

BOODLE HATFIELD LITIGATION

We pride ourselves on getting to the heart of matters and securing the best possible outcomes for our clients. Through an in-depth understanding of our clients' needs, we develop and execute clear strategies designed to achieve timely, practical solutions, leveraging our depth and breadth of experience to put together the right team for the matter at hand. While adept at using the courts when required, we are not unnecessarily aggressive and take great pride in our reputation for settling out of court where possible.

Our commercial outlook allows us to take a proactive approach to helping clients achieve their goals. Not only do we know what is keeping them up at night but we also know what should be and we work to develop strategies to deal with these issues in a cost-effective manner. By highlighting the preventative steps they can take in the present we help our clients avoid potentially time-consuming litigation in the future, thereby allowing them greater freedom to pursue their overall business goals.

Our key areas of specialisation are:

- Contractual disputes
- Claims for breach of warranty
- Professional negligence claims
- Family business disputes
- Commercial agents regulations
- Misrepresentation claims
- Shareholder disputes
- Debt recovery
- Employment litigation
- Proceedings based on the Hotel Proprietors Act
- Property disputes
- Art related disputes
- Building and construction litigation
- Contentious trusts & probate

“Solid and long-established” ...“Peers recognise lawyers’ ability to see the wood for the trees” - Chambers and Partners

TRACK RECORD

Breach of Warranty: Acting for a property company on a case widely reported in the property press in a breach of warranty claim against the seller of a shopping centre. Replies to enquiries were wrongly warranted as being correct, resulting in a significant loss for the client; negotiating a favourable settlement prior to disclosure.

Misrepresentation: Acting for a firm of surveyors in High Court proceedings for misrepresentation against a procurement business with which they had entered into a contract. Resolving the matter on favourable terms following extensive correspondence concerning the failure of the procurement business to provide complete disclosure.

Shareholder Disputes: Acting for the founder and majority shareholder of a prominent television production company threatened with a claim from a former minority shareholder for unfair prejudice. Advising the client as to what constituted a reasonable offer, culminating in a settlement agreement that prevented the unfair prejudice petition being presented.

Professional Negligence: As part of a claim for professional negligence and in order to attempt to mitigate the company's loss, acting for an oil broking company in the Court of Appeal case of *Littman –v- Aspen Oil (Broking) Limited* which was widely reported in the legal press. The case is an interesting example of a situation in which it may be possible to “rectify” a mistake in a document by construction. The Court of Appeal judgment contains noteworthy comment of the basis upon which an order for rectification can be made.

Agrochemicals: Acting for an agrochemical company in relation to business-critical legal matters arising out of the EU review of pesticides and seeking, in particular, an extension to the deadline to submit Annex II data to the Pesticides Safety Directorate. Proceedings for judicial review were prepared but an extension of time was granted very shortly before they were to be issued. The same arguments were thereafter pursued with the Spanish, Portuguese and Italian regulatory authorities who also accepted the arguments and extended the deadline.

Commercial Agents Regulations: Acting for an agent of a French company in legal proceedings in the High Court and pursuing a claim for compensation under the Commercial Agents Regulations after her dismissal. Obtaining a very satisfactory outcome during a mediation.

Employment: Acting for a large media image company on a matter involving a former employee who was alleged to have stolen substantial sums. Obtaining a freezing injunction on the money and preparing evidence tracing the funds through from their original sources to the various individual and corporate defendants. Obtaining judgment and receiving payment out of the injunctioned funds following a hearing for the assessment of damages.

Intellectual Property: Obtaining substantial damages for a firm of architects in an infringement of copyright dispute with a developer who used their designs without permission. Rejecting the part 36 offer made by the developer on the basis that they had not provided sufficient information to enable us to evaluate the offer. Making a counter offer under part 36 at a significantly higher amount, which was accepted by the developer.

Hotel Proprietors Act: Acting for an American couple in legal proceedings against a world famous country house hotel after the hotel refused to honour their request for compensation when they were burgled while staying there. Ensuring that they received full compensation for the items stolen. As the hotel did not insist on confidentiality as a condition of settlement, the case received widespread publicity in the national press.

Property: Acting for a major firm of surveyors in High Court proceedings against their landlord concerning faulty air conditioning at their new offices. Reaching a settlement prior to disclosure.

Construction: Acting for a large property investment and development company and successfully defending an application for summary judgment made following a dispute relating to defects and the final payment due to a construction firm. Obtaining an order for costs against the construction firm and subsequently resolving the matter through further negotiation.

Jurisdiction: Advising former directors of a Scottish company regarding a claim brought against them by the liquidator of the company in relation to alleged breaches of duty. Applying to have the claim struck out due to a failure by the liquidator to provide full disclosure on a previous application for an extension of time for service of the claim form. Also advising on jurisdiction and applying for the claim to be struck out as it should have been brought in Scotland. The applications resulted in the claim being struck out and a costs order in favour of the client.

Injunctions: Advising a professional trustee based in Jersey who is involved, through the trusts they administer, in complex and protracted matrimonial proceedings in the Royal Courts of Justice. Advising generally on their role in the proceedings and, in particular, on how to administer the trust assets under the aegis of a worldwide freezing order obtained against the trustees. By the nature of the proceedings, the main beneficiaries were in frequent disagreement and therefore a number of Court applications were required in order to safeguard the proper administration of the trusts. Also advising the trustee on a VAT claim brought against one of the trust companies.

Regulatory Work: Advising members of the cockle industry on their dispute with local authorities and the Food Standards Agency regarding the validity of testing methods used to check for toxins in cockles. These produced "atypical" results which led to the closure of cockle beds throughout England and Wales. Assisting them with the preparation of their evidence for the Environment Food and Rural Affairs Select Committee, whose report subjected the Food Standards Agency to fierce criticism. As a result of the challenges made by the cockle industry, the testing methods have been changed.



Simon Fitzpatrick

PARTNER AND HEAD OF DEPARTMENT

Simon's practice covers a broad range of commercial litigation including contractual disputes and professional negligence claims. Much of his work is for international clients and involves working with lawyers from other jurisdictions to resolve commercial disputes both in this country and abroad.

Simon also has particular knowledge of the law relating to agrochemicals and the pesticide regulation system both in England and Europe and regularly advises clients on regulatory issues arising from the sale of pesticides. Simon trained and qualified with Boodle Hatfield. He became a partner in 1997 and head of the litigation department in 2004.

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