GOUGH SQUARE CHAMBERS

TRADING LAW BULLETIN

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FINANCIAL SERVICES

Sale and Rent Back. The Respondents entered into a sale and rent back of their freehold property with a company. The Appellant bought the property from the company and obtained possession for non-payment of rent. The Court of Appeal held that the right to recover property and money under S.26 of FSMA did not apply to a successor in title (*Dhillon Orchard* [2026] EWCA Civ 346).

Unfair Relationships. The Supreme Court held that there was no limitation period for a claim under Section 140A of the CCA 1974 (*THG v Zedra Trust Co* [2026] UKSC 6)

BNPL. The FCA issued a policy statement on 11 February 2026.

Credit Hire. The Court of Appeal made a non-party costs order (*Tescher v Direct Accident Management Ltd* [2026] 2 ER 462).

Bank Loans. The High Court dismissed of a claim against a bank concerning the alleged fraudulent opening of a loan account. The couple knew the account had been opened in the wife's name in 2013. This was upheld by the Court of Appeal. It appears that an employee of the bank had fraudulently opened the loan account. (*James v HSBC UK Bank PLC* [2026] EWCA Civ 88).

Unfair Relationships. The Court of Appeal considered Section 140A (5) and the position of customers who alleged they were "mortgage prisoner" in respect of SVR (*Breeze v TSB Bank plc* [2026] EWCA Civ 32).

Identify of Mortgagors. A third party was used by owners of a property to apply for a mortgage. Therefore he could not have a relevant interest for the purposes of the Administration of Justice Act 1970 (*Ashrafi v Belmont Green Finance Ltd* [2025] EWHC 3247 (Ch)).

Professional Negligence. The Court of Appeal upheld the striking out of claims by former clients against solicitors that they had not been advised that investment schemes (relating to hotel rooms etc.) but not on issues such as the viability of the scheme (*Afan Valley Ltd v Lupton Fawcett LLP* [2026] EWCA Civ 2).

FCA – Naming. The Court has published its reasons for dismissing an application for judicial review by a CMC in respect of the FCA's decision publicly to name it as a business under investigation. The reasons included using exaggerated figures as to expectations for motor finance claims (*R (Claims Protection Agency Ltd) v FCA* [2025] EWHC 2615 Admin).

Commission. By consent of the Supreme Court gave judgment for the Claimants in an energy commission case (Expert Tooling v Engle Power Ltd 29 September 2025).

Appointed Representatives. The Supreme Court has reserved the decision of the Court of Appeal regarding the responsibilities for AR's (*KVB Consultants v Jacob Hopkins Second Charges* [2026] UKSC 11).

SALE OF GOODS

Credit for Use. The question of the "use" of a car was considered in Scotland (*Annas v Santander Consumer Finance* [2026] SC GLA 16).