
CLIVE FREEDMAN QC

Silk: 1997 | Call: 1978



Overview

Clive Freedman QC is joint head of Littleton Chambers and one of the UK's most highly regarded commercial litigators.

Called to the bar in 1978 and made silk in 1997 and a deputy High Court Judge in 2003, Clive has a wealth of experience acting for high value individuals in cases of commercial fraud, international arbitration, professional negligence, banking, company law and general commercial litigation. He frequently appears with specialist juniors in different fields, and has appeared before the Court of Appeal in about 50 cases.

Among the views expressed about him in the current legal directories are the following:

Commercial Litigation Chambers and Partners - Clive Freedman QC earns praise for his "brilliant analytical mind and marvellous advocacy," and was described by one interviewee as "the most thorough man I've ever met; he never knowingly leaves a stone unturned." Legal 500 - the *'incredibly bright and tenacious'* Clive Freedman QC *'wins cases for clients by looking at every angle, with a creative and rigorous approach'*.

Civil Fraud - Chambers and Partners - Clive Freedman QC is "rigorously analytical in his approach as well as creative in his thinking." He is well suited to cases of seemingly insurmountable complexity, and can turn his broad experience and vast intellect to a variety of fraud related work

Banking - Legal 500 - Clive Freedman QC is *'able to turn his hand to anything with perfect aplomb'*

International arbitration - Legal 500 - Clive Freedman QC *'stands out as one of the best commercial litigators around'*. *'He seems to have exactly the right touch for whatever tribunal he faces'*,

A large part of Clive's practice comprises complex commercial fraud trials usually with a substantial international dimension, most lasting several weeks. He is frequently retained in in energy and precious metals disputes between Russian and CIS oligarchs in the Chancery Division and in international arbitrations as well as acting for high net worth individuals on a broad range of other commercial matters.

He is also an appellate lawyer of great experience, having appeared in the Court of Appeal on about 50 occasions. Examples of work include Clive acting in the guideline case of Dadourian on worldwide freezing injunctions; in the House of Lords solicitor partnership case of *Hurst v Bryk*.

In the last few years alone, he has been in numerous reported cases. Most recent cases including *4 Eng v Harper* [2009] Ch. 91 (damages for loss of chance in fraud cases), *4 Eng v Harper* (No.2)[2010] BCLC 176 (setting aside transactions prejudicing creditors under Insolvency Act 1986), *Noble v Owens* [2010] 1 **W.L.R.** 2491 (Court of Appeal: impeaching a judgment for fraud in a personal injuries case), *Jenington v Assaubayev* [2010] EWHC 2351 (Ch) (gold mining interests in Kazakhstan – cross examination - freezing injunctions), *Garratt v Mirror Group Newspapers* [2011] EWCA Civ 425 (Court of Appeal: role of implied terms in collective agreement) and *Alliance v Tishbi* [2011] All ER (D) 230 (Apr) (construction and rectification in settlement agreements).

Commercial Fraud

Reported cases in recent years include:

- *Jenington v Assaubayev* [2010] EWHC 2351 (Ch) (gold mining interests in Kazakhstan – cross examination - freezing injunctions)
- *4 Eng v Harper* [2009] Ch. 91 (damages for loss of chance in fraud cases)
- *4 Eng v Harper* (No.2)[2010] BCLC 176 (setting aside transactions prejudicing creditors under Insolvency Act 1986)
- *Noble v Owens* [2010] 1 W.L.R 2491 (Court of Appeal: impeaching a judgment for fraud in a personal injuries case)
- *Jenington v Assaubayev* [2010] EWHC 2351 (Ch) (gold mining interests in Kazakhstan – cross examination - freezing injunctions).
- *Dadourian v Simms* and others

A large part of Clive's practice comprises complex commercial fraud trials usually with a substantial international dimension, most lasting several weeks. Examples are *4 Eng* (fraud in connection with share sale agreement above); *Dadourian v Simms* (sale of machinery), *Parker v Snyder* (defending against alleged fraud in share sale), *Black v Davies* (copper broker case), *Crown Resources v Vinogradsky* (secret commissions in oil industry), *Dubai Aluminium v Al Alawi* (alleged secret commissions in aluminium industry).

Dadourian v Simms and others. Case gave rise to a number of CA cases. Clive appeared in the trial in which the fraud was established and a large damages was awarded. He also led in 2 CA cases, one of which gave rise to the **Dadourian guidelines** in freezing injunctions [2006] 1 WLR 2499 and one about use of information obtained on disclosure in contempt cases [2007] 1 WLR 2967.

Zakharov & Ors v White & Ors [2003] EWHC 2560 (Ch); [2003] EWHC 2463 (Ch); [2003] All ER 453 (Oct) A case raising important issues concerning freezing orders, in particular: passport orders, jurisdiction to issue bench warrants to enforce freezing orders, contempt of court, scope and operation of legal expenses exemptions to freezing orders.

Crown Resources v Vingogradsky LTL 25/7/2001. Secret commissions. 5 day hearing regarding alleged non disclosure on freezing injunction application.

Dubai Aluminium v Al Alawi 2001-2002 (successfully defended Defendant in claim arising out of alleged secret commissions in aluminium industry). The trial followed an important decision on legal professional privilege [1999] 1 WLR 703.

Commercial

Cases include:

- *Alliance v Tishbi* [2011] All ER (D) 230 (Apr) (construction and rectification in settlement agreements).
- *Ananhall v Adler* [2009] EWCA Civ. 586 (Court of Appeal - implied terms in commissions agreements)
- *Nolan v Wright* [2009] 3 All EDR 823 (limitation period for extortionate credit bargain claim)
- *Conister Trust plc v John Hardman* [2008] EWCA Civ 841 (construction of indemnity agreement)
- *Watford Petroleum v Interoil* [2005] (oil and gas joint venture in Ukraine).
- *I-Way Limited v World Online Telecom Limited* (2004) EWHC 244, (Com. Court) Misrepresentation, implication of contractual terms, estoppel. Also in Court of Appeal on question of impact of anti-oral variation clause [2002] EWCA Civ 413
- *Union Music v Russell Watson* [2002] ECWA Civ (CA) Claim between musician and former manager.

- *Hendry v Chartsearch* (CA) The Times 16/9/98 Effect of assignment without prior consent contrary to contractual prohibition in commercial case.
- *Paperlight Ltd v Swinton Insurance Company Ltd* (Clarke J - Comm. Ct.) [1998] CLR 853 Franchising – right of renewal and period of reasonable notice – 5 years.

Partnership Law

- *Hurst v Bryk* [2002] 1 A.C. 185 Landmark House of Lords decision on inter-relationship of contractual principles to the provisions of the Partnership Act 1890 in context of solicitors' firm.
- Frequently advised and appears in connection with partnership disputes of solicitors' firms.

Professional Negligence

Recent cases include:

- Claim for breach of duty of executor (Chancery Division) 2009,
- Claim for breach of fiduciary duty/negligence against a solicitor relating to share sale agreement (Chancery Division) *Abela v Hammonds* (2009)
- Negligence against a solicitor relating to commercial conveyancing (Chancery Division)(2008)
- Claim against insurance broker following factory fire (Commercial Court)(2006).
- *Dempsey v Johnstone* (2004) PNLR 25 Law in relation to wasted costs orders.
- *McGowan v Chadwick & anr* [2002] ECWA Civ 1758 (CA) Claim against court appointed receiver of partnership.

Company Law

- *Arrow & Blackledge v Blackledge* (Court of Appeal [2000] 2 BCLC 167) (unfair prejudice/passing off/striking out). Effect of forged document on procedural fairness of a trial.
- *Dashfield & Shepherd v Davidson & Ruddy* [2009] 1 BCLC 220. Subject - Joint venture; fiduciary duty, pre-emption rights
- *Wrexham Association Football Club v Crucialmove Ltd.* [2007] BCC 139 Court of Appeal (breach of fiduciary duty and third party benefiting from such a breach)
- *Re: Blenheim Leisure (Restaurants) Ltd* (CA) (2000) 2 BCLC 167 Application to intervene in connection with company's application to restore to register.
- *Re: Blenheim Leisure (Restaurants) Ltd* Various applications before Neuberger J. (2000) BCC 821, and The Times 26/10/99 and 9/11/99: jurisdiction of court to recall its own judgments.

Arbitrations

- Recent international arbitrations include dispute about CIS joint venture in connection with gas heard in Sweden, dispute re building project in connection with gold mines in Kazakhstan.
- Appeared in 20 day London Metals Exchange dispute involving questions of illegality in copper broking case.
- Appears in arbitrations before the Beth Din and appeals/applications to the Courts arising out of such arbitrations e.g. *Kohn v Wagschal* (2007) 2 CLC 720 - finding of Beth Din relating to tax evasion did not prevent enforcement of award.

Employment

- *Garratt v Mirror Group Newspapers* [2011] EWCA Civ 425 (role of implied terms in collective agreement)
- *Hayes v Transco* [2003] EWCA Civ (construction of employment contract and excessive intervention of trial judge)
- Successfully defended Hospital Trust in 5 week discrimination case against consultant.
- Numerous restrictive covenant cases, wrongful dismissal and unfair dismissal cases.

Other Noteworthy Cases

- Manchester City Council v Moran [2009] UKHL 36 – House of Lords – intentional homelessness and women's refuge
- *Maccaba v Lichtenstein* [2004]: Longest ever slander case between a businessman and a rabbi covered extensively in newspapers around the world. Issues about qualified privilege and confidentiality reported at [2005] EMLR 9, [2005] EMLR 109
- Sykes & Anor v Taylor-Rose & Anor CA Times, March 2, 2004. Claim in misrepresentation re purchase of house where there had been a shocking murder. Very widely reported in national newspapers.
- S v S - worldwide Mareva injunction in the Supreme Court of Gibraltar.
- *Yona International v LRF - political risk insurance acting for Israeli client - engaged for 4 months - case settled after 30 day trial in the Commercial Court and before judgment.*
- *Balkanbank v Taher - engaged for 4 months until case settled. Appeared in Commercial Court and in the High Court in Ireland in applications relating to freezing orders and enforcement of cross undertaking as to damages.*

Publications

- Contributor to Mendelsohn on Franchising (2nd Ed.)
- Consulting Editor to book on Security for Costs (2010).
- Contributor to Burton on Civil Appeals (with David Hoffman) chapter on international arbitrations.