

# TANFIELD

PROPERTY & REAL ESTATE BARRISTERS



## Tim Hammond

Year of call

2003

Tim Hammond has a predominantly real property and landlord and tenant practice.

He has experience of the Court of Appeal, the Chancery Division, the Queen's Bench Division, the Companies Court, the Bankruptcy Court, the Upper Tribunal, the First-tier Tribunal, and the County Court. His cases have taken him from Croydon to Kazakhstan, and many places in between.

Tim recently appeared for the management company that obtained an injunction removing Vinnie the terrier from a £1.5 million penthouse flat in Limehouse. The County Court case was widely reported in the national press and covered on the BBC. Tim (led by Christopher Heather QC) later succeeded in defeating the tenants' appeal: *Victory Place Management Co Ltd v (1) Florian Kuehn (2) Gabrielle Kuehn* [2018] EWHC 132 (Ch). The appeal, which was heard by the Chancellor of the High Court, raised interesting questions about the exercise of discretions contained in lease covenants, the application of long-adopted policies and the implication of terms.

Tim also recently appeared in the Court of Appeal acting for the successful Respondents in the matter of *Kingley Developments Ltd v Brudenell and others* [2016] EWCA Civ 980, a case involving the relative weight to be given to lay and expert evidence in circumstances of alleged forgery and wider frauds. The appeal followed an eight day trial at which Tim was also successful.

Tim drafts pleadings, opinions and skeleton arguments. He advises in conference on legal and tactical matters. He undertakes advocacy for trials, appeals and applications.

He finds practical solutions to problems, focusses upon strategy, and gives realistic and commercial advice. He is a persuasive advocate.

He has experience of being led by QCs and senior junior barristers.

He has considerable experience of mediation and arbitration.

His clients have included the Crown, the Duchy of Lancaster, the Church of England, the Attorney General, multi-national businesses, billionaire businessmen, mid-sized companies, commercial landlords, charities, housing trusts, local councils, management companies, small businesses as well as private individuals.

## Real Property

Tim acts in and advises upon claims involving easements and rights of way, boundary disputes, trespass, adverse possession, access to neighbouring land, mortgages (and issues of subrogation), freehold and leasehold covenants, licences, and claims to beneficial interests arising out of resulting trusts, constructive trusts and proprietary estoppel.

Recent advice work of note has included:

- Advising in circumstances where a purchaser of property was informed by the purported vendors of that property that the transfer documentation had been forged.
- Advising upon whether a right of way had been abandoned.
- Advising upon whether a car parking space had been acquired by way of adverse possession alternatively whether a right to park had arisen.

## Landlord & Tenant

Tim specialises in both commercial and residential landlord and tenant law, acting for both landlords and tenants. He acts in and advises upon claims involving possession, forfeiture (and relief from forfeiture), the effect of insolvency upon possession proceedings, overriding leases, succession, matters relating to anti-social behaviour (to include committal proceedings following breach of anti-social behaviour injunctions), disrepair, dilapidations, service charges (residential and commercial), management, the variation of lease terms, enfranchisement (including missing landlords) and has a long-established practice concerning the renewal of business tenancies.

Recent advice work of note has included:

- Advising a landlord in circumstances where his tenant claimed fraudulent misrepresentation, undue influence, duress, non est factum and estoppel when faced with possession proceedings.

- Advising upon whether it is possible under the Land Registration Act 2002 for a lessee to acquire adversely the freehold title to land adjoining his leasehold property.
- Advising upon whether a redevelopment break clause sought by a landlord in business lease renewal proceedings would be ordered by the Court.
- Advising upon the recoverability of service charges in a case where the landlord had failed to comply with both the precise contractual service charge mechanism set out within the lease and the requirements of the Landlord and Tenant Act 1985.
- Advising upon whether a front door to a flat facing out onto a communal landing was part of the demise to a lessee.

## Business & Commercial

Tim acts in and advises upon cases involving business contracts, loan and finance agreements, guarantees, and disputes arising out of building projects.

His cases have included the following issues: the parties to the contract, the identification of a contract, the meaning of and applicability of contractual terms, jurisdiction and the applicability of foreign law to contracts, the identification and effect of unfair terms, the effect of consumer protection law upon contractual terms, agency, third party rights under the contract, variation of terms, novation, consideration, promissory estoppel, fraudulent insurance claims, misrepresentation, mistake, undue influence, duress, and non est factum.

Tim has experience obtaining freezing injunctions and enforcing judgments by way of third party debt orders, charging orders and orders for sale.

Tim has acted as Junior Counsel in high value Commercial Court and arbitration claims. He has experience of arbitration under the rules of the London Court of International Arbitration and challenges/appeals to the High Court in arbitration proceedings.

Recent advice work of note has included:

- Advising upon the liabilities arising out of a "pyramid wealth" scheme.
- Advising upon whether an agreement to purchase a house could be rescinded by the purchaser upon alleged grounds of fraudulent misrepresentation.
- Advising upon the terms and effect of a facility agreement for £3.75 million together with associated guarantee and charge signed by the borrower.
- Advising upon the issue of costs arising out of claims concerning the mis-selling of payment protection premiums.
- Advising upon whether the terms of a removals company's standard customer contract could be

deemed unfair under the Unfair Terms in Consumer Contracts Regulations 1999.

## Professional Negligence

Tim advises upon and acts in claims involving professional negligence (particularly in relation to land).

Recent advice work of note has included:

- Advising in circumstances where a conveyancer had failed (contrary to express instruction) to include within a demise to the ground floor lessee the rear garden to a three floor property with the result that it was subsequently registered in the name of another lessee.
- Advising in circumstances where a conveyancer had failed to ensure an indemnity covered the connection of utilities to a plot of land.
- Advising in circumstances where a conveyancer had failed to ensure that a vendor had a share of freehold.
- Advising upon the calculation of damages in circumstances where a solicitor had failed to issue a claim in time under the Landlord and Tenant Act 1954.

## Notable Cases

### Victory Place Management Co Ltd v (1) Florian Kuehn (2) Gabrielle Kuehn, High Court

Appeal from a decision of the County Court. A lease contained a discretion as to whether consent would be given for dogs. A management company sought to rely upon a long-standing "no pets" policy in order to exclude a terrier from a penthouse. The tenants sought to imply into the lease a term as to rationality of process (relying upon the principles espoused by Baroness Hale in *Braganza v BP Shipping*) and argued pre-determination by the management company. Acted for the management company, which succeeded at both first instance and on appeal.

### Kingley Developments v Brudenell & Others, Court of Appeal

Allegations of forgery, non est factum and wide-ranging fraud. First instance judge correctly balanced competing lay and expert evidence. First instance judge was correct not to make factual findings on every element of the evidence and could ignore what he had described as "red herrings". Acted for the successful Respondents.

### Kingley Developments v Brudenell & Others, County Court

Trial over eight days. K purportedly purchased a property from B. B alleged forged TR1 alternatively non est factum. Expert evidence concluded forged signatures. Evidence of wide-ranging fraud. Judge had to weigh conflicting lay and expert evidence (applying Coopers Payen v Southampton Container Terminal). Acted for the successful Claimant.

### McWilliams v (1) Singh (2) Thornberry (3) Shendish Manor Ltd (in administration), County Court

Trial over six days. Claim by M for an interest in a property. An elaborate fraud had been committed against M whereby purchase monies intended by M to purchase property in M's name had been used by SML to fund the purchase in the name of S (as a nominee purchaser for SML). Declaration that M had a 100% beneficial interest in the property. Acted for the successful Claimant.

### (1) Savage (2) Walding v (1) Singh (2) Kaur (3) Palacegate Ltd (4) Suvamp Ltd, County Court

Eight day multi-party trial relating to a landlord's obligation to insure a property and pay out insurance monies for reconstruction following a fire. Allegations by assignor landlord of forged documents by solicitors acting for tenants. Claims of fraudulent misrepresentation against assignor landlord by successor landlord. Claims for damages and indemnities by successor landlord. Tenants' claim successful against assignor landlord. All claims against assignor landlord by successor landlord successful. Acted for the successor landlord.

### Celtic Resources v Arduina Holdings, High Court

Consideration of whether there was a real risk of dissipation of assets before continuing a freezing injunction. Full review of the relevant case law on the issue to date. Acted for the successful Respondent.

## Awards

- Gibbs Prize
- Worcester College Finals Prize
- Sir Jack Jacob Prize

## Publications

- Co-author, Service Charges & Management: Law & Practice, 3rd Edition, Sweet & Maxwell (2013)

- Co-author, Service Charges & Management: Law & Practice, 2nd Edition, Sweet & Maxwell (2009)
- Co-author, Service Charges & Management: Law & Practice, 1st Edition, Sweet & Maxwell (2006)

## Qualifications

- MA (Oxon)
- LLM, University College London

## Memberships

- Chancery Bar Association
- Property Bar Association