

Overview

Partnership and Joint Ventures
Trusts
Banking and Financial Services
Commercial Disputes
Company
Insolvency
Professional Liability
International

Profile: Overview

In his 20 years at the Bar, Shantanu has practised in most areas known to the law but for over a decade he has specialised in commercial and commercial Chancery litigation, professional negligence and some employment. He thinks very hard about his cases for, as a famous Roman once said: "Grasp the subject matter and the words will follow".

Experience and Expertise

Shantanu undertakes litigation, arbitration (LCIA, ICC, SIAC, Swiss Rules as well as ad hoc) and advisory work in the following fields:

Commercial: Insurance, sale of goods, financial contracts, agency (inc. Commercial Agents), credit & security, banking & financial services, telecommunications, economic torts, bailment & conversion.

He is ranked as a leading junior in commercial litigation in both Chambers & Partners - "Our go-to counsel on commercial contractual issues" and the Legal 500 - "Superb on paper and a very talented advocate." & "A very good trial advocate with a light touch."

Commercial Chancery: insolvency and company, partnership and joint ventures, confidential information, directors and other fiduciaries, trusts.

He is ranked as a leading junior in commercial chancery in Chambers & Partners - "he is very, very good and gets behind the client" and "he has got a really nice courtroom manner, and always comes across as unruffled."

Fraud from simple deceit to international asset tracing, breach of fiduciary duty, dishonest assistance, fraudulent trading and transactions defrauding creditors.

He is ranked as a leading junior in commercial fraud in the Legal 500 - "Very proactive and commercial" & "After seeing him in court, you would definitely instruct him."

Professional Negligence: Solicitors, barristers, brokers, financial advisers, accountants, insolvency practitioners, surveyors and engineers - with particular expertise in limitation issues.

He is ranked as a leading junior in professional negligence in The Legal 500, noted as being:

- "An exceptionally talented advocate, who is highly intelligent and very good with clients" 2016
- "Excellent with clients and his preparation is exemplary." 2016
- "Highly intelligent, articulate and knowledgeable"
- With a "phenomenal ability to assimilate detail."

Energy & Utilities: Oil & gas, renewable energy/carbon emission reduction (inc. CERT) and water.

Engineering: from giant water pumps in Wales to boric acid filtration plants in Turkey.

Limitation

Privilege and disclosure/e-disclosure

Conflict of laws: Choice of law / jurisdiction disputes in a wide range of fields.

Emergency interim relief Freezing, anti-suit/anti-arbitration and other injunctions - prohibitory and mandatory; Norwich Pharmacal/Bankers Trust orders; stop orders.

Employment: High Court - wrongful dismissal and other contractual claims, restraint of

Cases and Work of Note

- *Various Claimants v Giambrone & Law & others 2010* - acting for c 100 claimants in a claim (negligence, breach of trust and fiduciary duty) against Italian lawyers in relation to their advice to buyers at an off-plan property development in Southern Italy including a 4-week trial of common issues in March 2015, see: [2015] EWHC 1946 (QB).
- *DCD Factors plc v Ramada Trading Limited 2009 onwards* - long-running multi-million fraud and guarantee claim by trade financiers/factors, involving worldwide freezing injunctions and over 18 hearings including
 - February 2011 - resisting applications to strike out the claims and discharge freezing injunctions before Burnett J (Lawtel AC0128576)
 - [2012] EWHC 1277 (QB) - resisting application to vary freezing injunctions before Charles Hollander QC.
 - March 2014, secured judgment against Defendants for over £20 million in long-running fraud and guarantee claim by trade financiers/factors.
 - [2014] EWHC 1872 (QB) - April 2015, contested application to renew freezing injunctions post-judgment.
 - [2015] EWHC 1046 (QB) - inter-partes oral application for permission to appeal.
- *LCIA Arbitrations Nos 122159, 122160, 122161 - (2013)* acting for a Russian airline in claims under aircraft leases.
- *Philip Hanby Limited v Andrew Clarke [2013] EWCA Civ 647, [2013] All ER (D) 107 (Jun)*, Court of Appeal - appeal against partnership arbitration award - judge refused permission to appeal to Court of Appeal - Court of Appeal's residual jurisdiction under s 16 Senior Courts Act.
- *ASES Havacilik Servis Ve Destek Hizmetleri A.S. v Delkor UK Limited* - Dispute about construction of boric acid filter plant on the Sea of Marmara.
 - [2012] EWHC 3518 (Comm), [2013] 1 Lloyd's Rep 254 - challenge to jurisdiction of English arbitrator - nature of s 67 & s 72 challenges - whether submitting "counterclaim" invoked arbitrator's jurisdiction. (Further details under International profile).
 - [2012] EWHC 3667 (Comm) - permission to serve claim form for an injunction under s 44 Arbitration Act out of jurisdiction where no in personam jurisdiction over defendant.
 - [2014] EWHC 1473 (Comm) - locus of High Court to interpret its earlier injunction order under s 44 AA 96 where Swiss tribunal alleged to have misunderstood it.
- *Withers LLP v Harrison-Welch [2013] BPIR 145 (QB)* - defended claims to set aside a transaction under s 423 of the Insolvency Act 1986 and non-party costs under s 51 of the Senior Courts Act 1981.
- *FBME Bank v Elwes & Aspin [2012] EWHC 2209 (QB)* - resisted the claimant bank's interpretation of the payment terms of a guarantee.
- *Crastvell Trading Limited v Bozel SA [2010] EWHC 0166 (Comm)* - US\$15m summary judgment in complex multi-jurisdictional loan litigation involving proceedings in England, BVI, Luxembourg, Florida. (See further details under International profile)
- *Richmond Pharmacology v Dhaliwal - EAT [2009] ICR 724, [2009] IRLR 336* - leading case on test for racial harassment under 1976 Act.
- *Paulin v Paulin & Cativo Limited (in liquidation) CA [2009] EWCA Civ 221, [2010] 1 WLR 1057, [2009] 3 All ER 88, [2009] 2 FCR 477, [2009] 2 FLR 354, [2009] BPIR 572* - IOM liquidators - matrimonial dispute - corporate veil - annulment of bankruptcy - abuse of process.
- *VFS Financial Services Ltd v Euro Auctions & Hennellys Ltd [2007] EWHC 1492 (QB)* - hire purchase - measure of loss in conversion, restitution - contribution between successive convertors - whether liable for "same damage" under Civil Liability (Contribution) Act 1978.
- *Hidrostal Limited v Opperman Mastergears Limited London Mercantile Court [2006]*. Dispute about the failure of gears for pumps supplied to a pumping stations operated by Welsh Water.
- *Peekay Intermark Limited v Australia and New Zealand Banking Group Ltd [2006] 2 Lloyd's Rep 511 (Court of Appeal), [2005] PNLR 42, Times June 10, 2005 (Comm*

Court) - Russian derivatives - misrepresentation. Established modern ambit of contractual estoppel.

- *Inter-Tel Inc v OCIS plc* [2004] EWHC 2269 (QB), [2004] All ER (D) 142 (Oct) - Conflict of laws - forum non conveniens - choice of law in tort - Arizona state law.
- *Eurodale v Ecclesiastical Insurance Office plc* [2003] Lloyd's LR (Insurance and Reinsurance) 444, Court of Appeal - transit insurance/cover attaching prior to inception of physical transit - typed voyages clause overriding printed Institute Cargo Clauses.
- *Picnic at Ascot v Derigs* [2001] FSR 8 - a guideline case on costs in interim injunction applications.

Publications

Books:

The Law of Limitation (Bloomsbury) – editor of the chapters on (1) Contract, (2) Professional Negligence (3) Latent Damage and (4) Fraud, Deliberate Concealment & Mistake

Civil Court Practice (“the Green Book”) (Lexis Nexis) – member of editorial board and editor of the chapter on limitation.

Butterworths Civil Court Precedents – co-editor (with other members of chambers) of the section on insolvency.

Member of the editorial board of Lexis PSL Commercial and author of the Lexis PSL practice notes on limitation and professional negligence.

Articles (including):

[An impossible position: fraud claims, solicitors and their fees](#) in Butterworths Journal of International Banking and Financial Law (May 2015)

The Revised LCIA Arbitration Rules 2014 with Georg Scherpf of Luther Rechtsanwaltsgesellschaft mbH in Zeitschrift für Schiedsverfahren (SchiedsVZ) - German Arbitration Journal (German Arb. J.). SchiedsVZ 2014, 227. C.H. Beck Verlag.

[Entire agreement, non-reliance clauses & contractual estoppel - what do they prevent and how?](#)

[Hanby v Clarke: The Court of Appeal’s “residual” arbitration appeals jurisdiction under s 16 of the Senior Courts Act 1981.](#)

[Aluminium, fish and some unusual collateral: the pitfalls of lending on the security of your own shares - Butterworths Journal of International Banking and Financial Law - July/August 2011 - Robert Tchenguiz’s unusual loan arrangements with his Icelandic bankers.](#)

[Trust Me](#) – Commercial Litigation Journal, October 2010 – a review of the law relating to limitation and fiduciaries.

[To have & have not](#) – New Law Journal (2010) 160 NLJ 348 - Axa Insurance Ltd v Akther: limitation and professional negligence – the date of occurrence of actual loss. (Cited in Charlesworth & Percy on Negligence 12th Ed)

[Insolvency set-off and security: anomaly or principled exception?](#) - Journal of International Banking and Financial Law (2009) 11 JIBFL 652.

Reverse Gear - Part 1 and Part 2 – New Law Journal (2009) 159 NLJ 1015 and 159 NLJ 1053 – *Paulin v Paulin & Cativo Ltd*: a judge’s jurisdiction to change his mind between judgment and order - the test on an application to annul a bankruptcy on the debtor’s own petition.

[A matter of some interest](#) – New Law Journal NLJ (2008) 158 NLJ 435 – the requirement of insurable interest in non-indemnity insurance.

Seminars

17 June 2015 “Cross-Examination in International Arbitration” an advocacy workshop organized by DIS40 (the young arbitrators’ initiative of the German Institute of Arbitration) and held at the offices of CMS Hasche Sigle in Hamburg.

5-6 May 2014 "Forgiveness before and after the event - the position of trustees" at the Chancery Bar Cayman Conference 2014 on relief for breach of trust under s 61 of the Trustee Act 1925.

16 May 2013 IQPC's 8th Information Governance and eDisclosure Summit with Tom Spencer, Senior Counsel at GlaxoSmithKline on "Managing eDisclosure Costs: The Jackson Reforms and their Implications for Corporations".

27 June 2012 A US/UK judicial seminar on technology in e-disclosure hosted by Epiq Systems with Senior Master Whitaker, US Magistrate Judge Andrew Peck and Bob Lewis MBE, Global Director of CFI/eDiscovery, Barclays
<http://www1.axisto.co.uk/webcasting/investis/epiq/epiq-panel-debate/>