



SELADORE LEGAL

Seladore Legal Annual Review 2020

Seladore is pleased to enclose a copy of its 2020 Annual Review - a summary of the Firm's achievements over the past year, including mandates, publications and other milestones, together with a brief look at what might lie ahead in 2021.

Senior Partner's Introduction



Dear Readers,

In common with most other leading law firms, a large part of 2020 has been spent working from home, but despite this and the wider impact of the pandemic, much has been

achieved and I would like to think that clients have not noticed any deterioration in the quality of service received and how their disputes have been handled by the courts and tribunals. Since the beginning of March we have appeared in the High Court (almost all virtually) no less than on fifteen occasions, including in applications for a world-wide freezing injunction, passport surrender order, Norwich Pharmacal order, a bankruptcy recognition order in favour of a Russian Bankruptcy Manager under the Cross Border Insolvency Regulations, and a proprietary freezing injunction. We had successful outcomes in 80 per cent of our hearings.

Simon Bushell
Senior Partner

Mandates

Below is a selection of our most active mandates in 2020.



- Representing Satfinance Investment Limited in connection with a fraud perpetrated by notorious art dealer, Inigo Philbrick and a related title dispute over the valuable work, "Humidity" by Jean-Michel Basquiat.
- Representing Mr Igor Protasov in seeking recognition in England as the Russian Bankruptcy Manager of the estate of Mr Khadzi-Murat Derev, a Russian citizen now resident in Knightsbridge, with creditors in the region of US\$100m.
- Defending Mr Antoine Massad in the mammoth "secret commission" litigation brought by the Kuwait Public Institution for Social Security.
- Defending Come Harvest Holdings Limited and other defendants in proceedings brought by ED&F Man in connection with an alleged multi-million nickel trading fraud.
- Advising Sir Stelios Haji-Ioannou, the founder of easyJet in connection with his dispute with the airline's management and the Financial Conduct Authority.
- Representing Mr John Gregg and Bronze Monkey LLC in relation to claims arising from the sale of armoured cars business, Centigon Security Group Limited.
- Representing Gulfvin Investments Limited in Norwich Pharmacal proceedings against Barclays Bank.
- Representing one of Europe's leading construction companies, in connection with an FX dispute with one of Europe's largest investment banks.

Publications

In addition to being busy working to advance clients' interests, we have also taken time to write articles and contribute to various publications during the course of the year; including Getting the Deal Through Complex Commercial Litigation (General Editor, Simon Bushell) and the Chambers Global Guide to Litigation (General Editor, Gary Born of Wilmer Hale) UK Chapter, updated by Simon Bushell, and Nick Chapman.

News

Early in 2020, Simon Bushell was nominated to the pool of arbitrators at the Court of Arbitration for Art in the Hague (CAfA). CAfA is a joint

initiative of the Netherlands Arbitration Institute and Authentication in Art directed at resolving disputes in the wider art



SELADORE LEGAL

community through mediation and arbitration. Simon has been involved in a number of high profile art disputes including Lord Edward Spencer-Churchill's "secret commission" claim against London art dealer Gerard Faggionato involving the disputed sale of "Museum Security" by Jean-Michel Basquiat, as well as now well-documented issues relating to the sale of Klimt's *Wasserschlangen II* to Dmitri Rybolovlev via Yves Bouvier. Simon has also been an adviser to Christie's.

In December 2020, Seladore announced the arrival of Kevin Kilgour as a new partner, specialising in complex commercial

litigation and international arbitration. Kevin joined Seladore from Herbert Smith Freehills, thus reinforcing Seladore's thoroughbred bloodline to the litigation monolith, where Simon, Gareth and Kevin all practised for a total of 56 years between them. Kevin's most recent success saw him representing Dogleamor Trade Ltd alongside former colleagues at HSF in the first ever successful High Court challenge to an arbitral award pursuant to Section 68(2)(i) of the Arbitration Act 1996 - successful challenges to awards, on any basis, are rare indeed. Please contact us if you would like to receive a copy of the judgment.

Testimonials

These are some of the kind words people have said about us and our work relating to the past year.

"Seladore are among the best in the business - attentive, shrewd and dynamic. I have known Simon Bushell for the best part of 20 years and the longevity of that relationship speaks for itself. I would not hesitate to recommend him and his formidable team."

Charles Blackmore, CEO, Audere International

"Having worked with the Seladore team on several matters since the firm's inception, I've been very impressed by the energy and flair they bring to international commercial disputes. In one case for example, they identified an imaginative and successful strategy for obtaining disclosure of information adverse to an opponent, by a route which I believe would have eluded many other experienced litigators. With their combination of expertise, creativity and drive, Seladore Legal will be a force to reckon with in the litigation world."

Richard Edwards QC, 3VB



"It is always of great interest to Therium when a new litigation firm emerges, especially one with a pedigree behind it like Seladore. We have been working with them more or less since their inception and our experience has been very positive- they get things done, and have quickly established themselves."

Neil Purslow, Therium Capital Management

"I have worked with Seladore for the past year and been very impressed. Prior to that I have had a long history working with Seladore's founder, Simon Bushell, who is a trusted adviser both to me and some of the businesses I chair. Seladore are strategic and tenacious, just exactly as you would want from a litigation law firm."

John Gregg, Executive Chairman, Quantum Earth LLC

"Seladore Legal is a firm I have come to know through my association with their founders who were at Herbert Smith for many years whilst I was the resident Managing Partner of its Moscow Office. Seladore's senior lawyers have unparalleled experience in handling Russian and CIS disputes involving key strategic interests. These include representing the Russian Central Bank, a key subsidiary of Gazprom, the state owned aluminium industry in Tajikistan, the largest regional bank in the Baltics, the National Bank of Kyrgyzstan, and oligarchic interests throughout the region including, in particular, Mikhail Fridman, Mikhail Prokhorov, Viktor Pinchuk, and Vladimir Potanin. They have a deep understanding of the region."

**Sergei Baranchikov, former partner, Herbert Smith Freehills,
Moscow**

"For close to 20 years, Simon Bushell has played a key role in the evolution of the Getting The Deal Through publication series. His leadership and editorial guidance has allowed us to successfully develop three flagship products that have attracted unique contributions from over 50 jurisdictions worldwide, provided by top tier local and international law firms including; Linklaters LLP, Gleiss Lutz, NautaDutilh, Cuatrecasas, Allen & Overy LLP, Levy & Salomão Advogados, Schönherr Rechtsanwälte, Anderson Mori & Tomotsune, McMillan, Schulte Roth & Zabel LLP and Gilbert + Tobin."

The impact these publications have made upon the market has been very significant. Over the years his work has attracted senior counsel from organisations across a wide range of industries continually seeking guidance on the latest legal and regulatory regimes such as; Royal Dutch Shell, Sky, Allianz, BMW, American International Group, Bank of America, Maersk, PayPal, Skanska AB, General Electric and Siemens."



Simon is a pleasure to work with and we look forward to many more collaborations in the future!"

Adam Sargent, Getting The Deal Through

Looking Ahead

Brexit

This Annual Review comes only a matter of days following the ending of the UK's transition arrangements with the EU and its final departure from the EU, and the concluded agreement with the EU on trade and other matters.

The last minute deal, whilst commendable in some ways given the scale of the trade which it envisages, leaves a huge amount of uncertainty on a number of key areas including data privacy, and financial services. Finance employs more than one million people in Britain, generates more than 10 per cent of tax revenues, and in the past year contributed roughly 40 per cent of the country's £18 billion trade surplus in services with the EU.

For the time being, the UK's financial services providers have lost their passporting rights, which otherwise smooth the regulatory hurdles to doing business in the EU. Our financial services clients now face waiting to learn whether the EU will grant them "equivalence" status in order that the City can continue to

provide the services it is renowned for and which are to a large extent underpinned by 400 years or so of English law, and a pre-eminent dispute resolution infrastructure to go with it.

Leaving the regulatory issues to one-side there will also be considerable uncertainty for the foreseeable future on how Britain's departure from the EU will impact commercial disputes, but we anticipate that this Firm's expertise in private international law and jurisdiction disputes, and the enforcement of judgments and awards will remain in high demand.

Data Breach

Data breach and cyber crime remain hot topics and that will continue for the foreseeable future. Our Firm is watching developments closely in this field and in particular we anticipate that, following the Supreme Court's decision late in 2020 in the Merricks litigation, judicial attitudes to litigation funding and representative claims will shift in a way which will further encourage such claims. The



Supreme Court decision in Merricks accepts that the ability to bring a class action does serve a public policy goal by enabling group redress for claims that would be individually uneconomical. In giving the majority judgment, Lord Briggs recognised the role of funders and explained that the advantage of collective action regimes is that they enable *“whole classes of consumers to vindicate their rights to compensation and the large cost of the necessary litigation to be funded, before an expert tribunal”*. He also noted in particular the following description of *“the beneficial purposes of class action procedure”* given by the Canadian Supreme Court which he regarded as persuasive:

“class actions provide three important advantages over a multiplicity of individual suits. First, by aggregating similar individual actions, class actions serve judicial economy by avoiding unnecessary duplication in fact-finding and legal analysis. Second, by distributing fixed litigation costs amongst a large number of class members, class actions improve access to justice by making economical the prosecution of claims that any one class member would find too costly to prosecute on his or her own. Third, class actions serve efficiency and justice by ensuring that actual and potential wrongdoers modify their behaviour to take full account of the harm they are causing, or might cause, to the public”.

Data breach has seemed to us for some time to be a significant issue and amenable to representative claims.

Arbitration Award Challenges

We all know someone who has been side-swiped by a perverse arbitral award and then had to explain to their client the limited basis for “appeal”. To recap, the genesis of any challenge to an arbitral award is the New York Convention. The convention itself is primarily concerned with enforcement of awards and sets out grounds upon which enforcement of an award may be refused. Those same grounds have however been used as the basis for setting arbitration awards aside in most national arbitration laws. Under English law, the precise grounds for challenging arbitral awards can be found in ss 67 to 69 of the Arbitration Act 1996 and include, for example, a lack of jurisdiction and serious procedural irregularities such as fraud, bias or a failure by the Tribunal to comply with its duty to act fairly. As mentioned above, one of our partners, Kevin Kilgour, has this year had success in challenging an LCIA award in the English High Court on the basis that a serious irregularity had occurred. The popularity of international arbitration and in particular the LCIA remains strong, and it follows that aggressive but unsuccessful clients who wish to continue to frustrate their opponents may well look to mount a challenge on a more regular basis. The English Courts will no doubt be



SELADORE LEGAL

reluctant but the fact remains that challenges are less unusual in other countries where arbitration is popular, for example in Switzerland.

Insolvencies

It seems clear that the fall-out of the pandemic is going to be most strongly felt in the coming year, and we anticipate a string of complex insolvencies and ensuing litigation. It is deeply regrettable but it seems inevitable.

Fraud Guide

Chambers have very kindly invited us to compile and edit the First Edition of their Global Guide to International Fraud. Preparations are underway and a number of world-renowned firms are contributing chapters.

Expansion

Seladore aims for cautious strategic growth through 2021 and we will aim to keep our clients and contacts updated as regularly as we can.

January 2021