COMMERCIAL DISPUTES

OVERVIEW

We work with our clients to resolve their complex business disputes around the globe. We offer clear, concise and efficient advice on the full range of commercial claims. We utilize project management techniques when appropriate to ensure we handle even the most complex disputes with efficiency.

Our clients range from private, family-owned businesses to some of the largest publicly traded companies in industries such as financial services, food and agriculture, manufacturing, transportation, retail, technology, energy, pharmaceutical, health care, sports and entertainment and hospitality. While we are geographically diverse, we are also “one firm” and assemble teams of lawyers with the skills and background needed to tackle our clients’ issues – across the globe.

Our lawyers successfully advocate for our clients in and out of the courtroom and are skilled at managing complex cases. We try (and win) trials before the judiciary, juries, and other administrative/regulatory bodies.

We also have a strong record in the United States of resolving disputes through dispositive motion practice and, globally, through alternative dispute resolution, including mediation and other pre-trial strategies. We also advise our clients on how to resolve business issues without recourse to litigation. Our experience, combined with the use of cutting-edge technology and an understanding of large-scale data, translate to positive and cost-effective results for our clients.

USING DATA AND TECHNOLOGY

At Bryan Cave Leighton Paisner, the imperative to innovate arises from our deep commitment to client service. We know our clients must operate with nimbleness and strength in an ever more challenging marketplace, and we expect the same of ourselves. Modern litigation requires an understanding of relevant technologies and the ability to manage large-scale data. We are experienced in both of these areas and with the legal requirements for data preservation and production as well as how to use data strategically to enhance case results and hold down costs.
MEET THE TEAM

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RELATED PRACTICE AREAS

- Forensic Services
- Class Actions
- White Collar
- Mass Torts & Product Liability
▪ Defended global provider of crop inputs and services in personal injury cases nationwide, including chemical exposure and catastrophic personal injury claims.

▪ Advised a U.S. national bank obtained dismissal of commercial lending claims in California federal court alleging unfair practices and breach of SWAP contract.

▪ Advised a nationwide mortgage lender in claims involving wrongful foreclosure, HAMP loan modifications, and common laws torts related to foreclosures and eviction proceedings.

▪ Defended earn-out claim of approximately $48 million brought against publicly-traded, leading clean energy projects developer by former shareholders of an acquired business asserting amounts due under an earn-out provision in merger agreement. Obtained complete defense verdict after six-day arbitration.

▪ Represented major general contractor on regional highway and light rail project administration and litigation including judgment on fraud and veil-piercing claims against subcontractor.

▪ Represented a US hotel developer in multiple lawsuits and arbitration proceedings relating to design, construction defect and delay claims.

▪ Having secured a victory in the High Court achieving the first contested order for the use of predictive coding in a disclosure exercise, our team secured a great win for our client in defending unfair prejudice proceedings brought by a minority shareholder in a subsidiary business. Using predictive coding rather than traditional review methods saved our client hundreds of thousands of pounds. We were awarded a 2018 Legal Week Innovation Award for our innovative approach to this case.

▪ Our team advised Amanresorts, a luxury hotel resort group, with 27 properties across the world, on a major cross-border shareholder dispute. There were proceedings in the Chancery Division in London, as well as in the BVI, involving four actions and satellite proceedings in New York.

▪ We are advising a global technology company on a wide range of commercial disputes. These range from a fraudulent misrepresentation claim that was settled at pre-action stage and a breach of contract dispute regarding a high value 10 year IT outsourcing contract. This dispute is particularly complex both legally and factually, with 27 different allegations of material breach over a number of years.

▪ We are acting in the defence of an application by a minority of limited partners for the winding up of an exempted limited partnership established in the Cayman Islands, which concluded in a 12 week trial.
- We successful challenged an agency’s exercise of eminent domain authority before the state Supreme Court of Colorado overturning decades of precendent. (*Department of Transportation, State of Colorado v. Amerco Real Estate Company* 2016)

- Bryan Cave Leighton Paisner (Russia) LLP represents Samsung C&T Corporation against REMZ (Rostovskiy ElectroMetallurgicheskiy Zavod) for recovery of USD 1,840,000 in debt and damages.

- Acted for McDonald’s LLC in a dispute over recovering the cost of inseparable improvements under a preliminary lease.

**RELATED INSIGHTS**

**Insights**

Nov 10, 2023

**Disputes in Focus: Quick Q&A on International Disputes - Important Points to Note**

According to data released by the Ministry of Justice 63% of cases listed in 2022 and 69% of cases listed in Q1/Q2 2023 in the Commercial Court involved at least one non-UK registered party. Despite the increasing frequency of such litigation, issues which arise specifically in the context of international litigation can often catch litigants by surprise. In this blog, Clare Reeve Curatola outlines some of the challenges and, she asks her Litigation and Investigations colleague, Associate Megan Applegarth, about her recent experience of managing these challenges. Megan provides examples of key issues that can arise when parallel proceedings are ongoing in different jurisdictions. Short on time? Jump to our summary of issues in international disputes.

**Insights**

Nov 07, 2023

**Disputes in Focus: Quick Q&A on Legal Privilege in Group Litigation**

Legal professional privilege is a key issue in any litigation or investigation and each year the courts determine many disputes over its application. It can become less straightforward to manage and protect in multi-party or group proceedings. In this blog, Clare Reeve Curatola provides a brief summary of legal privilege and the rules about sharing privileged material under English law. And, she asks fellow Litigation and Investigations partner, Ravi Nayer, about his recent experience of grappling with issues of legal privilege where there are multiple different parties involved in a dispute and in the context of group actions in the High Court. Short on time? Jump to our key takeaways.

**Insights**

Nov 06, 2023

**Can multiple claimants use the same claim form in group actions?**

A recent decision in the Birmingham County Court has added to the body of case law growing around the test for listing multiple claimants on the same claim form. In Angel and others v Black Horse Limited, unreported, 8 September 2023, County Court at Birmingham, a case involving over 5,000 claimants bringing claims against 8 finance companies, the claimants had issued proceedings using 8 claim forms (one against each defendant). HHJ Worster held that in this case it was impermissible under CPR 7.3 to use a single claim form for all the claims.
against the same defendant. The judge therefore ordered the claimants to sever their claims from the common claim forms. HHJ Worster relied heavily on the guidance given by the High Court in Abbott v Ministry of Defence [2023] EWHC 1475 (KB) on the CPR 7.3 “convenience test”, which concerns whether multiple claimants may use a single claim form. These cases ...

Insights
Nov 02, 2023

Disputes in Focus: Quick Q&A on Developments in Forensic IT & AI

Since 2016, when our team won the first contested court application to use predictive coding in disclosure, we have been at the forefront of using technology to effectively manage the huge data volumes which we often see in commercial litigation, arbitration and investigations. And this requires specialist expertise, which we are fortunate to have in our in-house Forensic Technology team. In this insight, Clare Reeve Curatola ask our experts, Jason Alvares and Chris Wheatley, to share their insights and thoughts on the developments and challenges in forensic technology. They also share practical tips to optimise the process of retaining and collecting data and documents, which often prove crucial to successfully resolving a dispute. Short on time? Jump to our practical tips.

Insights
Oct 31, 2023

Disputes in Focus: Quick Q&A on group claims

There are various ways in the English High Court to bring a claim, including as a group or representative action. Historically they have been underused but that is changing. Businesses are becoming increasingly interested in this ability to bring group actions and mass claims in the English High Court. In this blog, Clare Reeve Curatola outlines different ways to bring a civil commercial claim in the English High Court and asks fellow Litigation and Investigations partner, Ben Blacklock, to share his insights into the changing approach to group or class actions and mass claims in the English courts. Ben shares his thoughts on the key developments and changes that may be driving an increase in group actions, the challenges and the important considerations for Claimants and Defendants to consider in this area. Short on time? Jump to our key considerations.

Insights
Oct 26, 2023

Disputes in Focus: Quick Q&A on Civil Restraint Orders

Commercial disputes between individuals and/or companies often involve complex issues and debate. Sometimes, however, a claim is made without any legal and/or factual basis and, despite best efforts, the claimant is persistent in pursuing it. This can lead to the defendant incurring significant unnecessary wasted time and costs. In this blog, Clare Reeve Curatola outlines what Civil Restraint Orders are and how they can be used in commercial litigation when a company is facing persistent unfounded claims. Clare asks her Litigation and Investigations colleague, Associate Megan Smith, about her recent experience and she offers some great tips on how companies can mitigate risk and address vexatious litigants. Short on time? Jump to our top tips for responding to vexatious or meritless claims.

Webinars
Oct 26, 2023


Insights
Oct 25, 2023
Disputes in Focus: Quick Q&A on contractual interpretation

Many commercial disputes involve a disagreement about how a provision in a contract should be interpreted. It is important to understand how a court would approach this question to help inform what to do next when stuck in such a dispute. In this insight, Clare Reeve Curatola outlines the established principles under English law for interpreting contracts and asks fellow Litigation and Investigations partner, Oran Gelb, about his recent experience of this issue in the specific context of exclusion clauses. Oran shares his insights and gives us his top tip for managing interpretation risk when drafting contractual exclusion clauses. Short on time? Jump to our practical tips.