

Fintan McShane

Personal information

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General Information

Year of call: 2001

Academic History

University of Glasgow: LLB (Hons) in Public Law
University of Glasgow: Diploma in Legal Practice
University of Glasgow: PhD.
Tutor in Public Law (Administrative Law), University of Glasgow 1992-97

Areas of Practice and Interest

Fintan has a broad based civil practice. He has particular interest in and recent experience of cases involving the following areas of law:

Commercial Law
Constitutional &
Administrative Law
European Law
Negligence
Personal Injuries
Professional Negligence
Property (moveable and heritable)

Professional Experience

Fintan has appeared in cases in the Inner and Outer House of the Court of Session, as well as in the High Court of Justiciary and the Sheriff Court. In the course of doing so he has appeared in both ordinary and commercial actions in the Court of Session as well as proceedings for judicial review. His practice has encompassed instructions to appear and advise on a broad range of work, which has included administrative and constitutional law, bankruptcy and insolvency, commercial, contract, defamation, European law, fatal accident enquiries, maritime, partnership, property, professional negligence, personal injuries, unjustified enrichment and succession. He also retains an interest relating to matters of public procurement as a result of postgraduate research on that subject. **Cases**

Clark v Hope 2006 SCLR 106 - Enforcing agreement to settle an action, arising from a dispute concerning the mandate of counsel to do so.

Dodd v Southern Pacific Personal Loans Ltd 2007 CSOH 93 - Reduction of standard security on the ground of forgery refused after proof as the pursuer held to have authorised the forgery

1st Care Ltd v Care Commission 2007 SLT (Sh Ct) 27 - Regulation of care homes

Glasgow City Council v Craig 2009 SLT 212; [2009] 1 BCLC 742 - Personal liability of director under Sections 216 and 217 of the Insolvency Act 1986 limited to an amount proportionate to the use of the prohibited name by the successor company

Sinclair v Morrison [2009] CSOH Si (For Defender) Workplace accident. Defender absolved after proof
Clydesdale Homes Ltd v Quay [2009] CSOH 126 Boundary dispute

Monaghan v Buchanan & Others [2010] CSOH 69 - Solicitors' negligence arising from failure to raise an action within the 20 year prescriptive period contained in Section 7 of the Prescription & Limitation (Scotland) Act 1973

Martens v James Aird & Sons [2010] CSOH 126 Action for reduction of a Sheriff Court decree

Durkin v DSG Retail Ltd & HFC Bank plc [2010] CSIH 49 - Rescission not available against creditors in terms of Section 75 of the Consumer Credit Act 1974; issue of creditor bank's liability for negligence in respect of representations made to credit reference agencies (Appeared for the creditor bank)

Publications

Crown Privilege in Scotland (Part I) 1992 Juridical Review 256

Crown Privilege in Scotland (Part II) 1993 Juridical Review 41

CCT Guidance, Assets and Abdication of Discretion 1997 Public Procurement Law Review 114