

Euan Duthie

Year of Call: 2006

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Professional Career to date

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

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 appears regularly in 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.

Euan is a Standing Junior Counsel to the Advocate General for Scotland and 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 procurement disputes, professional disciplinary matters and freedom of information proceedings. He has acted 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.

As a solicitor, Euan practised in the fields of commercial dispute resolution, property litigation, judicial review and media law. He was a member of the team appointed to act in court proceedings across Scotland on behalf of the Accountant in Bankruptcy. He also spent time on secondment to Scottish Equitable's in-house legal team, where he was responsible for the conduct of appeals to the Pensions Ombudsman and the Financial Ombudsman Service, as well as consideration and determination of claims by independent financial advisors.

Recent Cases

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

Instructed (as standing junior counsel for the Advocate General) in application for order disqualifying respondent from acting as a company director.

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

Instructed as counsel for defender in 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

Instructed as Junior Counsel for defender in 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

Instructed as Junior Counsel for defender, the procuring authority, in a 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 as junior counsel 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.

Port of Leith Housing Association v Akram, [2011] CSOH 176

Instructed by housing association in action to enforce missives it had entered into with property owners by which the association had contracted to purchase heritable property from them. Court found that pursuant to a condition of the letter of offer that the purchaser give the sellers written notice when it had purified the suspensive conditions under the contract, the association was entitled to serve such notice on the sellers' solicitors and not required to serve on the sellers themselves.

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: *"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"*; and Restructuring and Insolvency: *"He's really good. He's very accessible, thorough and well prepared. His advice is very clear, concise and to the point, and easy to understand."*

Euan is also ranked in the Legal 500 Directory as a leading junior counsel in the fields of Commercial Litigation: *"His opinions are comprehensive and comprehensible"*; and Company and Insolvency: *"Confident in court and in conference"*.

Advocates Additional Information

Examiner, Law Society of Scotland