



Turlough Stone

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Practice Overview

Turlough has a wide-ranging practice, specialising in commercial and modern chancery law. The principal emphasis of his practice is on banking and financial services (including asset finance), but he also practices in company law, insolvency, professional negligence and insurance.

He appears regularly in the Chancery Division, Commercial Court and Queen's Bench Division, as well as before the Privy Council and the Court of Appeal, including high profile cases such as ***Lakatamia Shipping & Ors v. Nobu Su & Ors*** [2015].

Turlough acts primarily for institutional clients (banks, finance houses and London Market insurers), but has also acted on behalf of public authorities in commercial disputes as well as for private individuals. Much of his work has an international element and involves the obtaining of interim relief, including freezing, search and asset preservation orders.

Turlough previously worked on secondment to the US law firm of Cadwalader, Wickersham & Taft LLP, where he spent 3 months in the firm's Derivatives & Structured Products and Asset Based Finance Departments.

Banking & Financial Services

Banking and financial services law forms a significant part of Turlough's practice. He advises and acts for a wide range of institutional and individual clients, both domestic and international, in both contentious and non-contentious work.

On the banking side, he has advised on disputes involving loan transactions, personal and corporate surety arrangements (including guarantees, letters of comfort and performance bonds), mortgages, finance agreements, structured financial products, letters of credit and bills of exchange.

On the financial services side, he has acted (almost exclusively for institutional clients) on a wide range of disputes, including misrepresentation and mis-selling claims (including LIBOR and forex manipulation), claims under the Financial Services and Markets Act 2000, claims against financial professionals, and Consumer Credit Act claims. He has also advised on a number of debt and equity programmes for UK, Irish and US financial institutions.

Turlough has experience of regulatory investigations and compliance issues, and has been retained to advise a major German investment bank and a leading private bank on regulatory matters.

Illustrative cases include:

- Acting for and advising a high net worth individual and companies related to him in respect of the mis-selling of interest rate derivative products, with a claim value of in excess of £2.5 million: **Rodger Dudding v. (1) Royal Bank of Scotland PLC & National Westminster Bank PLC**. The claim has been issued in, and will – if contested – proceed in the recently established Financial List in the High Court in London. Amongst other matters, the claim raises issues of market manipulation by the counterparty bank, as well as allegations of misrepresentation and breach of statutory duty.
- Acting for and advising a UK private bank on claims arising from its acquisition of a major credit card portfolio. The case gives rise to issues of, amongst other matters: remediation of customer's accounts to make good regulatory breaches by the previous card issuers; indemnities; and mis-selling. The value of the various claims arising in this case is presently estimated at in excess of £50 million.
- **Shurbanova v. FXCM Ltd** (Commercial Court). Acting for and advising a high net worth individual in a claim against a well-known forex trading company for damages for the wrongful adjustment of profitable bullion and currency trades, which is proceeding in the Commercial Court in London.
- Acting for Société Générale in respect of English procedural law matters arising out of a claim against SG in France by a Swiss fund. This also involved providing expert advice on fraudulent misrepresentation in English law.
- **Pitman Blackstock White Solicitors LLP v. Lloyds Bank PLC** (Chancery Division). Part of the team of counsel acting for the defendant bank in a claim for reimbursement of funds fraudulently transferred out of a solicitor's client account, which is believed to be the first case involving a bank's liability for "cyberfraud" perpetrated by third parties to come before the courts.
- **Bank of Scotland plc v. Hoskins & Hoskins** (Chancery Division). Acted for a bank in a claim against it for £64 million, arising out of alleged breaches of contract and/or misrepresentations in the provision of funding to an AIM-listed company, latterly led by Richard Handyside QC.
- **Bulgrains & Co Ltd v. Shinhan Bank** [2013] EWHC 2498 (QBD). Advising and acting for a Korean bank in successfully defending a claim against it for refusal to honour a letter of credit.
- Acting for and advising a bank in an appeal (first before the Chancery Division and then to the Court of Appeal) on the construction of an admission made in first instance proceeding, involving questions of the operation of CPR, r.3.7 and the Court's powers to set aside an earlier order: **Kojima v. HSBC Bank plc** [2011] 3 All ER 35, [2012] 1 All ER 1392.
- Advising a major private bank on the compliance of its documentation and procedures with the Consumer Credit Act 1974 and subsequent primary and secondary legislation.
- Advising and acting for a bank in claims against it for breach of duty in the provision of development finance: **National Westminster Bank plc v. Gadston** (2013).

Commercial Dispute Resolution

Turlough's practice embraces a wide range of contentious and non-contentious commercial work, including professional liability, contractual disputes and property transactions.

Many of the cases on which Turlough has worked involve cross-border transactions or disputes, giving him experience of advising on and litigating questions of foreign law and choice of law. Turlough has also advised on, and appeared in applications for, interim remedies in commercial disputes, including applications for freezing orders, pre-action disclosure and Norwich Pharmacal orders.

Illustrative cases include:

- **Lakatamia Shipping & Ors v. Nobu Su & Ors.** Acted as junior counsel for the appellant, Nobu Su, in his successful application to the Court of Appeal for permission to appeal against the judgment in *Lakatamia Shipping v Nobu Su* [2014] EWHC 3611 (Comm) by which Mr Su was held personally liable for sums in excess of US\$38 million for failing to repurchase forward freight agreements (FFAs) that had been sold to the Claimant on a short-term basis.
- **The KYODO PROGRESS.** Acting as junior counsel for defendant underwriters in an action for an indemnity proceeding in the Hong Kong CFI Commercial List.
- **Reveille Independent LLC v. Anotech International (UK) Ltd** [2015] EWHC 726 (Comm). Acted for the claimant television production company in its successful claim against a cookware manufacturer for payment of sums due for the integration of the defendant's products into the US television series "MasterChef US" and the use of the claimant's IP in the marketing and production of branded cookware.
- **Southern Rock Insurance v. Brightside plc** (Chancery Division). Acting for a major insurance broking company in a series of claims brought against it by underwriters, including claims for breach of confidence, breach of trading agreements and failure to adhere to underwriting guidelines (with Stephen Cogley QC). This included Turlough appearing for the defendant in the successful defeat of an application for pre-action disclosure.
- **Linsen et al v. Humpuss et al** [2011] EWHC 2339 (Comm). Advising and acting in proceedings against the beneficial owners of an Indonesian shipping company arising out serial breach of charterparty, involving issues of piercing the corporate veil, fraud and worldwide freezing orders, led by [Michael Howard QC](#).
- **Daby v. State of Mauritius** [2007] UKPC 41. Appeared as junior counsel in a commercial appeal before the Judicial Committee of the Privy Council from the Supreme Court of Mauritius.
- **Al Fahim v. Inflight** (Commercial Court). Acting for the owner of an aircraft in a claim for damages for conversion and trespass to goods, and defending a counterclaim asserting an artificer's lien.
- **Yuzhny Zavod Metal Profil LLC v. EEMS Beheerder BV** [2013] 2 Lloyd's Rep 487 (Admiralty Court). Represented the owners of a consignment of steel coils damaged en route from China to Russia in a claim for damages against shipowners.
- **Junior de Mexico SA et al v. Mediterranean Shipping Co** (Commercial Court). Advised and acted for the owners of a cargo of denim stolen in Mexico, giving rise to jurisdictional issues, the proper service of process and conflicts of laws.
- **Golding Hoptroff et al v. Wincanton plc et al.** (Manchester Mercantile Court). Represented carriers in a complex multi-party CMR claim arising from the loss of a consignment of alcohol:
- **Lisson Gallery v. MTEC et al** (Commercial Court). Advising and acting for insurers of a major sculpture by Anish Kapoor damaged whilst being transported from the Basel Art Fair.

- **Leaseplan Ltd et al v. JWF Ltd.** (Commercial Court). Representing a consortium of finance companies in a claim for breach of lease financing agreements of a fleet of cars and vans, involving issues of fraud, termination, delivery up and enforcement.
- **VWFS Ltd v. Secure Telecom UK Ltd.** (London Mercantile Court). Acting for a consortium of finance houses in a claim for delivery up of a fleet of vans for breach of lease financing agreements.
- **Continental Cargo Carriers v. Martyn Davies Transport Ltd.** (Commercial Court). Representing the owners of a number of trailers in an action for delivery up against carrier who had asserted a lien for unpaid carriage charges.
- Regularly instructed by a major vehicle lease financing company in claims for the recovery of motor vehicles, including under the Torts (Interference with Goods) Act 1977.

Civil Fraud

As part of his commercial litigation, banking and asset finance practices, Turlough is frequently instructed in disputes involving allegations of corporate and personal fraud and misrepresentation. These often give rise to insolvency, cross-border and multi-jurisdictional issues, and involve applications for proprietary and freezing relief, pre-action and third party disclosure orders. Turlough has also been instructed to advise and act in tracing claims, claims for dishonest assistance and knowing receipt, and to assist in the enforcement of both foreign and domestic judgments. In addition to the cases set out above, recent and ongoing work includes:

- **Re Fleetlite (In Liquidation)** (Chancery Division). Represented (with Stephen Cogley QC) the directors of a building company and the estate of a former director in a claim brought the liquidator involving allegations of misfeasance, diversion of funds and transactions at an undervalue.
- Acting for a defendant director in a claim for misfeasance, fraud and transactions at an undervalue.
- **Mashate v. Uganda Property Holdings Ltd** (QBD). Acting for a British property company in pursuing a vexatious claimant who was evading a series of adverse costs orders against him.
- Acting for finance houses and banks in a number of cases of mortgage fraud.

Insolvency & Restructuring

Turlough has a broad and growing practice in insolvency law, including advising on and appearing in court on winding up proceedings, applications to restrain presentation of petitions or rescind winding up orders, as well as applications for validation orders. His insolvency practice often overlaps with his commercial litigation practice. In addition to the cases mentioned above, recent and ongoing work includes:

- **Agarwal v. ABN AMRO Bank N.V. & Ors.** Acting for the debtor in bankruptcy proceedings before the High Court in London (ongoing).
- **Mooney v. Jury** (Chancery Division). Acted for shareholders in derivative proceedings brought against the former directors of a company in liquidation.

- **Overfinch Bespoke Vehicles v. Lemma Europe** (Commercial Court). Advising and acting for the joint liquidators of a company in a claim against the professional indemnity insurers of a firm of solicitors, arising from a breach of undertaking/collateral contract by the solicitors, led by Stephen Cogley QC.
- **In the matter of Rhinegold Publishing Ltd.** Applying successfully for an injunction to prevent the presentation of a winding-up petition on the basis of an antecedent compromise agreement between the parties.
- Advising on the effect of corporate insolvency in respect of the failure of a major shipping line, involving issues of cross-border insolvency and the sale of assets (ongoing).
- Advising numerous bunker suppliers on issues arising from the recent insolvency of OW Bunkers (ongoing).

Professional Negligence

Turlough is regularly instructed in professional negligence claims, with a particular emphasis on claims involving financial services practitioners (including advisers and brokers), solicitors and surveyors. He also has experience of coverage disputes under liability insurance policies. Recent work includes:

- Representing a bank in a counterclaim for alleged negligence in the provision of loan finance to a pharmaceutical company: **Bank of Scotland v. Hoskins** (Chancery Division).
- Advising a major French bank on various negligence claims arising from the alleged mis-selling of complex financial products to high net worth investors (ongoing, proceedings issued in the French Courts).
- Acting for a major financial services provider in claims alleging negligent investment advice: **James & Ors v. Nordea Life and Pensions SA** (Chancery Division).
- Acting as preferred counsel for a finance house in several claims against surveyors for negligent property valuation.
- Acting for banks and finance houses in claims against solicitors for professional negligence in preparing reports on title and perfecting security for business and personal lending.
- Acted for a London firm of solicitors in claims against it for alleged professional negligence and breach of the Solicitors' Account Rules in the handling of client moneys in the course of complex maritime litigation in Hong Kong and Singapore: **Sino Source Ltd v. Brookes & Co** (Chancery Division, now settled).

Insurance & Reinsurance

Turlough has experience of a wide range of classes and type of marine and non-marine insurance disputes, acting on behalf of both insurers and assured, involving issues of coverage, construction, contribution, non-disclosure and insurable interest. Work in the last year includes:

- Advising French insurers in respect of their potential liabilities under a professional indemnity policy, involving issues of material non-disclosure and misrepresentation of risk.

- Advising a Luxembourg financial services company on various insurance issues arising in respect of its professional indemnity cover, including D&O cover.
- Acting for underwriters in a claim under a hull and machinery policy arising out of the alleged CTL of a vessel, involving issues of Hong Kong law, fraudulent device and causation of loss.
- Acting in a number of claims against insurers for losses arising in the carriage of goods by road, rail and sea.

International Arbitration

Turlough has acted for a number of domestic and foreign clients in international arbitrations with their seat in London. Recent work in the last year includes:

- Advising and acting in a LMAA arbitration over a charterparty dispute, involving issues of anti-suit injunctions and multi-jurisdictional questions of applicable law.
- Advising and acting in an ICC arbitration involving a number of Far Eastern companies for damages arising out of various contractual disputes.
- Advising and acting in a LMAA arbitration over a bill of lading dispute involving issues of breach of contract, fraud and corporate personality.
- Advising and acting in several arbitrations relating to the sale and carriage of goods (including LMAA, LCIA and GAFTA arbitrations).

Publications

Turlough is currently co-authoring a book on bailment, to be published by Informa Law/Routledge in 2017. He has also co-authored two articles in the last three months, both forthcoming in the editions of *International Corporate Rescue*: one on the case of *PST Energy 7 Shipping LLC & Product Shipping and Trading S.A. v OW Bunker Malta Ltd & ING Bank N.V.* [2015] EWCA Civ 1058 (the “*Res Cogitans*”), and the other on the Hong Kong case of *Kam Leung Sui Kwan v. Kaw Kwan Lai & Ors* FACV No. 4 of 2015.

Appointments

Fellow, All Souls College, Oxford (1995-2002)
Stipendiary Lecturer, Jesus College, Oxford (2000-2002)
Member, History Faculty of the University of Oxford (1999-2002)

Languages

French (fluent reading knowledge, passable spoken ability)
German (reading knowledge)
Italian (basic knowledge)

Academic

BA (Oxon) in Modern History, Double First Class (1995)
Prize Fellow, All Souls College, Oxford (1995-2002)
MSt (Oxon) in Historical Research, Distinction (1997)
Postgraduate Diploma in Law, City University, Distinction (2003)
Postgraduate Diploma in Legal Practice (BVC), Inns of Court School of Law, Very Competent (2004)

Memberships

Chancery Bar Association
Commercial Bar Association (COMBAR)
London Common Law and Commercial Bar Association (LCLCBA)
South Eastern Circuit
Bar Liaison Committee, Inner Temple, 2008-2014
Library Committee, Inner Temple, 2014-2016