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Lenders Claims



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Lenders Claims Experience

Forum barristers have considerable expertise in dealing with a wide range of enforcement litigation for lenders who have outstanding unsecured debts. We frequently act for banks, asset-based lenders, financial intermediaries and group investment platforms.

From assisting with issuing statutory demands to representing lenders in County and High Court trials, Forum barristers have amassed considerable experience in successfully defeating a very wide range of arguments and claims put forward by debtors and guarantors in resisting the repayment of outstanding debts to lenders at summary judgment or trial if matters cannot be settled.

Forum barristers can provide representation from the start all the way through to enforcement of judgments against debtor companies and the guarantors including applications for possession and sale. We proactively advise lenders on the tactical use of summary judgment and strike-out thereby saving time and unnecessary costs in appropriate cases.



Recent Lenders Claims Cases

Liberty Leasing Ltd v Teasdale, Scragg [2023] County Court.

Acting for an asset-based lender against defendants under personal guarantees. Currently awaiting judgment following a 2-day trial. The primary issues were: (1) whether an asset-based lender under a hire purchase agreement owes a duty to obtain a reasonable valuation of the goods for the purposes of crediting the value of the goods against the outstanding balance under the agreement and (2) whether the equitable duty upon a secured party to obtain a reasonable price upon the sale of the security applies to a lender under a lease purchase agreement.

Tempus Capital v Jewell [2023], High Court, Business List (ChD).

Currently acting for the lender in enforcing an order for sale. The matter is presently stayed pending the Defendants making an application in the KBD to set aside the default judgment on which the charging order is based.

Funding Circle Ltd / Azzurro Associates Ltd v Cobb [2023] County Court.

Acted for the successful claimants obtaining summary judgment for sums due under a personal guarantee of defaulted corporate borrowing. The case concerned whether a guarantor's notice to terminate the guarantee took effect to terminate all liabilities under the guarantee or only to crystallise the floating nature of the guarantee liability (cf National

Westminster Bank plc v Hardman [1988] F.L.R 302 and Bank of Credit and Commerce International SA (In Liquidation) v Simjee [1997] CLC 135).

Fundingsecure Ltd (In Administration) v Mr Reginald Gerz and the Official Receiver [2023], County Court.

Acted for the lender (in administration), and successfully resisted an application to suspend a warrant of eviction.

Funding Circle Ltd v Maviswood Limited and Maureen Stewart [2023], County Court.

Acting for the lender to recover sums due pursuant to a personal guarantee given by Maureen Stewart in a summary judgment and strike-out application to strike-out the defence and counterclaim which denies liability for the outstanding debt on the basis that the lender failed in its duty of care to prevent an APP fraud conducted on the Defendants when they sought to pay the outstanding debt and the funds were diverted.

Lendy Ltd and Saving Stream Security Holdings Ltd v Mr Victor Leslie Paul Phillips [2023], High Court King's Bench Division.

Acting for the claimants in a claim for £2m arising from a loan guaranteed by the Defendant. The Defendant has asserted the defences of undue influence and duress. Successfully obtained an order for non-party disclosure pursuant to CPR 31.17. Awaiting trial.

One Savings Bank plc v Great Northern Homes Ltd [2023], County Court.

Acted for the lender and successfully obtained a possession order for a terraced house in Manchester. The case was unusual in that it was alleged that the terraced house had been combined with its neighbours, and that a number of persons were in occupation of the 'combined' house, including the former director of the Defendant company, who also allegedly suffered from mental capacity difficulties.



Recent Lenders Claims Cases

Azzurro Associates Limited v Mohammad Shazad Aksar [2023], County Court.

Acting for the lender in a trial for sums due under a personal guarantee of a defaulted company loan after successfully obtaining summary judgment in respect of the Defence. The Defendant made a counterclaim asserting that he had suffered loss from an alleged error in reporting to credit reference agencies. Settled the matter advantageously for the lender.

Lendy Ltd and Saving Stream Security Holdings Ltd v Omoruyi [2022] High Court, (KBD).

Acted for the successful claimants in claims for £3.7m arising from a bridging loan. The Defendant had made counterclaims alleging that Lendy's employee, partner or agent had made fraudulent misrepresentations and that the claimants were also liable for the receiver's sale of a secured property, which was claimed to be at a £1.2m undervalue.

Azzurro Associates v Joy [2022] County Court.

Acted for the successful claimant at a 2-day trial for sums due under a personal guarantee of defaulted corporate borrowing. The case concerned whether the terms of the guarantee had been varied by a manuscript amendment made by the guarantor at the time of execution, and whether the guarantee was enforceable against the lender due to it being on notice of misrepresentations made by a third party.

One Savings Bank plc v Syeda [2022], County Court.

Acted for the lender and successfully obtained a possession order. The Defendant had pleaded a defence including relying on estoppel, however the court accepted that the defence disclosed no substantial grounds to dispute the claim and granted a possession order summarily.

GFS 1 Limited v Mountain [2022], County Court.

Acted for the lender and successfully resisted an application to suspend a warrant of eviction in relation to a Grade I listed manor valued at c.£4m.

Funding Circle Ltd v Mark Steven Finch and Linda Finch [2022], County Court.

Acted for the lender in a claim for sums due under a personal guarantee in respect of a defaulted company loan and successfully resisted the Defendants challenge over the validity of the assignment from the First Claimant to the Second Claimant by successfully obtaining summary judgment in favour of the lender.

Credit Capital Corporation v Watson [2021] EWHC 466 (KBD).

Acted for the successful claimant during an 8-day remote trial (and various follow-on hearings) arising from an unpaid bridging loan. Freedman J upheld the claims for unpaid sums of c£1.25m. In dismissing the defendant's counterclaims of an unfair credit relationship under the Consumer Credit Act 1974, the case illustrated that a lender may use strong language in reminding a borrower of their precarious position under a defaulted loan agreement and the lender's rights to take enforcement action, without incurring potential liability under CCA 1974.



Key Contacts



Lloyd Maynard
Barrister

lmaynard@forumchambers.com

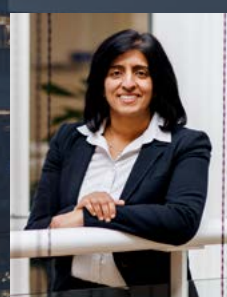
O: +44(0)20 3735 8070



Philip Currie
Barrister

pcurrie@forumchambers.com

O: +44(0)20 3735 8070



Ruhi Sethi-Smith
Barrister

rsethi-smith@forumchambers.com

O: +44(0)20 3735 8070



Clyde Darrell
Barrister

cdarrell@forumchambers.com

O: +44(0)20 3735 8070



Jonathan Lester
Barrister

jlester@forumchambers.com

O: +44(0)20 3735 8070



Iain Shipley
Barrister

ishipley@forumchambers.com

O: +44(0)20 3735 8070



Michael Phillis
Barrister

mphillis@forumchambers.com

O: +44(0)20 3735 8070




Conor Fagan
Senior Clerk


cfagan@forumchambers.com


O: +44(0)20 3735 8070

M: +44(0)7951 686233




 +44(0)2037358070

 clerks@forumchambers.com

 forumchambers.com

 1 Quality Court, Chancery Lane,
London, WC2A 1HR

 [forumchambers](https://twitter.com/forumchambers)

 [forum-chambers](https://www.linkedin.com/company/forum-chambers)