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FOR THE CHALLENGE

UK COMMERCIAL DISPUTES 2025 YEAR IN REVIEW

As 2025 draws to a close, this newsletter reviews key developments that have shaped the commercial disputes landscape over the past year and offers our views on significant English court decisions. We then look ahead to the trends likely to define 2026. We also reflect on another productive and successful year for Hausfeld's Commercial Disputes team.

HOW DID 2025 CHANGE THE LEGAL LANDSCAPE?

Financial services

Financial services disputes remained central to the UK's commercial litigation landscape in 2025. The long-awaited Supreme Court ruling on the motor finance scandal has clarified a long-standing area of uncertainty, with wider implications for lenders and intermediaries. Meanwhile, cases involving Authorised Push Payment (APP) and other payment frauds continue to rise amid digital banking pressures and a challenging economy. Courts are still grappling with the scope of banks' *Quincecare* duty, and recent judgments highlight ongoing scrutiny of financial institutions. In this Year in Review, we explore how these developments are shaping the future of financial disputes.

Motor Finance litigation

In August 2025, the Supreme Court delivered a landmark ruling on motor finance commission litigation, addressing the legality of undisclosed (or part-disclosed) commissions paid by lenders to car dealers. The Court held that car dealers do not owe fiduciary duties to consumers, relieving lenders of liability for bribery or dishonest assistance. However, it upheld Marcus Johnson's claim under Section 140A of the Consumer Credit Act 1974, finding the lending relationship "unfair" due to the size of the hidden commission and misleading representations by the dealer. The decision carries wide implications for the motor finance industry and beyond, clarifying the legal boundaries regarding commission arrangements and consumer protection.

On 7 October 2025, the FCA published Consultation Paper 25/27, setting out plans for a Motor Finance Consumer Redress Scheme. The Scheme aims to compensate customers who were treated unfairly under regulated motor finance agreements taken out between 6 April 2007 and 1 November 2024, where lenders paid commissions to brokers. The coming year will see motor finance claims remain in the spotlight, along with other claims for undisclosed or partially disclosed commission.

Holding financial institutions to account

A number of APP fraud cases across the High Court have again this year highlighted the evolving duties of banks, both in preventing fraud under the *Quincecare* duty and in recovering customers' funds after relevant losses:

- In March 2025, the High Court considered the claim in *Santander UK plc v CCP Graduate School Ltd* [2025] EWHC 667 (KB), addressing whether a receiving bank owes a tortious duty to a non-customer to recover funds lost to APP fraud. CCP Graduate School transferred over £400,000 to an account at Santander, believing it was paying a legitimate supplier, and sought to hold Santander liable after discovering the fraud. The Court ruled that Santander owed no duty of care to CCP, as there was no contractual relationship. It clarified that any 'retrieval duty' from *Philipp v Barclays Bank UK plc* [2023] UKSC 25 applies only to a bank's own customers. The judgment noted that imposing such a duty on receiving banks would be operationally unworkable and could force them to act against their customers' instructions.
- In April 2025, the High Court allowed victims of APP fraud to pursue a derivative claim against payment services provider Moorwand Ltd for breaching its *Quincecare* duty. Claimants had been defrauded of £160,000 transferred to an account at RND Global Ltd, which was emptied by fraudsters. The Court found that Moorwand failed to spot clear red flags during account setup and transactions, breaching its duty to refrain from executing payments when fraud is suspected. Hamblin & Anor v Moorwand Ltd and RND Global Ltd [2025] EWHC 817 (Ch) demonstrates the expanding reach of *Quincecare* duties to encompass PSPs, highlighting both risks for providers and avenues for victims seeking redress in APP fraud cases.
- In *Dawn Barclay-Ross v Starling Bank Limited* [2025] EWHC 2158 (KB), the High Court provided helpful guidance on a sending bank's duties after an APP fraud. While most of the customer's claim was struck out, the Court, notably, accepted it was arguable that a bank must act promptly and consult with its customer about recovery efforts once notified of a potential fraud. Claims based on the voluntary CRM Code and for distress were dismissed, and the claim was later discontinued, but the judgment leaves open the possibility of a limited post-payment duty on banks in similar situations.

Outside the APP fraud context, *Macdonald Hotels Ltd v Bank of Scotland Plc* [2025] EWHC 32 (Comm), another case decided this year, clarified how courts assess banks' exercise of contractual discretions. The High Court confirmed that when a loan agreement allows a lender to approve or refuse borrower requests, such as selling assets or granting security, the lender must act in good faith and not capriciously. The Court found that there was an implied duty on the lender not to refuse consent *"for reasons unconnected with its commercial best interests" or "when no reasonable entity in its position could have refused."* In this case the lender was found not to have breached that duty by prioritising its own commercial interests. However, we anticipate that more claims are likely to be brought on this basis in future.

A significant development in the law of deceit occurred in *Credit Suisse Life (Bermuda) Ltd v Ivanishvili* [2025] UKPC 53, where the Privy Council confirmed that claimants need not prove contemporaneous "conscious awareness" of a representation to establish reliance.

The proper test remains whether the representation caused the claimant to hold a false belief or assumption that played a real and substantial part in inducing the decision, even if the claimant did not consciously register it at the time. The judgment expressly disapproves of the awareness requirement that had emerged in some High Court decisions, removes an unnecessary evidential hurdle, and realigns the law with longstanding authority on implied representations. Although Privy Council decisions are not binding on English courts, this clear and carefully reasoned clarification is likely to be highly persuasive in fraud and misrepresentation cases, particularly in complex financial disputes where representations are implied within broader transactional contexts. Where a representation is genuinely ambiguous, claimants will still need to show that they adopted the meaning the defendant intended and knew to be false. The judgment also restores focus on factual causation in inducement and reliance, providing clarity for claimants in a modern, digital context where decisions may be made by machines or algorithms, and is expected to have significant implications for future fraud, misrepresentation, and FSMA s.90A claims.

Finally, in March 2025 we received judgment on a Hausfeld claim in which we acted for the All-Party Parliamentary Group on Fair Banking, challenging the lawfulness of the FCA's decision not to establish a mechanism of redress for bank customers excluded from the FSA's IRHP redress scheme, following the lessons-learned review of the scheme by John Swift KC. Permission for judicial review was granted in June 2023 ([2023] EWHC 1616), but the judgment following the December 2024 trial ([2025] EWHC 525) did not allow the review. The Court found that Mr Swift KC's review and its findings were the product of considerable work and reflection, and that he was an independent and distinguished expert, but that there was scope for reasonable disagreement with his findings. It therefore held that the FCA's decision to take no further action was not irrational and did not meet the threshold for intervention by way of judicial review. The judgment reinforces the FCA's wide discretion as to redress schemes, an issue that is likely to remain topical in 2026 as the motor finance scheme is established.

High value and complex cross-border disputes

2025 also saw significant developments in large-scale, multi-jurisdictional disputes, with English courts continuing to play a central role in resolving high-value, complex claims, including the Russian aircraft lessor insurance proceedings and the Danish tax refund litigation (the *SKAT* proceedings).

Aviation

In June 2025, the High Court issued a landmark judgment in a high-value aviation insurance dispute involving over 400 aircraft valued at more than USD 10 billion. The case arose from the Russian government's export ban and sanctions following the Ukraine conflict, which left lessors permanently deprived of their aircraft from 10 March 2022. The Court upheld claims under war risk policies, finding that governmental action was the proximate cause of the losses. This precedent confirms broad coverage for insured parties and signals substantial recoveries for lessors in a dispute of unprecedented scale. The Russian aircraft lessor policy claims are part of a broader wave of Commercial Court proceedings, with operator policy claims proceeding separately and a major trial scheduled for October 2026.

Hausfeld remains actively instructed by both airlines and lessors on a range of aviation-related disputes, with new matters continuing to arise amid increasing technical issues (with Airbus' A220 and A350 fleets particularly affected), supply chain disruption, geopolitical risks and challenging economic conditions.

Tax

The long-running SKAT litigation, involving claims by the Danish tax authority (SKAT) over alleged fraudulent dividend tax refunds, concluded in October 2025 with the English Commercial Court dismissing the claims in full. SKAT had sought to recover around £1.4 billion in refunds obtained between 2012 and 2015 through a complex cum-ex style scheme. The Court held that, although the refunds were invalid under Danish law, SKAT had not been misled and therefore could not recover the funds from the defendants. The judgment confirmed that SKAT bore the evidential burden to prove reliance and loss, which in the circumstances of this case SKAT had been unable to do.

Together, these decisions highlight the enduring appeal of the English courts as a forum for complex, high-value international disputes, a trend we expect will continue in 2026 and beyond.

Group litigation

Group litigation in the UK showed no signs of slowing in 2025. The UK litigation landscape has continued to be shaped by the bringing of group claims, including in relation to consumer mis-selling, securities disputes and ESG-related claims, with multiple claimants grouping together to bring claims both under GLOs and as CPR 19.8 actions.

GLOs

Amid this growth, one of the most closely watched proceedings, the Pan-NOx emissions litigation — encompassing multiple group claims arising from the Dieselgate scandal — entered a pivotal stage in October 2025, with the start of the Liability Trial now underway. Hausfeld acts for thousands of claimants in the Mercedes Group Litigation and is one of five firms appointed to the Steering Committee under the Group Litigation Order. The Liability Trial is set to determine whether Mercedes and other lead manufacturers' vehicles included prohibited defeat devices designed to cheat emissions tests. The Liability Trial, covering Mercedes and other chosen lead manufacturers, lasts for eight weeks, with further three weeks reserved for closing arguments in March 2026. If the claimants succeed, the Quantum Trial will take place in October 2026.

Of broader relevance was a judgment in July, in which the Court ordered immediate public access to previously redacted pleadings, witness statements, and other documents detailing how major car manufacturers allegedly used prohibited defeat devices in their vehicles. The Court dismissed the defendants' arguments over commercial harm, finding no substantive evidence and stressing that much of the data was already in the public domain. The ruling underscored the paramount importance of open justice and public understanding in cases involving credible allegations of serious misconduct affecting over one million claimants. As a result, all confidentiality measures restricting access to pleadings were lifted ahead of the Liability Trial, ensuring transparency and meaningful public scrutiny of the issues at stake. This also means that most, if not all, of the Liability Trial will take place in open court without reporting restrictions.

Representative actions (CPR 19.8)

The CPR 19.8 representative action regime continues to evolve, with recent cases shaping its scope and application. Following the Supreme Court's *Lloyd v Google*, which clarified eligible claims, and *Commission Recovery Limited v Marks & Clerk* LLP, which marked a breakthrough as the first commercially funded claim to proceed successfully under CPR 19.8, recent judgments have further clarified the regime. While the procedure offers a streamlined route for multi-claimant litigation, courts remain strict on the "same interest" requirement and jurisdictional limits.

This was evident in the Court of Appeal's judgment in *Wirral Council (as Administering Authority of Merseyside Pension Fund) v (1) Indivior Plc & (2) Reckitt Benckiser Group Plc* [2025] EWCA Civ 40, where the representative action was struck out, emphasising that claims must align closely in interest and be suitable for the mechanism rather than ordinary multi-party proceedings. These cases highlight the importance of careful case framing and procedural hurdles, providing guidance for structuring future CPR 19.8 actions.

Securities litigation

The UK remains a dynamic forum for securities litigation. Building on the momentum of recent years, this year has seen the courts continue to refine the scope and procedural framework of these claims, addressing complex questions around reliance, causation, and investor standing.

Reliance remains a critical issue in s90A/Schedule 10A FSMA claims, particularly for passive investors, and has been a focal point in recent high-profile cases. The decision in *Allianz v Barclays Plc* [2024] EWHC 2710 (Ch) in October 2024 set a narrow test for establishing reliance under section 90A FSMA, with the High Court striking out claims by 241 institutional investors for failing to prove reliance on the alleged misstatements. These proceedings were later dismissed following a confidential settlement in December 2024, after permission to appeal was refused. However, in March 2025, the High Court in *Persons Identified in Schedule 1 v Standard Chartered plc* [2025] EWHC 698 (Ch) signalled potential change, questioning the narrowness of the approach to reliance adopted in *Allianz v Barclays*. The Court refused to strike out the common reliance and dishonest delay claims, ordering that these issues should be considered at trial, now listed for October 2026. Although this judgment is under appeal, with Standard Chartered plc granted permission to appeal by the Court of Appeal in July, the case could mark the beginning of a shift in how liability under s90A is assessed going forward. The Privy Council's recent clarification on reliance in *Credit Suisse Life (Bermuda) Ltd v Ivanishvili* [2025] UKPC 53 may further influence FSMA claims by emphasising factual causation over conscious awareness.

Hausfeld continues to represent leading institutional investors in claims against London listed companies under FSMA.

Supreme Court

The Supreme Court delivered important decisions across this year, including refining the law on fiduciary duties, insolvency, and fraudulent trading. In *Rukhadze v Recovery Partners GP Ltd and another* [2025] UKSC 10, the Court reaffirmed the strict "no-profit" rule for fiduciaries, rejecting any "but-for" causation defence. Fiduciaries must account for benefits earned from their position, even if they might otherwise have earned them lawfully.

Turning to the insolvency sphere, in *El-Husseiny v Invest Bank PSC* [2025] UKSC 4, the Supreme Court clarified the meaning of "transaction" under s423 of the Insolvency Act 1986, expanding the types of transactions that can be challenged. It confirmed that s423 applies even where a debtor causes a company it controls to transfer an asset at undervalue to defeat a creditor, even if the asset is not owned by the debtor themselves.

In another important insolvency decision this year, in *Bilta (UK) Ltd v Tradition Financial Services Ltd* [2025] UKSC 18, the Supreme Court clarified the scope of s213 of the Insolvency Act 1986, confirming that liability for fraudulent trading is not confined to directors or insiders, but can extend to third parties who knowingly participate in a company's fraudulent trading. This decision has broadened the scope for potential claims against professional advisers and intermediaries.

Arbitration

Nearly three decades after the 1996 Act, a new English Arbitration Act came into force on 1 August 2025 introducing targeted reforms designed to streamline proceedings, enhance certainty, and reinforce London's status as a leading global arbitration hub. Key changes include a default rule that the law of the seat governs arbitration agreements, a simplified process for jurisdictional challenges, expanded court support for arbitration, and further codified arbitrators' duties. The Act has been well received by the international arbitration community as an updating measure and in that sense is likely to contribute to London remaining a leading arbitration centre globally.

Alongside the Act, this year saw a series of important arbitration developments, including evolving practices and trends as well as key rulings reflecting the English courts' continued pro-arbitration approach. In yet another example of how rarely jurisdictional challenges to arbitral awards succeed in the English courts, *Energyen Corporation v HD Hyundai Heavy Industries Co Ltd & Anor* [2025] EWHC 1586 (Comm) examined the impact of contested corporate restructuring on arbitration awards. In this case, a Korean corporate restructuring had impacted one of the parties before the commencement of the arbitration. The unsuccessful party in the arbitration appealed on the basis that (in the context of the restructuring) the successful party was not a party to the relevant contract, did not commence the arbitration and also that there had been no valid transfer to the successful party in the arbitration of the right to arbitrate. The Commercial Court dismissed this challenge to the ICC award, in a decision underscoring the importance of considering the potential impacts of restructuring on arbitral proceedings.

Tech disputes

A growing number of tech disputes are being resolved in arbitration and a key development in tech-related arbitration this year was the introduction of Blockchain Expedited Arbitration Rules by the London Court of Arbitration for Mediation (LCAM), launched early in 2025. Designed to address complex Web3 and blockchain disputes, the Rules offer an innovative framework for resolving technology-driven cases efficiently. Recognised at the European Legal Innovation & Technology Awards in May, the initiative underscores the significant potential for arbitration to accommodate the challenges of Web3 disputes in the digital era.

AI

AI is increasingly influencing arbitration, as tribunals and practitioners explore its potential to enhance efficiency, streamline processes, and support decision-making. In 2025, global arbitration institutions and organisations—including CIArb, AAA-ICDR, VIAC, and CIETAC—issued guidelines on AI use, building on 2024 guidance from the Silicon Valley Arbitration & Mediation Center, and the Stockholm Chamber of Commerce. Adding to this momentum, AAA-ICDR launched a pilot AI arbitrator process for low-value, documents-only construction disputes in November 2025, albeit with a human arbitrator reviewing and then issuing the final decision. These initiatives underline a clear trend: AI is moving from theory into practice across global arbitration.

Litigation funding

On 2 June 2025, the Civil Justice Council (CJC) published its final report on litigation funding in UK litigation and arbitration, following a consultation that drew input from lawyers, funders, and policy experts.

The report sets out 58 recommendations to enhance regulation, transparency, and consumer protection. Key proposals include legislation to reverse the Supreme Court's *PACCAR* ruling and a "light-touch" regulatory framework for funders covering capital adequacy, AML compliance, and disclosure – while excluding arbitration funding and rejecting statutory caps on returns. The Government response is awaited, with the recommended *PACCAR*-related legislation not yet timetabled. Enactment in 2026 would be welcome news for claimants, legal advisors and funders.

As well as making its own submission to the CJC, which highlighted the importance of access to justice and the critical role that third-party funding plays in supporting the UK's legal sector and its wider economic contribution, Hausfeld (via partner Ned Beale) led the ICC UK Arbitration & ADR Committee's submission to the CJC addressing the role and regulation of third-party funding in arbitration. The ICC's submission concluded that third-party funding is important to London's international competitiveness as an arbitration hub; that arbitration users typically do not require the same regulatory protections as consumer claimants; and that arbitration institutions already regulate the use of funding in arbitration and are best placed to continue to do so. It therefore argued that arbitration should remain outside the scope of any new regulatory framework. The CJC's report aligned with that position.

HAUSFELD COMMERCIAL DISPUTES TEAM: 2025 HIGHLIGHTS

We are proud to have been recognised once again as a leading force in commercial disputes. In the Legal 500 UK 2026, 24 Hausfeld lawyers were ranked across 7 practice areas, reflecting the firm's depth of expertise, with the Commercial Dispute Resolution team described as being in "*the Champions League of commercial disputes specialists.*" The Chambers UK 2026 guide also recognised Hausfeld for the first time as a Tier 1 firm in their new category 'Dispute Resolution Specialist Firms', placing our core practices—including Commercial and Competition Disputes, Group Litigation, Banking, and Environment—in the top bands, and commending the firm's expertise in managing complex, multi-party, and cross-border cases. 2025 meanwhile saw 12 Hausfeld lawyers featured in the 2025 Lawdragon 500 Leading Global Litigators and 16 Hausfeld lawyers celebrated in the Lawdragon 500 Global Plaintiff Lawyers' Guide. We were also delighted that Co-Head of Disputes Ned Beale was recognised in The Lawyer's Hot 100 for 2025.

Personal perspectives

Across 2025, Hausfeld continued to strive for diversity, inclusivity and collegiality, working as in previous years to learn and improve in order to produce the best results for not just our clients but also the communities we represent. This year we once again explored key themes and developed our understanding of DE&I with important events and publications, with highlights including:

- In March, the Hausfeld Women's Alliance Working Group hosted a lunch workshop in honour of International Women's Day, with female chefs speaking on the role of women in the restaurant industry.
- Our pro bono work was recognised this year, with six Hausfeld lawyers recognised in the Pro Bono Recognition List in April.
- During Summer 2025, we hosted work experience students from a range of backgrounds that are underrepresented in law.
- The Disability Working Group hosted Sign Together UK in September 2025, for an inspiring deaf awareness seminar marking International Day of Sign Languages and International Week of the Deaf.

- In October and November, the firm marked Black History Month by hosting a discussion of the role of the law and lawyers in fighting for racial justice and also by attending the new Nigerian Modernism exhibition at the Tate Modern.
- December saw the Disability Working Group bring in a speaker for an important discussion on carers, focusing on how best we can all support those with caring responsibilities for disabled children, spouses, parents and other dependents.

WHAT'S ON THE HORIZON FOR 2026

2026 is shaping up to be another milestone year for commercial disputes, with major cases and significant procedural developments set to evolve the English commercial disputes landscape.

Access to court documents

The coming year will see a significant move to increased transparency in the UK civil justice system. From 1 January 2026, key documents filed or used in public hearings in Commercial Court and Financial List cases will be made publicly accessible under a new two-year pilot, with extension to other courts in due course if the pilot is successful. Practice Direction 51ZH introduces rules allowing the public to view key litigation documents (including skeleton arguments, witness statement and expert reports), with the aim of both improving transparency and public understanding of litigation proceedings. The initiative is likely to influence how parties approach confidentiality, settlement strategy, and case presentation, with more information about litigation now entering the public domain.

Technology and digital asset disputes

2025 saw continued growth in tech litigation, with crypto and AI at the forefront. We expect these types of disputes to continue expanding and intensifying over the next few years, as both technology adoption and regulatory scrutiny increase.

Crypto

In the crypto space, courts continue to recognise cryptoassets as property capable of supporting proprietary claims and we expect further crypto claims in 2026. This year, the courts emphasised the speculative nature of crypto when calculating damages in *BSV Claims v Bittylicious & Ors* [2025] EWCA Civ 661, while cross-border disputes over international cryptocurrency businesses continued to reach the High Court, testing jurisdictional limits and the reach of UK regulatory authority (*Iankov v Kantchev & Ors* [2025] EWHC 495 (Comm)). The trend in increasing claims of this kind looks set to continue into next year.

Meanwhile, 2026 will also be marked by regulatory activity in this space. In October 2025, the UK FCA filed ongoing civil proceedings against the crypto-exchange HTX (formerly Huobi) for "*unlawfully promoting crypto-asset services*" to UK consumers without authorisation, signalling broader litigation potential for investors and consumers stemming from misleading marketing, fraud, and platform failures. In April this year, the UK Government released draft legislation bringing cryptoassets within FSMA's scope. The draft Financial Services and Markets Act 2000 (Regulated Activities and Miscellaneous Provisions) (Cryptoassets) Order 2025 aims to strengthen oversight and align UK regulation with international standards. It is expected that the new regime will be implemented within 2026 and it is likely that further claims against crypto service providers will follow.

AI

The use of AI tools in legal practice continues to grow, alongside rising concerns about their application. Our *AI for legal professionals* series explores the practical implications for law firms and practitioners, with AI set to become increasingly prominent across the next few years.

Alongside practical adoption, this year saw an increase in AI-related litigation, with UK courts addressing issues around intellectual property, bias in automated decision-making, and contractual liability for AI-generated outputs. In the landmark *Getty Images v Stability AI* proceedings, the Court has had to grapple with the issue of whether millions of Getty's copyrighted images were unlawfully used to train Stability's AI models. In *Emotional Perception AI Ltd v Comptroller-General of Patents*, which reached the Supreme Court in July, judges examined whether artificial neural network inventions could qualify for patent protection — a pivotal case for AI innovation and IP law. Courts also signalled risks for unwary practitioners, including a warning to lawyers from the High Court in R. (*on the application of Ayinde) v Haringey LBC* [2025] EWHC 1383 (Admin) against citing fictitious AI-generated case law, underlining the need for professional oversight as AI becomes more embedded in legal and commercial workflows. The coming year will doubtless see a further increase in AI-related cases, alongside greater practical use of AI in the litigation process.

Securities litigation

FSMA s90/90A securities litigation continues to gather momentum. Recent decisions, including the High Court's stance in *Persons Identified in Schedule 1 v Standard Chartered plc* [2025] EWHC 698 (Ch) case and appellate guidance on representative actions in *Wirral Council (as Administering Authority of Merseyside Pension Fund) v (1) Indivior Plc & (2) Reckitt Benckiser Group Plc* [2025] EWCA Civ 40, together with a growing docket of claims against Glencore Plc, Petrofac Plc, Entain Plc, and others, indicate that this area will remain highly active into 2026.

Looking ahead, we are seeing growing appetite among institutional investors to participate in such claims. This reflects both the increasing viability of FSMA actions and the fact that pursuit of such claims aligns with investment managers' duties and the interests of underlying investors, who increasingly expect engagement and action in response to issues that demonstrate poor corporate governance and erosion of shareholder value.

ESG litigation

ESG litigation in the UK continues to rise, driven by growing investor scrutiny, public awareness, and regulatory focus on environmental, social, and governance risks.

Notable developments in 2025 highlight the expanding scope of climate and environment-related claims in the UK. In an important preliminary-issues judgment in June in the long-running *Alame & Ors v Shell plc* environmental group action, and following a claimant-friendly Court of Appeal ruling at the end of 2024, the High Court allowed legacy-pollution claims by Niger Delta communities to proceed against the UK parent and its Nigerian subsidiary. The judgment confirmed that cross-border environmental and human-rights claims can be heard in England and rejected attempts to strike them out on procedural grounds.

Building on this trend, a claim filed at the end of 2024 against Associated British Foods plc (ABF) on behalf of over 1,700 Malawian villagers is proceeding through the courts. The claim alleges that ABF's flood defences worsened the impact of Tropical Storm Ana, causing deaths and property damage due to inadequate risk management by the UK parent.

Brought in negligence and nuisance, the case is in its early stages, with initial case-management hearings expected in 2026, making it one of the key ESG cases to watch next year.

In a recent Hausfeld-led action, following a detailed Letter Before Action, in December 2025 103 survivors of 2021's devastating Typhoon Odette (Rai) filed a ground-breaking legal action seeking to hold Shell plc and its trading arm accountable for the harm they suffered. The claim alleges that Shell materially contributed to anthropogenic climate change, substantially increasing the likelihood and severity of the typhoon, and seeks damages for deaths, injuries, destruction of homes, loss of livelihoods, psychological and cultural harm, as well as relief for breach of the claimants' constitutional right to a healthy environment. The Letter Before Action also details Shell's alleged acts of climate misinformation and obfuscation of climate science which, it is argued, also give rise to liability under Philippines law, which is the substantive law governing the claim. By establishing that Shell's conduct contributed to this climate-driven extreme weather event and its devastating impacts, the case highlights the wide-ranging and direct impacts of oil and gas company activities on vulnerable communities worldwide.

ESG litigation is expected to accelerate through 2026, particularly in relation to greenwashing and directors' duties, as shareholders and regulators increasingly scrutinise how boards integrate environmental and social considerations into corporate strategy.

On the regulatory front, the ASA recently challenged Virgin Atlantic, Renault UK, and Aqua Pura over misleading eco claims, while the CMA secured undertakings from ASOS, Boohoo, and George at Asda to amend their sustainability marketing. Financial institutions, including Lloyds, also faced scrutiny for overstating "green" credentials, highlighting rising reputational and litigation risks for companies making unsubstantiated ESG claims. These regulatory interventions could feed into investor and consumer litigation, with misleading ESG disclosures potentially triggering compensation claims under FSMA, the Companies Act 2006, or common law duties.

Key developments to watch include potential claims arising from the FCA's anti-greenwashing rules and CMA enforcement of misleading ESG-labelled products. Together, these trends suggest that well-framed claims could present significant opportunities for redress for investors and stakeholders who believe they have been misled, while exposing companies and directors who engage in inappropriate practices to growing legal and reputational risk.

Consumer litigation

We expect UK consumer litigation to increase significantly in the coming years, fuelled by regulatory reforms, the rise of emerging technologies, and heightened scrutiny of business practices across multiple sectors.

Ongoing disputes in insurance and motor finance highlight the continuing importance of consumer protection in financial services. Meanwhile, as AI technologies become more widespread, data privacy and AI ethics are emerging as new grounds for claims. Notably, the recent Competition Appeal Tribunal decision in *Meta*, confirming the principle of "user damages", illustrates that consumers could potentially seek compensation for harm caused by misuse of personal data or algorithmic decisions, even without direct financial loss. Taken as a whole, these trends point to a significant rise in both the volume and range of consumer litigation ahead.

Arbitration

London's position as a leading global arbitration hub remains strong, with caseloads in London-seated institutional and ad hoc arbitration expected to stay high in 2026. The Arbitration Act 2025's reforms, aimed at streamlining proceedings and enhancing certainty, are likely to further reinforce England's appeal as a preferred seat for complex international disputes.
The UK courts continue to maintain an important role in supporting the arbitral process and a particularly significant arbitration case is due to be heard by the UK Supreme Court in 2026, with an appeal in the long-running M/T Prestige saga set for hearing in June 2026 (UKSC/2025/0034). The ultimate judgment will address whether the State Immunity Act 1978 prevents an arbitral tribunal from awarding an injunction and equitable damages against a state for breach of its obligation to arbitrate.

If you would like to discuss anything in this newsletter, please contact Lucy Pert, Co-Head of Commercial Disputes on lpert@hausfeld.com or Ned Beale, Co-Head of Commercial Disputes on nbeale@hausfeld.com or your usual Hausfeld contact.

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Hausfeld is in the Champions League of commercial disputes specialists. Its team deals with cases of the very highest value and greatest complexity.
They are the team that a client wants fighting for it in the biggest and most complex cases, against massively well-resourced defendants.
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