

## Gabriel Buttimore

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### Introduction

Extensive experience of commercial litigation, shareholder disputes, trusts, probate, property disputes (including landlord and tenant) and professional negligence.

### Professional memberships

- Professional Negligence Bar Association

### Selected cases

- *Bayley v SG Associates* [2014] EWHC 782 (Ch): derivative claim brought by beneficiaries of a BVI trust against professional advisor to the trust for professional negligence and loss to the trust fund. Damages of £1m were awarded including interest
- *Gamatronic (UK) Ltd v Hamilton* [2013] EWHC 3287 (QB): claims for breach of fiduciary duty against former employee directors struck out on the basis that the Claimant's statement of case was seriously defective
- *French v Savelieva* [2013] EWHC 2537 (Ch): Appeal from Land Registry adjudicator reversing decision to permit the production of photographic material for examination by a forensic photographic expert a post hearing but prior to the handing down of judgment.
- *Rivertrade v EMG Finance, Forburg Ltd* [2013] EWHC 3745 (Ch): trial over 7 days of a claim involving allegations of commercial fraud and priority of rights over title to proceeds of litigation in Malaysia. Judgment awaited
- *Laufer v Mahpud* [2013] (Ch): property development & company dispute regarding high value property in Kensington including allegations of commercial fraud. Successfully struck out at trial
- *Shami v Shami* [2013] EWCA Civ 227 (Court of Appeal): appeal concerning property rights and constructive trusts and conflict of laws
- *RBS Invoice Finance Ltd v Dymond* [2012] (QB): appeal to a High Court Judge from the master against conditional order on summary judgment in relation to a director's personal guarantee
- *Sethi v Patel & Scitec Group Ltd* [2012] (Ch): valuation trial following finding of unfair prejudice in 2010

- establishing share buy-out value of the company of £900,000 including issues of commercial fraud
- *Barrett v Bem and others* [2011] EWHC 1247 (Court of Appeal): appeal concerning section 9(a) of the Wills Act 1837 following retrial
  - *Jinnah & Suprico v Sachar, Burleigh Capital and Almeida Capital* [2011] (Ch) application under s. 125 Companies Act 2006 for an order for rectification of the share register on the basis there had been a breach of pre-emption provisions in the articles of association and shareholders agreement. The respondent's construction argument found favour with the court and in addition it was held that applicants were estopped by convention from contending for alternative construction
  - *Lowe v Powell* [2010] EWCA Civ 1419 (Court of Appeal): appeal concerning various issues where Court of Appeal held that in a contract for a loan to buy a property, an express term stating that repayment would not be made before the sale of the property did not prevent the implication of a term requiring the sale of the property to be made within a reasonable time
  - *Eun Young Kang v Zoo Thang Eau* [2010] EWHC 1837 (QB) commercial dispute seeking rescission for misrepresentation of a contract of sale regarding restaurant premises in Soho
  - *Re Lavin (Deceased)* [2009] EWHC 2597 (Ch): probate dispute over validity of a will involving clash of expert and factual evidence
  - *Chan v Chen* [2009] EWHC 1489 (Ch): constructive trusts and beneficial ownership of property
  - *London District Properties Management Ltd v Goolamy* [2009] 1 WLR 307 (QB): statutory appeal determining whether contractual rent review provisions purporting to apply after end of fixed term overridden by statutory scheme under S.13 of the Housing Act 1988
  - *Secretary of State for Trade and Industry v Vohora* [2008] Bus. L.R. 161 (Ch): limitation: when proceedings are brought for the purposes of the Company Directors Disqualification Act 1986
  - *Revenue and Customs Commissioners v Potter* [2008] B.P.I.R. 1033 (Ch). Corporate personality, exceptional circumstances for exercise of residual discretion to set aside statutory demand based on VAT assessment in the sum of £2m arising out of alleged carousel fraud
  - *F v H* [2008]: confidential settlement of claim for rescission of sale of business on the grounds of fraudulent misrepresentation
  - *Raja v Hoogstraten* [2007] EWHC 2551 (Ch): costs judgment in part of long running litigation
  - *TG Can Ltd v Crown Packaging UK Plc* [2007] EWHC 572 (QB): commercial litigation arising of a substantial supply contract.
  - *Simtel Communications Ltd v Rebak* [2006] 2 B.C.L.C. 571 (QB): substantial dispute between former co-directors involving allegations of dishonesty, breach of fiduciary duty and conspiracy to injure
  - *Francis v Barclays Bank Plc* [2005] P.N.L.R. 18 (QB): loss of chance, professional negligence of surveyor acting for bank and duty to those interested in the equity of redemption
  - *Posner v Shah* [2005] EWHC 1063 (QB): test for the exercise of the court's discretion where freezing order and proceedings settled
  - *Mawji v Mawji* (2003) (QB): free-standing freezing order obtained in aid of proceedings in Kenya
  - *Salako Agents v Aerometal* (2002) (Ch): High value commercial litigation arising of development agreement seeking rescission for misrepresentation and damages
  - *St Merryn Meat Ltd v Hawkins Daily Telegraph*, July 10, 2001 [2001] C.P. Rep. 116. Substantial claim for commercial fraud against multiple defendants. Reference is to judgment on application to discharge freezing order by reason of non-disclosure of unauthorised bugging of private residence and breach of Article 8(1) of the European Convention on Human Rights
  - *Re Randall (deceased)* 7 July 2000 (Ch): claim to set aside gift of house on the grounds of undue influence. Presumption of undue influence established but rebutted on the evidence
  - *Manel v Memon* [2000] 2 EGLR 40 (Court of Appeal): Section 20 Housing Act 1988 notice invalid by reason of omission of certain statutory information

- *Salvidge v Hussein* [2000] B.C.C. 36: the court was not fettered by *Ladd v Marshall* [1954] 1 WLR 1489 for the purposes of admitting fresh evidence in an appeal against a refusal of an application to set aside a statutory demand. Proceedings subsequently issued for rescission of contract of sale of a petrol station for misrepresentation

## Education

- 1992: Inns of Court School of Law Bar Finals
- 1990: University of East Anglia LLB

## Other information

- Fluent French