



Julian Wilson

What the directories say:

a commercial litigator who also handles employment matters. "Charming, bright and extremely user-friendly", Chambers UK 2010

"hugely committed and good on his feet." His preparation for High Court cases is "miraculous and meticulous," and solicitors particularly appreciate his "pragmatism and great attention to detail", Chambers UK 2009

Practice Overview

Julian Wilson has wide experience of commercial and employment litigation.

His practice tends to involve disputes concerning the breakdown of employment, fiduciary, shareholder, partnership and joint venture type relationships, often in circumstances involving alleged fraud or misconduct, asset tracing and injunctions, unlawful competition, team moves, restraint of trade, confidential information, and springboard relief.

He also regularly acts in disputes concerning bonuses, share options and carried interest.

He is also experienced in International Commercial Arbitration.

Career

Called to the Bar: 1997, Inner Temple.

Previously, Solicitor: 1984-97;

Litigation Partner, Herbert Smith: 1990-97;
Higher Court Advocacy Rights (Civil) 1994;

Also admitted in Grand Cayman, 1987; Hong Kong, 1989.

BA (Oxon) Jurisprudence, 1981.

Illustrative experience:

Bonus, Share Incentive schemes, and performance related remuneration disputes

Duarte-v- Black & Decker [2008] All ER (Comm) 401: Executive Long Term Incentive Plan; Maryland Law; UK executive; applicable law; enforceability of LTIP restrictions

Takacs-v-Barclays [2006] IRLR 877: Complex Credit Structurer; guaranteed bonus awards; performance condition; implied terms; share awards; leaver provisions; restraint of trade

Curran-v-Dresdner Kleinwort Wasserstein (2007) Stock Plan; leaver provisions; forfeiture: restraint of trade

Yousefian-v-Depfa Bank (2007) Head of Emerging Markets; Deferred Share Scheme; Leaver provisions

Marti-Sanchez-v-Nomura (2007) Complex Credit Structurer; bonus terms; valuation of deferred Stock Acquisition Rights

Cantor Fitzgerald-v-Horkulak [2003] EWHC 1918, [2004] EWCA Civ 1287: exercise of discretion in discretionary bonus clauses; damages

Taylor-v- Motability Finance Ltd [2004] EWHC 2619 (Comm): Discretionary Bonus; restitutionary remedies and contractual performance

West-v-Dresdner Kleinwort Wasserstein (2004) bond trader; guaranteed awards; change of control

Povey-v-Colt Telecom (2003) Incentive Share Plan; Conditions; Forfeiture: Restraint of Trade; Penalty

Hutchings-v-Tomkins Plc (2001) Share schemes; accrued rights; relief from forfeiture

Commercial Arbitration

Vienna International Arbitral Centre, Austria (2007): exclusive distributorship dispute in scientific equipment sector

Ad hoc London (2007) Exclusive distributorship dispute in packaging sector

LCIA, London (2006): Eastern European bank in administration; share valuation; negligence claim against international investment bank acting as valuer.

Ad hoc London (2003) mobile phone corporation; "earn-out" provisions in Share Purchase Agreement relating to the acquisition of an ISP.

Author of: Enforcement of Foreign Arbitral Awards, in Fellas, *Transatlantic Litigation*, Oceana (2004); *Enforcement of Arbitration Agreements, Orders and Awards: the new English Approach*, ABA, IPWS Vol. XVII

Commercial Fraud

BP Plc -v- Jones & Ors (2008) conflict of interest; breach of fiduciary duty; freezing injunction; contempt; taking of account of profits

Foote, Cone & Belding-v-Theron (2006) international fraud; worldwide freezing injunction; asset tracing

Croner Consulting-v-Wright (2003) employee fraud; freezing order

Miller Group-v-Spoors (2002) worldwide freezing injunction to restrain misappropriation of company monies

Esprit Telecoms-v-Fashion Gossip & Ors (2000) premium rate services frauds; freezing injunctions; economic torts; restitution

Cummins-v-Kenton (1999) conspiracy; acquisition at alleged undervalue

Miles -v-Wickes (1999): accounting irregularities; dividend repayment claim

Restraint of Trade, Confidential information

Duarte-v- Black &Decker [2008] All ER (Comm) 401 successfully defended Duarte at trial against allegation of removal and misuse of confidential information

Birkart-v-Jackman (2007) confidential information; diversion of business; springboard relief

Petrol Express-v-RBS and E&Y (2006) acquisition; duties of financiers and reporting accountants; conflicts of interests; confidential information

Fields & Towers-v- Walden (2005) fiduciary duties; confidential information;

diversion of business technology; injunctive relief

Hays Recruitment-v-Ions [2008] EWHC 745 (Ch): pre-action disclosure; confidential information: transfer of information on to networking web-site; covenants

Anon (2005) obtaining disclosure orders for a City firm seeking to uncover the identity of an anonymous 'whistle-blower'

Symbian-v-Christensen [2001] IRLR 77, CA: garden leave; confidential information

Team Moves & Springboard Relief

Devonport Royal Dockyard-v-Warren & Ors (2008): team move; confidential information; interim injunctive relief and disclosure orders

RBS-v- Thompson & Ors (2008): team move; springboard injunction, confidential information; interim injunctive relief and disclosure orders

UBS Wealth Management –v-Eason (2006): team move; non-compete covenants

Aon Limited-v-Higgs & Ors (2006): team move; confidential information; springboard injunction

Frenkel Topping-v- Riddings & Ors (2005) team move; misuse and destruction of confidential information; springboard relief.

Maxcor Commercial Inc-v-Bell & Ors (2005) team move; fidelity; fiduciary duties

Bristol & West Plc-v-Palamon Capital Partners (2003): team move; covenants; pre-action disclosure; Norwich Pharmacal relief

Cantor Fitzgerald-v- De Viana & Ors (2002) inter-broker dealer team poach; garden leave injunctions

Shareholder/partnership disputes

Broome & Wellington LP-v- Greensteins: Terminated Joint Venture; Business Sale; Commercial Guarantee [2009] EWCA Civ. 589

Shaw & Personal Storage LLP -v- Nimmo (2008): shareholder/partner dispute; injunction to restrain breaches of security documents/causing loss by unlawful means

In the matter of Moorevale Management Limited (2007): shareholder dispute; s.459 petition; interim injunctive relief; prosecution of derivative claims; fiduciary duties; diversion of assets

In the matter of Fluorocarbon Holdings Limited (2007) Shareholder dispute; s.459 petition; exclusion; dilution

Qayoumi –v- Oakhouse Property Management Ltd (2002) acted for the successful shareholder in a bitterly contested and complex derivative action

to trace and recover misappropriated assets.

Newby -v- Yes Car Credit (2004): represented founder shareholders in claims for “Earn Out” entitlements under deferred consideration provisions of Share Purchase Agreement.

Parmar-v-Parmar (2005): acted for family shareholders in claims for the dissolution of companies and partnerships running a substantial property business.

Sale of Goods, Agency, Distributorship, Imports

Robert McBride Limited –v- Davis & Dann (2005) represented reseller in the Russian market of UK supplied products; termination of distributorship

Represented clients in 2 international arbitrations concerning multi-jurisdictional exclusive distributorship arrangements

Professional Negligence

LCIA Arbitration London (2006): professional negligence claim against international investment bank acting as valuer of shares of Eastern European bank in administration.

Europe Mortgage Company-v-Royal & Sun Alliance (2002): surveyor undervaluation; sale of mortgage rights; loss

Regulatory

LIFFE Market Investigations Department- v-Hunt & Ors (1998) represented before LIFFE Disciplinary Panel 5 traders accused of front-running on futures market

Represented 3 solicitors in cases before Hong Kong Solicitors Disciplinary Tribunal

Employment

Jordan Wimmer-v- Nomos Capital (2009) Discrimination; hedge fund marketing

Shepherd-v- Phoenix Contracts Limited (2009) Whistleblowing; construction bid-rigging; shareholder conflict

Riley-v-Emaar Hotels (2008) CEO; alleged shareholder interference with authority; constructive dismissal

Clipson-v- Lawn Tennis Association (2008) whistleblowing dismissal

Price –v- Alliance & Leicester (2007) negligent reference claim; financial services; alleged churning

Reed-v-Standard Life (2007) constructive dismissal of FD by disparaging leaks to the media

IIU Nominees-v-Morisson (2004) Claim against Hedge Fund Manager for breach of contract, propriety

Reported Cases (as Barrister)

Duarte-v-Black & Decker [2008] All ER (Comm) 401

Takacs-v-Barclays Services Jersey Ltd [2006] IRLR 877: bonus - implied terms

Cantor Fitzgerald International v Horkulak [2004] EWCA Civ 1287: bonus damages

Taylor v Motability Finance Ltd [2004] EWHC 2619 (Comm): bonus- restitution- contractual performance

Horkulak v Cantor Fitzgerald International [2003] EWHC 1918 (QB): trust and confidence term

Symbian-v-Christensen [2001] IRLR 77: restraint of trade and garden leave

Gregory-v-Portsmouth City Council [2001] AC 419: malicious prosecution and disciplinary proceedings

Qayoumi-v-Oakhouse Property Management Ltd LTL 7/8/01: minority shareholder derivative action

Fashion Gossip Ltd v Esprit Telecoms UK Ltd & Ors [2000] EWCA Civ 233: premium rate services-fraud-restitution

Patrick Stevedores-v-International Transport Workers Federation (1998) 2 Lloyd's Rep 523: international trade dispute-injunctive relief

Solicitor Experience

As a solicitor at Herbert Smith, Julian Wilson specialised in International Commercial Litigation and acted in large banking and finance, cross-border insolvency, professional negligence, fraud and regulatory matters. For example, he acted in the defence of Price Waterhouse in claims arising from their audits of BCCI, represented them before the Bingham Inquiry into Banking Supervision and in their third party claims against an Emirates ruler, government and state. He represented the Hong Kong Liquidator of a Cayman Islands bank in international litigation including a substantial auditors' negligence action. He was involved in numerous reported cases. Julian was named amongst *Chambers Directory's* leading solicitors in Commercial Litigation in 95/96, 96/97 and 97/98; he was mentioned in *Legal 500* as a leading litigation practitioner in 95, 96 and 97; he was named as a top litigator in *Legal Business's* "40 under 40" in 1996.

Publications and Seminars

Julian's recent seminars and papers include: *Confidential Information-Recurrent Problems & Recent Developments* (Oct 09) *Team Torque* (Lawyer, Oct 08); *Will shareholder activism lead to more litigation?* Financial News (Dec 07) *Restrictive Covenants: recent cases* (for ELBA, 07); *The Proprietary Remedy, Constructive Trust And Tracing: Frequently Asked Questions* (May, 06); *Restraining Competitive Activity by Advisors* (06) ; *Developments in gain based damages: from the exceptional to the commonplace?* (05).

His publications include: *Enforcement of Foreign Arbitral Awards under US and English Law in Transatlantic Commercial Litigation and Arbitration* (2004 Oceana Publications Inc.) *Anti-Suit Injunctions* [1997] JBL 424; *Enforcement of Arbitration Agreements, Orders and Awards: the new English Approach*, ABA, IPWS Vol. XVII; *Choice of English law in International Financial Transactions*, ABA, IPWS Vol. XIII. Julian is a former editor of *International Litigation News* (IBA) which published many of his editorials on international litigation topics including: *Anti-Suit Injunctions*; *US Exports, Anti-trust and Extraterritoriality*; *Cross-border defamation*; *Misuse of the international bank payments system*; *Use of the Hague Evidence Convention*. Julian has lectured on commercial litigation topics internationally: *IBA, Hong Kong Conference: 1990*; *Yale Club, New York 1995*; *ABA, Minneapolis 1996*; *ABA Miami 1997*; *ABA Toronto 1998*. Julian was one of the speakers on Civil Justice Reform at Lord Woolf's CBI Roadshow in 1995.

Professional Associations

COMBAR

Employment Lawyers Association

Employment Law Bar Association