

Commercial Litigation Conference 2024

Thursday 1st February 2024, 12:30 – 21:00

etc.venues St. Paul's, 200 Aldersgate Street, London, EC1A 4HD

Timetable

12:30 – Arrival

Registration and lunch

13:15 – Opening remarks from Chair James Morgan KC (Impressive Suite)

13:20 – Pitch to Partners: a case law update inside the Dragons' Den (Impressive Suite)

Chaired by James Morgan KC with Chloe Shuffrey, James Fagan, and Amber Turner. With partner panellists Lucy Ward of Stewarts, Genevieve Quierin of Stephenson Harwood, and Jason Woodland of Peters & Peters

Chaired by James Morgan KC, Pitch to Partners will see our members, Chloe Shuffrey, James Fagan, and Amber Turner compete against each other in a typically spirited Dragons' Den manner to pitch the best case of 2023 to a panel of opiated partners.

14:15 – Breakout session 1

Just how autonomous is international arbitration? What are the implications and uncertainties of having no forum? (Impressive Suite)

Shantanu Majumdar KC, Kate Rogers and Tatiana Minaeva of RPC

A number of potentially different laws and rules apply to the determination of a dispute by arbitration: the law of the underlying contract, the law of the arbitration agreement and the curial law.

But are other laws/rules relevant too? Does the tribunal have the right or the duty to apply the "mandatory" rules of other states or entities and, if so, which, why and when?

These are especially topical issues given the current sanctions against Russia. They also raise fundamental general questions about enforcement/enforceability, party choices of seat and law, as well as the integrity and predictability of the whole arbitral process.

This session aims to provide practical answers and approaches from the perspective of both counsel and arbitrator.

The FCA's new Consumer Duty: enforcement and routes to redress (Innovative)

Mark Fell KC, Peter Dodge and Robin Henry of Collyer Bristow

The introduction of the Consumer Duty on 31st July 2023 has been described as the 'biggest overhaul for the UK's financial services industry in 20 years'. Intended to set higher expectations for the standard of care firms give consumers, the Duty has imposed significant additional obligations on the regulated sector. It protects not just individual consumers but also some SMEs.

This session will consider the remedies available to customers where the Duty is breached and, in particular, what, if any, effect the introduction of the Duty might have on litigation arising from the sale of unsuitable products.

14:50 – Coffee break (St. Pauls & Dynamic)

15:10 – Breakout session 2

Fraud 2023: recent significant judgments (Impressive Suite)

Christopher Boardman KC, Simon Mills, Lucas Moore of Payne Hicks Beach and Natalie Todd of CYK

Christopher Boardman KC, Simon Mills and Lucas Moore will be discussing the hottest most recent cases for fraud practitioners, including topics such as setting aside arbitral awards on the grounds of fraud, (*Nigeria v Process & Industrial Developments Ltd*), the meaning of transactions for s.423 Insolvency Act 1986 (*Invest Bank v El Hussein*), and the proprietary basis of knowing receipt (*Byers v Saudi National Bank*).

How to navigate and avoid disputes in commercial trusts (Innovative)

Kate Selway KC, Matthew Tonnard and Thomas Middlehurst of Blake Morgan

Tom, Kate and Matt present a Q&A session discussing some of the problems that have arisen in their commercial trust cases such as improper exercise of trustee discretions, trustees' refusal to provide information, how best to plead multiple breaches of trusts, and more!

15:45 – Coffee break (St. Pauls & Dynamic)

16:00 – Breakout session 3

Imaging orders in practice (Impressive Suite)

Tom Beasley, Katie Longstaff and Graeme Buller of Alvarez & Marsal

TBD (Owen Holland) Ltd v Simons and others [2020] EWCA Civ 1182; [2021] 1 WLR 992 marked the advent of imaging orders replacing traditional search orders as the default tool used to preserve incriminating evidence at risk of destruction and prompted the introduction of the standard form imaging order in April 2022.

In this session Graeme, Tom and Katie will consider *TBD (Owen Holland) Ltd v Simons* and subsequent case-law, discuss the practicalities and issues involved in obtaining an imaging order, and shed light on the imaging process itself.

Privilege – pitfalls for practitioners and how to avoid them (Innovative)

Gary Lidington and Alexander Kingston-Splatt

This discursive session will cover a range of practical issues often encountered in commercial litigation practice relating to the important and evolving subject of legal professional privilege including joint privilege, common interest privilege, advertent and inadvertent waiver, receipt of confidential documents, and the cherry-picking principle.

16:35 – Break (St. Pauls & Dynamic)

16:55 – The Good, Bad and the Ugly: the dos and don'ts inside a commercial courtroom (Impressive Suite)

Chaired by Stuart Benzie with Mr Justice Pepperall, HHJ Marc Dight and Phillippa O'Neill of Buckles

In '*The Good, Bad and the Ugly*', chair Stuart Benzie will discuss with Mr Justice Pepperall and HHJ Marc Dight the most important lessons practitioners should learn, from their extensive knowledge and experience, to succeed in a commercial courtroom. Phillippa O'Neill, will join the discussion adding her insights from the perspective of an experienced commercial litigator.

17:40 – Closing remarks from Chair Shantanu Majumdar KC (Impressive Suite)

17:45 – Drinks reception (St. Pauls & Dynamic)

21:00 – Carriages