

Philip Hinks

Call: 2008
 Education: LLB (Bristol) BCL
 Languages: Fluent in French
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Philip is regularly instructed on the following areas of law:

- **Commercial litigation:** contractual disputes; civil fraud; conflict of laws; sale of goods; security; partnership disputes; trusts; arbitration.
- **Banking and finance:** guarantees; enforceability of security; mistaken payments; breach of mandate; consumer credit.
- **Corporate/personal insolvency:** transactions at an undervalue; unlawful preferences; schemes of arrangement; CVAs/IVAs; injunctions to restrain presentation/advertisement of petitions; private/public examinations; validation orders; rescissions/annulments.
- **Company law:** unfair prejudice petitions; shareholder disputes; share capital reductions; unlawful distributions; misfeasance proceedings against directors.

During 2011, Philip completed a six week placement in Matthew Arnold & Baldwin's Banking and Finance department where he advised and appeared on behalf of major banks in a wide variety of banking matters.

Between October 2009 and April 2010, Philip was seconded to PricewaterhouseCoopers LLP during which he advised and assisted PwC's insolvency practitioners in their insolvency proceedings and appeared on behalf of those practitioners in various applications in the Companies Court. Having worked extensively alongside insolvency practitioners, Philip has acquired a comprehensive awareness of the practical aspects and implications of insolvency proceedings and draws on this knowledge in advising clients.

In 2009, Philip was seconded to the Pensions Regulator during which time he worked on a case carrying out disclosure and drafting various other documents which were part of TPR's case to be put before the Determinations Panel.

Prior to joining chambers, Philip lectured undergraduate conflict of laws and postgraduate international contracts at the University of Bristol. He has published pieces in the Lloyds Maritime and Commercial Law Quarterly concerning the sale of goods and the Brussels I Regulation, and jurisdiction in general. His in-depth knowledge of jurisdictional and enforcement issues adds a crucial practical dimension to his work, much of which has international aspects to it.

Philip studied Law & French at the University of Bristol and l'Université de Poitiers, achieving the top First of his year. He took the BCL at Brasenose College, University of Oxford, studying corporate insolvency, corporate and business taxation, conflict of laws and restitution.

Reported cases of interest

- **Porritt, sub nom Barnett v Rose [2011] 4161 of 2010 (Lawtel):** Philip acted for the trustee in bankruptcy in a 4 day trial in which declarations were sought that the trustee was not bound to transfer certain of the bankrupt's shares as a result of fraudulent misrepresentations and collusion.
- **Dominion Corporate Trustees Ltd v Capmark Bank Europe Plc [2011] EWCA Civ 380 (Court of Appeal):** Philip, led by Raquel Agnello QC, represented the Bank in Dominion's claim that its right of indemnity

under a Jersey trust instrument took priority over the Bank's security. The Court of Appeal decided in favour of the Bank.

- **Hudson & ors v Gambling Commission (Re Frankice (Golders Green) Limited) [2010] EWHC 1229 (Ch); [2010] Bus. L.R. 1608 (Norris J):** a successful application for a declaration that a regulatory review brought by the Gambling Commission against companies in administration was within the scope of the moratorium imposed by paragraph 43 of schedule B1 to the Insolvency Act 1986 (led by Raquel Agnello QC).

Commercial Litigation

- Representing a worldwide provider of financial information in breach of contract proceedings (2011).
- Represented a Formula One racing driver in commercial proceedings brought against him (with Max Mallin - 2010).
- Advising on a civil fraud claim worth £750,000 that focused on tracing in equity (with Max Mallin - 2010).
- Successfully represented defendants in a £1m claim brought by Jersey corporate trustees for a declaration that the defendants' security interest was subordinated to the trustees' rights of indemnity out of the trust assets (Dominion Corporate Trustees Ltd v Capmark Bank Europe Plc [2011] EWCA Civ 380 - led by Raquel Agnello QC).
- Successfully represented the pensions trustees of a major high-street retail chain in a claim for the return of monies paid by mistake involving issues of change of position and estoppel (2010).
- Obtained judgment in the sum of £750,000 in favour of a major wholesaler of metal products in breach of contract proceedings (2010).
- Successfully represented a major bookmaker in proceedings brought against it by a factoring company (2009).
- Various applications for freezing injunctions and other interim relief.

Banking and Finance

- Advising on a claim for conspiracy and breach of fiduciary duty involving one of the major banks and a number of SMEs (with Alan Gourgey QC and Max Mallin - 2010).
- Defending individuals in a claim brought by a major bank on the basis of assertions of estoppel and breach of funding arrangements (with Max Mallin - 2010).
- Various applications for summary judgment/enforcement acting both for and against major banks.

Insolvency

- Representing the liquidators of a company that was engaged in 'land banking' in freezing injunction and breach of fiduciary duty proceedings (2011).
- Advising Dutch liquidators as to the application of English insolvency law to assets located within this jurisdiction (2011).
- Successfully represented the administrators of a major gambling undertaking in an application for a declaration that a regulatory review brought by the Gambling Commission against the undertaking was within the scope of the administrative moratorium (Hudson & ors v Gambling Commission (Re Frankice (Golders Green) Limited) [2010] EWHC 1229 (Ch) - with Raquel Agnello QC).
- Advising on the application and ramifications of schemes of arrangement in relation to a multi-billion pound issuer of negotiable instruments, and a multi-million pound insurance broker (2010).
- Successfully obtained two consecutive orders rescinding a bankruptcy order, thereby permitting the individual to appeal the substance of the petition to the Court of Appeal (2010/2011).
- Advised on whether funds held by the liquidators of New World of Leather in a customer deposit account were trust monies (with Raquel Agnello QC - 2010).
- Successfully represented a major accountancy firm in proceedings for the recovery of fees where it was asserted that the (contingent) debts had been compromised by the defendants' IVAs (2010).
- Appeared on numerous applications for injunctions to restrain the presentation/advertisement of winding up petitions in circumstances of disputed/undisputed petition debts and cross-claims.

Company Law

- Representing a company in liquidation in multimillion pound claims brought against shadow/de facto directors for misfeasance and unlawful financial assistance (with Raquel Agnello QC - 2011).
- Representing directors in a £8m claim brought against him by the company (in provisional liquidation) for breach of duty, with overriding issues of illegality (with Max Mallin - 2011).
- Successfully represented directors in relation to the declaration and receipt of illegal dividends (with Raquel Agnello QC - 2010).
- Advising on issues of unfair prejudice and unlawful reductions of capital.

Publications

- *The Rebirth of Rome* (the Rome I and Rome II Regulations on applicable law), Co.L.J. (2009) 28, 13-15 (with Alan Gourgey QC)
- *Forum Shopping in the European Judicial Area* (review), L.M.C.L.Q. (2009) 1, 153-155
- *Sale of Goods and the Brussels I Regulation*, L.M.C.L.Q. (2008) 3, 353-365 (with Christopher Hare)
- Contributor to Baughen, *Shipping Law*, 4th ed. (2009) (updates to chapters on jurisdiction and applicable law, and security and interim relief)
- Contributor to *Corporate Rescue and Insolvency's Case Alerter*, Lexis Nexis.