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Samuel Hodge

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Year of Call: 2018

E: samuelhodge@enterprisechambers.com

Clerk: Raj Lamba

Clerk: Jonathan Mytton

PRACTICE AREAS

Insolvency & Restructuring

Commercial

Property

Company

Banking and Finance

Wills, Trusts and Probate

Professional Negligence and Disciplinary

PROFILE

Samuel is a member of Chambers' London branch. He has a strong commercial chancery practice, and regularly deals with cases which have insolvency and property aspects, and which involve fraud and asset tracing.

He is a skilled advocate who frequently appears as sole counsel in the High Court and County Court.

He has been led on a number of substantial high-profile cases, including in the Court of Appeal. He accepts instructions in all of Chambers' main practice areas.

He has been listed as a "Rising Star" in the Legal 500 for insolvency in 2023 and 2024.

Samuel has been appointed by the Attorney General to the London B Panel of Junior Counsel to the Crown, commencing on 1 September 2024 for 5 years.

Highlights include:

- Appearing in the UK Supreme Court (25-26 February 2025) and the Court of Appeal (25-27 July 2023) on the issue of whether a defendant is liable to pay equitable compensation for dishonestly assisting a breach of constructive trust over unauthorised profits.
- Acting since 2019 as first junior for a company in liquidation in multiple proceedings involving complex fraud, asset tracing, and enforcement; appearing in a number of multi-week trials, and multi-day hearings, in the Commercial Court (KBD).
- Resisting a 5-day strike out/summary judgment application in the High Court (Ch Div) in a claim involving breach of directors' duties, unlawful means conspiracy, fraudulent misrepresentation, and dishonest assistance.

Samuel was called to the Bar in 2018, coming top of the Lincoln's Inn cohort. Before undertaking pupillage at Chambers, Sam obtained a Distinction and a prize on the BCL at the University of Oxford, and graduated top of his year in Law at Queen Mary University of London.

PRACTICE AREAS

Insolvency & Restructuring

Samuel regularly represents office holders, creditors and debtors in all aspects of corporate and individual insolvency. See Samuel's "significant cases" below for more detail.

His experience includes:

- Representing a litigation funder (which had taken an assignment of a liquidator's claims) on appeal proceedings in the High Court. The matter concerned a "running account" defence to preference claims.
- A 3-week trial on behalf of a company in liquidation. Proved claims of fraudulent breaches of fiduciary and statutory duties, and dishonest assistance; defeated limitation and laches defences; obtained judgment for c.£162,000,000.
- A 5-day strike out/summary judgment application on a claim by a company in liquidation for breach of director's duties, dishonest assistance, fraudulent misrepresentation.
- Obtaining s.236 orders against individuals, companies, and international financial institutions.
- Various cases involving breaches of directors' duties, TUVs, s.423 transactions defrauding creditors, unlawful dividends, preferences, and directors' loan accounts.
- Making and resisting applications to set aside statutory demands.
- Private examinations.
- Bankruptcy and winding up petitions, and rescission and annulment applications.
- Applications for injunctive relief.
- Possession and sale applications.

- Office-holder remuneration applications.
- Challenges to IVAs and CVAs.
- Representing a well-known football club, and the CVA supervisor of another well-known football club, in winding up proceedings.

Samuel is particularly interested in claims involving misfeasance, accessorial liability, asset tracing, property and fraud in an insolvency context.

Commercial

Samuel acts and advises in relation to all aspects of commercial litigation and has been involved in a number of significant cases.

His experience includes:

- A 3-day appeal in the Court of Appeal on the law of remedies, in particular equitable compensation and accounts of profits.
- A 7-week Commercial Court trial in a case involving 48 parties, concerning competing proprietary claims to high value assets. Issues of whether a transfer of assets worth in excess of £250m had been procured by fraud, bribery and blackmail; the bona fide purchaser defence; equitable liens; tracing and equitable priority; equitable assignments; the law of contractual construction; whether Jersey law recognises constructive trusts over land.
- Running a complex *Marex* tort and s.423 claim in the High Court, seeking to unwind an anti-enforcement scheme, and to injunct the perpetrators.
- A security for costs application in the High Court, where the adequacy of protection afforded by an ATE policy, and the financial standing of the insurer, was in issue.
- Acting since mid-2019 as first junior in a complex claim involving allegations of fraud, self-dealing, secret nominees, bribery, dishonest assistance, which also had complex limitation issues. Succeeded at a 3-week trial and obtained judgment for in excess of £160m.
- Multiple hearings of complex CPR Part 71 judgment debtor examinations (and an application to set aside an examination order on multiple grounds including the orders for alternative service).
- Injunction applications, including worldwide freezing orders.
- Committal applications for breaches of freezing orders.
- A 3-day strike out application involving the availability of “backwards tracing” and election.
- Appearing in the High Court on behalf of a wife against her former husband and his associates. The wife had an unpaid financial remedies order against the husband worth over £40M. Samuel obtained 3 receivership orders over numerous high-value properties and shareholdings in Spain and Ireland.
- Claims for delivery up/money judgment on breaches of lease purchase or hire purchase agreements.
- Claims involving deceit, misrepresentation, breach of contract, conversion, wrongful interference with goods, unlawful interference with trade, undue influence, duress and lack of capacity.
- Applications concerning legal privilege, and to restrain use of documents.
- Applying for non-party costs orders, and wasted costs orders.

Property

Samuel has a strong practice in real property law, and in residential and commercial landlord & tenant law.

His recent experience includes:

- Acting for lenders, borrowers and receivers in mortgage claims, including where there are allegations of undue influence and duress.
- Boundary disputes, and seeking injunctions for trespass and/or nuisance.
- Adverse possession.
- Claims for specific performance and delivery up.
- Easements, and seeking injunctions for interference.
- Claims concerning forfeiture, waiver, and relief from forfeiture.
- Rectification claims.
- Claims involving restrictive covenants.
- Proprietary estoppel claims.
- Claims involving chattels or fixtures.
- TOLATA claims, and common intention constructive trusts.
- Possession claims.
- Unlawful eviction claims.
- Acting for a purchaser on a summary judgment application, and trial, concerning the specific performance of a contract for the sale of land; issues included: contractual formalities, undue influence, lack of capacity, duress, and fraudulent misrepresentation.
- Acting on a claim concerning construction of a trust deed relating to land, and whether a pre-emption clause in the deed had been properly triggered.
- Disrepair claims, and claims for breach of quiet enjoyment covenant / derogation from grant.

Samuel is an editor of the “Tenant’s Remedies” chapter of The Landlord & Tenant Factbook (Ch 8B).

He has also written an article for the PLC Property Litigation Column: “Tenancy deposits in flat shares: *Sturgiss & Gupta v Boddy & Ors* [2021] 7 WLUK 298” (August 2021)

Company

Samuel has a strong practice in all areas of company law and general chancery, and has recently worked on high-profile cases involving breaches of directors’ duties, accessorial liability, and asset tracing.

He will accept instructions in a broad range of company law matters, for example relating to shareholders disputes, shareholders’ agreements, service agreements and restrictive covenants, unfair prejudice petitions, derivative actions, claims against directors, unlawful dividends claims, company restorations, and applications to extend time to register charges. Samuel will also accept instructions in matters concerning LLPs and partnerships.

Samuel is particularly interested in company law cases with insolvency, property and fraud aspects.

Banking and Finance

Samuel frequently acts in disputes involving banking and finance law, including:

- Acting in relation to mortgages, charges, debentures, guarantees, and lease/hire purchase agreements (including delivery up).
- Acting in claims involving issues under the Consumer Credit Act 1974.
- *Quincecare* claims

Wills, Trusts and Probate

Samuel accepts instructions in relation all aspects of Wills, Trusts & Probate.

Samuel's recent case experience in these areas includes:

- Advising on the validity of wills and trusts, and whether there are grounds to set aside, e.g. on the basis of undue influence.
- Successfully acting for an executor in a claim for possession of property making up part of the estate, against a residuary beneficiary who had gone into occupation but who had refused to leave when the executor required possession so as to sell the property for the purposes of administering the estate.
- Advising a will beneficiary on options available to her in circumstances when one of her co-beneficiaries had moved into a property which the will had specified should be held for the beneficiaries in equal shares.
- Advising on whether a chain of representation had been broken, and whether a grant *de bonis non administratis* would be required.
- Advising an executor in a claim brought against the estate based on proprietary estoppel.
- Advising on proceedings under Part 64 CPR for administration of an estate of a deceased person.
- Acting in relation to s.50 AJA 1985 applications for the removal of executors.
- Advising on the proper construction of a deed of trust and whether a pre-emption clause had been properly triggered.

Professional Negligence and Disciplinary

Samuel has recently advised in relation to a claim against a firm of solicitors for various failings in the conduct of litigation, and for failure to make a claim on behalf of a client on an ATE insurance policy within the appropriate time limit.

He has also recently assisted in a claim against a firm of solicitors where the LLP had first to be restored by Court order so that a negligence claim could be pursued. The claim was that the firm had been negligent in failing to advise on the true effect and requirements of a family trust set up for the benefit of the settlor's children, which also involved s.14A Limitation Act 1980 and quantum issues. Samuel also advised the claimants on various points arising in relation to the Third Party (Rights Against Insurers) Acts

HPIL v Marlborough Developments Limited & Ors [2024]

EWHC 3075 (Comm)

Success at a 3-day trial for HPIL, where claims were brought under s.423 IA 1986 and the Marex tort to unwind an anti-enforcement scheme. HPIL also succeeded in setting aside a £850m default judgment as a party "directly affected" by it, and having associated proceedings struck out as a "paradigm example of abusive proceedings".

HPIL v Stevens [2024]

EWHC 1263 (Comm)

James Pickering KC and Samuel Hodge acted for the successful Claimants, resisting an application made by the Defendant to discharge an order requiring his devices to be forensically examined.

Stevens -v- HPIL [2023]

EWCA Civ 1120

A 3-day Court of Appeal hearing on the law of remedies against a dishonest assistant; equitable compensation and account of profits.

Akkurate Limited (in Liquidation), Short & Illes v Richmond & Schofield [2023]

EWHC 2392 (Ch)

A 5-day strike out/summary judgment application. Issues of whether a director owes fiduciary duties post-compulsory liquidation; construction and scope of settlement agreements; dishonest assistance; unlawful means conspiracy; deceit; law relating to summary judgment applications.

HPIL -v- Stevens [2023]

EWCA Civ 716

Application in the Court of Appeal seeking strike out of appeal unless sum owed by way of costs on account of trial were paid.

Shill Properties Ltd -v- Bunch [2023]

EWHC 2135 (Ch)

3-day trial of a specific performance claim. Issues included contract formalities, fraudulent misrepresentation,

and undue influence.

HPH -v- Stevens [2023]
EWHC 3385 (Comm)

Judgment debtor's application to set aside a CPR Part 71 examination order on the basis of oppression, disproportionality, and unreasonable failure to mediate, and to set aside alternative service order, was dismissed.

Cage Litigation Limited v Iqbal [2022]
EWHC 2731 (Ch)

Samuel Hodge represented the intended respondent, Cage Litigation Limited, at a permission to appeal application by Mrs Iqbal. The judgment considers the question (which has also been considered in *Re Oxford Pharmaceuticals* [2009] 2 BCLC 485) of whether the existence of a "running account" between company and creditor can provide a defence to a preference claim or mean that a recipient creditor should be given credit for payments made to the Company as part of a course of dealings. The Vice-Chancellor, Mr Justice Fancourt, considered the requirements for a "running account" argument to be made out, and concluded that such an argument was not open to Mrs Iqbal on the evidence at trial.

HPH & Aird-Brown v Ruhan & Stevens [2022]
EWHC 383 (Comm)

Major success in a 3-week Commercial Court trial of claims against a former director for fraudulent breaches of statutory duty, and against an alleged nominee for dishonest assistance. Defeated limitation and laches defences. Claim was for in excess of £100m. Samuel was praised by Foxton J for his "very effective" cross-examination of the Second Defendant.

HPH & Aird-Brown v Ruhan & Stevens [2022]
EWHC 1695 (Comm)

2-day consequential hearing. Obtained final judgment against Defendants for c.£162m, including compound interest. Samuel made the costs submissions on behalf of the Claimants, and successfully argued that the Defendants should be joint and severally liable. Obtained a £2.1m payment on account. The decision also establishes that costs of s.236 applications against third parties may be treated as costs of an incidental to underlying proceedings, over and above expenses of a liquidation.

Shill Properties Ltd v Bunch [2021]
EWHC 2142 (Ch)

Summary judgment application on a claim for specific performance of a contract for sale of land. New defence was misrepresentation. Addressed whether a party was contractually estopped by a non-reliance clause.

The SFO & Ors v Litigation Capital Limited & Ors [2021]
EWHC 1272 (Comm)

7-week Commercial Court trial involving complex issues of (inter alia) whether a transfer of assets worth in excess of £250M had been procured by fraud, bribery and blackmail; the bona fide purchaser (“equity’s darling”) defence; equitable liens; tracing and equitable priority; equitable assignments; the construction of settlement and investment agreements; whether Jersey law recognises constructive trusts over immovable property.

The SFO & Ors v Hotel Portfolio II UK Limited (in Liquidation) & Ors [2021]
EWHC 1273 (Comm)

Strike out application involving complex issues of the availability of “backwards tracing” in circumstances where a defendant purchases assets with the use of a loan and then uses trust property to repay the loan.

Clipper Holding II SÀRL v McEwan [2020]
EWHC 1756 (Ch)

Resisted the debtor's application to strike out a bankruptcy petition by arguing that the debtor was estopped, by virtue of the doctrine of contractual estoppel, from seeking to dispute the petition debt (on the alleged basis that the default interest in the facility agreement arguably amounted to a penalty clause, or could be the subject of the Consumer Credit Act 1974 protections) in light of the fact that the debtor had previously raised these points with the petitioner and then entered into settlement agreements which recited the total amount which was agreed as being due under the facility, and agreed that the petitioner would be entitled to present a bankruptcy petition for that sum if the debtor breached the terms of the conditional settlements.

Hotel Portfolio II UK Limited (in Liquidation) & Anor v Ruhan & Anor [2020]
WLUK 340

An application for an extension of time to give disclosure and prepare witness statements in light of delays caused by the COVID-19 pandemic.

Hotel Portfolio II UK Limited (in Liquidation) & Anor v Ruhan & Anor [2020]
EWHC 223 (Comm); [2020] Costs LR 205.

A security for costs application where the adequacy of protection afforded by an ATE policy was in issue. An order was made, for the first time in a security for costs context, that the defendant-applicant's cross-

undertaking in damages should be fortified by a substantial payment of money into Court.

Hotel Portfolio II UK Ltd (in Liquidation) v SMA Investment Holdings Ltd [2019]
EWHC 1754

An application for a declaration that certain communications passing between a solicitor and client were not protected by legal advice privilege by reason of the crime/fraud exception.

CAREER AND ASSOCIATIONS

Appointed by the Attorney General to the London B Panel of Junior Counsel to the Crown.

Chancery Bar Association

Commercial Bar Association

Property Bar Association

Young Fraud Lawyers Association

Called to the Bar (2018) - Lincoln's Inn

Bar Professional Training Course (2017-18) Outstanding: ranked 3rd in the UK; Lincoln's Inn Student of the Year Prize 2018, and a Buchanan Prize.

Bachelor of Civil Law (BCL), The University of Oxford (2016-17) Distinction: awarded the Oxford Law Faculty Prize for Constitutional Theory.

Law (LLB Hons), Queen Mary University of London (2014-16) First Class: ranked 1st in year; awarded The Professor Sir Roy Goode Prize for Best First Class Degree, The Principal's Prize for Outstanding Academic Achievement, and The Land Law Prize.

Philosophy and Theology (BA Hons), The University of Oxford (2011-14): awarded The Emmanuelle Prize for Academic Achievement.

Recipient of Lord Brougham, Hardwicke, Sir Thomas More, and Eastham Scholarships from Lincoln's Inn.

PUBLICATIONS

Contributor to The Landlord and Tenant Factbook (Chapter 8B: Tenants' Remedies)

Tenancy Deposits in Flat Shares: *Sturgiss v Boddy* [2021] – Practical Law Property Litigation Column, August 202

Exceptions to the Without Prejudice Rule: *Berkeley Square Holdings v Lancer Property Asset Management Limited*

It is "Akkurate" to say that the English Court has jurisdiction to make extra-territorial orders under S.236 of the IA 1986 against EU resident parties.



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