

## **Julian Wilson**

### **What the directories say:**

“magic circle solicitor's background has instilled him with great commercial acumen. He is gaining a reputation for his "solid, organised and responsive approach" to restrictive covenant issues”, Chambers UK 2011

“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 is a commercial litigator who practices in business and employment litigation particularly disputes concerning the breakdown of shareholder, partnership, LLP, joint venture and employment relationships, often in circumstances involving alleged conspiracy, 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 variable and deferred remuneration, share schemes and carried interest. He has represented clients in high profile discrimination and whistleblowing claims concerning conduct in the financial world and in regulatory proceedings. He is experienced in Commercial Arbitration and cross-border litigation.

### **Career**

Called to the Bar: October 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**

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

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

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

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

**Martin-v-Fidelity Private Equity** (2010)  
LLP structures; agreement for partnership; implied partnership; investment gain based damages.

**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

**McArthur-v-Randall & Quilter** (2010): Bonus; LTIP; leaver terms

**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

### **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.

ACI Rules (2000) call centre services agreement

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

**Daifuku – v- Nadarajan** (2010): Employee fraud; Freezing Injunction.

**Swift-v-Cantley & Ors** (2010): Conspiracy; hostile bid to acquire business from private equity lender.

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

**Foote, Cone & Belding Reklam Hizmetleri -v- Theron** [2006] EWHC 1585 (Ch) international fraud; worldwide freezing injunction; asset tracing; jurisdiction and domicile

## Conflict of Laws

**Goldstone-v-Goldstone & Jeeves** (2010): Jurisdiction over Liechtenstein parties to determine 3<sup>rd</sup> party ownership dispute in divorce ancillary relief

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

## 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

**Voyage Group v Baker** (2009) Investment Agreement; employee shareholder covenants; restraint of trade

**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

**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 manipulations; freezing injunctions; economic torts; restitution

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

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

**Foote Cone & Belding –v-Theron** [2006] EWHC 1585 (Ch): Jurisdiction domicile and residence; forum

Author of *Anti-Suit Injunctions* [1997] Journal of Business Law 424

**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 Norwich Pharmacal disclosure orders against ISPs 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

**Martin-v-Fidelity Equity Partners (2010)**: private equity LLP structures; agreement for partnership; implied partnership

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

**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

**Gayoumi –v- Oakhouse Property Management Ltd** 2001 WL 949789 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 Refco futures traders accused of front-running on futures market

Represented 3 solicitors in cases before Hong Kong Solicitors Disciplinary Tribunal

## **Employment**

**Constantine-v-Lloyds TSB** (2010)  
Whistleblowing; tax compliance; structured tax avoidance.

**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

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

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

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

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

## **Reported Cases (as Barrister)**

Goldstone-v-Goldstone & Ors. [2011] EWCA Civ 39: Jurisdiction over Liechtenstein parties to determine preliminary share ownership dispute in ancillary relief.

Broome & Wellington LP v David Greenstein [2009] EWCA Civ. 589: Joint Venture; Business Sale Agreement; Commercial guarantee.

Duarte v Black & Decker Corporation [2008] All ER (Comm) 401: Restrictive Covenants; applicable law; alleged misuse of confidential information.

Hays v Ions [2008] IRLR 904: Pre-action disclosure; confidential information; use of networking websites.

Takacs v Barclays Services Jersey Ltd [2006] IRLR 877: Bonus claim; implied terms of trust and confidence, cooperation and anti-avoidance.

Foote Cone & Belding Reklam Hizmetleri & Others v Theron & Others [2006] EWHC 1585 (Ch): Jurisdiction, domicile and residence; forum.

Cantor Fitzgerald International v Horkulak [2004] EWCA Civ 1287, [2003] EWHC 1918 (QB): trust and confidence, bonus damages.

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

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 2001 WL 949789: minority shareholder derivative action: diversion of assets

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: *Variable Remuneration and the Revised Remuneration Code (2011)*; *Insolvent Employer - liability of others (2010)* *Privacy Of Internet Users, Internet File-Sharing And Copyright: The Present "Wild West" And The Digital Economy Act (2010)*; *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