



Fountain Court

Deepak Nambisan

Call:

1998

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"provides 'a top-class service and is fantastic with clients'" – Legal 500 (2011)

"an extremely strong individual who is very client and solicitor-friendly" – Chambers & Partners (2011)

Deepak is well-established and widely recognised as a leading practitioner in commercial dispute resolution and is currently recommended by legal directories in the following practice areas: Banking & Finance, Civil Fraud, Commercial Dispute Resolution, International Arbitration and Professional Negligence. He is recommended in *The Legal 500*, *Chambers & Partners*, *Chambers Global Guide* and *Legal Experts* and also by *Legal Week* as one of its *"Stars at the Bar"*. Market comments in directories in recent years include the following:

- *"gets things done, often before you think of asking – and everything is always of an exacting standard"*
- *"clear advice... extremely responsive... also a very bullish advocate, and a pleasure to watch in court"*
- *"a skilled practitioner with the rare ability to distil reams of complex information into a digestible and convincing argument"*
- *"pegged for future stardom"*
- *"clever and commercially aware"*
- *"well-liked for his 'approachability, conscientiousness and switched on brain'"*
- *"sources praise him for his 'dynamism and drive'"*
- *"praise abounds for his 'diligence and commitment'"*

Deepak has acted in many of the major commercial disputes of recent times, including *Rusal v Norilsk*, the *BTA* litigation, *Intercontinental Bank v Akingbola*, the 9/11 insurance disputes, the collapse of *Fortress Re*, *Tajik Aluminium v Ermatov*, *AWG v Morrison*, *BAA v Ryanair*, *EIRC v Curzon* and the *Codelco* litigation. Much of his work is international and he has wide experience of the laws of other jurisdictions, including BVI, Chilean, Cypriot, German, Kazakh, Kenyan, Russian, St. Kitts & Nevis, Spanish, Swedish, Swiss and Tajik law. Deepak is also a member of the New York Bar.

Deepak regularly appears as an advocate before a wide range of tribunals and is equally comfortable as sole counsel (where he is regularly instructed to appear against both QCs and junior barristers) or as part of a larger team of barristers. He was seconded to one of the City's leading litigation practices at the beginning of his career and understands the demands placed on solicitors and the need for all members of a team, no matter how large or how small, to work together closely and to add value. He is always contactable, no matter how minor the query, and provides



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intelligent, robust and (most importantly) commercial solutions to his clients' problems. He encourages and welcomes all feedback, whether given to him directly or to his clerks.

Deepak has been one of the Attorney General's Junior Counsel to the Crown since 2001 (C panel and now B Panel) and he is the co-author of Paolini & Nambisan on Directors' and Officers' Liability Insurance (2008, Informa). In 2009 the book was awarded the prestigious BILA Prize for "*the most notable contribution to literature in the field of law as it affects insurance.*"

Deepak is also the co-author of the chapter on company directors in *Simpson, Professional Negligence & Liability* (2005-). Deepak was legal advisor to the BBC1 drama series *Mistresses* and he is also a trustee of the charity Anno's Africa, a creative arts education project for children in Kenya.

Practice Areas:

Deepak has particular expertise in the following practice areas (listed in alphabetical order):

- Arbitration
- Aviation
- Banking, finance & financial services
- Civil fraud, bribery asset tracing and freezing injunctions
- Commercial litigation
- Commercial disputes in the sports and entertainment industries
- Competition law follow-on damages claims
- Employment law with a commercial dimension
- Insurance & reinsurance, including D&O insurance
- Multi-jurisdictional disputes & conflict of laws
- Professional negligence
- Regulatory, disciplinary & administrative law

The following is a summary only. Please do not hesitate to contact Deepak or his clerks if you would like further details about any areas of his practice.

Arbitration:

Deepak has considerable experience of substantial (and smaller) domestic and international commercial arbitration under all the principal rules and regimes, including ICC, LCIA, ARIAS, GAFTA and others. Full details of Deepak's practice are available from his clerks but Deepak's recent arbitration practice includes:

- US\$30m ARIAS reinsurance arbitration concerning 9/11 losses (with David Railton QC) (2011-)
- Sole counsel in €24m ECA arbitration for major UK broadcaster concerning co-production of global preschool animation property (2010-2011)
- Sole counsel in four conjoined LCIA arbitrations concerning disputed put and call options and hedge fund investment decisions (2010)
- US\$75m ARIAS reinsurance arbitration (with David Railton QC) (2009-2010)
- Swiss Rules IT / software dispute for major US manufacturer (2009)



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- US\$10m GAFTA arbitration concerning animal feedstuffs (2008)
- US\$220m Swiss Rules arbitration concerning supply of aluminium (2006-9)
- US\$14m reinsurance fraud arbitration (2008)

Aviation:

Deepak was for a number of years recommended as a Leading Junior in this field in *Chambers & Partners*. He regularly acts for airlines, insurers and passengers in a wide range of aviation related matters, including Warsaw Convention disputes, ground handling and regulatory matters:

- Acting in US\$30m ARIAS reinsurance arbitration concerning 9/11 losses (with David Railton QC) (2011)
- Acted for leading aviation direct underwriters in insurance dispute arising from the collapse of Fortress Re (with David Railton QC) (2009-2010)
- Advised in disputes with Netjets, the fractional private jet aircraft ownership company (2006-8)
- Acted for BAA plc and Stansted Airport in their widely publicised dispute with Ryanair in relation to fuel and aeronautical charges arising out of the use of Stansted (with Michael Crane QC) (2004)
- Advised the CAA on the applicability of the Competition Act to the provision of air traffic services in the UK (with Bankim Thanki QC) (2004)
- Acted in a number of trials both for and against commercial airlines and their passengers

Banking, Finance & Financial Services:

Deepak is recommended as a Leading Junior in this field in *The Legal 500* and *Legal Experts*. He has acted in a wide range of cases both for and against retail and investment banks, private equity firms, hedge funds and other financial institutions and has been involved in disputes of all sizes and types. Full details of Deepak's practice are available on request:

- Acted for owner of one of Europe's largest privately-held companies in dispute with hedge fund re investment activities (2010-11)
- Acted in US\$1.5bn Nigerian banking dispute (2010)
- Acted in US\$300m Kazakh banking dispute (2010)
- Acted in US\$350m dispute concerning sale of main oil terminal in Batumi, Georgia (2009-2010)
- Acted for the director of a multinational plc in a claim against the wealth management function of a leading bank (2009)
- Acted for the director of a multinational plc in a claim against the wealth management function of a leading bank (2009)
- Advised on the enforceability of guarantees following novations of underlying financing agreements (2008-9)
- Advised and acted for a US venture capital firm in relation to injunctive relief restraining a counterparty from exercising a call option under a share purchase agreement (2007)
- Advised British Vita in relation to contractual and relief issues relating to an intra-group subsidiary transfer arising from British Vita's acquisition by the private equity capital group Texas Pacific Group for £668m (2006)



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- Acted for the FSA in a number of high-profile matters in recent years
- Acted for the FSA in disciplinary proceedings brought against various directors of one of the UK's largest financial advisory firms (against Ali Malek QC) (2005-6)
- Acted for the FSA in disciplinary proceedings arising out of the collapse of MyTravel plc (with Charles Hollander QC) (2004-5)
- Advised a German investment bank on the content of its UK advertising campaigns and compliance with FSMA 2000 (2002-3)
- Acted for the FSA in relation to various liability issues arising out of the decision by the UK government to place Railtrack plc into administration (with Michael Brindle QC) (2002)

Civil Fraud & Asset Tracing Claims:

Deepak is recommended as a Leading Junior in this field in *The Legal 500*, *Chambers & Partners* and *Legal Experts*. He has particular expertise in deceit, bribery, jurisdictional, constructive trust and restitution issues, as well as in international asset tracing litigation and obtaining freezing injunctions:

- Part of the team which succeeded in discharging ex parte US\$3.5bn freezing injunction granted to Rusal which prevented a Norilsk Nickel subsidiary from completing share buyback transactions (with Lord Goldsmith QC) (2011)
- Acted for major agricultural enzyme technology developer in multi-million pound fraud claim (2010)
- Acted in US\$300m Kazakh banking dispute (2010)
- Acted in proceedings arising out of a US\$350m worldwide freezing injunction (2010)
- Sole Counsel advising foreign shareholders in a Russian joint venture in a US\$330m conspiracy, fraud and restitution claim involving complex questions of Russian law and jurisdiction (2009)
- Acted as first junior Counsel for the claimant in *Tajik Aluminium Plant v Ermatov & Others*, a US\$485m fraud claim concerning bribery and the supply of raw materials to an aluminium smelting company in Tajikistan (2006-9). Deepak also appeared before the Court of Appeal, successfully opposing an appeal against an order requiring disclosure of the identity of a third party in the context of bribery allegations [2008] EWCA Civ 54 (with Murray Rosen QC)
- Acted as sole Counsel for Resolute, managers of the run-off of the liabilities reinsured by Equitas, in a multi-million dollar fraudulent misrepresentation claim concerning a commutation agreement
- Acted for the Second Defendant in a £130m fraud claim brought by Anglian Water plc following its September 2000 acquisition of Morrison Construction plc, Scotland's largest construction firm (with Philip Marshall QC). The claim was one of *The Lawyer* magazine's Top 10 trials of 2006. Deepak also appeared before the Court of Appeal in the Defendants' successful application to have the original trial judge recuse himself on the grounds of apparent bias: [2006] EWCA Civ 6, overturning [2005] EWHC 2786 (Ch)
- Acted for the Law Society in recovering over £1m of monies from offshore accounts fraudulently diverted from a solicitor's client account (2002-5, with Timothy Dutton QC)
- Acted for a former police interpreter in a claim brought by the Metropolitan Police Authority to recover over £250,000 in fees alleged to have been billed fraudulently, the claim settling at mediation



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- Acted for JP Morgan in a fraud claim surrounding a private placement of shares in a European telecommunications start-up company (2000-3, with John Nicholls)
- Represented a Swiss multinational company in a £22m deceit claim (2002-3, with Philip Brook Smith QC)
- Acted for the Democratic Government of the Republic of Chile and the world's largest copper producer, Codelco, in connection with US\$170 million losses in copper and bullion futures trading on the London Metal Exchange, involving proceedings in London, Bermuda, Cayman, Guernsey and Florida (2000-1, with Ian Geering QC and Tony de Garr Robinson)

Commercial Litigation:

Deepak is recommended as a Leading Junior in this field in *Chambers & Partners* and the *Chambers Global Guide*. He has advised on and acted in a wide variety of commercial disputes of varying sizes and nature in County Court, High Court and Court of Appeal proceedings and has considerable trial experience (both as sole and junior Counsel – full details available upon request):

- See various commercial disputes listed elsewhere in this CV
- Acted in a contractual dispute concerning a major hospitality venue (2007)
- Acted for a high street bank in a high profile sponsorship dispute with the organisers of an international awards event (2006)
- Advised a London Borough Council in its dispute with a care provider threatening to withdraw care services from 300 vulnerable adults (with Charles Béar QC)
- Advised a major multinational on the prospects of rectifying a share purchase agreement for mistake (with Anthony Boswood QC) (2006)
- Advised a US venture capital firm on the prospects of obtaining an injunction restraining a counterparty from exercising a call option under a share purchase agreement (with Anthony Boswood QC) (2006)
- Appeared in *Havelaar & Ors v Amey plc* [2005] EWHC 1330 (Ch), a £35m dispute about the operability of a formula for calculating the consideration payable on exercise of a put option in a share purchase agreement (with Anthony Boswood QC) (2005)
- Represented the successful Defendants in *Gill v Dhillon & ors* [2003] All ER (D) 336 (May)
- Acted as sole Counsel for the Dutch-Korean joint venture LG Philips in a multi-million pound dispute relating to contractual obligations arising out of the closure of various factories (2003)
- Acted for boxing promoter Frank Warren in the trial of a contractual dispute with former WBO World Heavyweight Champion Herbie Hide (2001)
- Acted for leading UK publishers of novelty books in the trial of a dispute with Hong Kong based printers involving detailed expert evidence on technical printing standards and international trade custom (2001)

Commercial Disputes in Sports & Entertainment Industries:

Sports:

- Advises in matters of boxing regulation, management and promotion
- Advised on various aspects of the FIFA Players' Agents Regulations



- Advised members of the International Olympic Medical Committee in relation to proposed appointments to national Olympic Association for the 2000 Olympic Games
- Acted for a major UK retail bank in a £29m claim brought by a football club and in related proceedings.

Entertainment & Music Industries:

- Sole counsel in €24m ECA arbitration for major UK broadcaster concerning co-production of global preschool animation property (2010-2011)
- Acted for production company in dispute with major terrestrial broadcaster over archive Formula 1 footage
- Advises various programme-makers and production houses on copyright issues relating to the use of images, paintings and documentary film footage for use in DVD, videotape, film and television (both domestic and satellite) productions
- Advised major European video distributors in a breach of copyright claim brought by the German government in relation to Leni Riefenstahl's film of the 1934 sixth Nazi Party Congress at Nuremberg, "*Triumph of the Will*"
- Wide experience of claims both for and against record companies, artists, music industry agents, management companies and promoters. He advises and acts for various record companies and artists in relation to recording contract disputes, compliance with both technical and commercial aspects of record licensing agreements, royalty disputes and override royalty agreements and various other contractual disputes
- Acted for clients such as the promoters of the leading dance event "*The Big Chill*"
- Represented a best-selling music band in a dispute with their former legal advisers over the negotiation of recording and music-publishing contracts
- Acted for a boy band in a dispute with their record company
- Acted for a leading UK dance music label in a contractual dispute with their platinum album best-selling artist

Employment Law with a Commercial Dimension:

Deepak has substantial experience of advising generally on all aspects of employment law with a commercial dimension. He has particular experience in cases involving City bonuses, pension entitlement disputes, unfair dismissal, redundancy, TUPE and unlawful deductions from wages and he regularly appears in the employment tribunal, acting both for and against employers. Much of Deepak's employment work is for the Government, instructed by the Treasury Solicitor. Other recent experience includes:

- Acted for a former company director in a £1.2m dispute concerning unlawful deduction from wages, whistleblowing and breach of contract claims in a 3-week tribunal claim (2006-8)
- Acted for Old Mutual plc in a multi-million pound contractual dispute with a former senior employee (with Nicholas Underhill QC and with Nigel Inglis-Jones QC): [2006] EWHC 3151 (Ch) (2004-7)
- Advised a UK coal mining company involved in a contractual dispute with senior employees over working hours (again with Nicholas Underhill QC).
- Acted for a UK financial publishing firm in an unfair dismissal claim brought by an ex-employee summarily dismissed for circulating amongst colleagues various offensive files downloaded from the Internet
- Advised Coach, the US based luxury goods retailer, on TUPE and redundancy issues arising out of the sale of their Sloane Street and Harrods concessions



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- Advised a Swiss multinational company on unfair dismissal claims brought as a result of the summary dismissal of UK subsidiary company employees for fraudulent activities
- Advised a US venture capital firm on contractual claims for bonus payments made by employees summarily dismissed for cause

Insurance & Reinsurance:

Extensive experience in a range of insurance and reinsurance disputes and is the co-author of Paolini & Nambisan on Directors' and Officers' Liability Insurance (2008, Informa). He represents insurers, Lloyd's underwriters and others on a wide range of policy coverage and avoidance issues and contractual claims.

- Currently acting in numerous D&O coverage disputes at both direct and reinsurance levels
- Acting in US\$30m ARIAS reinsurance arbitration concerning 9/11 losses (with David Railton QC) (2011)
- Acted for leading underwriters in a US\$50m reinsurance arbitration arising out of the collapse of Fortress Re
- Acted for Resolute, managers of the run-off of the liabilities reinsured by Equitas, in a fraudulent misrepresentation claim concerning a commutation agreement (2008)
- Advised in relation to questions of coverage under numerous D&O policies
- Acted for a reinsurer as sole Counsel in its multi-million pound dispute with reinsured over deductibles in respect of employers' liability claims (2006-7)
- Acted as junior Counsel for reinsured in a major dispute culminating in a 3-month £170m Commercial Court asbestos exposure trial, where reinsurers sought to avoid on the basis of non-disclosure and also appeared in earlier proceedings in the Court of Appeal in the related case of *European International Reinsurance Co Ltd v Curzon Insurance Ltd* [2003] Lloyd's Rep. I.R. 793 (with Michael Crane QC)
- Acted for Equitas and LMCS Ltd against former Lloyd's Names seeking to challenge the R&R settlement offer (appearing as sole Counsel in the Supreme Court Costs Office, High Court and Court of Appeal)
- Advised a leading UK insurance company in relation to various regulatory and conflict of interest issues arising out of a proposal to provide in-house loss adjusting and project management services (with Timothy Dutton QC)
- Acted for Nigerian insured in their successful dispute with London market insurers concerning a US\$8m claim

Multi-Jurisdictional Disputes & Conflict of Laws:

Much of Deepak's work is multi-jurisdictional in nature and raises conflict of laws issues. He has broad experience of advising in relation to:

- Multi-jurisdictional disputes, proper law and choice of law issues, service out of the jurisdiction and the registration and enforcement of judgments and arbitral awards
- claims governed by foreign law and in particular BVI, Chilean, Cypriot, German, Kazakh, Kenyan, Russian, St. Kitts & Nevis, Spanish, Swedish, Swiss and Tajik law



Professional Negligence:

Deepak is the co-author (with Mark Simpson QC) of Chapter 23, on the liability of Directors & Officers in *Simpson, Professional Negligence & Liability* (2005, Informa). He has acted for and against a wide range of disciplines, including directors, accountants, banks, insurance brokers and solicitors. Full details of Deepak's experience in this field are available on request:

- Currently acting as sole counsel for UK plc in professional negligence claim against major UK law firm
- Currently acting for a major firm of financial advisers in relation to a multi-million pound claim in respect of a film tax relief scheme
- Acted for the director of a multinational plc in a claim against the wealth management function of a leading bank
- Acted for firm of valuers in claim arising out of valuation of block of flats
- Acted for auditors in claim relating to audit of plc
- Acted for accountancy firm in negligence claim in respect of tax advice

Regulatory, Disciplinary & Administrative Law:

Deepak is able to combine the skills of a commercial lawyer with an in-depth knowledge of various regulated fields. He advises and acts both for and against a wide range of regulatory bodies, including the Law Society and the FSA (see above), enabling him to give his clients reliable, informed and objective advice:

- Acted for the Law Society in a number of disputes with solicitors, solicitors' clerks and aggrieved complainants to the Office for Supervision of Solicitors and he has particular experience of interventions (and challenges to such interventions) under the Solicitors Act 1974 and cases involving breaches of the Solicitors Accounts Rules
- Acted for the Law Society in *Miller v The Law Society* [2002] 4 All ER 312 and in *Egole v Law Society* [2003] All ER (D) 378
- Acts for individual solicitors and law firms in disputes with regulators – again, full details are available upon request
- Appeared regularly both for and against regulatory authorities in judicial review proceedings brought within a commercial context, such as *R. (Norwich and Peterborough Building Society) v Financial Ombudsman Service* [2003] 1 All ER (Comm) 65 (with Anthony Boswood QC)
- Acted both for and against the Law Society in judicial review claims on numerous occasions, and also in other regulatory fields, for example in relation to awards of compensation for alleged endowment policy mis-selling, disciplinary sanctions and the right to an oral hearing

Publications:

- *Directors' & Officers' Liability Insurance* (2008, Informa), Co-author (with Dr Adolfo Paolini)
- *Insider Healing, The Lawyer* (11 September 2006)
- Chapter 23, *Directors & Officers*, in *Simpson, Professional Negligence & Liability* (2005, LLP), Co-author (with Mark Simpson QC and Dr Adolfo Paolini)
- *Guide to Practice in Media Law* (2004, Target Law)



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- *Human Rights and the Business Lawyer* (2001, Business Law International), Co-author (with Lord Goldsmith QC, Timothy Dutton QC and Thomas Keith)
Commercial Court Procedure (2001, Sweet & Maxwell), Editor

Education:

- LLM, Harvard Law School (1997)
- BCL, Oxford University (1996)
- BA (Hons) Law, Cambridge University (1995)

Prizes & Scholarships:

- Gray's Inn Prince of Wales Scholarship
- Fulbright Scholarship
- British Academy Scholarship
- Christ's College Scholar
- English Speaking Union BASS Scholarship

Appointments, Other Qualifications & Experience:

- Junior Counsel to the Crown (B Panel)
- Member of the New York Bar
- Legal Advisor, *Mistresses*, BBC1, 6 x 1 hour drama (2007-)
- Member of the BVC Practitioner Advisory Group, City University (2002)
- Speaker, Freshfields Dispute Resolution Foundation Course, London (2002)
- Lecturer, British Council Law Summer School, Hong Kong (2001-2)
- BVC Practitioner Advocacy Trainer, College of Law, London (2002)
- Visiting Barrister, Herbert Smith, London (1999-2000)

Pro Bono Work:

- Bar Pro Bono Unit work (various)
- Legal Adviser, University House Legal Advice Centre, Bethnal Green
- Assisted on death row appeals to Privy Council

Interests:

- Family, friends, cinema, travel, Ibiza and a winning battle to avoid Blackberry ownership