

STUART BENZIE

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*"...responsive,
attentive to detail
and generous with
his time"*

(Legal 500)

Practice Overview

Stuart is an experienced commercial advocate who has represents commercial clients in the Commercial Court, Chancery Division, Court of Appeal and in arbitration matters in disputes covering a broad spectrum of commercial law. Stuart was employed as a strategy consultant by McKinsey & Company and as a senior member of HSBC's London based securitisation team. Consequently, he combines his extensive legal skills and experience with a real understanding of the commercial needs and objectives of his clients.

Stuart's practice covers a wide range of areas of commercial law and as well as his extensive experience of commercial, contractual disputes, he has significant experience of disputes in areas such as commercial agency, commercial fraud, restrictive covenants and restraint of trade (in commercial agreements and in contracts of employments), shareholder disputes, financial products, credit and security, professional negligence, construction (especially fraud in the construction industry) and disputes with government agencies and local authorities.

Stuart is a true specialist in dealing with urgent interim application, including freezing and search orders, springboard injunctions, gardening leave injunctions and other prohibitory and mandatory orders (Stuart has appeared in the Queen's Bench and Chancery Division applications courts on over 50 occasions in the last three years). As a consequence of this specialisation, Stuart has extensive experience of committal applications and has appeared in several applications (for applicants) in cases which resulted in sentences from suspended sentences of imprisonment to a Respondent who was imprisoned for 20 months.

Stuart is the author on the Chapter on 'Sale of Goods on Credit' in Christou "Sale of Goods" (Second Edition. Sweet & Maxwell) and is currently engaged in writing an updated version of a practitioner work on Freezing and Search Orders and contributing to a book on property damage.

Practice areas

Commercial Dispute Resolution
Commercial Fraud
Employment
Insurance & Reinsurance
Property Damage
Sport

Memberships

BASL
LawInSport
COMBAR
CFLA

Qualifications

Bachelors of Laws (First Class Honours)

Education

Queen Mary College, University of London



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Arden Motorsport v Erickson (2018 QBD ongoing) Stuart acts for Arden Motor Sport in relation to a dispute with a FIA GP2 driver, Jimmy Erikson. The case turns on issues relating to the agreements between Arden Motorsport, the driver and his sponsor. The dispute includes issue relating to the terms of the agreements and technical issues relating to the performance of the team and the driver during the FIA GP 2 season (instructed by 7 Legal)

Aquinas Education Ltd v. Miller and others [2018] EWHC 404 (QB): Stuart acted for the new employer of two former employees of the Claimant (represented by Adam Tolley QC and Simon Paul) and the managing director of the new employer (Co-defending with Ruth Kennedy). The claim involved the Claimant's attempt to seek a 'springboard injunction' against the two former employees who had commenced employment with a competitor. Stuart was successful in persuading the Judge to discharge a 'springboard injunction' which had been granted at an earlier hearing (Instructed by Freeths LLP).

Sports Invest Limited v. Letang (Unreported QBD December 2017). Stuart acted for Olivier Letang, the former director of football at Paris St Germain successfully resisting an urgent application made by Sports Invest (represented by Paul Gilroy QC) for a 'garden leave' injunction to restrain him from commencing employment with Stade Rennais FC another French League One football club (instructed by Gateley LLP).

Southern Drivers Direct Limited v. Eddie Stobart Limited (unreported Commercial Court July 2017) Stuart acted for the well-known haulage company Eddie Stobart in a dispute as to whether a rogue employee had entered into a high value contract with the Claimant (represented by Gerrard McMeel). Stuart successfully defended the claim, which involved a number of difficult issues relating to agency, contractual construction and acceptance by conduct (instructed by Freeths LLP)

Fieldfisher LLP v. Persons Unknown (Unreported December 2017). Stuart acted for a City law firm that had been the victim of fraud where funds had been dishonestly transmitted to a bank in Turkey (leading Emily Albou). Stuart appeared before Phillips J and sought one of the first worldwide freezing orders obtained against persons unknown. This case is one of a number of cases in 2017 where Stuart has acted in what are known as 'push payment' frauds or 'Friday afternoon' frauds. (instructed by Mills & Reeve LLP).

The English Electric Company Limited v. Alstom UK Limited [2017] EWHC 1748 (QB) (Mercantile Court HHJ Waksman QC). Stuart acted for the Defendant against the Claimant (represented by David Lewis QC and Thomas Corby) in a further claim made pursuant to a chain of indemnities

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going back to the early 1970s. The case involved issues relating to the construction of contractual agreements, the various rules of construction and detailed examination of historic documents. (Instructed by Pinsent Masons LLP).

The English Electric Company Limited v. Alstom UK Limited [20016] EWCA Civ 1314. Stuart acted for the Appellant (with James Drake QC) in this appeal against the Judgment of HHJ Mackie QC insofar as it related to his approach to contractual construction. The Appellant argued that the Judge was wrong to depart from the natural and ordinary meaning of the language of a record of an indemnity to give effect to what he found to be the commercial purpose of the parties (Instructed by Pinsent Masons LLP).

International Arbitration (Confidential July 2016). Stuart appeared (leading Emily Albou) in a US\$350 million fraud claim conducted under the rules of the London Maritime Association. Stuart acted for the Applicant and succeeded in a case which related to the ownership of a vessel which was in the possession of the Defendant (represented by Nicholas Vineall QC). The case involved cross-examination of witnesses by video-link from Mexico (Instructed by Laytons LLP).

Commercial Dispute Resolution

Stuart is a very experienced commercial advocate who has represented clients in numerous High Court matters in disputes covering a range of areas of law. Areas where Stuart has particular expertise include:

- Commercial agency.
- General agency, particularly with regard to finance transactions.
- Guarantees and indemnities.
- Breach of distribution agreements.
- Breach of covenant cases in business sale agreements.
- Matters involving complex expert evidence.
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Stuart has also acted in the TCC in a number of construction and engineering disputes and recently appeared (leading Will Clerk of 2TG) in a three week TCC trial which was the first major commercial trial to hear concurrent expert evidence ("hot-tubbing") (*Brookhouse Engineering (Evesham) Ltd v. Willbros Construction* (U.S.) LLC [2013] (TCC London October 2013 Judge Waksman QC).

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Commercial Fraud

Stuart has acted in numerous commercial fraud matters and is able to advise at all stages from the initial investigation, the obtaining of disclosure and other interim relief (particularly freezing and search orders) through to the management of proceedings, trial (or settlement) and enforcement. Many of these cases have been multi-jurisdictional in nature and Stuart has advised in cases involving parties or assets in numerous jurisdictions including Switzerland, the Isle of Man, the Channel Islands, Gibraltar, USA, Iran and Iraq.

Stuart has also acted in a number of cases involving breaches of restrictive covenants by employees, where the employee has misused confidential information to assist a competitor or to go into competition with the employer.

Recent instructions include acting for a major London property company in relation to a fraud committed by a senior employee, acting for the victim of a fraud committed by a group of employees against a major Midlands housing association and a case involving the protracted investigation of the misuse and conversion of equipment belonging to a major UK gas supplier (which resulted in the court granting a committal order against the Defendants).

Stuart has also developed particular expertise in dealing with committal applications arising out of commercial fraud cases and has acted in a number of cases where applicants have succeeded in having respondents committed to prison. His recent cases include the leading case on sentencing of *F.W Farnsworth Ltd & Anor v. Lacy & Ors* [2013] EWHC 3487 (Ch).

Stuart also regularly advises solicitors and other professionals in relation to money laundering and issues emanating from the Bribery Act 2010. Stuart speaks regularly at conferences and other events on issues relating to the investigation and prevention of commercial fraud.

Employment

Stuart's employment practice is focused on commercial disputes between employers and employees with a strong emphasis on restrictive covenants, confidential information and breaches of fiduciary and directors' duties.

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Stuart acted for the employer in *FW Farnsworth Ltd v Lacy and others* [2013] IRLR 2830 (Ch); an important decision in relation to the incorporation of employment contracts by implied consent (see Harvey Bulletin 412 November 2012). Stuart's employment practice often overlaps with his sport practice where he has advised a number of Premier League football clubs in relation to contractual disputes with players.

Stuart is highly experienced in applying for urgent interim relief to enforce restrictive covenants and the unlawful use of confidential information. He has also appeared in a number of committal applications where employees have been sentenced for breach of such injunctions including *F.W Farnsworth Ltd & Anor v. Lacy & Ors* [2013] EWHC 3487 (Ch) a leading case on sentencing for committal.

Insurance & Reinsurance

Stuart has been involved in insurance law for in excess of 20 years. Stuart is regularly instructed in disputes arising from all policy types (e.g. professional indemnity, public liability and employers' liability). He deals with construction and coverage disputes, subrogation issues, non-disclosure, brokers' negligence, and fraudulent claims.

Stuart acts for insurers in the specialist field of sports law (where Stuart is a recognised leading practitioner), recently advising MS Amlin in relation to coverage issues following storm damage to a stand at the Epsom racecourse and advising in relation to the potential liabilities of a Premier League football club in relation to a player with serious health issues.

Property Damage

Stuart is an experienced commercial litigator with extensive experience of property damage cases particularly in the TCC. He has acted in cases involving floods, fires, defective design, product liability and subsidence.

Stuart recently represented the Claimant in a three week trial which was the first major TCC trial to hear concurrent expert evidence ("hot-tubbing") *Brookhouse Engineering (Evesham) Ltd v. Willbros Construction (U.S.) LLC*. Stuart brings a wealth of experience from his broader commercial practice and is particularly experienced in dealing with complex expert evidence.

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Stuart's current cases include a series of claims relating to fires caused by defective electrical equipment and a claim relating to damage to the roof of a major sports stadium.

Sport

Stuart's current practice includes acting for clubs, national bodies and individual athletes in a range of contractual, regulatory and disciplinary matters.

Stuart previously advised on a number of high-value finance transactions for sports bodies. Stuart advised on various issues including the FIA rules and other contractual and insolvency issues in the US\$1.4 billion bond issue (Formula 1 Finance BV) and thereafter has advised investors on the structure of proposed investments relating to promotion rights and television rights in other areas of Formula 1 and the World Rally Championship. Stuart has also advised drivers in other areas of motorsport in relation to sponsorship and other contracts.

Stuart has recently advised a number of Premiership football clubs and an Italian Serie A club in relation to funding (and refinancing) structures for stadia. Such advice included consideration of the relevant FA and Premiership rules and regulations as well as the contractual and company law issues.

Current and Recent Work

Football

X v. Y (Present)

Stuart is currently advising a Premier League football club in relation to a dispute with an Italian Serie A club. The advice relates to contractual issues, the interaction of the transfer agreement with the player's Premier League Contract and the relevant parts of the FIFA Status and Transfer of Players Regulations.

West Ham United v. Viagogo (2014/2015):

Stuart acted for West Ham in a dispute with Viagogo relating to the sponsorship agreement between the parties and ticketing arrangements.

West Ham United v. Morrisons (2014/2015):

Stuart acted for West Ham in a dispute with Morrisons in relation to the aborted purchase of the Boleyn Ground by Morrisons.

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AFC Bournemouth v. Swanage Town FC (2009):

Stuart acted for AFC Bournemouth in a dispute with a shareholder of the club. The dispute primarily related to breaches of the FA Rules on club ownership and Stuart advised on the FA Rules and related contractual issues.

Charlton Athletic v. Llanera (2008):

Stuart acted for Charlton Athletic in a dispute with a former sponsor in relation to a promotion offered to season ticket holders.

Rugby Union

Heineken Cup Dispute (2014/2015):

Stuart represented the Fédération Française de Rugby (FFR) in relation to the dispute as to the future of the Heineken cup. Stuart advised in relation to the enforceability of the existing contract with Sky television, the extent to which French clubs could participate in any future contract with BT Sport and the relevant IRB (now World Rugby) Rules.

Leicester Tigers v. Various (2007):

Stuart acted in an application for an urgent injunction to prevent certain trading concessions from continuing to trade at their Welford Road ground.

X v. RFU (1994):

Stuart advised a grass roots player in relation to allegations of serious misconduct heard by an RFU Disciplinary Panel. Stuart advised the player in relation to the rules of the RFU, evidential matters and prospects for judicial review.

Motor Sport

Ross Gunn:

Stuart advised Ross Gunn in relation to his BRDC Formula 4 driving contract and agreements (2014) and subsequently in relation to his driving contract with Beechdean Aston Martin Racing in the British GT Championship (2015).

Other

Jockey Club Racecourses Limited v. Amlin (2015/Present)

Stuart acts for an insurer in a dispute relating to damage to a stadium at Epsom Racecourse.

Stuart is a member of the panel of Honorary Legal Advisors to the Alpine Club

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Significant Cases

Abena UK Ltd v Zackaria & others [2015] LTL 16/11/2015 (Lawtel Document no. AC9502269)(QBD Simler J).

Stuart appeared for the Claimant in a complex fraud case seeking unless orders to compel the Respondents to comply with the asset disclosure requirements in a freezing order. The judgment discusses the purpose of freezing orders and the fact that it was important to bear in mind that the claimant's real interest was identifying the ultimate destination of its funds. (Instructed by Pinsent Masons LLP)

The English Electric Company Limited v. Alstom UK Limited [2015] LTL 19/10/2015 (Lawtel Document no, AC9701524). (Commercial Court HHJ Raeside QC)

Stuart acted for the applicant Alstom UK Limited in an application vary or revoke a consent order. The judgment considers the court's jurisdiction to vary or revoke such orders and how the matters the court should consider before exercising its discretion in favour of such an application. (Instructed by Pinsent Masons LLP)

KLM Steels Limited v. Global Invacom Limited Steels Limited v. Global Invacom Limited [2015] LTL 5/8/2015 (Lawtel Document AC9301600)(Mercantile Court HHJ Waksman QC)

Stuart acted for the successful Claimant (leading Will Clerk of 2TG) in a two-week trial relating to the supply of steel for the construction of Sky satellite dishes. The case involved complex cross-examination in relation to the supply chain between the parties over a period of in excess of two years. (instructed by Freeths)

AB International (HK) Holdings plc and another v. AB Clearing Corporation Ltd and others [2015] EWHC 2196 (Comm) (Commercial Court Phillips J)

Stuart appeared as junior counsel to Steven Gee QC and Paul Downes QC in an application for interim relief in relation to a dispute relating to a currency trading business trading in London, Hong Kong, Australia and elsewhere. (Instructed by Edwin Coe LLP)

Birmingham City Council v. Evans and others (2014 unreported Hickinbottom J 1014 23 April 2014)

An application for a freezing order based on the information obtained in the earlier application for a Norwich Pharmacal Order, the application is notable as it provided for service of the freezing order on Respondents who were resident in New York by email and by any for of social media which the Applicants reasonably believed to belong to the Respondents. (Instructed by Mills & Reeve LLP)

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The English Electric Company Limited v. Alstom UK Limited [2015] EWHC 924 (QB) (Mercantile Court HHJ Mackie QC)

This claim concerned the extent to which the ultimate responsibility for an historic asbestos claim could be passed up a chain of sale and purchase agreements. The judgment also contains interesting comments on the point at which time starts to run for the purposes of limitation when a claim is brought under a contractual indemnity, the application of the maxim omnia praesumuntur contra spoliatores and the relevance of the guidance in *Canada Steamship Lines Ltd v R.* [1952] AC 192 when construing an agreement between sister companies. Stuart acted for the Defendant. (Instructed by Pinsent Masons LLP)

Birmingham City Council v. West Midlands Police (2014 unreported Mitting J 10 October 2014)

Stuart appeared for Birmingham City Council in an application for a Norwich Pharmacal Order against the West Midlands Police seeking information relating to an investigation conducted by the police into a fraud committed by a former employee of the council. The application was based on the earlier judgment of Mann J in *Various Claimants v. News Group Newspapers Ltd* Reference [2013] EWHC 2119 (Ch) but went further in being the first order to grant access to details of an on-going police investigation. (Instructed by Mills & Reeve LLP).

Flogas Britain Ltd v. Cylinder Gas Company Ltd & others [2014] EWHC 2292 (QB) (HHJ Seymour QC)

Stuart appeared for the applicant in a search order application and the subsequent application to commit the Respondents to the search order for contempt as a consequence of their actions in attempting to frustrate the execution of the search order. The application resulted in terms of imprisonment of 21 months and 6 months for two of the Respondents and a sequestration order in relation to the corporate respondent. (instructed by Freeths)

Roderick Jones v. Wealth Group Limited [2014] EWCA Civ 1594 (Court of Appeal)

Stuart appeared for the appellant in a case which considered the interaction of the relief from sanction regime after the decision in *Mitchell* and the ability to appeal orders imposing sanctions on a party. (Instructed by Gateley plc).

Flogas Britain Ltd v. Cylinder Gas Company Ltd & others [2014] LTL 25/3/2014

A committal hearing in which the managing director of the Defendant companies was committed to prison for a period of 12 weeks on each of two counts of contempt of court, suspended for 12 months. In sentencing

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the court relied upon the judgment of Proudman J in Stuart's earlier case of *F.W Farnsworth Ltd & Anor v. Lacy & Ors* [2013] EWHC 3487 (Ch). Stuart appeared for the Applicant, Flogas Britain Ltd (instructed by Freeth Cartwright).

Associated Electrical Industries Ltd v. Alstom UK [2014] LTL 3/3/2014 (Commercial Court Andrew Smith J)

An application to strike-out a claim where the Claimant had purported to serve particulars of claim 20 days late and thereafter failed to make an application for relief from sanction for three months. The application succeeded and the Claimant's application for relief from sanction was dismissed following the decision of the Court of Appeal in *Mitchell v. News Group Newspapers Limited* [2013] EWCA Civ 1537. Stuart appeared for the Defendant Alstom UK (instructed by Pinsent Masons)

Monarch v. Tesco Stores Limited [2014] (unreported 28 January 2014 HHJ Bird QC Manchester Mercantile Court)

An application for an order remedying a procedural defect and/or relief from sanction in a case where a costs budget was signed by a trainee solicitor (from the Defendant's previous solicitors) and contained certain errors. The court held that a trainee solicitor was not a "senior legal representative" for the purpose of Practice Direction 3E but also held that the failure to have the document signed by a senior legal representative and the other errors did not render the costs budget a nullity and as such CPR Rule 3.14 was not engaged and there was no need for relief from sanction. The judge ordered that the defect could be remedied pursuant to CPR Rule 3.10. Stuart acted for the applicant, Tesco Stores Limited (instructed by Berwin Leighton Paisner).

Brookhouse Engineering (Evesham) Ltd v. Willbros Construction (U.S.) LLC [2013] (TCC London October 2013 Judge Waksman QC)

A three-week trial in the TCC concerning a dispute over contracts for hire of mechanical plant used for laying oil-pipelines. As well as raising issues relating to contract formation, and the burden of proof within actions for bailment, the case was one of the first commercial cases to hear concurrent expert evidence ("hot-tubbing"). Stuart appeared for the Claimant Brookhouse Engineering (leading Will Clerk of 2TG) (instructed by Freeth Cartwright LLP).

F.W Farnsworth Ltd & Anor v. Lacy & Ors [2013] EWHC 3487 (Ch)

An application to commit three defendants for breaching the terms of a prohibitory injunction. The judge (Proudman J) considered the list of matters which a court must consider when sentencing a contemnor set out by Lawrence Collins J in *Crystalmews Limited v Metterick* [2006] EWHC 3087 and added a further four matters which the court should consider in addition to that list. Stuart acted against leading counsel for

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the applicants F.W. Farnsworth and Northern Foods plc (instructed by Freeth Cartwright).

Combifloat Middle East B.V. (Dubai Branch) v. ESSAR Projects (India) Limited [2013] Commercial Court

A dispute relating to the sale of a floating platform by the Claimant to the Defendant with a value of approximately €9m. The case concerned issues of contractual construction, repudiation, termination and mitigation. Stuart acted for the Claimant Combifloat Middle East (instructed by Clyde & Co)

Frontline Recruitment Limited v. CML plc [2013] (unreported 18-23 March 2013 Manchester Mercantile Court, Judge Waksman QC)

A trial in the Manchester Mercantile Court relating to a contractual dispute between a recruitment company and a major logistics and haulage company. The case raised interesting questions as to the application of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 in circumstances where the alleged employment business had adopted tax structures using an "umbrella" company to employ temporary workers. Stuart was instructed by the Defendant logistics company, CML plc (instructed by Freeth Cartwright LLP).

FW Farnsworth Ltd v Lacy and others [2013] IRLR 2830 (Ch); [2012] All ER (D) 151; [2012] EWHC 2830 (Ch)

A case relating to breach of confidence and conspiracy where former employees of the Claimant were alleged to have supplied confidential information to a competitor and conspired with that competitor to damage the Claimant. Stuart appeared in the trial of a preliminary issue against leading counsel in a case which is an important decision in relation to the incorporation of employment contracts by implied consent (see Harvey Bulletin 412 November 2012). Stuart appeared for the Claimants FW Farnsworth and Northern Foods Limited (instructed by Freeth Cartwright LLP)

Langstone Leisure Limited v. Willers and another [2013] LTL 25/1/2013

Stuart acted (with Paul Downes QC) in this claim for the Part 20 Defendant in an action brought by the Claimant against a former director for breach of duty. Stuart acted in a number of discrete applications including an application for the use of the witness statements from the English action in Isle of Man proceedings (instructed by Laytons LLP)

Wiggle Limited v. Daniel Burdge and another [2012] LTL 11/5/2012 (Lawtel AC9800481)

A case involving an alleged conspiracy between a former employee of the Claimant and a competitor to use the Claimant's confidential information.

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The case considered the enforceability of restrictive covenants in the context of internet based retail businesses. Stuart appeared for the Claimant (instructed by Gateley).

Cadogan Estates v Howard and other (QBD 2012)

A high value fraud action against a former employee and contractors who provided services to the claimant. Stuart acted for Cadogan Estates (instructed by Pinsent Masons LLP).

Midland Heart v Cooper and others (TCC 2012)

A high value fraud in the construction industry involving a former member of the claimant's staff. Stuart acted for the claimant (instructed by Pinsent Masons LLP).

Harborne Road Nominees Ltd v Karvaski and another [2012] 2 BCLC 420

An application to strike out an unfair prejudice on the grounds that the petitioner had refused to accept a reasonable offer to purchase his shares (instructed by Harvey Ingram LLP).

Keats v London Borough of Haringey [2011] JPL 33 [2011] RVR 134

Hearing before the President of the Lands Tribunal on the construction of a letter of claim and the extent to which the letter set out a claim against the local authority (instructed by Eversheds).

Dhami v Lloyds TSB [2009] All ER (D) 81 (Dec)

Court of Appeal case reviewing the requirements to admit fresh evidence before an appellate court post CPR. Stuart acted for Lloyds TSB at first instance and in the Court of Appeal (instructed by Eversheds).

Baker Hughes Limited v Steadfast Engineering [2009] EWHC 3123 (QB)

A high value engineering dispute relating to the supply of parts for oil rigs. Stuart appeared for the Defendant in an application relating to the extent to which the Defendant had taken a step in the proceedings for the purposes of an application to stay proceedings pursuant to the Arbitration Act 1995. Stuart appeared at first instance and on the appeal (instructed by Pannone LLP).

Cantor Fitzgerald v Drummond [2009] LTL 4/8/09 (Commercial Court)

Application for summary judgment in the Commercial Court in a case dealing with failure to comply with the requirements of s.2 Law of Property (Miscellaneous Provisions) Act 1989 and the application of the rule against penalties. Stuart acted for Cantor Fitzgerald (instructed by Berwin Leighton Paisner).

Cureton v Mark Insulations Ltd [2006] EWHC 2279 (QB)

Trial dealing with commercial agency, alleged fraud and database rights.

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The first case to consider the ownership of database rights in agency relationships. Stuart acted for the commercial agent in a seven day trial before Bean J (instructed by Anthony Collins).

Recommendations

"He always helps to overcome difficult issues." Legal 500 2017

"He is responsive, attentive to detail and generous with his time."
Legal 500 2016

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