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Year of Silk: 2002

Year of Call: 1977

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PRACTICE AREAS

Commercial

Banking and Finance

Company

Insolvency & Restructuring

Civil Fraud

PROFILE

Hugo specialises in commercial litigation, with a particular emphasis on civil fraud and tracing the proceeds of fraud.

His cases often have an international dimension he is currently working on several international legal disputes, involving foreign states and offshore companies. He has also acted as leading counsel in cases involving marine insurance, banking and aviation, and has conducted a large number of

commercial arbitrations.

Most recently Hugo appeared as leading Counsel for the Defendant in a legally and factually complex action for breach of a company director's duties and fiduciary duties. After the successful conclusion of that action he acted for the same client as Claimant in the first English trial for malicious prosecution of civil proceedings, in modern times. It involved an application to the Supreme Court to establish the existence of the tort.

Hugo also has a wealth of experience in injunctive relief applications, including (world-wide) freezing orders and interim relief.

PRACTICE AREAS

Commercial

Hugo Page KC has extensive experience in all aspects of commercial law, appearing regularly both in court and in arbitration. Whilst a busy advocate, Hugo is commonly instructed for his pragmatic and client friendly advisory work, with a particular emphasis on commercial agreements, banking transactions, civil fraud and asset recovery.

Recent Cases include:

- Acting for the Claimant in an arbitration dispute as to enforceability of a contract for sale of Cypriot and Russian companies. The Defendant resisted enforcement of the contract on the basis that a condition precedent as to management approval had not been fulfilled and disputed the companies' valuation.
- Acting for the Claimant in the Commercial Court and Court of Appeal in a dispute over a sale of six airliners by a Chinese airline to Iran. The Claimant's Iranian agent had intervened and taken the benefit of the sale contract for himself.
- Acting for the Claimant in a claim for the price of electricity generating equipment delivered to Pakistan for its nuclear weapons program. The Defendant State attempted to set aside service on the ground that the contract was not governed by English law, and on the ground of state immunity.
- Acting for the Claimant in the Commercial Court in a claim for agent's commission for obtaining a reinsurance contract for a national disaster insurance scheme in another country. The issues were whether the agent was effective cause of the transaction in question and whether the agent had breached its contract by virtue of its relations with members of that country's government.
- Acting for the Claimant in an action for misrepresentation as to the condition of 3 Airbus aircraft leased by one major airline to another.
- Advisory work for a substantial shipowning group in relation to disputes as to its entitlement to reject delivery of a series of vessels built at Japanese yards. The disputes were to be resolved by arbitration in Japan.

Banking and Finance

Hugo has represented Claimants and Defendants against banks in claims arising out of third party fraud and commercial and property disputes and in relation to the intervention of the National Assets Management

Agency (“NAMA”) of Ireland in English development loans.

Recent Cases include:

- Advising a foreign client as to the requirements for obtaining English jurisdiction in a potential claim against a bank situate abroad which had refused or was likely to refuse to transfer his account balance to England;
- Representing a group of development companies in Ireland in proceedings in the Irish High Court, Court of Appeal and Supreme Court against their bankers involving allegations of fraudulent misrepresentation, breach of mortgagee’s duty to the mortgagor, validity of appointment of and breach of duty by receiver, liability of a personal guarantor and the effect on existing proceedings of the merger of one Bank with another.
- Representing English development borrowers in proceedings to determine whether the London Branch of an Irish bank could assign the benefit of their loans to the National Assets Management Agency of Ireland.
- Representing a London development company in a dispute with its lending bank as to whether the bank’s legal charge over the company’s development extended to money owed by associated companies in relation to other developments.
- Representing the eventually successful claimant in the High Court and Court of Appeal in a claim against an investment bank for a success fee for finding an investor in one of the bank’s client companies.

Company

Hugo Page KC has worked on substantial company law cases involving issues of non-disclosure, duty to account, breach of director’s duties and fiduciary duties, shadow directorship.

Recent Cases include:

- Acting for the Defendant in a dispute between a development bank and its local partner in a project in Zambia. The central allegation was deceit and non-disclosure of a particular method of financing the Defendant’s investment in the project. The issues were breach of fiduciary duty, a director’s duty of disclosure, a director’s unauthorised profit, duty to account to the company and limitation.
- Acting for the Defendant in a case involving allegations of breach of duty and fiduciary duty by a company director. The dispute centered around the director’s claim that he had following instructions from the previous owner of the company group, which was now owned by a trust, whether the previous owner was a shadow director and if so what were the consequences of that, including the application of the “Duomatic principle”.
- Acting for the Claimant in a claim for malicious prosecution involving issues of the effect of control of a group of companies by a beneficiary of a trust which held the shares, shadow directorship, identity of the directing mind and will, identity of the “prosecutor” of a claim brought by a company.

Insolvency & Restructuring

Hugo Page KC has worked on insolvency cases involving, among other issues, the powers of a sole shareholder in a then solvent company and the nature of third party debt orders.

- Acting for the Defendant in a claim by the liquidator of 3 telecoms companies that he misappropriated company funds. There was also a committal application against him based on a false statement of truth. The order for committal was made, but the Court of Appeal allowed his appeal against the money judgment against him on the grounds that as sole shareholder he was entitled to deal with company funds as he wished in the absence of evidence that the company was insolvent at the time (*Rolled Steel v British*

Steel/). Later acting for the Defendant in a successful application to discharge the committal order on the ground that the money claim had been settled, despite the Defendant having served none of his sentence.

- Acting for the Claimant in the Commercial Court, Court of Appeal and House of Lords in a (or the) leading case on the nature of garnishee orders. The Claimant had obtained a garnishee order nisi over an account held at a foreign branch of a bank which also had a branch in London. The Defendant attempted to set it aside on the ground that a garnishee order worked by placing an equitable charge over the asset which the English Court could not do where the asset was situate abroad.
- Acting for mortgagees of a company's chattels in a claim against the company's liquidator that they had a good title to the chattels.

Civil Fraud

Hugo Page KC has worked and is working on several substantial fraud cases, representing both Claimants and Defendants.

Recent cases include:

- Advising the prospective Claimant in a claim by a shipowner against a charterer for fraudulent misrepresentation as to the identity of the receiver of a cargo, the actual receiver being an individual subject to UN and EU sanctions.
- Representing the Defendant reinsurance intermediary in a series of hearings concerning the effect of a Judgment in the Claimant reinsurer's 's favour. The Defendant had been found liable for dishonest conspiracy in a trial in which it had other representation. The disputes concerned (inter alia) whether factual errors in the judgment could be corrected under the slip rule or only on appeal and whether the Claimant was entitled to claim for time spent by its employees investigation the conspiracy in the absence of proof of actual loss as a result.
- Representing the successful appellant in his appeal against a judgment finding him liable for a fraud on a bank in relation to property developments in Spain.
- Acting for the Claimant in an application for a without notice injunction restraining the London branch of an Irish bank from assigning the Claimant's loan to NAMA.
- Acting for the Claimant in an application for a without notice injunction restraining the sale of an oil drilling rig in breach of a contractual right of first refusal.
- Acting for the Claimant in a claim involving a fraudulent attempt by a director of a Hotel company to take control of it by causing the company to issue shares to himself.
- Acting for the Defendant in a high-profile claim by an international organisation against its previous chief executive for misappropriation of the organisation's assets, which involved a very complex asset tracing exercise.

SIGNIFICANT CASES

Eastcap Ltd v Aon UK Ltd

Currently representing the Claimant in a claim for reinsurance commission arising out of agency representation in Romania. Commercial Court.

Celtic Oil v Burren Energy

Appeared for the Claimant in an arbitration dispute as to enforceability of a contract for sale of Cypriot and Russian companies.

Tigris v China Southern Airlines [2014]

EWCA Civ 1649

Appeared for the Claimant buyer in a dispute over a sale of six airliners by a Chinese airline. Commercial Court and Court of Appeal.

Mid East Sales v Republic of Pakistan [2014]

2 All ER (Comm) 623

Appeared for the Claimant in a claim for the price of equipment delivered to Pakistan for its nuclear weapons programme. Issues of state immunity involved.

Langstone Leisure Ltd v Willers [2013]

EWHC 4840 (Ch)

Whether a witness statement served by a claimant in English proceedings in respect of alleged breaches of duty by a director could be used by the defendant in Isle of Man proceedings between the same parties; appeal allowed and permission granted as the significant evidential advantage was a sufficiently good reason.

Willers v Gubay [2018]

EWHC 3424

Claim for malicious prosecution involving issues of the effect of control of a group of companies by a beneficiary of a trust which held the shares; shadow directorship; identity of the directing mind and will; identity of the “prosecutor” of a claim brought by a company.

Daltel Europe v Makki [2006]

EWCA Civ 94

Appeared on successful application to discharge an order for committal for contempt after settlement of the underlying fraud action. Chancery Division.

Ashwood v Bank of Ireland [2014]
EWHC 2624; [2013] EWCA Civ 959

Actions by and against a bank and receivers in relation to a major property development in London.

Carey v Bank of Ireland [2012]
Ch 304

Claim for injunctive relief restraining NAMA from taking an interest in the Claimant's loan facility.

CAREER AND ASSOCIATIONS

Called to the Bar, Inner Temple 1977

MA (Cantab)

Commercial Bar Association

The London Court of International Arbitration

London Common Law & Commercial Bar Association

French (working knowledge)

PUBLICATIONS

Halsbury's Laws. Arbitration. 4th ed. Reissue. Butterworths.

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