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Cases of Interest

Administration: whether the costs of an unsuccessful administration petition should rank as costs in the winding-up of the company: Re Gosscott (Groundworks) Ltd (1988) 4 BCC 372.

Anti-social behaviour orders: House of Lords decision on whether ASBOs involve 'criminal proceedings', such that hearsay evidence would be inadmissible: R (McCann) v. Crown Court at Manchester [2003] 1 AC 787; also C v. Sunderland Youth Court [2004] 1 Cr App R (S) 76.

Asset Recovery: decision on the evidential burden in relation to asset recovery proceedings: ARA v. Green The Times, 27.2.06.

Banking: Court of Appeal and House of Lords decisions on whether the OFT is entitled to assess the fairness of the charges levied by the banks for unauthorised overdrafts: OFT v. Abbey National Plc [2010] 1 AC 696 (CA & HL). Whether a bank in liquidation remains entitled to fix the contractual rate of interest with a borrower: BCCI v. Malik [1996] BCC 15.

Breach of confidence: Court of Appeal decision on breach of confidence by a former Crown servant: A-G v. Times Newspapers Ltd [2001] 1 WLR 885.

Business names: the only case dealing with legal restrictions on the use of certain business names: Association of Certified Public Accountants of Britain v. Secretary of State for Trade & Industry [1997] 2 BCLC 307.

Commercial JR: challenge to the financial collateral arrangements regulations: R (Cukurova Finance International Ltd) v. HM Treasury [2009] Eu LR 317.

Companies Act investigations: two leading cases on Companies Act investigations: R (Clegg) v. Secretary of State for Trade & Industry [2003] BCC 128, and A-G's Reference (No.2 of 1998) [2000] QB 412.

Competition law: application of competition law to a certification procedure operated by the British Standards Institute: SEL-Imperial Ltd v. BSI [2010] UKCLR 493. Costs in relation to an application for a review under the Enterprise Act 2002: IBA Health v. OFT [2004] Comp AR 529. Challenge to the Secretary of State's imposition of terms on existing mobile

operators' right to bid for 3G licences: Mercury Personal Communications v. Secretary of State for Trade & Industry [2000] UKCLR 143. Challenge to subordinate legislation regulating tied travel agents: R v. Secretary of State for Trade & Industry, ex parte Thomson Holidays Ltd [2000] ECC 321.

Conflict of laws / service out: Contractual jurisdiction clause & leave to serve out: Cinnamon European Structured Credit Master Fund v. Banco Commercial Portugues SA [2010] I.L.Pr. 11. Leave to serve out of the jurisdiction on directors accused of wrongful trading: Re Howard Holdings Inc [1998] BCC 549.

Constitutional law: House of Lords decision on the capacity in which the Crown acts in relation to the Government of a British Overseas Territory: R (Quark Fishing Ltd) v. Secretary of State for Foreign & Commonwealth Affairs [2006] 1 AC 529. High Court, Court of Appeal and House of Lords decisions on the new constitution of Sark: R (Barclay) v. Lord Chancellor [2010] 1 AC 464. High Court decision on a challenge to the suspension of the constitution in the Turks & Caicos Islands: R (Misick) v. Secretary of State for Foreign & Commonwealth Affairs [2009] ACD 62. High Court decision on a challenge to the lawfulness of the appointment of the Governor General of Australia: Fitzgibbon v. Attorney General [2005] 28(5) IPD 28035.

Consumer credit: two leading cases in the House of Lords on the Consumer Credit Act 1974: DGFT v. First National Bank Plc [2002] 1 AC 481 and Wilson v. First County Trust Ltd (No.2) [2004] 1 AC 816.

Contractual interpretation: Supreme Court decision on the admissibility of evidence emerging in 'without prejudice' negotiations as an aid to the interpretation of a settlement agreement: Oceanbulk Shipping & Trading SA v. TMT Asia Ltd [2010] 3 WLR 1424. Commercial Court decision on the interpretation of the ISDA Master Agreement in the context of forward freight agreements: Pioneer Freight Futures Co Ltd v. TMT Asia Ltd [2011] 2 Lloyd's Rep 96.

Costs: leading case in the House of Lords on conditional fee agreements: Callery v. Gray (Nos. 1 & 2) [2002] 1 WLR 2000.

Criminal injuries compensation: leading cases in the Court of Appeal and the High Court on the scope of the Criminal Injuries Compensation Board's powers: R (August) v. Criminal Injuries Compensation Appeals Panel [2001] QB 774, R v. CICA, ex parte Leatherland [2001] ACD 76 and R v. CICB, ex parte Williams [2000] PIQR Q339.

Crime: House of Lords decision in the case of David Shayler, the former MI5 officer who claimed that the Official Secrets Act 1989 represented a violation of his right to freedom of expression: R v. Shayler [2003] 1 AC 247.

Crown: House of Lords decision on the availability of judicial review in relation to prerogative legislation: R (Bancoult) v. Secretary of State for Foreign & Commonwealth Affairs (No. 2) [2009] 1 AC 453.

Data protection: the scope of the Information Commissioner's power to challenge a certificate from the Secretary of State under s. 28 of the DPA 1998: R (Secretary of State for the Home Department) v. Information Tribunal [2008] 1 WLR 58.

Declaratory relief: whether declaratory relief with regard to the lawfulness of future conduct is appropriate: I-CD Publishing Ltd v. Secretary of State [2003] ACD 396.

Derivatives: two decisions on the ISDA Master Agreement in relation to forward freight agreements: Pioneer Freight Futures Co Ltd v. TMT Asia Ltd [2011] 2 Lloyd's Rep 96 and TMT Asia Ltd v. Marine Trade SA [2011] 1 CLC 976.

Directors disqualification: House of Lords decision on the scope of the Official Receiver's powers: In re Pantmaenog Timber Co Ltd [2004] 1 AC 158. Other cases include Re Blackspur Group plc [2001] 1 BCLC 653, Re Surrey Leisure Ltd [1999] 2 BCLC 457, Re Polly Peck International Plc [1994] 1 BCLC 574, Re Godwin Warren Control Systems Plc [1992] BCC 557, Re Tasbian Ltd (No. 3) [1992] BCC 358, and Re Cladrose Ltd [1990] BCC 11.

Directors duties: House of Lords decision in the Guinness case concerning the company's claim to recover £5.2 million from one of its directors: Guinness Plc v. Saunders [1990] 2 AC 663. Judgment given as a Deputy High Court Judge: Extrasure Travel Insurances Ltd v. Scattergood [2003] 1 BCLC 598.

Disclosure: orders under the Insolvency Act, s. 236, for the disclosure of material obtained in the course of Companies Act investigations: Re Atlantic Computers Plc [1998] BCC 200.

Discrimination: ECHR decision on whether the application of inheritance tax to co-habiting sisters was discriminatory: Burden v. UK (2008) 47 EHRR 38.

Education law: House of Lords decision on the lawfulness of the abolition of corporal punishment in independent schools: R (Williamson) Secretary of State for Education and Employment [2005] 2 AC 246.

Electoral law: leading case on whether electors should have the right to object to their name appearing in copies of the electoral register that are sold for commercial purposes: R (Robertson) v. Wakefield MDC [2002] QB 1052.

Employment law: Supreme Court and Court of Appeal decisions on fixed-term contracts: Duncombe v. Secretary of State for Education & Skills [2011] 2 All ER 417 and [2010] 2 CMLR 14. House of Lords decision on the extraterritorial effect of the Employment Rights Act 1996: Lawson v. Serco Ltd [2006] 1 All ER 823.

Environmental law: scope of the Habitats Directive: R (Bruton) v. Attorney General to the Prince of Wales [2010] Env LR 42. The adequacy of the UK's implementation of certain EU environmental protection Directives: R v. Secretary of State for Trade & Industry, ex parte Greenpeace Ltd [2000] Env LR 221, [2000] 2 CLR 92.

European Law: the scope of s.2 of the ECA 1972: Crane v. Sky In-Home Service Ltd

(2007) 1 CLC 389. ECJ decision on the lawfulness under EU law of the Government's retention of a 'golden share' in BAA: Commission v. UK, Case C-98/01 [2003] 2 CMLR 19.

Expert evidence: whether expert witness is entitled to immunity from disciplinary proceedings in respect of expert evidence given in court: Meadow v. General Medical Council [2007] QB 462.

Fair trial: Supreme Court and Court of Appeal decisions on the requirements of a fair trial in the context of a civil claim involving questions of national security: Al Rawi v. Security Service [2011] 3 WLR 388 & [2010] 3 WLR 1069. Two Court of Appeal decisions on disclosure & the use of special advocates: Bank Mellat v. HM Treasury [2010] 3 WLR 1090; R (Murungaru) v. Secretary of State for the Home Department [2009] INLR 180.

Financial assistance: judgment given as a Deputy High Court Judge on s.151 of the Companies Act 1985: In a Flap Envelope Company Ltd [2003] BCC 487.

Financial services: judicial review concerning the powers of the Financial Services Compensation Scheme: FSCS Ltd v. Abbey National Treasury Services Plc [2009] Bus LR 465. Also, judgment given as a Deputy High Court Judge on the scope of the court's power to wind up a partnership under s. 367 of the Financial Services and Markets Act 2000: Re The Inertia Partnership LLP [2007] Bus LR 879.

Francovich damages: whether the UK was in sufficiently serious breach of an EU directive to justify an award of Francovich damages: Byrne v. MIB [2009] QB 66. Also, two decisions concerning the date when the limitation period starts to run for the purposes of claiming Francovich damages: Spencer v. Secretary of State for Work & Pensions [2008] PIQR 21, and Moore v. Secretary of State for Transport [2007] PIQR 24.

Fraud: whether a solicitor's duty of confidence to his client is overridden by allegations of fraud: Finers v. Miro [1991] 1 WLR 35.

Free speech: ECHR decision concerning a land owner's right to evict peaceful demonstrators from his land: Appleby v. UK (2003) 37 EHRR 38.

Freezing order: provision for living and legal expenses out of a disputed fund: United Mizrahi Bank v. Doherty [1998] 1 WLR 435.

Injunctions: jurisdiction of the court to restrain the publication of allegedly true allegations made pursuant to a conspiracy to injure: Femis Bank Anguilla Ltd v. Lazar [1991] Ch 391.

Inquests: House of Lords decision on whether inquests are capable of discharging the State's obligations under Article 2 of the ECHR: R (Middleton) v. West Somerset Coroner [2004] 2 AC 182.

Insolvency: whether arrest under the Insolvency Act 1986, s. 364, is compatible with ECHR Article 5: Hickling v. Baker [2007] 1 WLR 2386; part of the dispute between Alan Sugar and Terry Venables: Tottenham Hotspur Plc v. Ryman [1996] 2 BCLC 389.

International relations: challenge brought to the UK's participation in negotiations for the

accession of Cyprus to the EU: R v. Secretary of State for Foreign & Commonwealth Affairs, ex parte British Council of Turkish Cypriot Associations [1998] COD 336.

Interrogatories: use of interrogatories in the context of a shareholder dispute: Neal v. December Commercial Properties (No. 1) Ltd [1996] BCC 577.

Judicial review: Court of Appeal decision on the permitted scope of argument on appeal in JR: R (Smith) v. Parole Board [2003] 1 WLR 2548.

Jurisdiction: Supreme Court decision on the jurisdiction of the Investigatory Powers Tribunal: R (A) v. Director of Establishments of the Security Service [2010] 2 AC 1. House of Lords decision on the scope of its own jurisdiction: Reg. v. Secretary of State for Trade & Industry, ex parte Eastaway [2000] 1 WLR 2222. Court of Appeal decision on the scope of its jurisdiction: Re Tasbian Ltd (No. 2) [1990] BCC 322.

Legal aid: a challenge to the new regime for public funding: R v. Legal Aid Board, ex parte Duncan [2000] COD 159. Also R (Jarrett) v. Legal Services Commission [2002] ACD 25.

Legal professional privilege: piercing LPP on the basis of the iniquity exception: BBGP Managing Partner Ltd v. Babcock & Brown Global Partners [2011] Ch 296. House of Lords decision on the scope of legal professional privilege: Three Rivers DC v. Bank of England (No. 6) [2005] 1 AC 610.

Liquidator: removal of liquidator: Re Edenote Ltd [1996] BCC 718.

Listed buildings: almost the only case on listed buildings: R (Bancroft) v. Secretary of State for Culture, Media & Sport [2005] JPL 477.

Market rights: House of Lords decision concerning the scope of a statutory market owner's powers: R (Corporation of London) v. Secretary of State for the Environment, Food & Rural Affairs [2006] 1 WLR 1721.

Misfeasance in public office: Court of Appeal decision in a claim against immigration officials who failed to detain an illegal immigrant who subsequently raped and murdered a woman: Akenzua v. Secretary of State for the Home Department [2003] 1 WLR 741.

Money laundering: Court of Appeal decision on a bank's duties in relation to money laundering investigations: Bank of Scotland v. A Ltd [2001] 1 WLR 751.

National security: House of Lords decision in contempt proceedings against Punch for publishing articles by David Shayler in breach of a court injunction: A-G v. Punch Ltd [2003] 1 AC 1046.

Naturalisation: Court of Appeal decision on Mohamed Fayed's challenge to the Home Secretary's refusal to grant him naturalisation: R v. Secretary of State for the Home Department, ex parte Fayed [2001] Imm AR 134.

Official Receiver: Court of Appeal decision on the status of the OR: Minotaur Data Systems Ltd [1999] 1 WLR 1129.

Parental leave: Court of Appeal decision on the adequacy of the UK's implementation of the EU parental leave Directive: R v. Secretary of State for Trade & Industry, ex parte TUC [2001] 1 CMLR 5 & 8.

Parenting orders: Court of Appeal decision on the compatibility with the ECHR of parenting orders under s.8 of the Crime & Disorder Act 1998: R (M) v. Inner London Crown Court [2003] 1 FLR 994.

Parole: Court of Appeal decision on the lawfulness of conditions imposed on a prisoner released on licence: R (Uttley) v. Secretary of State for the Home Department [2003] 1 WLR 2590.

Pensions: test case on pensions benefits in respect of personal injuries: Minister for the Civil Service v. Oakes [2004] OPLR 235. Two important cases concerning the calculation of public sector pensions: Department of Health v. Pensions Ombudsman [2000] 1 WLR 561 and Mock v. Pensions Ombudsman [2000] OPLR 331.

Police: power of the Secretary of State to require the suspension of a Chief Constable: R (Secretary of State for the Home Department) v. Humberside Police Authority [2004] ACD 92.

Police Complaints Authority: Court of Appeal decision on the lawfulness of the PCA's practice of refusing to disclose witness statements to the complainant: R (Green) v. Police Complaints Authority [2002] UKHRR 293 & 985.

Prisoners' rights: House of Lords decision on the scope of the State's obligation to investigate deaths in custody: R (Amin) v. Secretary of State for the Home Department [2004] 1 AC 653. Court of Appeal decision on fair process for decisions to release prisoners on home detention curfew: R v. Secretary of State for the Home Department, ex parte Allen [2000] Prison LR 52.

Privacy: three of the leading ECHR cases on privacy: Peck v. UK (2003) 13 BHRC 669, PG & JH v. UK [2002] Crim LR 308, and Khan v. UK (2000) 8 BHRC 310.

Private examination: scope of s.236 of the Insolvency Act 1986: Re Cloverbay Ltd (1989) 5 BCC 732, and In re Pantmaenog Timber Co Ltd [2004] 1 AC 158.

Property law: ECHR decision on whether UK law on adverse possession is compatible with the European Convention on Human Rights: Pye (Oxford) Ltd v. UK (2008) 46 EHRR 45.

Prosecution: challenge to the decision not to prosecute individual police officers in relation to the Stockwell shooting: R (Da Silva) v. DPP [2006] Inquest LR 224.

Public procurement: Court of Appeal decision on the consequences of failing to comply with EU rules on public procurement: Jobsin.co.uk plc v. Department of Health [2001] Eu LR 685.

Registrar of Companies: one of the few cases concerning the power of the court to supervise the functions of the Registrar of Companies: Re a Company (No. 007466 of 2003)

[2004] 1 WLR 1357.

Religious rights: House of Lords decision on whether a school's refusal to allow a pupil to wear a *jilbab* constituted a violation of her rights under Article 9 of the ECHR: R (SB) v. Governors of Denbigh High School [2007] 1 AC 100. Court of Appeal decision on the slaughter of the holy bullock Shambo: R (Swami Suryananda) v. Welsh Ministers [2007] WLR (D) 211. Court of Appeal decision on conscientious objection to the payment of taxes used partly to pay for defence: R (Boughton) v. HM Treasury [2006] BTC 460.

Retrospectivity: Court of Appeal decision whether an order could be made under s.28 of the Criminal Justice & Court Services Act 2000 in respect of conduct occurring before the Act came into force: R v. Field [2003] 1 WLR 882.

Sanctions: challenge to financial restrictions imposed on an Iranian bank: Bank Mellat v. HM Treasury (No. 2) [2011] 3 WLR 714. Validity of financial restrictions against suspected terrorists: A v. HM Treasury [2008] 3 All ER 361.

Security for costs: judgment given as a Deputy High Court Judge: Naghshineh v. Chaffe [2003] NPC 146.

Sentencing: House of Lords decision on the lawfulness of the process for fixing the minimum term for mandatory life sentences: R (Hammond) v. Secretary of State for the Home Department [2006] 1 AC 603.

Shareholder disputes: numerous reported cases relating to unfair prejudice (such as Oak Investment Partners XII Limited Partnership v. Boughtwood [2010] 2 BCLC 459, Oriental Gas Co Ltd [2000] 1 BCLC 209, Re Sticky Fingers Restaurant Ltd [1991] BCC 754, Re Sherborne Park Residents Association Ltd (1986) 2 BCC 99,528 and Re a Company (No. 003160 of 1986) (1986) 2 BCC 99,276), and a judgment given as a Deputy High Court Judge on the scope of the statutory remedy: Atlasview Ltd v. Brightview Ltd [2004] 2 BCLC 191.

State aid: Court of Appeal decision on the lawfulness of the auction of 3G wavebands: Reg. v. Secretary of State for Trade & Industry, ex parte BT3G Limited [2001] 3 CMLR 61 & [2001] 822 Eu LR 822.

Suicide: House of Lords and ECHR decisions in the case of Dianne Pretty: R (Pretty) v. DPP [2002] 1 AC 800, and Pretty v. UK (2002) 35 EHRR 1.

Transport: security arrangements on the Channel Tunnel: R (Channel Tunnel Group Ltd) v. Secretary of State for the Environment, Transport & the Regions [2000] NPC 137 & The Times, 23.7.01.

Trusts: Court of Appeal decision whether prisoners' cash, surrendered to the prison Governor, are held by him on trust: Duggan v. Governor of Full Sutton Prison [2004] 1 WLR 1010.

Valuation of shares: three cases concerning valuation in the context of a shareholder dispute: Oak Investment Partners XII Limited Partnership v. Boughtwood [2010] 2 BCLC

459, Re ESC Publishing Ltd [1990] BCC 335 and Re D.R. Chemicals Ltd (1989) 5 BCC 39.

Winding-up: *locus standi* of alleged creditor to petition for the winding-up of a company: Tottenham Hotspur Plc v. Edennote Plc [1994] BCC 681. Settlement of proceedings by a liquidator: Re Edennote Ltd (No. 2) [1997] 2 BCLC 89.