

Christopher Aylwin

Year of Call: 1970
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Overview

Christopher Aylwin has over 40 years' experience in the field of commercial litigation, regularly appearing on behalf of both corporate and private clients.

His specialisms include professional negligence and negligent mis-statement in a commercial context, warranty and valuation disputes, partnership disputes, shareholder disputes (including petitions under section 459 of the Companies Act), breaches of trustees' and directors' duties and director's disqualification.

He advises on passing off and markets. He advises on technology and construction claims covering all aspects of the field. He has appeared for claimants and defendants in cases concerning defective design, defective work, loss and expense and professional negligence, many of them multi-party. He also frequently represents those accused of professional disciplinary offences and appears regularly before the Disciplinary Tribunals of the ICAEW and the ACCA.

Academic qualifications

- MA (Cantab)

Professional qualifications & appointments

- Tecbar Accredited Adjudicator

Professional bodies

- Chancery Bar Association
- London Common Law and Commercial Bar Association
- Professional Negligence Bar Association (PNBA)
- Technology & Construction Bar Association (TECBAR)

Expertise

Commercial

Christopher has over 40 years experience in the field of commercial litigation. He appears regularly on behalf of both corporate and private clients in the Chancery Division, the Queen's Bench Division and the Technology and Construction Court. He brings to his practice an acute appreciation of the need for strategic thinking in the context of large-scale litigation, as well as an attention to minute detail. He is well-used to organising and assimilating large quantities of documentary evidence.

As well as having wide experience in the commercial field, Christopher's specialisms include professional negligence and negligent mis-statement in a commercial context, warranty and valuation disputes, partnership disputes, shareholder disputes (including petitions under section 994 of the Companies Act 2006, formerly section 459 of the Companies Act 1985), breaches of trustees' and directors' duties and director's disqualification.

He also has specialist experience of passing off and markets.

Christopher frequently represents those accused of professional disciplinary offences and appears regularly before the Disciplinary Tribunals of the ICAEW and the ACCA.

He has lectured on commercial matters, as well as on professional discipline, in Chambers' seminars and to various firms of solicitors, to the Chancery Bar Association and to the Professional Conduct and Complaints Committee of the Bar Council.

Christopher is a member of TECBAR and has wide experience in the Technology and Construction Court. He is also a member of the Chancery Bar Association and the Professional Negligence Bar Association.

Recent cases:

Seery v Leathes Prior [2017] EWHC 80 (QB)

Consideration of the scope of duty owed by a solicitor to his client in the context of a dispute between the directors/shareholders of a private limited company and whether the solicitor had acted in breach of duty in failing to advise his client to seek relief by means of an unfair prejudice petition pursuant to section 994 of the Companies Act 2006. Detailed consideration of expert evidence regarding the method to be applied when valuing the company's shares.

PNH Holdings Europe Limited v Phillips [2016] (Unreported)

Examination of the criteria to be applied in an application for pre-action disclosure pursuant to section 33 of the Senior Courts Act and CPR 31.16(3) by one shareholder against the other in a two-shareholder company, based upon allegations of unfair prejudice and alleged breaches of a shareholder agreement between them.

Iteshi v Bar Standards Board [2016] EWHC 2943 (Admin)

Whether the making of a "restriction of proceedings" order against a non-practising barrister in regard to litigation conducted by him on his own account could amount to "misconduct" in the context of Core Duty 5 (conduct likely to diminish public trust and confidence) of the Bar Handbook.

Gallarotti v Sebastianelli [2012] EWCA Civ 865; [2012] Fam Law 1206; [2012] 2 P and CR DG 17
The factors to be taken into account when determining the beneficial interests of parties to a Stack v Dowden/Jones v Kernott common intention constructive trust arising out of a domestic property purchase, where the property had been purchased in the name of one party only and financial contributions to the purchase price were unequal.

Lloyds TSB Bank plc v Markandan and Uddin (a firm) [2010] EWHC 2517 (Ch); [2011] PNLR 6; [2011] P and CR DG 11; and [2012] EWCA Civ 65; [2012] 2 AllER 884; [2012] PNLR 20
Rights of a mortgage lender under the terms of a bare trust to recover mortgage monies paid away by its solicitors as the

result of a fraud perpetrated on both the solicitors and the mortgage lender by the purported vendors of a property, without any involvement in the fraud on the part of the solicitors.

Plumbly v Beatthatquote.com Limited [2009] EWHC 321 QB
Refusal of a company to make an allotment of shares under an employee share option agreement, where the claimant was alleged to have acted in repudiatory breach of his contract of employment.

Moriarty and Another v Customers of BA Peters plc [2008] EWCA Civ 1604; [2010] BCLC 142; [2009] BPIR 248; [2011] WTLR 1661
The rights of customers of a company in administration whose monies were received by the company prior to administration on trust terms but which were nonetheless used by the company to reduce its indebtedness to its bankers on its overdrawn current account.

Moriarty and Another v Customers of BA Peters plc [2008] EWHC 2005 (Ch); [2010] 1 BCLC 110; [2008] BPIR 1180
Dispersal of a brokerage company's assets by administrators when part of the relevant assets comprised deposit monies received from customers on trust terms, prior to the administration.

O'Brien and Another v Dempsey [2008] EWHC 357 (QB)
The correct approach to the assessment of the reliability of witnesses in a claim for the recovery of two loans where the existence of the loans was disputed, the loans were not evidenced in writing and they had been made in confusing circumstances.

Elvee Limited v Taylor and Others [2001] EWCA Civ 1943
Discharge of search and seizure orders on grounds of material non-disclosure where there is a need to preserve physical evidence resulting from execution of the order.

Nayler v Beard and Others [2001] EWCA Civ 1201
Disclosure in partnership proceedings of an affidavit of means sworn by one of the partners in matrimonial proceedings.

R v Grainger and Another [2001] EWCA Crim 1648
Whether the Court has jurisdiction under the Company Directors Disqualification Act to limit disqualification to directorship of a public company.

Professional Negligence
Christopher has over 30 years experience of professional negligence litigation. He appears regularly on behalf of both corporate and private clients in the Chancery Division, the Queen's Bench Division and the Technology and Construction Court, both for Claimants and Defendants.
Christopher has experience in a wide range of fields of professional negligence, negligent mis-statement and breach of duty. His previous cases have involved accountants, architects, barristers, commercial franchisers, company directors, engineers, receivers, solicitors, surveyors, trustees, underwriters and valuers.

He has specialist expertise in the field of directors' disqualification and frequently represents those accused of professional disciplinary offences. He appears regularly before the Disciplinary Tribunals of the ICAEW and the ACCA.

Christopher has lectured on commercial matters, as well as on professional discipline, in Chambers seminars and to various firms of solicitors, to the Chancery Bar Association and to the Professional Conduct and Complaints Committee of the Bar Council.

Recent cases:

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consideration of expert evidence regarding the method to be applied when valuing the company's shares.

Scriven v Scriven and Evans Mockler Limited [2015] EWHC 1690 (Ch)
A substantial trial regarding, inter alia, an examination of the fiduciary, contractual and common law duties owed by a firm of accountants to the promoter, shareholder and director of a series of private, family-owned trading and property companies, such duties having to be established in the absence of any express retainer or client care letter; together with complex issues of causation and an evaluation of the measure of damages associated with various alleged breaches of the accountant's duty resulting in lost profits and loss of capital gain.

Construction and engineering

Christopher has over 30 years experience of technology and construction claims covering all aspects of the field. He has appeared for claimants and defendants in cases concerning defective design, defective work, loss and expense and professional negligence, many of them multi-party.

Christopher is familiar with all the principal standard forms of construction contract as well as the standard forms of professional retainer, and frequently advises on their interpretation. Many of his cases have concerned claims worth £1 million and more. By way of example, in the case of Tubetech International Limited (see below) he acted for the successful claimant in a multi-million pound contractual dispute concerning the cleaning of condenser pipework at the world's largest liquefied natural gas plant.

He has experience of preparing for and fighting long-running cases. He has the ability to organise and absorb technical detail and to arrange the presentation of cases which are "paper heavy" efficiently and economically.

He also has wide experience of general commercial matters and appears regularly in the Chancery Division of the High Court.

Christopher is a Tecbar Accredited Adjudicator.

Recent cases:
Kingfisher Builders v Sear [2011] EWHC 1122 TCC
Contractual rights of the parties to a building contract in circumstances in which the work content had been so substantially varied as to virtually amount to a new contract.

Thurgood v Coyle [2007] EWHC 2696 (Ch)
Whether the administrator of a property development company had the right to sell construction design rights which were the subject of restrictions on assignability contained in a JCT design and build contract, to a purchaser of the company's assets.

Technip-Coflexip and Others v Tube Tech International Limited [2005] EWCA Civ 1369; 106 Con LR 32
Whether a specialist contract for the cleaning of a major component at a liquefied natural gas refinery based upon a daily rate for the provision of men and equipment, was a contract for services or a contract of hire.

Tube Tech International Limited v Technip-Coflexip and Others [2004] EWHC 2 (TCC)
Ostensible authority of an offshore company to enter into a contract on behalf of an international consortium comprising its controlling shareholders.

Tongyuan (USA) International Trading Group v Uni-Clan Limited [2001]
Available grounds for resisting summary enforcement in the UK of a foreign arbitration award.