



Hugh Sims

Call: 1999

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Practice:

Commercial

Banking & Financial Services

Professional Negligence

Insolvency

Sports Law

Litigation and advisory work is undertaken by Hugh in the following areas of practice:

Commercial

- Contract
- Sale and supply of goods
- Corporate disputes (unfair prejudice petitions and derivative actions)
- Partnership disputes
- Insurance
- Restraint of trade
- Breach of confidence
- Passing off

Professional negligence & indemnity

- Liability of and indemnity for:
- Accountants, including insolvency practitioners and auditors
- Financial advisors
- Surveyors
- Solicitors
- Barristers
- Patent agents

Banking & Financial Services

- All aspects of asset recovery for and against banks, finance houses and individuals, financial services regulatory field & consumer credit

Insolvency

- Corporate insolvency
- Shareholder disputes
- Directors' rights and duties
- Personal insolvency
- Directors' disqualification.

Sports Law

- Appearing before sports tribunals
- Contractual disputes
- Corporate and shareholder disputes
- Compensation claims relating to players and disciplinary proceedings
- Acting for and against football clubs, rugby clubs, hockey clubs and golf clubs.



Reported & significant cases:

Cole v Close & Others (unreported, 16 June 2011) Ch D (Bristol) (Judge McCahill QC) Trial concerning retention of title and conversion claim brought by creditor against company in administration and against the administrator.

Jackson v Bricknell (Unreported, 24 May 2011) Ch D (Bristol) (Judge McCahill QC) Trial concerning breach of fiduciary duties by partner; tracing and unjust enrichment. Settled at trial.

Fry v Gaming International (Unreported, 11 March 2011)(Recorder Harrap) Trial concerning recovery of commission/agency fee in relation to land development.

Storm Personnel Services Ltd v West & West Ch D (Bristol) (Judge McCahill QC) 14/1/2011 (unreported except on lawtel): Interim application for interim injunctive relief for quasi-freezing order arising in relation to alleged potential dissipation of assets by way of preference payments.

Our Price v HMT (Unreported) Multi-million professional negligence claim alleging negligence by auditors in relation to a "whitewash" procedure under the Companies Act 1985; settled before trial (Winter 2010)

Barnes v Usher (Unreported, 7 October 2010) (QBD)(Bristol) (David Blunt QC sitting as a Deputy High Court Judge) - breach of contract (restrictive covenants), assessment of damages, accounts of profits and restitutionary awards.

Doyle (Trustee in Bankruptcy) v James and Another [2010] BPIR 1063 Cardiff CC, His Honour Judge Chambers QC, 9 April 2010 – Effect of equitable mortgage by deposit of deeds, realisation of interest in dwelling house by a trustee in bankruptcy, meaning of 'realises', sham.

Capes (Hatherden) Ltd v Western Arable Services Limited [2009] EWHC 3065 (QB) QBD (Merc) (Bristol) (2010) 1 Lloyd's Rep 477 (Judge Havelock-Allan QC) – Application for mandatory stay of proceedings in grain contract dispute, whether standard terms including arbitration clause incorporated into contract through course of dealing.

Re John Michael Ludlam (a bankrupt) [2009] EWHC 1760 (Ch) Ch D (Bankruptcy Ct) (Edward Bartley Jones QC sitting as a Deputy High Court Judge) - An extended civil restraint order was made against a party who was subject of bankruptcy proceedings, as he had persistently issued claims or made applications that were totally without merit. The threat level of further unmeritorious applications from the party was extremely high. A limited civil restraint order was made against the bankrupt's wife, who had made two applications that were totally without merit. References: LTL 12/8/2009

Re Graham Nigel Richards (a bankrupt): Bateman v Williams [2009] EWHC 1760 (Ch) Ch D (Manchester) (David Richards J) - A former wife of a bankrupt was unable to set-off, under the Insolvency Act 1986 s.323, the amount of her equity of exoneration against the interest in the property vested in the trustee in bankruptcy as she was not liable to the bankrupt and so the liability was one way. Appeal against decision of HHJ Jarman QC, below, dismissed). References: LTL 28/7/2009

Tanks & Vessels Industries Ltd v Devon Cider Co Ltd [2009] EWHC 1360 (Ch) Ch D (Lesley Anderson QC sitting as a Deputy High Court Judge) - Retention of title dispute; title had been reserved and accordingly the goods had been converted under the Torts (Interference with Goods) Act 1977 s.1(a). The manufacturer was, accordingly, entitled to an order for delivery up of the plant, although as the items were ordinary items of commerce, the company was entitled, in the alternative, to pay the manufacturer damages equivalent to their market value. References: LTL 22/6/2009

Hawkes v Cuddy & others [2009] EWCA Civ 291, [2009] All ER (D) 42 (Apr) (Moore-Bick, Stanley Burnton LLJ, Blackburne J) - The Court of Appeal considered a number of issues arising in appeals from the decision of Lewison J ([2007] EWHC 2999 (Ch)) in two unfair prejudice petitions under section 994 of the Companies Act 2006, including the nature of a nominee director's duties to the company and to his



appointor and the inter-relation between winding up on just and equitable grounds and the jurisdiction under section 994)

Re Octagon Energy Ltd & Ors (HHJ McCahill QC) - Concerning assignments of causes of action by liquidator, directions from the court, abuse of process and champerty. References: LTL 15/4/2009

Re Graham Nigel Richards (a bankrupt): Bateman v Williams (HHJ Jarman QC) 26 November 2008 (unreported) - Concerning claim by trustee in bankruptcy to establish equitable interest in former matrimonial home, issues arising relating to equity of exoneration, proprietary estoppel, unjust enrichment and other equitable accounting issues.

County Homesearch Co (Thames & Chilterns) Ltd v David Cowham [2008] EWCA Civ 26 CA (Civ Div); (Sir Anthony Clarke MR, Longmore LJ, Richards LJ) 31/1/2008
References: [2008] 1 WLR 909; LTL 31/01/2008; (2008) NPC 10 – Homefinder commission claim, whether commission dependent on services provided being effective cause of purchase, implied term.

Hanchett-Stamford v HM Attorney General & Ors [2008] EWHC 330 (Ch) (Lewison J) [2009] 2 WLR 405 - The last surviving member of an unincorporated association was entitled to its assets, free from any restrictions imposed by the rules of the association.

Re Christopher Leonard Rich (In Bankruptcy) [2008] BPIR 485 (HHJ Weeks QC) - Deed disposing of husband's interests in property anticipating ancillary relief claims — extent to which deed a preference.

Hawkes v Cuddy and others [2007] EWHC 2999 (Ch), (Lewison J), 13/12/2007; [2008] BCC 390; LTL 9/01/2008 – Judgment following trial of a petition alleging unfair prejudice in the affairs of Neath RFC, unfair prejudice established in relation to unlawful participation in management under section 216 of the Insolvency Act 1986 and on other grounds, prejudice established did not justify share purchase order, order made regulating the affairs of Neath RFC and a linked company, the Ospreys.

Hawkes v Cuddy and others [2007] EWCA Civ 1072 (Ch); [2008] BCC 125; The Times, November 13 2007 (Chadwick LJ, Tuckey LJ and Maurice Kay LJ) – Concerning the nature and effect of the provisions restricting the use of company names in sections 216 and 217 of the Insolvency Act 1986 in the context of an unfair prejudice cross-petition under section 459 of the Companies Act 1985 (now section 994 Companies Act 2006) and the circumstances in which declaratory relief may be granted

PFC Group Limited v CSDM Limited [2007] EWHC 2470 (QB); (Judge Havelock-Allan QC)
Reference: LTL 7/12/2007 – Application for summary judgment and strike out, whether real prospect of success in allegation that fiduciary duties owed by mailshot distributor to supplier/creator of charity mailshots.

George Pollard v Richard Pollard & Alan Pollard & G & R Pollard Engineering Ltd
Ch D (Bristol) (Judge McCahill QC) 20/7/2007
Reference: LTL 26/9/2007 – Unfair prejudice petition, injunction to restrain the use of company funds to prevent company monies from being used to fund a cross-claim against a former managing director of that company.

Hawkes v Cuddy and others [2007] EWHC 1935 (Ch); [2007] BCC 671; The Times, August 14 2007 (Judge Havelock-Allan QC) – Concerning the nature and effect of the provisions restricting the use of company names in sections 216 and 217 of the Insolvency Act 1986 and the ability of a petitioner to found a petition under section 459 of the Companies Act 1985 based on breaches of section 216.

Chantrey Vellacott v The Convergence Group PLC and others [2007] EWHC 1774 (Ch) (Rimer J) – Application for non-party costs order in respect of £5.6M costs under s. 51 Supreme Court Act 1981 against directors of company in administration.

County Homesearch Co (Thames & Chilterns) Ltd v David Cowham (Recorder Hollander QC) 17/04/2007
References: LTL 16/8/2007 – Homefinder commission claim, whether commission dependent on services provided being effective cause of purchase, implied term.



Sendo International Limited (In Administration) [2006] EWHC 2935 (Ch); [2007] 1 BCLC 141 (Blackburne J) – Construction of trust deed set up before administration order of mobile 'phone company.

In the Matter of Logic Alliance, Ch D (Bristol) (Bernard Livesey QC) 24/11/2006

References: LTL 29/11/2006 – Application to amend to introduce dividend/misfeasance claim against former directors of insolvent company.

Khalastchi v Gardiner & Robinson, Ch D (Birmingham) (Judge McCahill QC) 15/8/2006

References: LTL 10/11/2006 – Enforcement of consent order, determination of sham trust.

National Westminster Bank v Waite [2006] EWHC 1287 (QB); [2006] All ER (D) 289 (Jun); LTL 9/6/2006 (Judge Havelock-Allan QC) 5/4/2006 – Enforcement of guarantee, allegation of undue influence by bank.

Barsanti & Barsanti v Royle, Ch D (Bristol) (Judge Havelock-Allan QC) 3/4/2006

References: LTL 16/6/2006 – Proprietary estoppel, nature of relief in context of informal sale of residential property.

Penwith District Council [2005] BCC 393; [2005] 2 BCLC 607 (Laddie J) – Disputed winding up petition, cross-claims and set-off.

Exeter City Football Club v Football Conference Ltd and Stevenage Borough FC Ltd, [2004] 1 WLR 2910; [2004] 4 All ER 1179; [2004] BCC 498; [2005] 1 BCLC 238, *The Times*, February 12 2004 – s.459 petition challenging the "football creditors" rule, whether arbitrable, ancillary commercial disputes concerning operation of football competition rules.

Inland Revenue v Exeter City AFC [2004] BCC 519 – CVA, whether to order specific disclosure of documents.

Re Industrial Services Group Ltd (No 2) [2003] BPIR 597 – Admissibility of expert evidence as regards accounting practice, practice relating to freezing orders.

Official Receiver v Hay (2002) 2 WLR 20 – Directors' disqualification and section 236 IA 86.

Education:

Bar Vocational Course (BVC) Western & Wales: Prize for Best Overall Performance

Diploma in Law, University of Exeter: Dean's Commendation

Physics BSc (Hons), University of Manchester: First class degree

Appointments:

October 2002 Appointed to the Attorney General's Panels of Junior Counsel to the Crown

November 2007 Reappointed to the Attorney General's Panels of Junior Counsel to the Crown

Professional memberships:

Member of the Commercial Bar Association (combar), the Professional Negligence Bar Association (PNBA), Insolvency Lawyers Association (ILA), and R3.

Publications:

Contributor to *Gore-Brown on Companies* (2005-2007)

Contributor to *Insolvency and the Enterprise Act 2002* (Jordans, 2003)

Seminars:

Various seminar talks given in relation to the above areas of practice



Directory Recommendations:

Chambers and Partners 2011

Hugh has been rated as a star performer amongst leading juniors on the Western Circuit for his commercial dispute resolution work in the past 3 years. In Chambers and Partners 2011 he has been described as follows:

Commercial

"Market commentators are united in the opinion that Hugh Sims is the leading commercial junior on the Western circuit. He is considered to be "a consistent high-flyer and an exceptionally gifted individual. He's client-friendly, fights his cases hard and is an excellent advocate."

Banking & Finance

"Hugh Sims provides "quick, accurate advice and is very willing to go above and beyond to help you in any way possible," say solicitors. He acts both for and against banks and financial institutions."

Insolvency

"He is "razor-sharp and fights hard for his clients.""

Chancery

"Hugh Sims is commended for his "sharp, bright mind." In addition to having an excellent grasp of insolvency law, he also has great insight into trust, partnerships and property issues."

Partnership

"Incredibly clever rising star" Hugh Sims, an "excellent fighter in court" who is "so straightforward to deal with."

Legal 500 2010

Hugh Sims is an 'experienced, bright, articulate and persuasive advocate'

Interests:

Family

Sport

Clerk:

For commercial please contact Dan Cuthbertson (dan.cuthbertson@guildhallchambers.co.uk)

For insolvency please contact Justin Emmett (justin.emmett@guildhallchambers.co.uk)

CFA

Yes, in appropriate cases

DPA

Yes