

Roger Laville

Called: 2015
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Profile

Roger is a member of the commercial team and specialises in finance, insolvency and company disputes. Before being called to the Bar in 2015, Roger was a solicitor at Addleshaw Goddard and Matthew Arnold & Baldwin (now Dentons UKME), where he was a partner in the banking and finance litigation team.

His finance and insolvency practice encompasses working for all of the major banks, as well as specialist lenders, and insolvency practitioners from leading firms. He is therefore fully familiar with the commercial and reputational factors which corporate clients must take into account, the regulatory framework within which financial services firms operate and the financial imperatives which apply to insolvencies.

Fraud, dishonesty and breach of duty by directors are a regular feature of the cases Roger works on, sometimes necessitating injunctive relief, and many involve cross-border inter-jurisdictional issues.

Having worked as a solicitor, Roger knows the importance of giving clients clear pragmatic advice that enables them to take properly informed decisions, and of being easy to contact and ready to talk through problems informally. He especially relishes cases which throw up seemingly intractable problems, or that require imaginative analysis to identify a solution.

Description of Practice

Banking and Finance

Roger has for many years dealt with a wide variety of personal, business and corporate banking disputes. During this time, he has acted in cases involving issues such as security and guarantees, undue influence and misrepresentation, customer and third-party fraud, money-laundering reporting obligations, consumer credit and financial services regulation, unfair relationships, mortgage and conveyancing fraud, professional negligence claims against valuers and solicitors, invoice discounting and factoring, asset finance, credit reporting, investment mis-selling, breach of mandate, the priority of interests in land and other security and fixed charge receivers, including several injunctions to prevent sales by receivers.

Recent work includes:

- Acting for the successful claimant in two multi-million dollar claims to enforce corporate and personal guarantees given in respect of Indian coal fired power station projects.
- Acting in professional negligence claims against conveyancing solicitors who failed to advise properly on an easement crossing the purchased land and who failed to advise on the implications of a ransom strip in a historic building which had been converted into luxury apartments.
- Defending a clearing bank against claims relating to fraud reports to the National Hunter and CIFAS databases.
- Acting for the representative of a class of traders in currency derivatives in proceedings to determine the existence and extent of the traders' proprietary interests in funds held in the segregated and non-segregated accounts of the trading platform provider.
- Acting for an individual to remove a charge over property put in place by a lender under an unlawful and extortionate lending arrangement in breach of the general prohibition and other financial services legislation.
- *Hardy Exploration & Production (India) Inc v Government of India* [2018] EWHC 1916 (Comm). Advising the India Infrastructure Finance Company about attempts to enforce a £70 million Malaysian arbitration award by attaching it to payments due from the lender to the Government of India under a guarantee scheme.
- Acting for connected offshore companies which invested in ground rent portfolios and the individual representatives of those companies in a dispute with their finance brokers concerning whether the threshold conditions for fees had been satisfied and the extent of restitutionary liability of the owners.
- Acting for an Indian commercial lender in a claim under a guarantee, which supported the acquisition of a Spanish company, said to have been vitiated by Indian exchange control legislation.
- *John Morris v Royal Bank of Scotland plc* (3 July 2015, Norris J). The assignment of an alleged £11 million claim against the Bank from the Bank's customer to the customer's director was void because of a clause prohibiting assignment in the Bank's fixed and floating charge debenture (as a solicitor).
- *Obadare v Barton Bridging Capital Ltd* [2013] EWCA Civ 1096. The Court of Appeal held that an action was not "pending" in the short period between being struck out and an appeal being issued, and therefore could not be protected on the land register as a pending land action (as a solicitor).
- *Gatt v Barclays Bank Plc* [2013] EWHC 2, the first reported decision about a bank's obligations in contract, negligence and defamation when providing customer information to credit reference agencies (as a solicitor).

Restructuring and Insolvency

Since qualifying as a solicitor in 2002 Roger has acted for banks, insolvency practitioners and company directors in corporate and personal insolvency disputes, from small procedural applications to hard-fought trials. Issues which have arisen include misfeasance by directors, preferences, undervalue transactions, transactions defrauding creditors, wrongful trading, avoidable floating charges, private examinations, phoenix trading, commercial and private trusts in insolvency, equitable interests in bankrupts' homes, officeholder remuneration and expenses, insolvent partnerships and disputed proofs of debt.

Recent work includes:

- Advising on the implications of a large-scale and longstanding employee benefit trust

arrangement embedded in the corporate structure of a national retail group which has entered administration.

- Acting for a representative of a class of currency derivatives traders in proceedings to determine the existence and extent of the traders' proprietary interests in funds held in the segregated and non-segregated accounts of the trading platform provider, which is in compulsory liquidation.
- Advising a leading national arts organisation about the insolvency of an important contracting counterparty.
- Acting for the successful claimant in two multi-million dollar claims to enforce corporate and personal guarantees given in respect of Indian coal fired power station projects and involving the impact in England of Indian liquidation proceedings.
- Obtaining a validation order facilitating the withdrawal of a winding up petition and the rescue of a major automotive parts manufacturing company.
- Acting for the directors and shareholders of a commodity trading company in defending claims brought by the liquidator of the company in respect of historic dividends, allegedly paid in breach of Companies Act 2006 restrictions and as a transaction defrauding creditors.
- Obtaining an order under s236 Insolvency Act 1986 for the disclosure of documents by financial institutions which had received misappropriated funds, including a "gagging order" preventing them from notifying the wrongdoers.
- Acting for a creditor in a dispute under the Insolvent Partnerships Order 1994, successfully opposing the setting aside of an order for the winding up of an insolvent partnership.
- Representing a liquidator in obtaining an order under s236 Insolvency Act 1986 for the private examination of a company director, conducting the examination and subsequently settling an application for relief in respect of undervalue transactions and preferences.
- Representing in English bankruptcy proceedings the overseas creditors of an individual debtor who is subject to insolvency proceedings in another jurisdiction and advising on the cross-border insolvency issues which arose.
- *SerVaas Incorporated v Rafidain Bank* [2010] All ER (D) 201. Acting as a solicitor for a US corporation against the Republic of Iraq in a claim to enforce a judgment debt of around US\$40 million which arose before the first gulf war against an expected dividend from the liquidation of a state-owned bank.

Companies and Partnerships

Roger represents and advises companies, directors and shareholders in claims involving breach of fiduciary duty and misconduct, unfair prejudice petitions and derivative claims, share capital, unlawful dividends and shareholders' agreements. He also advises partners in traditional partnerships and members of limited liability partnerships.

Recent examples of work include:

- *Homes of England Ltd v (1) Nick Sellman (Holdings) Ltd (2) Bromham Road Development LLP* [2020] EWHC 936 (Ch). Acting for the successful appellant in this important case which determined for the first time the appropriate test for deciding whether to grant permission for a member of a limited liability partnership to continue a derivative claim on behalf of the partnership.
- Representing a communications company in a claim against a former director for making a secret profit in breach of his fiduciary duties and a shareholders' agreement. Central issues included whether the claim was a reflective loss, whether

the shareholders' agreement could be discharged for fundamental breach and whether the non-compete covenants were an unlawful restraint of trade.

- Advising on the legal issues applicable to a company share valuation following divorce.
- Acting for a media company in a dispute with a shareholder/consultant about the terms of his remuneration package, involving the contractual interpretation of the shareholders' agreement.
- Acting for the directors and shareholders of a commodity trading company in defending claims brought by the liquidator of the company in respect of historic dividends, allegedly paid in breach of Companies Act 2006 restrictions and as a transaction defrauding creditors.
- Representing a departing shareholder in seeking to enforce the financial terms of a share sale agreement.
- Advising a company director and shareholder seeking the removal of documents from Companies House records.
- Advising the members of a traditional partnership of the implications of taking preparatory steps to establish a new, allegedly competing, partnership in the face of assertions by the remaining partners of breaches of fiduciary duty.
- Acting for shareholders in unfair prejudice petitions relating to a property management company and a series of property development joint ventures.
- Obtaining a High Court injunction to freeze a sum of several hundred thousand pounds in a company's bank account to prevent one of its directors from misappropriating the money.

Civil Fraud and Injunctions

Roger has acted in many disputes which involve allegations of fraud, conspiracy and breach of trust. He has acted in freezing injunction applications, both for applicants and respondents, and has experience of search orders, including as a supervising solicitor. He also advises and represents both banks and insolvency practitioners in relation to disputes arising from customer accounts and insolvent estates containing the proceeds of crime or subject to restraint or confiscation orders.

Recent work includes:

- Acting for the directors of a company said to have been involved in the Spanish law equivalent of an unlawful means conspiracy to breach intellectual property law. Successfully obtaining the withdrawal of the claim on the basis that the English courts were not the appropriate forum under the Brussels Regulation.
- Representing the chair of a major UK political party in opposing an urgent application for an interim injunction and disclosure of information brought by a member challenging their deselection as a candidate for the party in the European parliament elections.
- Advising a group of investors in an insolvent financial services group about potential claims against directors for fraudulent misstatement inducing lending of many millions of pounds.
- Acting for an e-learning company in an application to obtain an urgent injunction to preserve access to its computerised training platform and the information stored on it.
- Representing an individual who claims to have been defrauded in the course of purchasing several rare and collectable sports cars costing many millions of pounds.
- Representing an individual who was misadvised to invest his salary in an opaque

offshore structure, claiming against the advisors who were party to the misappropriation of funds.

- Advising an international group about the prospect of obtaining injunctive relief and an expedited trial to prevent the breach of non-compete obligations in a franchising agreement.
- Obtaining a High Court injunction to freeze a sum of several hundred thousand pounds in a company's bank account to prevent one of its directors from misappropriating the money.

Publications

- *A review of "The Law of Tracing in Commercial Transactions"* by Magda Raczynska, published in Butterworths Journal of International Banking and Financial Law, June 2019.
- *"Enforcing Judgments Against Pension Assets: Reappraising Blight v Brewster"*, Butterworths Journal of International Banking and Financial Law, January 2018.
- *"Mistaken Release of Security: a New Avenue to Altering the Land Register"*, Butterworths Journal of International Banking and Financial Law, November 2017.
- Articles for Lexis PSL on *"Inquiry into a bankrupt's dealings and property (including by way of private examination) under section 366 of the Insolvency Act 1986"* and *"Inquiry into a company's dealings (including by way of private examination) under section 236 of the Insolvency Act 1986"*, published first in 2016.
- *"Bankers Take Note: How the Tracing Remedy has Become More Complex"*, Butterworths Journal of International Banking and Financial Law, December 2015.
- *"Freezing Orders and the Corporate Veil"*, Butterworths Journal of International Banking and Financial Law, October 2013.
- *"Treading on Eggshells: Mental Incapacity Issues in Bankruptcy"*, Recovery Magazine, December 2012.
- *"Open Justice at the FOS"*, Butterworths Journal of International Banking and Financial Law October 2012.
- *"Unlawful Loans to Company Directors and Constructive Trusts"*, Butterworths Journal of International Banking and Financial Law March 2012.
- *"The Bonfire of the Charities – Winding up Unregistered Entities"*, Insolvency Intelligence March 2011. Written with Derek Francis of Terra Firma Chambers.
- *"Insolvency and International Criminal Asset Recovery"*, Butterworths Journal of International Banking and Financial Law February 2011.
- *"Lindsay v O'Loughnane: Outflanking the Insolvency Process"*, Butterworths Journal of International Banking and Financial Law January 2011.
- *"Cross-Border Transaction Avoidance: Rubin v Eurofinance SA"*, Insolvency Intelligence November 2010. Written with Sharif Shivji of 4 Stone Buildings.

Professional Memberships

Roger is a member of the Chancery Bar Association, Commercial Bar Association and R3, the Association of Business Recovery Professionals.