

## Alastair Tomson

Called: 2004



### Areas of Practice

Litigation and advice in the fields of commercial litigation, company Law, and corporate and personal insolvency.

#### Commercial litigation

- Alastair's practice has a significant focus on commercial litigation with experience in a number of areas, including:
- Financial services: currently instructed as a junior in significant Hong Kong based litigation concerning mis-selling of derivative products, in particular equity linked notes, by two south east Asian banks.
- Joint Ventures: currently instructed in the ongoing Fattal et al. v Walbrook et al. litigation in respect of a significant property joint venture due to be tried in 2011.
- Claims against corporate trustees for breach of trust: separate significant claims against corporate trustees in Fattal et al. v Walbrook et al. litigation.
- Sale of goods: including obtaining ex-parte injunctions in the High Court (both prohibitive and mandatory) in sale of goods disputes concerning questions of agency and title.
- Economic torts: Acting for a co-defendant in a claim in economic torts for alleged assistance in breaches of restrictive covenants in an employment contract.
- Injunctive relief: has experience of obtaining and defending commercial injunctions, including freezing orders in particular.

#### Company law

- Litigation and advice on all aspects of company law.
- Contributor to Annotated Companies Act (Oxford University Press).
- s459 / s994 unfair prejudice claims: experience of several cases, both led and acting alone.
- Provided advice and transactional support in a major acquisition, including advice on the cancellation of bearer shares.

#### Corporate Insolvency

Numerous cases for creditors, debtors and office holders including:

- contested winding-up petitions
- injunctions to restrain presentation or advertisement of winding-up petitions
- actions on behalf of liquidators to recover company assets including claims against directors under ss238, 239, 423 of the Insolvency Act 1986.
- examinations under ss235 / 236 of the Insolvency Act 1986.

#### Personal insolvency

A range of instructions for debtors, creditors and office holders including obtaining bankruptcy orders, and acting in proceedings for possession and sale orders.

Recent instructions have included acting in respect of corporate and personal insolvency proceedings arising out of the Kuwait Oil Tanker ([2002] EWCA Civ 34) litigation.

#### Debt recovery and bailiffs

Extensive specialist expertise in representing bailiffs and debt recovery firms in actions brought by debtors including defending applications for injunctive relief, defending bailiffs in Rule 8 complaints hearings, and taxation hearings.

#### Competition

Spent several months working for the Office of Fair Trading on the major cartel investigations into public school fees, and cover pricing by construction contractors.

#### Proceeds of Crime

Instructed by the Serious Organised Crime Agency in respect of the recovery of proceeds of crime under the Proceeds of Crime Act 2002.

#### Disciplinary proceedings

Representing registrants in disciplinary proceedings before their professional bodies, in particular proceedings by

### Areas of Practice

- Company Law
- Corporate Fraud
- Insolvency
- Commercial Litigation
- Public Law

### Notes

Before being called to the Bar Alastair spent almost six years in business consultancy as a director of a company which he co-founded, and therefore has practical experience both of the commercial world and of running a business. He was a member of a regional committee of the Institute of Directors between 2001 and 2002.

## Recent Cases

Alastair has a broadly based junior practice encompassing commercial litigation, corporate and personal insolvency, and company law. Recent examples include:

- Serious Organised Crime Agency v Glover et al. (unreported) - acting for the director of the Serious Organised Crime Agency in successful summary judgment application on the first day of trial in recovery proceedings under the Proceeds of Crime Act 2002.
- Tekdata Interconnections Limited v Amphenol Limited [2009] EWCA Civ 1209 (Court of Appeal) - successful appeal against ruling on a preliminary issue as to which parties terms and conditions applied on a "battle of the forms" basis.
- Walbrook v Fattal et al. [2009] EWHC 1446 (Ch) - Application for the appointment of a receiver and manager over property in a disputed (with David Chivers QC). Appeal on one aspect of the judgment due to be heard in March 2010.
- Walbrook v Fattal et al. [2009] EWCA Civ 297 (Court of Appeal) - successful appeal against striking out of case on the principles on abuse of process in Henderson v Henderson (1843) 3 Hare 100 (with David Chivers QC).
- Gallaher International Ltd v Tlais Enterprises Ltd [2008] EWHC 804: acting for the defendants and counterclaimants in two multi-hundred million pound actions relating to alleged unlawful termination and other breaches of a cigarette distribution agreement, tried together before Mr Justice Christopher Clarke between April and November 2007.

Alastair initially acted in these proceedings as a junior to John Brisby QC and Richard Hill including:

- Gallaher International Ltd v Tlais Enterprises Ltd [2007] EWHC 464: security for costs / suitability of an expert witness.
- Gallaher International Ltd v Tlais Enterprises Ltd [2007] EWHC 527: relief from sanction after non-compliance with an unless order.

For the trial of the actions Alastair was initially instructed as junior to Richard Hill. In September 2007 he was instructed to lead the case for the remainder of the trial which included the examination of expert witnesses and written and oral closing and was praised by Mr Justice Christopher Clarke in his judgment as showing "marked ability".

## Languages

Working knowledge of French; basic German and Bulgarian

## Academic

MA King's College, Cambridge (Part 1 Archaeology and Anthropology, Part 2 Social and Political Sciences).

Postgraduate Diploma in Law, University of Birmingham.

BVC Inns of Court School of Law (Outstanding).

Awarded Lord Mansfield, Lord Haldane and Kennedy Scholarships and Buchanan Prize by Lincoln's Inn

Blackstone Chambers Mooting Champion, Inns of Court School of Law.

Allen & Overy Camm Cup Mooting Champion and Lady Barber Prize for Mooting, University of Birmingham.

## Professional

Member of the Commercial Bar Association, Chancery Bar Association, Administrative Law Bar Association and the Bar European Group.



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Lincoln's Inn, London WC2A 3XT

tel: 020 7242 5524

fax: 020 7831 7907

DX: 385 Chancery Lane