismanagement of an investment portfolio said to be worth over USD 1 billion.

Dakis Hagen QC, Jonathan Fowles and Emma Hargreaves are acting in proceedings in Bermuda and England concerning a Bermuda trust with assets worth billions of dollars. The proceedings include claims against the former director of a trustee company who refused to hand over trust property following his resignation.

Richard Wilson QC and Zahler Bryan acted for the trustee in **PTNZ v AS**, a *Public Trustee v Cooper* application concerning the restructuring of an English trust, and John Machell QC and Zahler Bryan acted for the trustee in the same case seeking an injunction regarding the validity of the appointment of a protector.

Constance McDonnell QC appeared before Morgan J in **Barker v Confiance** [2019] EWHC 1401 (Ch) in which the

Judge exercised his discretion so as to make a costs order against a litigation friend, and clarified the applicable law.

Emma Hargreaves appeared in **In the Matter of Z** [2019] EWCOP 55, a Court of Protection decision concerning the application of the principles of open justice and the approach to requests for disclosure to a non-party of documents from proceedings conducted in private.

James Brightwell acted for the Plaintiffs and Timothy Collingwood acted for the new trustees in the latest Tchenguiz instalment, **ITG Ltd and Bayeux Ltd v Geneva Trust SA** [2019] GRC 064, where the Guernsey Royal Court followed the decision in *Re Z Trusts* on the priority of trustee creditor claims and held that the assignment of a claim to the present trustees had resulted in the discharge of the debt.

Richard Wilson QC and James Weale had a \$20 million claim in fraud struck out in **Sofer v SwissIndependent Trustees** [2019] EWHC 2071. The Court gave important guidance on the nature and scope of trustee exemption clauses and the requirements of pleading fraud against a professional trustee.

In the **T Trusts**, Kathryn Purkis continues to advise new trustees in relation to trusteeship transfer issues arising in a network of family trusts, including in relation to an allegedly forged deed of indemnity.

Richard Wilson QC and Amy Proferes continued to represent the claimant in a dispute between the executors of the late esteemed architect, Dame Zaha Hadid. James Brightwell acted for the Defendants, and Giles Richardson appeared for the claimant in a decision on the conduct of claims under section 50 of the Administration of Justice Act 1985 ([2018] EWHC 1031 (Ch)).

Constance McDonnell QC is acting for a widow in an Inheritance Act claim against a £14m estate, where one defendant is her own minor child who has very substantial financial need as a result of disability.

Kathryn Purkis advises the executors of the Estate of L, a high value London estate, in defending claims of undue influence over the testatrix, want of knowledge and approval and want of capacity.

Timothy Collingwood continues to act for the Claimants in **Re L&M Trust**, in proceedings in the BVI seeking to set aside a trust. He appeared at the hearing of an application to obtain unredacted copies of documents held by a receiver appointed over the trust assets.

Richard Wilson QC and James Weale (acting for the Claimant and Defendant respectively) successfully set aside two multi-million-dollar trust on the ground of equitable mistake in **Hartogs v Rothschild Trust AG** [2019] EWHC 1915.

Dakis Hagen QC and Emma Hargreaves advised the trustee in **HSBC International Trustee Limited v Tan Poh Lee** FSD 175 of 2019 (IKJ), a decision of the Cayman Court on the limits of the Cayman Islands' firewall legislation.

James Weale acted for the successful defendant in **Stevanovich v Knyvett** [2019] WTLR 1029. This is the first modern authority to give guidance on the requirements for interim applications under s 5 of the Inheritance Act.

Constance McDonnell QC is being admitted to the Bermuda Bar for the purposes of a derivative claim on behalf of an estate to recover payments made as a result of undue influence. The case is the first of its kind in Bermuda.

Dakis Hagen QC and Emma Hargreaves continue to act for the adult children of a late Russian businessman in **Re Scherbakov**, a cross border dispute concerning the succession to his very substantial worldwide estate. Giles Richardson acts for the deceased's former wife and Richard Wilson QC acts for the interim administrators.

In **AF v SF** [2019] EWHC 1224 (Fam) Dakis Hagen QC and James Weale acted for a respondent husband who lacked capacity in relation to a substantial financial remedy claim against a suite of ancient and dynastic trusts.

...whilst we continue to be instructed in significant company, insolvency and partnership disputes.

In **Griffith v Gorgey**, Daniel Lightman QC, Adil Mohamedbhai and Emma Hargreaves continue to represent respondents to three unfair prejudice petitions seeking orders for the purchase of their shares in substantial property development companies. In November 2019, the Court of Appeal handed down its judgment ([2019] EWCA Civ 2046) on appeals against two rulings by Sir Nicholas Warren regarding strike-out of the petitions and amendment of another petition.

Philip Marshall QC and James Mather are acting for Dr Vijay Mallya, the former Chairman of Kingfisher Airlines, in relation to a bankruptcy petition presented by a consortium of Indian banks on the basis of an alleged £1 billion debt. There are substantial overlapping proceedings in India. The case raises important issues regarding the existence of security for a petition debt as a basis for dismissal and forum conveniens in respect of insolvency proceedings.

Jonathan Adkin QC acted for a number of dissenting shareholders in two high-value company share appraisal actions arising under s.238 of the Cayman Islands Companies Law. In **Re: Qunar Cayman Islands Ltd** he appeared in a three-week trial in the Grand Court of the Cayman Islands for the determination of the fair value of a Chinese web-based travel company's shares. In **Re: Nord Anglia Education Inc** he acted in a three-week trial in the Grand Court for the determination of the fair value of shares in the world's leading private school business.

Lance Ashworth QC, James Mather and Dan McCourt Fritz represent the defendants in **Zedra Trust (Jersey) Ltd v The Hut Group Ltd** in various sets of proceedings relating to the multibillion-pound company including an unfair prejudice petition.

In **Brown v MML Capital** Timothy Collingwood acts for the petitioners in an unfair prejudice petition. He appeared successfully on their behalf when they obtained an injunction to restrain the continuation of disciplinary proceedings concerning disputed allegations of misconduct pending determination of the petition [2020] EWHC 23 (Ch).

John Machell QC and Dan McCourt Fritz acted for the appellants in **Grupo Mexico v Infund LLP** [2019] EWCA Civ 1673, the first case in which the Court of Appeal has considered the power to rectify the companies / LLP register pursuant to s.1096 of the Companies Act 2006.

James Mather acted for the respondent fund management company in **Lady Moon v Petricca**, in which an SPV of the American private equity firm Cerberus sought to wind up a substantial Italian investment fund. This was the first claim of its kind in which an allegedly insolvent foreign fund was sought to be wound up in the English court on the basis that it is analogous to an English trust. Petricca successfully disputed the English court's jurisdiction to hear the claim.

In **Re Dinglis Properties Ltd**, Daniel Lightman QC and Eleni Dinenis represent the respondents to a s 994 petition concerning a family-established property company. In February 2019 Daniel successfully applied for permission to amend the respondents' defence shortly before trial ([2019] EWHC 738 (Ch)). A landmark judgment in July 2019 ([2019] Bus LR 3100) rejected the petitioner's quasi-partnership claim and ordered his shares to be purchased subject to a minority discount.

Lance Ashworth QC and Zahler Bryan are representing the Portuguese claimant in **De Silva v Lucas & Ribeiro** in the Chancery Division seeking specific performance of the obligation to transfer shares in an Estonian company which indirectly controls a substantial land development in Lisbon.

In **Estera Trust v Singh**, Daniel Lightman QC and Emma Hargreaves represented Jasmin Singh, the chief executive of a prominent hotel chain and the principal respondent to a s 994 petition presented by his brother and a connected trust company. In 2018, Fancourt J ordered the purchase of their shares on a discounted basis ([2019] 1 BCLC 171). Following the second trial in 2019, Fancourt J fixed the purchase price of the shares and an award of quasi-interest ([2019] EWHC 873 (Ch)).

Hugh Norbury QC and Mark Wraith appeared for the claimant in **Saatchi v Gajjar** [2019] EWHC 3472 (Ch), and obtained permission to continue a derivative claim arising out of alleged misappropriations by the defendant from a company involved in the storage and transportation of Mr Saatchi's art collection.

James Mather acted for Paul Simonon, bassist from the Clash, in successfully

defending an application by his ex-wife seeking to permit a sale of her shares in a production company receiving royalties from the band.

Lance Ashworth QC and Dan McCourt Fritz represented the Defendants in a 6-day Chancery Division trial, defeating claims for conspiracy to defraud in connection with the Van Dutch luxury yachts in **Taylor v Van Dutch**.

We have covered a broad range of Property Litigation and Charities work...

Richard Wilson QC appeared for the appellant in **Habberfield v Habberfield** [2019] EWCA Civ 890. The appeal involved the applicable principles for quantifying the equity in a proprietary estoppel case as well as the issue of unconscionability in light of an offer that had been made.

Christopher Stoner QC appeared in **Horsford v Horsford**, a 10-day Chancery Division trial, acting for a son who had been sued by his mother for £2.5m for her share in the family farming partnership. The son counterclaimed

on the grounds of proprietary estoppel, alleging he had given his life over to the farm following a lifetime of assurances it would one day be his.

Ancillary to a high value international child maintenance dispute, Kathryn Purkis is instructed in relation to the assertion of common intention constructive trusts over real property in London and the Far East.

Jonathan Fowles advised the RSPCA on significant reforms of the charity's governance.

and worked on a range of EU, Competition and Regulatory cases...

Suzanne Rab supported the Financial Conduct Authority in its cross-regulatory project to onshore EU financial services legislation in preparation for Brexit. This project involves the FCA, HMT and the Bank of England and the drafting of the legal instruments under the EU Withdrawal Act. Suzanne is also advising the FCA on an 18-month implementation programme for the GDPR and the Law Enforcement Directive.

David Drake appeared in the Court of Appeal hearings addressing the elements of the tort of causing loss by unlawful means ([2019] 3 WLR 938) and the binding effect of annulling decisions of European Courts ([2019] 5 CMLR 16) in

the long running **Secretary of State for Health v Servier Laboratories Ltd** litigation.

Suzanne Rab is acting in several damages' actions for members of the Freight Transport Association following the European Commission's infringement decision in the trucks cartel where it imposed fines of approximately € billion.

and we regularly visited the Dubai International Financial Centre Courts...

In **Larmag v First Abu Dhabi Bank** [2019] DIFC CA 010, the DIFC Court of Appeal significantly extended the party jurisdiction of the DIFC Courts under Article 5(A)(1)(a) of the Judicial Authority Law, ordering disclosure by a UAE bank on the basis that, in being 'recognised' by the Dubai Financial Services Authority in order to trade on NASDAQ Dubai, the Bank was 'authorised' to carry on financial services in the DIFC and therefore a 'Licensed DIFC Establishment'. Rupert Reed QC and Sophia Hurst act for First Abu Dhabi Bank.

Rupert Reed QC and Zoe O'Sullivan QC represented the successful claimant in **YYY Ltd v ZZZ Ltd** [2017] DIFC ARB 005, a landmark decision of the DIFC Court refusing to recognise a decision of the highest Dubai national court on public policy grounds. The DIFC Court held that the Dubai Court of Cassation had breached its obligations under the New York Convention by applying its own law to determine the validity of the clause, rather than the law chosen by the parties. This reaffirms the pro-arbitration bias of the common law courts, and will have importance for arbitration practitioners beyond the DIFC.

In **IMMS v BankMed SAL** [2019] DIFC CA 013, Rupert Reed QC and Gregor Hogan acted on the appeal of an interim refusal to grant an injunction freezing assets to the value of USD 755 million. Although the Court declined to find a sufficient risk of dissipation, it is likely to confirm the putative jurisdiction of the DIFC Courts to grant interim relief in support of foreign court and arbitral proceedings.

Grand Valley General Trading LLC v GGICO Sunteck Ltd DIFC CFI 044/2018, DIFC CA 007/2019 concerns a joint venture dispute in relation to a property development in the Burj Khalifa area in on-shore Dubai. Rupert Reed QC and Sophia Hurst have obtained judgments from the DIFC courts on issues as diverse as whether a non-party 50% joint venture partner had standing to apply to set aside a default judgment for the dissolution of the joint venture

company; the test of desirability under RDC 20.7 for joining a new party; and whether the DIFC Courts had jurisdiction over the dispute, including the power to stay proceedings in favour of arbitration under Article 13 of the Arbitration Law.


In **SBM Bank (Mauritius) Ltd v Renish Petroleum FZE**, Rupert Reed QC and James Weale act for the claimant bank in respect of an alleged \$30 million fraud. Having successfully resisted a jurisdiction challenge brought by one of the defendants before the Joint Judicial Committee (Cassation No.5 of 2018) a final hearing in the DIFC is to be listed in 2020.

James Weale and Jamie Randall act for the defendant in a multi-million-dollar ICC arbitration governed by Kuwaiti law arising out of a valuable contract for the supply of petro-chemicals.



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