

Caley Wright

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Caley specialises in commercial litigation and arbitration with a focus on Civil Fraud, Company and Insolvency matters.

He is experienced both as part of a team in large scale commercial litigation, having acted as a junior in *JSC BTA Bank v Ablyazov* for a number of years, and acting as sole Counsel in the High Court and appellate courts. He has recently acted on *Burnden Holdings v Fielding*, a multi-week trial in the Chancery Division, and *Cunico Resources v Daskalakis*, a jurisdiction dispute in the Commercial Court raising issues on the Lugano Convention and a leading authority on judgment in default.

He is instructed on offshore as well as onshore matters including in the BVI and Cayman Islands, and is a registered practitioner in the DIFC Court, in which he acts as junior Counsel in the long running dispute in *Nest Investments v Deloitte & Touche*, one of the largest claims to have been brought in the DIFC Court.

Commercial Litigation

Caley has extensive experience of all interlocutory matters, with particular experience of: issues surrounding challenges to jurisdiction; a wide range of applications relating to obtaining disclosure and privilege; applications concerning the use of document; and unless orders and other sanctions for non-compliance. He is currently acting on a claim against the administrators of a Formula 1 team in relation to the sale of the business out of administration, on a substantial MTIC fraud claim in the Chancery Division and on a challenge to a freezing injunction in the Commercial Court.

He has significant trial experience, acting as sole and junior Counsel in several multi-week trials in the Chancery Division and Commercial Court in recent years.

Civil Fraud

Caley has acted in some of the largest civil fraud litigation in the English courts in recent years, most notably acting as junior Counsel for the Bank in the long-running *JSC BTA Bank v Ablyazov*. The case involved all manner of interlocutory applications including freezing injunctions, search orders, novel applications for disclosure, receivership orders and committal for contempt of court.

He has also acted both as sole Counsel and as a junior in numerous substantial civil fraud matters including the ongoing litigation arising out of the administration of London Capital & Finance plc, the “mini-bond scandal”, and a fraud claim relating to the collapse of JD Classics, a renowned classic car business.

Caley is a contributor to *Civil Fraud: Law, Practice and Procedure*, a leading text on Civil Fraud.

Company and Insolvency

Caley acts in all manner of contentious company and insolvency disputes including shareholder disputes, petitions under s.994 of the Companies Act, and acting for or against office holders in Insolvency Act claims. He has recently been acting on *Burnden Holdings v Fieldings*, a substantial insolvency case in the Chancery Division and on *Transworld Payment Solutions (UK) Limited*, a leading decision on applications for public examination. He has a particular interest in company valuation, and has been involved in a number of 'take private' cases emanating from the Cayman Islands merger regime.

Arbitration

Caley undertakes a substantial amount of arbitration work involving a range of different arbitration rules and institutions. He has recently been acting on a substantial arbitration relating to an Eastern European energy company under the ICC Rules and an LCIA Arbitration relating to an international restaurant franchise.

Notable/Recent Cases

Transworld Payment Solutions (UK) Limited v Deuss [2020] EWHC 115 (Ch) – acted for an interested creditor on a disputed application for a public examination under s.133 of the Insolvency Act 1986

In the Matter of London Oil & Gas Limited (in Administration) [2019] EWHC 3675 (Ch) – acted for the claimant seeking to implement a mechanism for the protection of privileged documents which had come into the hands of the administrators as part of the fallout of the collapse of London Capital & Finance plc

Burnden Holdings v Fielding [2019] EWHC 1566 (Ch), [2019] EWHC 2995 (Ch) – substantial trial in the Chancery Division by the liquidator of a company against its former directors for payment of an unlawful dividend. Important authority in strict vs fault-based liability and the creditors' interest duty

Cunico Resources v Daskalakis [2019] EWHC 57 (Comm); [2018] EWHC 3382 (Comm) – acted for the Claimants on a challenge to the English Court's jurisdiction, raising issues as to whether claims relate to individual contracts of employment under the Lugano convention. Also a leading decision on default judgment

Atlantica Holdings Inc v Samruk-Kaznya [2019] EWHC 319 (QB) – application seeking to set aside an order for the taking of evidence for proceedings abroad pursuant to the Evidence (Proceedings in Other Jurisdictions) Act

JSC BTA Bank v Ablyazov – junior Counsel for the Bank over a number of years on one of the largest civil fraud actions ever in the English Courts. Acted in numerous interlocutory matters including obtaining wide-ranging and novel disclosure orders, freezing injunctions, search orders and receivership orders, and the committal trial and appeal of Mr Ablyazov. Relevant reported decisions include:

- [2018] EWCA Civ 1176 (appeal from s.423 claim)
- [2016] EWHC 3071 (trial of a claim under s.423 of the Insolvency Act)
- [2016] EWHC 2606 (Ch) (use of documents obtained pursuant to search orders)
- [2015] EWHC 3871 (Comm) (use of funds subject to freezing injunction for legal fees)
- [2013] EWHC 2772 (Comm) (application to reverse transaction effected in breach of freezing and receivership orders)
- [2012] EWCA Civ 1411; [2013] 1 W.L.R. 1331; [2013] 2 All E.R. 515; Times, January 8, 2013 (Court of Appeal's dismissal of appeal from committal order)
- [2012] EWHC 455 (Comm) (unless order requiring contemnor to attend the tipstaff)
- [2012] EWHC 237 (Comm) (committal trial of Mr Ablyazov)
- [2011] EWHC 2163 (Ch); [2013] Ch 1, [2012] 3 W.L.R. 559, [2011] C.P. Rep. 46 (disclosure order made against defendant's former solicitors)

Nest Investment Holding Lebanon SAL & others v Deloitte and Touche (M.E.) & Joseph El Fadl (CFI-027-2016) – junior Counsel for the Claimants in the DIFC Court in a claim by a group of investors seeking damages against the auditors of Lebanese Canadian Bank, which went into liquidation after allegations of money laundering and terrorist financing, for fraud and recklessness. Acted for the Claimants on the Defendant's challenge to the jurisdiction of the DIFC Court (**24 Aug 2017**), its unsuccessful application for immediate judgment (**12 Feb 2018**) and on the Claimants' successful appeal against the dismissal of an application to join a party under RDC 20.7 [**2018**] DIFC CA 011, **13 March 2019**

Udondem v Wallace LLP [2018] EWHC 2297 (QB) – sole Counsel for the Respondent successfully resisting an appeal from the striking out of a claim on *Henderson v Henderson* grounds

AMT Futures LTD v Boural and others [2018] EWHC 750 (Comm); [2018] 3 W.L.R. 358 – sole Counsel for the applicants on a summary judgment application concerning whether a claim for breach of an English exclusive jurisdiction clause brought more than 6 years after the commencement of proceedings overseas was time barred

Toone and Murphy v Robbins and Robbins [2018] EWHC 569 (Ch) – sole Counsel for the Respondents on an appeal in the Chancery Appeals list concerning the application of the Duomatic principle and the proper treatment of payments purportedly made as dividends without a final declaration of dividend

Marahta v Taylor Hampton Solicitors, 2017 – sole Counsel for the Claimant in the 10-day trial of a professional negligence action in the Chancery Division against the Claimant's former solicitors for the loss of the opportunity to bring proceedings against a company's accountants and auditors, including wide-ranging issues on company valuation

JEB Recoveries LLP v Binstock – acted initially as junior and later as sole Counsel in the High Court and Court of Appeal for the Defendant on a £30 million claim for breach of contract in respect of professional services. The case involved numerous interlocutory matters and is a leading authority on the issue of Champerty. Reported at:

- [2017] EWHC 1123 (Ch) (unless order requiring payment of interim costs orders)
- [2016] EWCA Civ 1008, [2017] C.P. Rep. 5 (successful appeal to the Court of Appeal on a challenge to jurisdiction)
- [2015] EWHC 1063 (Ch) (application to strike out the claim for Champerty)
- [2015] EWHC 1168 (Ch) (jurisdiction challenge)

Raffermati v Capello Hair Designs Ltd [2017] EWHC 3134 (Ch) – acted as sole Counsel for the Respondent on appeal in the Chancery Division from a decision striking out the Defendant's Defence and Counterclaim following a substantial shift in case at trial

Insol Funding Co Ltd v Cowlam [2017] EWHC 1822 (Ch) – acted as sole Counsel for the Claimant addressing issues such as constructive trust, equity of exoneration and equitable subrogation

Patel v Ferdinand, Re Shires Defence Solicitors – acted as sole Counsel on a 7-day trial of a s.994 petition in the High Court, successfully establishing unfair prejudice. Reported at:

- [2016] EWHC 2362 (Ch) (costs and consequential matters from trial)
- [2016] EWHC 1524 (Ch) (trial of s.994 petition)

MA Lloyd & Son Ltd (In Administration) v PPC International Ltd [2016] EWHC 2162 (QB) – sole Counsel for the Defendant obtaining a wasted costs order in excess of £130,000 against solicitors for the unreasonable conduct of litigation. Also established for the first time that a party cannot obtain security for the costs of a wasted costs application [2016] EWHC 1583 (QB)

Chodiev v Stein [2015] EWHC 1428 (Comm), [2015] EWCA Civ 1256 – acted as junior Counsel for the Claimants attempting to set aside a judgment on the grounds that it was obtained by a fraud which went solely to issues of credibility. Also acted as

junior Counsel on an application regarding the use of documents disclosed during the course of proceedings [2016] EWHC 1210 (Comm)

Joshi & Welch v Taj Foods [2015] EWHC 3905 (QB) - sole Counsel obtaining relief from sanctions where judgment in default had been entered on the failure to serve a defence to counterclaim in circumstances where it was acknowledged that the failure had had no effect on the proceedings

Belton Massey v Kozub [2015] EWHC 2259 (QB) – sole Counsel on an application seeking to establish that the Court’s foreign process service was incompatible with EU regulations on the service of documents abroad

Nordic v Land Resources [2014] EWHC 1093 (Ch) – sole Counsel for the successful defendant in a 3-day trial in the Chancery Division relating to the termination of a joint venture agreement

Peterkin v LB Merton [2011] EWHC 376 (Ch) – sole Counsel for the respondent trustee in bankruptcy on interpretation of an individual voluntary arrangement

Memberships

Chancery Bar Association
Commercial Bar Association
Fraud Lawyers Association
Commercial Fraud Lawyers Association

Qualifications

MA (Oxon) Classics (First)