

## C. Euan Duthie QC

Year of Call: 2006 Year of Silk: 2019

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### Professional Career to date

Devil Masters: Eric Robertson, James Wolffe Q.C., Sheriff Chris Shead, Timothy Niven-Smith.

2019: Appointed Queen's Counsel

2015: Appointed *ad hoc* Advocate Depute

2014: Appointed Fee Paid Judge, First Tier Tribunal (Social Entitlement Chamber)

2012: Appointed Standing Junior Counsel to the Advocate General for Scotland

2010: Legal Advisor, European Union Naval Force

2006: Called to the Bar

2005 - 2006: Lord Reid Scholar

2003 - 2005: Solicitor, Dispute Resolution Department, Burness LLP, Edinburgh

### Education & Professional Qualifications

Diploma in Legal Practice, University of Edinburgh (2001)

LL.B., University of Edinburgh (2000)

M.A. (Hons), University of St Andrews (1998)

### Areas of Expertise

- Public Law, Judicial Review and Human Rights
- Commercial Contracts
- Commercial Property
- Insolvency
- Competition and Public Procurement

### Professional Experience

Euan's practice focuses on commercial actions in the Court of Session. He acts in contractual and property disputes as well as professional negligence claims against solicitors, surveyors and accountants. He is routinely instructed on behalf of insolvency practitioners in respect of administrations, liquidations and sequestrations. He is increasingly instructed in public procurement disputes.

Euan acts on behalf of Government Departments in respect of petitions for judicial review, statutory appeals and directors' disqualification proceedings. He also has experience of public professional disciplinary matters, freedom of information proceedings and claims against the Coal Authority in claims for compensation in terms of the Coal Mining Subsidence Act 1991.

Between March and September 2010, Euan acted as Legal Advisor to the European Union Naval Force, spending most of that time in Mombasa, Kenya, working on the prosecution of Somali pirates.

He also spent time as a legal advisor at the Operation's Headquarters in Northwood, London.

### **Recent Cases**

*OLM Systems Limited v Fife Council* [2020] CSOH 95

Challenge under the Public Contracts (Scotland) Regulations 2015 by unsuccessful bidder in a procurement process for a new social care case management information system.

*AC Whyte & Company Limited v Renfrewshire Council* [2020] CSOH 82

Claim for damages in terms of the Public Contracts (Scotland) Regulations 2015 by unsuccessful bidder in a procurement process for the contract for external works to residential properties within local authority area.

*Shine Properties Ltd v Biggar Museum Trust* [2020] SAC (Civ) 4

Appeal against decision to assoilzie Trust in respect of claim for damages for breach of missives.

*Susan Sabet and other against Fife Council and others* [2019] CSOH 26

Claim against riparian proprietor by neighbouring proprietors for damages for flood damage said to have been caused by failure to maintain a weir.

*Alistair Johnstone and Dunedin Design Ltd v Dr Susan Shepherd* [2018] CSOH 129

Dispute over liability to make payment in respect of property development works.

*Campbell v Scottish Ministers and others* [2017] CSOH 35

Claim by prisoner that his rights under Articles 3 and 8 ECHR had been infringed when he was handcuffed during escorted hospital visits.

*Stewart Milne Westhill Ltd v Halliday Fraser Munro* [2016] CSOH 76

Claim for damages against a firm of architects, in respect of defects in a newly constructed office, workshop and leisure building development.

*Van Lynden v Colin Gilchrist* [2016] CSIH 72

Dispute as to whether landlord entitled to interdict removal by tenant of structure which had acceded to heritage at lease expiry.

*Highland and Islands Airports Ltd v Shetland Islands Council* [2015] CSIH 30

Instructed as junior counsel by pursuer in £14 million claim for damages for defective design and construction of runway extension at Sumburgh Airport. Dispute as to whether summons for declarator only interrupted the operation of negative prescription.

*HM Secretary of State for Business Innovation and Skills v Thomas Hamilton* [2016] CSIH 13A

Petition for order disqualifying respondent from acting as a company director.

*John G Sibbald & Son Ltd v DMJ Associates and another* [2014] CSOH 94

Action by property developer against consulting engineers for damages in respect of alleged defective design of a bridge. Case involved questions of prescription and whether the alleged fault and negligence founded on constituted a continuing wrong.

*Iain Hawthorne v Philip Anderson and others* [2014] CSOH 65

Claim for damages by vendor of heritable property for alleged failure by solicitor to advise as to adequacy of proposed access to development site being retained by vendor prior to disposal of

adjoining property to a third party.

*British Telecommunications Plc v Common Services Agency* [2014] CSOH 44

Challenge under the Public Contracts (Scotland) Regulations 2012 to a major procurement exercise for a "Scottish Wide Area Network" with an estimated value of between £100,000,000 and £325,000,000.

*Walter Mitchell v Great Lakes Reinsurance UK Limited* [2013] CSOH 14

Dispute as to whether insurer due to make payment in circumstances where clause in insurance policy founded upon protected the insured against death which was caused solely by bodily injury and where there had been a pre existing condition which had contributed to the death of the insured.

*Sean Mason Kiani v Secretary of State for Business, Innovation and Skills* [2013] CSOH 121  
Petition for judicial review of the Secretary of State's decision to apply for a disqualification order under section 8 of the Company Directors Disqualification Act 1986.

*Secretary of State for Business Innovation and Skills v Saqib Din* [2013] CSOH 98

Petition for a disqualification order under the Company Directors Disqualification Act 1986.

*Karl Phimister v DM Hall LLP*, [2012] CSOH 169

Instructed by defender in action for damages for professional negligence by a property developer against surveyors in respect of a mortgage valuation report. The Court held that the pursuer's claim failed, finding in favour of the defender on the issues of liability, causation and loss.

*Castlerock Edinvar Housing Association Limited and others v The Coal Authority (Lands Tribunal, 2012)*

Instructed for multiple applicants against the Coal Authority in relation to complex claims for compensation for costs associated with repairing subsidence damage to 20 properties on either side of the street in Rosewell, Midlothian in terms of the Coal Mining Subsidence Act 1991.

*Winding-Up Board of Landsbanki Islands HF, Noter* [2011] CSOH 61

Instructed as junior counsel by administrators of Heritable Bank plc ("Heritable") in dispute with the winding up board of Heritable's Icelandic parent company ("Landsbanki"). Landsbanki submitted claims to Heritable of c.£1.1 billion. Preliminary issue concerned the effect, in Scots law, of a decision in the Icelandic winding-up proceedings and specifically, whether in terms of the Credit Institutions (Reorganisation and Winding-up) Regulations 2004, a determination by the Winding-Up Board under Icelandic Law as to the existence and extent of Heritable's claims for c. £905 million against Landsbanki was decisive for the purposes of the Scottish Administration of Heritable; or, alternatively, whether the availability of insolvency set-off against Landsbanki's claims had to be determined by the Administrators according to Scots law.

*Turnbull v MNT Transport (2006) Ltd* [2010] CSOH 163

Dispute between motoring and public liability insurers in relation to respective obligations to indemnify the insured following sustaining of catastrophic injury by pursuer in accident involving insured's parked-up haulage trailer. (Public liability insurer sought to repudiate liability on basis of "double insurance" clause).

## Advocates Courts & Tribunals

Court of Session (Inner and Outer House); High Court of Justiciary (First Instance and Appellate); Sheriff Court; the Lands Tribunal for Scotland; the Upper Tribunal; the Asylum and Immigration Tribunal; and the ICAS Discipline Tribunal.

## Directories

Euan is ranked in the Chambers UK Bar directory as a leading individual in the fields of Commercial Dispute Resolution, Restructuring/Insolvency and Professional Negligence. The Legal 500 Directory has similarly ranked him in those three categories. Testimonials include the following:

*"His advice is very clear, concise and to the point, and easy to understand."*

*"A good man for a crisis, he has a very good brain and is hard-working. Everyone likes working with him because he gets the job done."*

*"An excellent team player, good on his feet, calm and measured in his approach and very presentable to clients."*

*"Very thorough and imaginative with it: he thinks around things and comes up with good ideas. Excellent attention to detail."*

*"Has an in-depth knowledge of insolvency law"*

*"He is forensic, astute and robust".*

#### **Advocates Additional Information**

@Euan\_Duthie