



Joe-han practises across the full spectrum of commercial disputes. He has a particular focus on contractual, insolvency, construction, civil fraud, and financial services disputes. He has appeared in the Court of Appeal, the High Court (including as sole counsel against Queen's Counsel in the Commercial Court), and the County Court. He also appears before international arbitral tribunals.

Previously, Joe-han practised as a solicitor at Cleary Gottlieb Steen & Hamilton LLP where he focused on international arbitration and commercial litigation. He also held teaching positions at King's College London (trusts & equity) and Durham University (contract law). He is regularly published on a range of commercial law matters.

Joe-han holds law degrees from Durham University (LL.B.; ranked 1st in year), Harvard Law School (LL.M.), and the University of Oxford (B.C.L.). He is also a Jarman Scholar of the Inner Temple (ranked 1st in year in advocacy), and an Inter-Pacific Bar Association Scholar (2022: Tokyo). He speaks Mandarin Chinese.

#### PUBLICATIONS:

Chapter in 'Wilmot-Smith on Construction Contracts' (4th edn. May 2021): Exemption and Limitations on Liability (co-authored with Jonathan Bellamy)

**PLC Dispute Resolution Blogpost** (Oct 2019): 'A short judgment must be a careful judgment... or risk a retrial'

Chapter in GAR's 'The Guide to Construction Arbitration' (3rd edn, Oct 2019): Alternative dispute resolution in construction and infrastructure disputes (co-authored with Marion Smith QC and Hannah McCarthy)

'**Sham Trusts**' (2016) 22(4) Trusts & Trustees 464 (co-authored with Sunil Gadhia and Konrad Rodgers)

'Trust structures under English law', Legal Insight, September 2015 (co-authored with Sunil Gadhia and Konrad Rodgers)

'**TAEL One Partners: contractual interpretation as an iterative process**' (2015) 5 Journal of Business Law 393 (co-authored with Konrad Rodgers)

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## PRACTICE AREAS

- Banking & Finance
- Civil Fraud
- Commercial
- Construction & Engineering
- Insolvency
- International Arbitration

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## PRACTICE AREAS

### BANKING & FINANCE

Joe-han has experience in a wide range of banking and financial services disputes, from consumer credit matters to cross-border banking litigation. He has acted both for and against banks, and recently completed a six-month secondment at the Financial Conduct Authority.

Recent instructions and matters on which he has worked include:

- A USD\$1.3 billion banking dispute concerning various breaches of facility agreements and related guarantees/indemnities.
- A Commercial Court dispute concerning the interpretation of an English exclusive jurisdiction clause in an ISDA Master Agreement and an Italian exclusive jurisdiction clause in an advisory contract governed by Italian law.
- A partnership dispute, raising issues as to the scope of a bank account mandate.
- Advising on a test claim relating to the provision of mortgage advice, including issues relating to the actions of the Financial Ombudsman Service and the Limitation Act 1980.
- Advising on claims relating to the mis-selling of financial products, including several interest rate hedging product disputes.
- Advising on consumer credit agreements and unfair relationships within the meaning of sections 140A-140C of the Consumer Credit Act 1974.

### CIVIL FRAUD

Joe-han has considerable experience in civil fraud disputes, where he has acted for both Claimants and Defendants. His expertise is complemented by his involvement in the USD\$300m *Kazakhstan Kagazy* litigation since 2013 (when the litigation commenced with a £72m Worldwide Freezing Order) to date (enforcement proceedings against various trusts).

Recent instructions and matters on which he has worked include:

- *Kagazy Kazakhstan plc & Ors v Zhunus & Ors [2020] EWHC 2431 (Comm); [2020] EWHC 698 (Comm); [2020] EWHC 128 (Comm)*: Enforcement proceedings of a USD\$300m judgment in the main proceedings against various trust entities, brought on the basis of tracing, resulting trust (to the fraudster), alternatively section 423 Insolvency Act 1986 (Led by William McCormick QC). In the main proceedings, the Claimants alleged misappropriation, conspiracy, and breach of fiduciary duty. Advised on satellite litigation before the Courts in the US, Switzerland, and Cyprus, as well as interim measures relating to freezing injunctions.
- *Yaroslavna Lasytsya v Inter Export LLC [2018] EWCA Civ 2068*: A fraud claim brought by a Ukrainian company against the director of a contractual counterparty regarding the sale of sunflower oil. The appeal raised complex issues regarding Lord Tenterden's Act and the application of the tortious measure of damages (Led by Hugh Jory QC).
- *Alliance Bank JSC v Zhunus & Ors [2015] EWHC 714 (Comm)*: Defending against a high value fraud claim brought by a foreign bank. The claim was dismissed in full, and the Worldwide Freezing Order was discharged.

## COMMERCIAL

Joe-han has experience in a wide range of commercial disputes.

Recent instructions and matters on which he has worked include:

- *Perkins Engines Company Ltd & Anor v Ilkerler Otomotiv Sanayi Ve Ticaret AS (unreported) (Comm)*: A dispute regarding the termination of a distributorship agreement, raising issues as to contractual interpretation, estoppel, and laches.
- *Kotak v Kotak & Ors [2017] EWHC 1821 (Ch)*: A partnership dispute, raising issues as to the scope of a bank account mandate, estoppel, and agency.
- *EMA Sarl v Universal Music Publishing Ltd [2017] EWHC 1058 (IPEC)*: A dispute regarding the rights to a famous Mungo Jerry song, raising issues as to misrepresentation, warranties, and indemnities.
- *Siemens Healthcare Limited v iGene London Limited*: Defending against a contractual claim (Commercial Court) that raised complex issues regarding damages and the interaction of the contractual and unjust enrichment causes of action.
- Advising on the enforceability of a Californian judgment in England (instructed by a leading Singaporean law firm).
- Advising on the proper interpretation of an SPA and its milestone payments, in the context of COVID-19 and the doctrine of force majeure / frustration.
- Advising on a Formula 3 dispute between the racing driver and the racing team.
- Advising an NHS trust on whether a long-term supply contract could be terminated for 'material default'.

## CONSTRUCTION & ENGINEERING

Joe-han has experience in a range of construction and engineering matters. He also has experience in adjudication and sits on the panel of TECBAR adjudicators.

Recent instructions and matters on which he has worked include:

- Advising on an ongoing DIFC-LCIA arbitration concerning three major infrastructure projects in the UAE with c. US\$270 million in dispute.
- Advising on a contractual dispute relating to an Engineering, Procurement, Construction, and Commissioning project in the Far East (instructed by a leading Malaysian law firm).
- Advising on certain clauses in the JCT standard building contract w/o quantities (2011 edition) and the consequences of the insolvency of a counterparty.
- A high-value complex procurement dispute regarding rolling stock.
- Sole Counsel in an application for an urgent injunction in the High Court to prevent the presentation of a winding up petition which raised issues as to 'pay when paid' clauses and the interpretation of the term "construction operations" within the meaning of the Housing Grants, Construction and Regeneration Act 1996.
- Advising on construction disputes in the context of the Consumer Rights Act 2015.
- *Ratcliffe v Sharpe & Sharpe*: Sole Counsel for the Defendants in the three-day trial of a hotly contested construction dispute with conflicting witness evidence. At trial, the claim failed, the counterclaim was substantially granted, and indemnity costs were awarded.
- *Hadley Industries Holdings Ltd v Mezzanine Floors (Hull) Ltd*: Sole Counsel in the trial of a construction dispute raising issues as to the 'battle of the forms'.
- *4 UK Specialists Ltd v M & I Ceilings Ltd*: Sole Counsel in a construction dispute raising issues as to variation, overpayments, and non-party costs orders.

## INSOLVENCY

Joe-han has experience in a wide range of insolvency matters. He is regularly instructed (for creditors and debtors) in relation to set-aside statutory demands, bankruptcy petitions, and winding up petitions. He also has experience in misfeasance claims (s.212 Insolvency Act 1986), unfair prejudice petitions (s.994 Companies Act 2006), and the unwinding of transactions (transactions at an undervalue, preferences, etc).

Recent instructions and matters on which he has worked include:

- *Melars Group Limited (in liquidation) v East-West Logistics LLP [2020] EWHC 2090 (Ch)*: Winding-up petition where the sole ground in opposition was that the debtor's 'Centre of Main Interests' was not the UK, and therefore the English court did not have jurisdiction to wind up the company. Advised on the appeal and related interlocutory matters.
- *Dubai First PJSC v Wright*: Instructed as sole Counsel in an appeal in the High Court regarding a statutory demand for c. £250,000, raising issues of private international law and procedural irregularity.
- *In re: United Motor Spares Limited*: Instructed as sole Counsel to defend a claim by liquidators against the former director/shareholder alleging transactions at an undervalue and misfeasance.
- *Piper v Treneer*: Instructed as sole Counsel in enforcing a charge against a property in circumstances where one of the owners was an undischarged bankrupt who was also subject to a Restraint Order (including the property) pursuant to the Proceeds of Crime Act 2002.
- Sole Counsel in a one-day High Court hearing that raised a novel point of law regarding the proper interpretation of section 271(3)(a) of the Insolvency Act 1986.

- Sole Counsel in an application for an urgent injunction in the High Court to prevent the presentation of a winding up petition which raised issues as to ‘pay when paid’ clauses and the interpretation of the term “construction operations” within the meaning of the Housing Grants, Construction and Regeneration Act 1996.
- Advising on certain clauses in the JCT standard building contract w/o quantities (2011 edition) and the consequences of the insolvency of a counterparty.

## INTERNATIONAL ARBITRATION

Joe-han has experience in a range of international commercial arbitrations, including those held under LME, SCC, ICC, UNCITRAL, and LCIA rules.

Recent instructions and matters on which he has worked include:

- *LME Arbitration*: Acted as sole Counsel in an LME arbitration concerning the sale of zinc ingots raising issues as to conditions precedent, letters of credit, and hedging losses. A jurisdiction challenge was defeated (with costs) in April 2020, and the Tribunal awarded a substantial sum to the Claimant following a two-day hearing in March 2021.
- *DIFC-LCIA Arbitration*: Advising on an ongoing DIFC-LCIA arbitration concerning three major infrastructure projects in the UAE with c. US\$270 million in dispute.
- *SCC Arbitration*: Allegations of asset-stripping of a company, raising issues as to the validity of a contract, sham trusts, breach of fiduciary duty, and corporate capacity.
- *ICC Arbitration*: Representing an Italian corporation in an ICC arbitration arising out of an oil and gas dispute in Africa, involving allegations of misrepresentation and breach of contract.
- *UNCITRAL Arbitration*: A dispute regarding the termination of agreements relating to international payment systems, raising issues as to variation and breach of contract.
- *LCIA Arbitration*: A dispute arising out of the collapse of a long-term JV between a Fortune 500 company and its local partner in an emerging market economy, raising issues as to privilege, contractual interpretation, and breach of contract.

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