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Year of Call: 2016

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PRACTICE AREAS

Property

Commercial

Insolvency & Restructuring

Banking and Finance

Direct Public Access

PROFILE

Dale has a strong commercial chancery practice with a particular emphasis on property, insolvency, and commercial cases which often include civil fraud/asset recovery. He has significant advocacy experience having acted as sole counsel in the County Court, High Court, Upper Tribunal, and Court of Appeal.

Often praised for his attention to detail, commitment, and organised approach, Dale takes a calm and

considered view to all cases, combining his legal knowledge with a commercial approach. He is not afraid to advise clients realistically about prospects and financial implications. In court, he is a robust litigator and does not shy away from pursuing a difficult argument.

Dale has undertaken (led and unled) advisory and drafting work for some very high-profile clients. He understands the need for confidentiality and the importance of avoiding litigation in such cases to address the commercial and practical needs of the client.

Passionate about enhancing access to justice for all, Dale actively engages in pro bono work. He is on the Advocate panel and is a supervising lawyer at BPP's Enterprise Clinic. Additionally, Dale is able to accept instructions on a direct access basis.

PRACTICE AREAS

Property

Dale's property practice is wide-ranging. He is regularly instructed in matters ranging from complex multi-track and fast-track trials, through to possession hearings, strike out, summary judgment, and relief from sanction hearings.

Dale is experienced in advising and representing clients in matters involving contractual terms, restrictive covenants and easements (including rights of way and rights of light), trespass, nuisance, boundary disputes, the Party Wall Act, adverse possession, unlawful eviction, fraud, harassment, and highways disputes. Dale also specialises in both residential and commercial landlord & tenant matters.

Dale is also regularly instructed claims involving property damage. Dale has significant experience in these complex liability and quantum claims which often involve multiple areas of law including tort, contract, agency, and statutes such as the Highways Act 1980. Dale also has an excellent working knowledge of the law relating to uplifts for overheads (often known as 'thickening claims') and the recoverability of such.

Recent cases include:

- *National Highways Ltd v David McMinn* [2024]- Dale represented the Defendant's insurer and obtained permission to appeal from the Court of Appeal in a property damage claim involving issues relating to when one company can issue a claim in the name of another. The Claimant instructed leading counsel and opposed the appeal up until the week prior to it being heard when it agreed to the appeal being allowed by consent which the Court approved.
- Dale successfully represented the First Respondent in *Taylor v Savik & Anor* [2024] EWCC 7 in resisting an application by the Second Respondent's Trustee in Bankruptcy for a declaration that a property legally and beneficially owned by the First Respondent was in fact beneficially owned by the Second Respondent (allegation of sham). At the outset of the trial in *Taylor v Savik & Ryle* [2024] EW Misc 18 (CC), Dale obtained a stay of the Applicant's claims pursuant to sections 339 and 423 IA 1986. Following the trial, in *Taylor v Savik & Anor (Re Consequential Matters)* [2024] EWCC 10 Dale obtained an order for: (1) costs on the indemnity basis; (2) pre-judgment interest on costs; and (3) a significant payment on account of costs.
- *Nigel Marsay & Nigel's Computer Repairs Limited v Barclays Bank UK Plc & others* [2023] EWHC 2301 (Comm)- Dale succeeded in striking out claims brought by a commercial borrower against the bank. The judgment provides a review of the relevant principles and case law regarding the duties owed by banks and receivers in respect of allegations involving a sale at an undervalue and in respect of goods left at a repossessed property.
- *Hastings Borough Council v Linda Turner* [2021] UKUT 258 (LC)- Dale represented the Respondent before the Upper Tribunal (Land Chamber). The decision provides important guidance on the proper approach by

the FTT to a rehearing of a licence application made by a relevant person, including clarification on the burden of proof and the weight to be given to the local housing authority's decision.

- Dale represented a claimant in a multi-track trial obtaining over £150,000.00 in occupation rent and defeating a counterclaim alleging a constructive trust.
- Dale was led by James Aldridge KC in possession proceedings brought in respect of arrears of over £23m. The proceedings were settled on favourable terms.
- Dale successfully represented a landlord in a multi-track trial involving a commercial lease renewal where the landlord opposed the lease renewal under s.30(1)(g) LTA 1954 being the landlord's intention to occupy the premises.
- Dale successfully represented the beneficiaries in a multi-track trial involving the interpretation of a will regarding the disposal of a property.
- Dale representing a tenant in multi-track claim for unlawful forfeiture. The court allowed the claim, making damning findings against the landlord, awarding the tenant considerable damages and costs.

Commercial

Dale has a broad commercial practice and receives instructions on behalf of both individuals and businesses in claims of all values.

His commercial work covers a broad range of business disputes, including matters involving breach of contract, debt recovery, consumer rights, guarantees and indemnities, letters of credit, the sale of goods and transfer of title, the supply of services, bailment, and the proper construction and effect of contractual terms and conditions.

Dale also has a good working knowledge of the law relating to force majeure and frustration, having now dealt with several cases involving the effect of Coronavirus on these areas of law.

Dale has been instructed on a number of injunction cases and is always willing to provide urgent advice and representation.

Recent cases include:

- Currently instructed in group action by 41 claimants against an insurer to obtain a declaration that the insurance responds to a judgment obtained by the Claimants in the sum of over £3m.
- Currently instructed in an ongoing claim valued at £4.5 million for alleged breaches of contract for not following through with a contract for sale of two properties valued at over £5 million involving claimed loss of profits and expenditure losses.
- Currently instructed in on ongoing claim valued at over £1 million involving a worldwide freezing injunction flowing from alleged breaches of contract and fraudulent misrepresentation for non-payment under loan agreements and personal guarantees relating to a timber distribution agreement for timber in Africa.
- Dale succeeded in setting aside an unless order made for non-compliance with disclosure obligations under the terms of a word worldwide freezing injunction in a claim valued at over £1 million involving alleged breaches of contract for non-payment under loan agreements relating to a factoring business.
- Currently instructed in several multi-party claims of significant value involving alleged unlawful means conspiracy, inducement or procurement of breach of contract, and unlawful interference with a third party.

Insolvency & Restructuring

Dale offers a comprehensive service in respect of all matters relating to both corporate and personal insolvency, whether representing office-holders, debtors, creditors, companies, directors and insolvency practitioners.

Dale has experience in the full range of matters associated with insolvency litigation, including applications made within insolvency proceedings such as applications to set aside statutory demands, to restrain winding up petitions, to restrain advertisement of petitions or for administration orders.

Recent cases include:

- Currently instructed by the Official Receiver in three conjoined appeals regarding the effect of a stay on bankruptcy proceedings.
- Represented a Respondent at a five-day trial in a claim brought by a trustee in bankruptcy alleging that the ownership of property by that Respondent was a sham, along with claims pursuant to sections 339 and 423 Insolvency Act 1986. Awaiting Judgment.
- Currently instructed in a number of complex claims by both company liquidators and former directors regarding alleged breaches of duty, misfeasance, and preference claims.
- Currently instructed in applications to annul bankruptcy orders brought by overseas creditors alleging 'bankruptcy tourism'.
- Advising a former company director facing a claim alleging wrongful reuse of a company name.
- Advising a former company director about restrictions entered on his personal property following an agreement reached with the liquidator of the company resulting from a settlement agreement. Involved issues of limitation.
- Representing a former company director in a claim brought by the liquidator pursuant to s.212 and s.234 Insolvency Act 1986. Dale successfully argued that the loss to the company had not been properly quantified and reliance on an investigation by HMRC was insufficient.

Banking and Finance

Dale acts for lenders and financiers as well as corporate and individual borrowers. He undertakes a wide ranging of banking work involving charges, mortgages, guarantees, facility agreements, and LPA receivership cases.

Recent cases include:

- Currently representing mortgagees in a number of complex, high value claims, involving issues of assignment, limitation, and enforceability of the mortgages.
- Successfully represented a lender in a strike out and summary judgment application in the High Court involving a claim challenging the validity of legal charges and alleged mis-selling of financial services.
- Advising a borrower on whether a significant loan was unenforceable for breaching FSMA 2000.
- Advising on the enforceability of a mortgage for business purposes secured against residential property.

Direct Public Access

Dale often acts for clients on a Direct Public Access basis. This means that clients can instruct Dale directly without a solicitor being involved.

A guide on how to instruct a barrister under the public access scheme can be found [here](#).

Dale is always transparent and upfront about costs. Any potential client may contact Dale or his clerks on the details above to obtain a quotation for legal services. When requesting a quote, sufficient information must be provided, which should initially include the names of the parties to allow for conflict checks to be undertaken.

Dale's most common fee structure for Direct Public Access work is a fixed fee for a set piece of work. This could be, for example, a fixed fee for reading and considering the papers and providing advice in a conference or in writing, or a fixed fee for preparing for and attending a hearing. Fixed fees are always agreed in advance of the work being undertaken.

Dale's hourly rate for Direct Public Access work is £300.00 plus VAT per hour (£360.00 inc. VAT) (as at 14 October 2024). Dale's fixed fees are calculated by reference to his hourly rate and how long the required work will take. For example, if Dale estimates that it will take him five hours to complete the work required, the fixed fee will be £1,500.00 plus VAT (£1,800.00 inc. VAT).

Once Dale has seen all of the relevant papers and reached a full understanding of the nature of the case and the services required by the client, the proposed fee will be set out in writing. All fees are subject to VAT where applicable. If the proposed fee is agreed in principle, Dale will provide a client care letter that sets out the conditions upon which the instructions will be accepted before any work is undertaken.

The areas of law where Dale most commonly provides legal services are set out above. The factors which might influence the timescales of Dale providing his legal services include, but are not limited to, Dale's availability in light of his current professional and non-professional commitments. Timescales will always be agreed in advance and recorded in the client care letter prior to the commencement of any work.

SIGNIFICANT CASES

Official Receiver v Steve Sanders & AXA Insurance Plc [2024] EWHC 2571 (Ch)

Instructed by the Government Legal Department to represent the Official Receiver, Dale drafted the appeal and successfully represented the OR before Leech J at the appeal hearing in which the OR's appeal was allowed and the First Respondent's application for permission to appeal was refused. The appeal involved issues regarding a stay of bankruptcy and the effect of a stay on the automatic discharge period.

National Highways Ltd v David McMinn [2024]

Successfully represented the Defendant's insurer in obtaining permission to appeal from the Court of Appeal in a property damage claim involving issues relating to when one company can issue a claim in the name of another. The Claimant instructed leading counsel and opposed the appeal up until the week prior to it being heard when it agreed to the appeal being allowed by consent which the Court approved.

Taylor v Savik & Anor (Re Consequential Matters) [2024]

EWCC 10

Dale succeeded in obtaining an order for: (1) costs on the indemnity basis; (2) pre-judgment interest on costs; and (3) a significant payment on account of costs.

Taylor v Savik & Anor [2024]

EWCC 7

Dale Timson acted for the successful First Respondent in resisting an application by the Second Respondent's Trustee in Bankruptcy for a declaration that a property legally and beneficially owned by the First Respondent was in fact beneficially owned by the Second Respondent.

Taylor v Savik & Ryle [2024]

EW Misc 18 (CC)

The first reported case concerning the interplay between sections 339 and 423 of the Insolvency Act 1986 and section 419 of the Proceeds of Crime Act 2002. Dale represented the Respondent and obtained a stay of the Applicant's claims pursuant to sections 339 and 423 at the outset of the trial.

Rainer Hughes v Liverpool Victoria [2024]

EWHC 585 (KB)

An appeal decision involving a wasted costs order arising from language issues and witness statements. The appeal also considered issues of proportionality in wasted costs claims and gave guidance on the proper procedure for wasted costs applications made without a formal application notice.

Nigel Marsay & Nigel's Computer Repairs Limited v Barclays Bank UK Plc & others [2023]

EWHC 2301 (Comm)

Dale succeeded in striking out claims brought by a commercial borrower against the bank. The judgment provides a review of the relevant principles and case law regarding the duties owed by banks and receivers in respect of allegations involving a sale at an undervalue and in respect of goods left at a repossessed property.

Plummer v Friedlander [2023]

EWHC 3241 (Ch)

Dale succeeded in obtaining a General Civil Restraint Order for the maximum permitted duration of three

years. The decision provides clarification on matters which can be relevant for the court to consider in deciding whether to make a Civil Restraint Order.

Halborg v Apple (UK) Ltd & O2 Holdings Ltd [2022]

The most authoritative judgment on the rights of solicitor's agents. Referred to in the Bar Council Guidance and reported in Legal Futures, Legal Cheek, and Nearly Legal.

Hastings Borough Council v Linda Turner [2021]

UKUT 258 (LC)

Important guidance on the proper approach by the FTT to a rehearing of a licence application made by a relevant person, including clarification on the burden of proof and the weight to be given to the local housing authority's decision.

Re Shahi Tandoori Restaurant [2021]

EWHC 337 (Ch)

A three-day trial in the High Court representing a former company director in a claim brought by the liquidator pursuant to s.212 and s.234 Insolvency Act 1986. Dale successfully argued that the loss to the company had not been properly quantified and reliance on an investigation by HMRC was insufficient.

Shahzad v Mazher (Queen's Proctor Intervening) [2020]

EWCA Civ 1740

Dale successfully argued before the Court of Appeal that where fraud only went to the court's jurisdiction to grant the petition, and not the court's jurisdiction to entertain it, the decrees should not be set aside.

CAREER AND ASSOCIATIONS

Member of the Chancery Bar Association

Member of the Property Bar Association

Member of the Commercial Bar Association

LL.B.(Hons) BPP Law School (First Class)

BPTC, BPP Law School (Outstanding)

Highest Performing Professional Award (BPP): Highest degree mark in the year

Certificate of Honour (Middle Temple): Outstanding on BPTC (97% Civil Litigation and Professional Ethics)

Sachs Prize (Middle Temple): Top 5% on BPTC

Jules Thorn Scholarship

Pro Bono Scholarship

Excellence Award (BPP)

LawWorks and the Attorney General Student Awards, winner of the Access to Justice Foundation's Student Essay Competition

LawWorks and the Attorney General Student Awards, runner up of the Best Contribution by an Individual Student Award

Outstanding Contribution to Pro Bono Award 2013, 2014 and 2015

Winner of the Big Voice London 'Just Rights' Mooting Competition, UK Supreme Court



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