

WARREN BANK

Year of call: 2014

Qualifications: Bachelor of Commerce (Economics and Business Finance), LLB

Clerked by: Brandon Singh

AREAS OF EXPERTISE:

Arbitration Banking & Finance Property Commercial
Litigation Insolvency Technology & Construction



Profile

After almost 20 years of practice at the Johannesburg Bar as an Advocate of the High Court of South Africa, Warren transferred to the UK in early 2016 to continue and develop his practice here. During his more than two decades in practice Warren has enjoyed a wide-ranging practice encompassing all aspects of commercial litigation, involving a fair amount of cross-border and international disputes.

Warren has extraordinary advocacy experience and is equally comfortable in the High Courts of several jurisdictions but also of advocacy before several Appellate Courts. He is frequently instructed in High Court disputes involving complex property and commercial leasing disputes, as well as banking and financial services in the telecommunications industry. In South Africa, Warren was frequently instructed on behalf of some of the largest gold and platinum mining companies in the world to advise and act in large-scale industrial disputes and developed a niche employment law practice focusing on collective bargaining, dismissal, whistleblowing and redundancy disputes. In 2013 he was invited to be an Acting Judge (equivalent to a Deputy High Court Judge) of the Labour Court of South Africa which he held until his departure for the UK in 2016. Warren has written several important reported judgments in judicial review matters such as *Concor Holdings (Pty) Limited v Mazibuko* (<http://www.saflii.org/za/cases/ZALCJHB/2013/141.html>) which was upheld by the Labour Appeal Court and *Hon Shin Enterprises v National Union of Metalworkers of SA* (<http://www.saflii.org/za/cases/ZALCJHB/2013/335.html>). Warren has substantial experience and familiarity with urgent High Court applications, injunctions and freezing orders in all areas of commercial, insolvency and property law.

Warren has extensive experience of cross-border litigation and enjoys the interplay of different legal systems. He was instructed to appear in a series of urgent applications in the Botswana High Court on behalf of a Belgian diamond trader involving the hostile takeover of a diamond trading company, in the midst of simultaneous litigation in Europe, working as part of a team with Belgian lawyers. He currently acts for and advises South African multinational companies in UK litigation matters.

Warren's background as a barrister and part-time judge in South Africa, and his subsequent transfer to the UK, have afforded him substantial experience and a strong interest in the study and practice of comparative law. He is particularly interested in how common law systems interact and the enforcement of foreign judgments. He has been editor of the chapter on South Africa in *Enforcement of Foreign Judgments* (Kluwer Law International BV, Netherlands) for the past eight years.

Year of Call: 1997 (South Africa)

Year of Call UK: 2014 (Gray's Inn)

Areas of Expertise

Arbitration

Warren has been instructed as counsel in commercial and construction arbitrations for almost two decades. He has also been appointed as an arbitrator on several occasions, including several appointments by the South African Bargaining Council for the Diamond Industry in industrial employment disputes and has also been appointed to chair internal disciplinary enquiries and appeals.

Soon after his arrival in England he was instructed in an International Arbitration dispute in the LCIA where he was led by Ed (now Mr Justice) Pepperall QC on behalf of BVI investors in a dispute concerning loans for the financing of gold mines in Africa.

Warren has maintained his links with the Arbitration community in South Africa and attends international conferences and meetings in this area. He is considerably well-placed to utilise his knowledge of Southern African law and practice in disputes heard in England and is likewise able to leverage his English qualifications and experience to assist in dispute resolution in Africa that involves elements of English Law or UK litigants or property.

During the recent "lockdown" conditions Warren has recently participated in a commercial mediation process via Zoom and is familiar and at ease with being able to conduct such processes online going forward.

Banking & Finance

Warren has many years' experience in acting on behalf of banks in contested litigation enforcing overdrafts and mortgages and other securities, and also on behalf of litigants facing such challenges. He currently acts for several large UK banks in various ongoing banking and property litigation.

Warren is frequently instructed by a major banking group in litigation arising from the regulatory framework in PPI cases.

Property

Warren has gained considerable experience over the past few years in Property litigation. He currently advises several Borough Councils, Local Authorities, property developers and management companies in property disputes. He has also advised on and appeared in First-tier Property Tribunal matters. He has gained considerable experience in such areas as relief from forfeiture applications and opposed claims for possession. He often acts for LPA Receivers in property disputes.

Warren successfully represented a tenant in a complex dispute involving extension of leasehold interests under the Leasehold Reform, Housing and Urban Development Act, 1993 and a charitable housing trust and obtained judgment in his client's favour. He also successfully represented the same client in the subsequent Appeal hearing.

He has more recently acted in a multi-track dispute between two commercial landlords in injunction proceedings regarding a claim to a prescriptive right of way in an industrial park.

Commercial Litigation

Warren has considerable experience being instructed in disputes in the commercial leasing, building construction, banking and financial services, and the telecommunications sectors. He is regularly instructed in all aspects of applications under the CPR such as summary judgment, set aside and strike-out applications.

Warren has experience of commercial and insolvency matters in the Rolls Building, RCJ, including a copyright injunction matter.

Warren's years of extensive trial experience in multi-day trials over two decades have enabled him to gain the confidence of clients and solicitors alike in instructing him in trials on all Tracks, as well as Appeals.

Insolvency

Warren is regularly involved in personal bankruptcy and corporate insolvency litigation, having gained extensive experience in this field in South Africa, where he was regularly instructed by creditors and insolvency practitioners in directors' misfeasance claims, transactions at undervalue, and the breach of fiduciary duties. Some of his recent work involves advising and acting for former directors in personal liability claims under s217 of the Insolvency Act, 1986, applications to rescind winding-up orders, setting aside of statutory demands, and actions on behalf of liquidators to recover dividends paid to former directors under s238. Warren is also frequently instructed on behalf of Administrators seeking an extension of their powers or for orders against former directors.

His insolvency work has extended to the Isle of Man where he was instructed in an appeal against a judgment of the High Court of Justice, involving the decision of a liquidator to sell a superyacht at a loss, and the subsequent petition to the Judicial Committee of the Privy Council.

Warren was recently successful in having the prosecution of an alleged insolvency offence against a bankrupt withdrawn by the Crown based on his written submissions.

Technology & Construction

Warren has gained invaluable experience in technology and construction matters, with a particular focus on disputes involving mobile telephone operators, call centres, and point-of-sales computer technology. He has advised on and conducted claims involving negligent home building and cavity wall insulation, and also in several disputes involving hotels and building contractors, and has conducted several trials in the Technology and Construction Court.

Memberships

Gray's Inn

North Eastern Circuit

Member of the British Irish Commercial Bar Association (BICBA)

Associate member of R3 -Association of Business Recovery Professionals

Chancery Bar Association.

Previously, various sub-committees of the Johannesburg Bar Council.

Gray's Inn Moot assistant trainer

Gray's Inn Chorus

Publications

A new dawn for international arbitration in South Africa? - May 2017 - Thomson Reuters Arbitration Blog. <http://arbitrationblog.practicallaw.com/a-new-dawn-for-international-arbitration-in-south-africa/>

Should I stay or should I go? (Kean v Lucas (as liquidator of J&R Builders (Norwich) Ltd)) -November 2016 - LexisNexis R&I Blog. How should a liquidator handle a request for his removal under section 177 of the Insolvency Act 1986 (IA 1986) and the Insolvency Rules 1986 (IR 1986)?

Validity of appointment and costs of administration—application of Duomatic principle (Re BW Estates Ltd, Randhawa v Turpin) LexisPSL Restructuring & Insolvency Monthly Highlights - September 2016.

"Commercial Bribery: Reconsidering the Juridical Basis for the Principal's Remedies against the Briber" published in 1997 (60) THRHR at 461-477 (South Africa).

Since 2012 - Warren has been editor of the South African Chapter (Chapter 23) for the international legal publication *"Enforcement of Foreign Judgments"* published by Kluwer Law International, Amsterdam and bi-annual updates.

Appointments

2013 - 2015 Appointed as Acting Judge of the Labour Court of South Africa (4 appointments)

Qualifications

2016 SEC International Advanced Advocacy Training Course - Keble College, Oxford

2014 Bar Transfer Test - BPP University, London. Obtained highest mark (97%) in Oral Advocacy

1997 Admitted as Advocate of the High Court of South Africa and also admitted in Botswana and Namibia

1997 LLB (University of South Africa) - 9 individual subject distinctions including International Trade and Shipping Law, Conflict of Laws and Transnational Business Law

1996 Juta Law Prize for Best LLB Dissertation

1990 Bachelor of Commerce (Economics and Business Finance) -University of the Witwatersrand, Johannesburg

Recommendations

Legal 500 2020: Commercial Litigation: "Warren is very attentive to detail and meticulous in planning a coherent strategy for the entire litigation process up to and including trial. He is also a strong advocate from the Courtroom to mediations and settlement meetings.'