Simon Myerson KC



Called: 1986
Silk Date: 2003

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Practice Overview

PRACTICE AREAS

Commercial Litigation
Civil Fraud
Employment
Clinical Negligence
Professional Liability
Partnership
Health and Safety
Professional Discipline
Defamation
Public Law

APPOINTMENTS

Attorney General's Provincial List (1992)
Standing Counsel Inland Revenue (2000)
Recorder (Crime, Class 2, Civil, Chancery) (2001)
Qualified Mediator (2009)
Bencher (Middle Temple) 2013

ASSOCIATIONS

HSLA,
CBA

Commercial Litigation

Simon is experienced in all aspects of commercial litigation and has developed his junior practice in silk.

Concluded cases
Catfoss Finance v Topdog: claim for conversion of hired goods settled at trial.

Dixon v S & N [2002] 4 Comp LR 484. Construction of Beer Order in a case in which the issue was whether the tenant had breached the terms of his tenancy agreement. First time the order had been the subject of judicial consideration.

Abbey Archway v Cooper. Construction of an option agreement for the sale of land in which there were 2 such options, both of which the Claimant purported to exercise and in respect of which the Defendant alleged undue influence.

Flowrite v Masternaut. £1,000,000 claim for breach of contract resulting from a failure to pay for goods supplied, the Defendant claiming that the goods were unfit for purpose.

Garforth Residential v Leeds City Council. Claim against local authority for failure to pay block grant involving construction of the National Assistance Act 1948.

TNT v Somerfield Stores Claim for loss of profits where extension of contract was conditional upon minimum sales figure being reached. Issue of whether figure was reached and whether, if not, the failure was manipulated by the Defendant.

Sample current cases

€30m claim for damages and conversion in connection with 4 yachts.
Defending Commercial Court claim for breach of contract in relation to the contract's termination for non-performance.
Defending £6m claim for company accused of deliberately misinforming insurers about financial information.
Representing company directors in Tax Tribunal where HMRC seek penalties in respect of a declared tax avoidance scheme, which failed.

Employment

Simon has long experience in employment work, especially relating to improper use of confidential information and breach of restrictive covenants, but including advisory work on the implementation of new rules and regulations.

Concluded cases
Menage v Nuffield. Claim by doctors wishing to decamp to new private hospital to be released from their contract of services with the existing provider.

Re F. Claim by a taxi company to restrain passing off relating to their name and the recruitment of existing employees by competing business set up by ex-employees.

Re Nuffield. Advice on application and requirements of new nursing homes regulations to large private supplier.

Re X: Advised serving police officer on whether disclosure of adverse judicial finding is compulsory or whether, in the circumstances, the Chief Officer is breaching the agreement for service. Officer reinstated in investigative capacity with disclosure accompanied by explanation of circumstances of finding.

CCC: Super-Injunction against employee, restraining disclosure of confidential information.

Sample current cases

Advising partner dismissed by partnership in claim including sex, religious and age discrimination.
Representing respondent charity in claim by alleged employee whose contract for services expired and was not renewed.

Personal Injury

Simon has long experience in employment work, especially relating to improper use of confidential information and breach of restrictive covenants, but including advisory work on the implementation of new rules and

regulations.

Concluded cases
Barnsley Footwear v Masters. Claim by company against former employee for account of profits arising from employee's new business. Issue as to precise status of Defendant, confidentiality of information and whether information legitimately acquired.

Menage v Nuffield. Claim by doctors wishing to decamp to new private hospital to be released from their contract of services with the existing provider.

Re F. Claim by a taxi company to restrain passing off relating to their name and the recruitment of existing employees by competing business set up by ex-employees.

Re Nuffield. Advice on application and requirements of new nursing homes regulations to large private supplier.

Re X: Advised serving police officer on whether disclosure of adverse judicial finding is compulsory or whether, in the circumstances, the Chief Officer is breaching the agreement for service. Officer reinstated in investigative capacity with disclosure accompanied by explanation of circumstances of finding.

Sample current cases
Advising ex director on whether co-director's actions amount to repudiation of contract where key financial decisions made in absence of director and where financial information deliberately withheld.

Clinical Negligence

Simon has regularly acted for Hospital Trusts and doctors.

Concluded cases
M v Calderdale and Kirklees Health Authority (formerly West Yorkshire Health Authority) [1998] Lloyd's Rep Med 157. Health Authority's delegation of care of patient under S1 NHS Act 1977.

Bancroft v Harrogate Health Authority [1997] 8 Med LR 398. Causation in cervical cancer.

Burke v Leeds HA [2001] EWCA Civ 51. What constitutes negligent advice in clinical care.

Sample current cases

Acting for Claimant in claim against hospital for cerebral palsy said to be caused by negligent treatment.

Professional Liability

Simon mainly deals with cases involving solicitors, barristers and accountants, often when professionals acts together to administer an estate or as part of a tax planning exercise. He has also acted in cases involving architects and surveyors.

Concluded cases
Del Grosso v Payne & Payne [2007] EWCA Civ 340. Claim against solicitors for negligent advice regarding the purchase of a club.

Singer v James Hay. Claim by beneficiary of pension fund against pension trustees, solicitor and accountants regarding pension planning and purchase of annuity.

Seddon v Egan. Acted for solicitor in a claim by client alleging failure to adequately advise on £3m deal to sell commercial site subject to conditions.

Sample current cases

- Acting for charitable trustees regarding potential misuse of charitable funds by employees as sanctioned by professional advisers who were also trustees.
- Right to Buy. Lead counsel for 11,000+ Claimants in negligence claim against solicitors acting for purchasers of council houses.

Professional Discipline

Simon acts regularly for firms of solicitors being investigated by the SRA. He has advised other professions as diverse as accountants and probation officers, and has advised on the wording of professional rules and guidance, and the setting up of disciplinary proceedings. He has represented numerous police officers via the Police Federation. In December 2010 he completed a 6 year stint on the BSB Conduct Committee and resumed taking instructions for Barristers.

Concluded cases
The Law Society v Waddingham & Ors [2012] EWHC 1519 (Admin): successfully defended solicitors the subject of SRA appeal that SDT's decision that clients not dishonest should be overturned.

Re T: Successfully argued that case against barrister should be dropped and recovered costs for Bar Mutual.

Re H & L. Representing firm of solicitors appearing before SDT in relation to charges brought arising from the COPD (Miners' Compensation) scheme.
Bichard Inquiry. Acted for the Humberside Police Federation in the Inquiry into the Soham murders and made successful representations regarding comments in the Report.

Alder Inquiry. Represented police officers in the IPCC inquiry into the death of Christopher Alder.

Cross Border. Represented 3 officers charged with various offences arising from the Cross-Border investigation.

Re H Probation Service. Advised Probation Service as to disciplinary routes open regarding officer who had failed to complete an adequate OASYS assessment with catastrophic results.

Sample current cases
Representing firm of solicitors appearing before SDT in relation to charges brought arising from the COPD (Miners' Compensation) scheme.
Advising Customs Officers regarding disciplinary proceedings brought after criminal charges were dismissed.

Partnership

Simon regularly deals with partnership matters, usually involving the dissolution of professional firms, or misfeasance on the part of partners. He also has experience of franchise litigation.

Concluded cases
Scargill v Crank. Claim for an account turning on issue of when the Partnership was dissolved involving close construction of Partnership Agreement.

Re Cheshire. Claim for breach of Franchise Agreement by local franchise holders of national firm, based on deliberate default of franchisor.

Thompson v Shackleton. Breach of Partnership in food business including claims of theft and fraud.

Re C. Claim by one partner against others for conspiring against him to force his retirement, including holding secret partnership meetings and refusing to provide proper access to information.

Sample current cases

Acting for partners in claim against ex-partner alleged to have breached accounting rules and procured resignation rather than expulsion by covering up those breaches.
Acting for partner in claim that ex-partners falsified accounting position of firm in attempt to expel him from partnership and obtain existing assets when partnership dissolved.
Advising solicitor on restrictive covenants and construction of contract as he attempts to extricate himself from his former partners.
Advising solicitor on construction of interrelated Partnership/LLP/LMC Deeds and his entitlement as regards basic share and points.

Health and Safety

Simon deals with criminal cases, advises on the effect of accidents, and deals with civil claims involving damage to property.

Concluded cases
R v Butters. Acted for employee directly responsible for fatal accident at Lightwater Valley in both the Inquest and the criminal proceedings.

R v Next. Prosecuted Next Plc for fatal accident in which employee abseiled from fork-lift truck with inadequate equipment and died when the rope paid out without stopping, causing a fall of about 30m.

Re E MAPPA. Advice on departmental enquiry after offender committed suicide when the subject of supervision.

R v Next plc. Prosecuted Next for fatal accident when lift inadequately specified and maintained.

Sample current cases

Representing 2,000 Claimants in claim against chemical company for allowing fire causing escape of toxic gas from its premises.

Defamation

Simon has accepted defamation instructions since taking silk.

Concluded cases
X v Y. Acted for Claimant in a case where Defendant making accusations of criminality and theft from friends. Settled for damages and costs.

Re Solicitors. Acted for 2 firms of solicitors accused in a script of an investigative BBC Radio programme of assisting an offender. Script altered.

Levi v Bates ([2009] EWHC 1495. Acted for successful Claimant in action for libel against Ken Bates regarding the takeover and subsequent management of Leeds United.

Weston v Bates & Anor [2012] EWHC 590. Successfully represented Claimant before Master and Judge in

Defendant's application for order that he had not been properly served in Monaco.

Levi & Anor v Bates & Ors [2012] EW Misc 9. Successful harassment claim, following on from the defamation action between the named parties.

Ontulmus & Ors v Collett & Ors [2013] EWHC 980. Successfully resisted strike out on basis that Claimants had no trading reputation in the jurisdiction.

Sample current cases

- Advising professional sportsman the subject of made up quotes in a newspaper article, which adversely affected ongoing contract negotiations.
- Representing foreign businessman in libel claim against ex-customer and the customer's business/legal advisor, in which claim for lost business exceeds €4.5m.
- Representing director of a company accused by US based journalist of being a fraudster.

Directory Comments

"*His commercial and Chancery expertise includes tax tribunal matters*"
Legal 500 United Kingdom 2015

"*Is recognised for his expertise in commercial cases and a range of other civil matters* "
Legal 500 2014

"*His practice encompasses criminal, civil and regulatory matters, and his financial crime expertise extends to covering insurance, advance fee, broking and tax frauds.* "
Chambers and Partners 2013 - Fraud Criminal

"'*is exceptionally bright and an outstanding advocate*'"
Legal 500 2013 - Chancery and Commercial Litigation

"*Has a heavyweight commercial litigation practice* "
Legal 500 - 2012

"*Simon Myerson QC ... acted on the Asgha Holdings case, concerning an alleged pension and banking fraud on shareholders. In a strong vote of confidence in his abilities, his clients include legal professionals themselves accused of fraud.*"
Chambers & Partners 2012 - Fraud: Criminal

"*Simon Myerson QC has a heavyweight civil fraud, defamation and disciplinary practice.*"
Legal 500 2011

"'*...very user-friendly and high-quality. He handles serious crime, criminal and civil fraud, regulatory work and commercial and professional negligence*"
Chambers and Partners 2010