

Recent Cases: Commercial Litigation and Disputes

Shareholders' and investment agreement claim

Our commercial litigation and dispute resolution team, led by Jeremy Laws, advised an investor on a claim arising out of the breach of a shareholders' and investment agreement. The first part of the claim was about obtaining access to relevant company records and financial information. The subsequent claim was based on breaches of the contracts and the unfair prejudice of a minority shareholder. Jeremy's conduct of the claim on behalf of the investor has led to a satisfactory settlement, with the investor now realising a return on his original investment.

Court order for service charge arrears

Our property litigation team, led by Cathy Allen, acted for a freeholder in successfully obtaining a court order for payment of substantial historic service charge arrears. Cathy also secured an order for the payment of the landlord's costs.

Estate agent settlement

Daniela Catuara acted for a regional estate agency firm in pursuing unpaid fees. The agent's customer disputed the fees on a contractual point of law. Court proceedings were issued against the customer and the day before the court was due to hear the case Daniela negotiated a settlement, which meant the client recovered its unpaid invoice in full plus costs.

Successful claim against commercial insurance broker

Jeremy Laws acted for a franchise business in a successful claim against a commercial insurance broker. The business operates a large number of KFC and Costa Coffee franchises throughout the UK and it had been given advice in connection with its public and employers' liability insurance which proved to be negligent. Jeremy reviewed the claim and pursued it until ultimately a satisfactory settlement was negotiated. The settlement terms mean that the business will be compensated for the loss that it suffered and it will recover a significant proportion of its costs.

Commercial tenant barred from proceeding with unlawful works

Cathy Allen acted for the freeholder of a large, mixed-use block in Knightsbridge in obtaining injunctive relief to prevent a commercial tenant from proceeding with unlawful works. Cathy also secured an order for costs. We continue to act for the freeholder in connection with the proposed works and a dispute over historic alterations.

Claim against roofing firm dismissed

Daniela Catuara acted for a specialist roofing company when its customer issued a small claim against it in the county court seeking compensation arising from alleged defective/negligent work. Daniela prepared a defence on behalf of the client and the client went on to act as a litigant in person in the case in order to save costs. The client was successful in defending the action with the court ruling in its favour and dismissing the claim.

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Supreme Court success in Hastings Pier litigation

The commercial litigation team acted for the successful claimant, Manolete Partners plc, in its claim against Hastings Borough Council for compensation relating to the closure of Hastings Pier back in 2006. The claim succeeded in the High Court in 2013, and in 2014 the team helped Manolete successfully oppose the local authority's challenge in the Court of Appeal. The team ultimately represented Manolete successfully in the Supreme Court in 2016. The case relates to previously untested public safety legislation in the Building Act 1984.

Settlement with ex-business partner

Daniela Catuara acted for a retail client who had fallen out with her business partner. Daniela negotiated a settlement which saw the client withdraw from the business on mutually agreeable terms without the need for court proceedings.

Substantial recoveries in mis-sold interest rate swap claims

Jeremy Laws has acted for a number of business clients in pursuing claims against a number of leading banks for compensation following the mis-selling of interest rate hedging products. This has involved assistance in the FCA-led review schemes, direct claims and claims made to the Financial Ombudsman Services. Settlement sums have ranged between £50,000 and £500,000. Jeremy is still acting for a number of clients pursuing further compensation for consequential loss.

Out of court settlement for property developer

Daniela Catuara acted for a client property developer in a dispute concerning a leaseholder who alleged that our client had breached its landlord obligations. This was a complicated matter which involved a number of issues such as nuisance, derogation from grant, easements etc. Daniela negotiated a settlement before any proceedings were issued against our client.

Defence of a trade mark infringement claim by a global brand

Jeremy Laws acted for an online retailer of high-end watches. The action was brought by Breitling, a well-known Swiss watch company. Our client sells genuine Breitling and other leading brand watches but not as an authorised dealer, and Breitling sought to attack it by bringing a copyright infringement claim. The claim followed a similar challenge a couple of years earlier by Tag Heuer. Jeremy helped the client defend the claim and ultimately conclude a settlement.

Road maintenance claim

Daniela Catuara acted for a client property company in relation to a dispute concerning a private road where a road user was not contributing to the cost of maintaining it. Daniela agreed settlement terms which resulted in a formal right of way being granted with reciprocal obligations in relation to the user contributing to maintenance costs.

Housing association dispute

Daniela Catuara acted for clients in a dispute with a housing association. The clients had let property to the association for short-term lets. The clients instructed us when the housing association failed to pay for damage caused to our client's property by their tenants. Shortly after sending a letter before action Daniela negotiated a settlement without the need for court proceedings.

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Deposit recovered from agent

Daniela Catuara acted for a commercial client who was looking to take on a lease. The transaction became abortive and the agent refused to refund the deposit the client paid, alleging that it was non-refundable. Daniela sent a letter to the agent and successfully recovered the deposit in full.

Recovery for commercial landlord

Daniela Catuara acted for a commercial landlord in seeking to recover possession of property and rent arrears. Court proceedings were issued as the property included both commercial and residential premises. The proceedings were defended and there was a hearing. Daniela represented our client at the hearing and successfully obtained a possession order together with an order for arrears and 100% costs. Daniela also recently acted for another commercial client in a similar matter and achieved the same outcome.

Copyright claim

Daniela Catuara acted for a care home in negotiating a settlement in a copyright infringement claim when the home had inadvertently used a photograph without permission from the copyright owner.

Care home fee recovery

Daniela Catuara acted for a care home in seeking to recover tens of thousands of pounds owed in resident's fees. The claim was complicated by issues concerning care funding and a dispute between the resident and the local authority. Daniela negotiated a settlement and the care home recovered its fees.

Swift settlement after claim against landlord

Daniela Catuara acted for a landlord who was being pursued by her tenants for compensation arising under a tenancy agreement. The tenants alleged that our client was in breach of her obligations under the tenancy. We were able to negotiate a quick settlement, avoiding court proceedings being issued against our client.

Commercial property recovery

Daniela Catuara acted for a charity in recovering possession of commercial property from a tenant who was in arrears of rent and service charges. The claim was defended and went all the way to trial. Our client was successful and was awarded a possession order and a judgment in respect of rent arrears, service charges and costs.

Fast settlement for construction-management company

Daniela Catuara acted for a client construction-management company who was a defendant in proceedings issued against it by a former client. She prepared a defence on our client's behalf and shortly after she negotiated a settlement.

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Judgment set aside and claim settled favourably

Daniela Catuara acted for a director of a company who had guaranteed a company loan. He found himself with a judgment in default against him for over £120,000. Daniela reached an agreement with the lender to have the Judgment set aside, i.e. have it removed, without the need to issue an application in court, and ultimately an agreement was reached to settle the claim on much more favourable terms with the result that our client avoided lengthy and costly proceedings.

Recovery of 'impounded' car

Daniela Catuara acted for a businessman in a dispute concerning a high-value car. The client had taken his car to a company specialising in 'detailing' and the parties became involved in a dispute as to what work was carried out, what work had been agreed and what fees had been agreed. The company proposed to charge high storage costs and refused to release the car before payment. Within a few days of being instructed Daniela managed to negotiate a full and final settlement which saw our client recovering his car and the parties agreeing payment terms.

IT and telecoms services restored within the hour

Daniela Catuara acted for a wholesale plant business whose IT and telecoms provider had suspended the company's telephone and internet services. Daniela was instructed to assist our client in seeking to have the services re-instated as a matter of urgency so that the company could operate its business. The same day that Daniela was instructed a letter was sent to the offending party and the client's services were re-instated within an hour of the letter being sent.

Large recovery for Olympic Park landscaping contractor

Jeremy Laws acted for a leading Hastings-based landscaping contractor, East Sussex Landscapes Limited (ESL), in recovering significant sums of money due for work carried out at the Olympic Park in East London, before the Summer Olympics in 2012. ESL completed its work in good time before the games, but then faced a pay squeeze from the main contractor, Skanska. Jeremy initially advised in the background to secure a series of agreed payments, and then acted for the company in a formal Construction Act adjudication. The adjudicator found for ESL, resulting in a substantial final payment and ultimately a conclusion to the litigation.

Retaining wall dispute

Daniela Catuara has been acting for a property investor client in relation to a claim concerning a dilapidated retaining wall which was damaging one of its properties. After difficult negotiations with the local authority (which owned the retaining wall), the claim was settled with the result that the authority 1) admitted ownership of the wall, 2) carried out the requisite repair works to the wall (at its own expense), 3) carried out repair works to our client's property (again at its own expense), and 4) agreed to pay our client's legal costs.

Resounding trial victory for commercial landlord

Jeremy Laws secured a resounding trial victory for a commercial landlord in a claim against guarantors under an authorised guarantee agreement. The claim was for arrears of rent and service charge, plus an order from the court requiring the guarantors to take a new lease of the premises following the insolvency of the tenant. Judgment was entered in favour of the landlord on all aspects of its claim, and it also secured indemnity costs. As a further bonus to the landlord, Jeremy also secured a 10 per cent additional penalty payment through tactical use of the Part 36 offer regime.

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Dispute resolution advice for a local charity

Our team assisted a local charity with several issues surrounding misconduct of an officer, the resignation of trustees and a reorganisation and restructuring exercise. The client was under tight time constraints as there was a real danger of the charity being wound up. Happily, we helped to ensure that all the issues were resolved and the charity continues to operate.

Termination of a franchise agreement

Daniela Catuara acted for a client with a franchise business. Having reviewed the franchise agreement and the commercial background, Daniela successfully negotiated terms of termination so that our client could set up and trade as a new, independent business in the same locality and industry.

Injunction action

Our team acted for a Sussex business in securing an injunction, damages and costs following a trespass onto its business premises.

Claim against a developer in respect of structural defects

The team has been advising a group of home owners in respect of claims arising out of defects in the construction of a major port-side development in Sussex. This has involved advice on claims against insurers (both standard NHBC-type insurance and the landlord's insurers) and claims against the selling developer by first purchasers. The case involves allegations of fraudulent conduct.

Debt recovery and 100 per cent of our client's costs recouped

Daniela Catuara acted for a business owed instalment payments under a business sale agreement. When an instalment was not paid (despite formal demand), Daniela arranged for a statutory demand to be served. The debtor, who had purchased the business, applied to the County Court for the demand to be set aside. Daniela opposed the debtor's application and at a hearing the court dismissed the debtor's application and ordered him to pay 100 per cent of the seller's costs. The debt has now been paid.

Payment of judgments and costs in full

An established client obtained various judgments against the defendant but was unable to enforce them. We prepared and arranged for the service of a statutory demand, resulting in immediate payment of the judgments and costs in full.

Possession of commercial premises

Following the tenant's non-payment of rent, we obtained possession of commercial premises for an established client by forfeiture of the lease.

Negotiations to reduce dilapidation claim

A manufacturing-business client contacted our team after being served with a claim for dilapidations at the end of a 25-year lease. We negotiated with the landlord and reduced the claim considerably.

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Complex fee recovery

Jeremy Laws acted for an international executive search agency to recover fees due from a leading energy industry consultancy. The case was less than straightforward, involving issues relating to jurisdiction and the importance of the role played by the search agency. The claim was resolved with the businesses relationship intact.

Care home dispute with alleged creditor

Daniela Catuara acted for the owner of a care home in reaching an agreement with an alleged creditor to withdraw a statutory demand that had been presented against her which included an agreement for that creditor to pay our client's legal costs on an indemnity basis. In the same case Daniela subsequently negotiated a settlement with the creditor in relation to sums it claimed were owing in respect of gas brokerage services. The deal reached in fact saw our client being paid a sum of money by the creditor (as opposed to the other way round), plus her legal costs.

Successful challenge of business insurer's refusal of cover

Jeremy Laws acted for an East Sussex-based property developer and property manager challenging its business insurers' decision to refuse cover in respect of a personal injury claim brought by a sub-contractor. Jeremy persuaded the insurer that its refusal of cover was wrong, and the claim is now being dealt with by the insurer.

Defending restaurant refurbisher with multi-million pound potential liabilities

Jeremy Laws acted for a leading restaurant refurbisher (with a track record in the industry with chains such as Planet Hollywood and Strada) in connection with potential liabilities arising out of a fire and a dispute with a public liability insurer. The claims were worth many millions of pounds, and Jeremy acted for the refurbisher over a number of years, reaching a settlement with two potential claimants, fending off other potential claims and reaching an accommodation with the insurer.

Landlords' possession claims against defaulting tenants

Daniela Catuara has acted for a number of residential landlords in bringing successful possession claims against defaulting tenants. Most recently Daniela acted for a landlord of commercial premises in forfeiting its lease with a defaulting tenant without the need to issue court proceedings by effecting peaceful re-entry.

Helping care home business' administrators fend off potential claims

Jeremy Laws has been acting for the administrators of a large care home business in connection with potential claims against the business' bank relating to interest rate product mis-selling. Jeremy's advice has focused on how to obtain relevant information from the directors of the company using powers under the Insolvency Act 1986, the merits of the claim and participation in the FSA review.

Contact us

For expert legal advice on any commercial litigation matter call **01323 435 900** or email Partner Jeremy Laws at jpl@gabyhardwicke.co.uk or Associate Solicitors Daniela Catuara at dc@gabyhardwicke.co.uk or Cathy Allen at cla@gabyhardwicke.co.uk.