



# Alex Barden

Call 2005

"Alex is commercial, clever and truly hard-working." "He is a fantastic junior who's very bright and completely spot-on when dealing with corporate issues."

*Chambers & Partners*

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Alex Barden is widely recognised as a leading junior in commercial matters, especially insolvency and corporate cases, fund and LLP law and civil fraud.

He was shortlisted for *Chambers & Partners'* Commercial Junior of the Year 2020. He has particular experience of complex litigation and arbitration involving financial institutions, often with an international element or a regulatory dimension. His clients include large financial institutions, funds, major corporates, litigation funders and high net worth individuals.

Alex made his name in a series of major disputes arising from the financial crisis, including as lead junior for the institutional claimants in the £4 billion *RBS Rights Issue Litigation*, for *Kaupthing Bank*, and for structured finance creditors in the insolvencies of *Lehman Brothers* and *MF Global*. Recent cases include Italian oil giant Eni's successful defence of a \$1 billion bribery claim by the Federal Republic of Nigeria, the US FDIC's cartel claim against the LIBOR panel banks and the Argentina sovereign debt litigation.

Alex has particular experience in the specialist company and insolvency field, where he recently acted in the major *Edwardian Hotels* shareholder dispute, in the *Stobart Group* boardroom dispute and in the *Liontrust* and *Marathon* fund litigation.

## Recent Highlights

### Republic of Nigeria v Shell & Eni [2020] EWHC (Comm) 1315

Acting for Italian oil giant Eni successfully resisting \$1 billion bribery claim by the Nigerian government in relation to an off-shore oilfield, including allegations against the former President. Issues related to jurisdiction under the Brussels Regulation and alleged material non-disclosure by the Republic.

### Edwardian Group [2019] 1 BCLC 171, [2017] EHCW (Ch) 3112

Appearing for successful minority shareholder in four-week trial of s.994 petition relating to £1 billion hotel group. This is the largest recent case in the area and now a leading authority on corporate opportunities, directors'

remuneration and discounts for minority shareholdings. Alex regularly appears in shareholder disputes of this type, including derivative claims.

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### **RBS Rights Issue Litigation [2017] EWHC 3443, [2014] EWHC 227**

Acting as lead junior for Legal & General, Standard Life, Prudential and others in a £4 billion claim under s.90 of FSMA against RBS arising from its 2008 rights issue and subsequent collapse. This remains the biggest case in the area and one of the leading cases on the management and costs of group actions by investors. Alex has subsequently been instructed in a series of similar matters under s.90 and s.90A.

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### **Federal Deposit Insurance Corporation (FDIC) v LIBOR Panel Banks [2020] EWHC 2001**

Acting for US government body (as receiver for 20 failed US banks) in proceedings against UK Panel banks alleging collaborative lowballing of LIBOR rates. Successfully resisted strikeout application by UBS.

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### **Re Titan Europe Plc [2016] EWHC 969, [2016] EWCA Civ 1293**

Acting for successful appellant hedge fund in noteholder litigation arising from the collapse of a structured investment vehicle. Alex has subsequently been instructed in a number of other structured finance and sovereign debt claims, including in relation to Lehman Brothers, Kaupthing, and the Republic of Argentina.

## Expertise

### **Aviation & Travel**

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Alex has wide experience in cases relating to the aviation industry, including aviation finance and regulation.

#### Notable Aviation & Travel cases

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### **Alpstream v GECAS & Others [2013] EWHC 370, [2015] EWCA Civ 1318**

Acting for companies owned by oligarch Alexander Lebedev; alleging conspiracy and breach of equitable duties against leading aviation companies GECAS and PK Airfinance. Successful in six-week Commercial Court Trial, partially overturned on appeal.

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### **Private Aviation**

Acting as sole counsel for private aviation provider in Commercial Court proceedings against aircraft lessor, involving freezing and other injunctive relief (in private).

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## Leasing Disputes

Acting as sole counsel in relation to aircraft leasing disputes relating to multiple national flag carriers.

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## Monarch Airlines

Acting for Airport Coordination Limited (the slots co-ordinator) in relation to the insolvency of Monarch.

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## Airline Claims Fraud

Acting as sole counsel for major European airline in relation to allegations of “factory” claims fraud, including obtaining Norwich Pharmacal relief.

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## Banking & Finance

Alex has particular expertise in banking and structured finance, where he acts for major institutions, governments and funds, both on traditional banking disputes and in the areas of sovereign debt and listed securities. He has extensive experience in s.90 and 90A claims, and in noteholder litigation.

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### Notable Banking & Finance cases

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#### Federal Deposit Insurance Corporation v BBA & Others [2020] EWHC 2001

Acting for the US government body in its claim on behalf of 20 closed US Banks against the BBA and LIBOR panel banks, alleging the unlawful and anticompetitive suppression of the LIBOR rate.

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#### RBS Rights Issue Litigation [2017] EWHC 3443, [2014] EWHC 227

Acting as lead junior for Legal & General, Standard Life, Prudential and others in a £4 billion claim under s.90 of FSMA against RBS arising from its 2008 rights issue and subsequent collapse. This remains the biggest case in the area and one of the leading cases on the management and costs of group actions by investors. Alex has subsequently been instructed in a series of similar matters under s.90 and s.90A.

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#### Republic of Argentina [2020] EWHC (Comm) 1946

Acting for investors in €600 million Financial List claim relating to Argentina’s GDP-linked securities. Issues relate to

construction of the securities and effect of Argentina's 2014 GDP rebasing. Successfully resisted strikeout based on exemption clauses.

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### **Zinc Holdings (Fortress v Tchenguiz) [2018] BCC 968, [2018] EWHC 1936**

Acting for Fortress investment fund, successfully resisted challenge by Vincent Tchenguiz to appointment of administrators and proposed sale of hotels.

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### **AMC III Purple BV v Amethyst Radiotherapy Ltd [2019] EWHC 1503**

Acting as sole counsel for borrower in applications relating to loans and associated arbitration arising from shareholders' agreement.

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### **Re Lehman Brothers Europe**

Acting for funds holding equity and subordinated debt in LBIE. Application involves issues relating to administration set-off, statutory interest and the CASS regime. Case settled shortly before trial.

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## **Civil Fraud**

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Civil fraud litigation is a central part of Alex's practice, particularly where cases arise from breaches of directors' duties, bribery and money laundering. He has extensive experience of cases involving jurisdiction disputes and interim remedies, including freezing, search and passport orders and *Norwich Pharmacal* relief.

### **Notable Civil Fraud cases**

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#### **Terre Neuve v HSBC, El Maleh [2020] EWHC 772**

Acting in Commercial Court claim against HSBC Switzerland and others in claims arising from alleged money laundering.

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#### **Republic of Nigeria v Shell and Eni [2020] EWHC (Comm) 1315**

Acting for Italian oil giant Eni resisting \$1 billion bribery claim by the Nigerian government in relation to an off-shore oilfield, including allegations against the former President. Successful jurisdiction application brought an end to English proceedings.

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### **Claims Fraud**

Acting for a FTSE 100 company in private Commercial Court proceedings relating to alleged claims frauds. Obtained *Norwich Pharmacal* relief identifying wrongdoers and tracing funds.

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### Ablyazov Litigation

Acting for JSC BTA Bank to obtain search order against former mistress of Mukhtar Ablyazov.

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### Aquarius Holdings Ltd [2016] EWHC 2806

Acting for captain of a super-yacht in injunctive relief proceedings.

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### Passport Order Eliyon v Gathani and others: Acting for liquidators in relation to alleged MTIC VAT carousel fraud.

Acting as sole counsel at private hearing of injunctive relief application to obtain passport order preventing a foreign businessman from leaving the jurisdiction.

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### Eliyon v Gathani & Others

Acting for liquidators in relation to alleged MTIC VAT carousel fraud.

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### Private Aviation

Acting as sole counsel for private aviation provider in Commercial Court proceedings against aircraft lessor, involving freezing and other injunctive relief (in private).

## Commercial Crime

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Alex's specialisms in company, insolvency and banking law have given him substantial experience in relation to regulatory investigations and professional disciplinary proceedings, including the Takeover Panel, FCA/PRA Regulations (including on financial promotions, the Regulated Activities Order, the AIM Rules and the Prospectus regime) and directors disqualification.

### Notable Commercial Crime cases

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#### Confidential Takeover Panel Proceedings

Acting for Fund Manager in confidential Takeover Panel proceedings relating to alleged conspiracy to manipulate share price.

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#### SFO v Barclays & Others [2019] EWCA Crim 1074

Acting for the Serious Fraud Office in relation to its prosecution of Barclays executives arising from the Bank's 2008 Rights Issue – successfully resisting “half-time” application to dismiss the case on legal grounds.

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## Confidential FCA Tribunal

Advising client in relation to FCA tribunal proceedings relating to alleged market manipulation.

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## Directors' Disqualification

Advising company directors into investigations and proceedings by the Insolvency Services and on Carecraft.

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## DTI Investigation

Advising a finance company on obligations to comply with DTI document and information requests.

## Commercial Disputes

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Alex has a wide-ranging commercial litigation practice and was shortlisted for *Chambers & Partners' Commercial Junior of the Year 2020*. He has substantial experience of injunctive relief and civil fraud claims, of jurisdiction disputes and of litigation with a regulatory angle, as well as matters relating to banking, structured finance, aviation and mergers & acquisitions.

### Notable Commercial Disputes cases

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#### Republic of Nigeria v Shell & Eni [2020] EWHC (Comm) 1315

Acting for Italian oil giant Eni resisting \$1 billion bribery claim by the Nigerian government in relation to an off-shore oilfield, including allegations against the former President. Issues related to jurisdiction under the Brussels Regulation and alleged material non-disclosure by the Republic.

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#### Rusal Plc [2020] JRC034

Acting for aluminium giant Rusal in litigation in Jersey relating to alleged misuse of intellectual property. Issues relating to jurisdiction and corporate redomiciliation.

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#### Federal Deposit Insurance Corporation v BBA & Others [2020] EWHC 2001

Acting for the US government body in its claim on behalf of 20 closed US Banks against the BBA and LIBOR panel banks, alleging the unlawful and anticompetitive suppression of the LIBOR rate.

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#### Aurelius v Republic of Argentina [2020] EWHC (Comm) 1946

Acting for holders of Argentinian sovereign debt in claim relating to alleged manipulation of GDP statistics to avoid payment on government bonds.

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### **Murray Holdings v Oscatello [2018] EWHC 162,[2014] Bus LR 341**

Acting for wholly owned subsidiary of Kaupthing Bank in successful Chancery Division claim against entity formerly owned by Robert Tchenguiz, and in the Court of Appeal in relation to jurisdictional issues.

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### **TP ICAP v NEX**

Acting for Tullett Prebon in breach of warranty claims arising from its £1.3 billion acquisition of ICAP's voice broking business relating to allegedly unlawful cum-ex trading in Germany.

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### **Terre Neuve v El Maleh & Others**

Acting as lead counsel for French film producer in Commercial Court claims alleging misappropriation of monies by Swiss bankers and financial advisers. Successfully resisted jurisdiction challenges by a number of defendants.

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### **Malawi Tobacco Litigation**

Acting for British American Tobacco in respect of widely publicised group action claims by Malawian tobacco farmers.

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### **Griffin v Wainwright [2017] EWHC 2122**

Appearing as sole counsel for the successful applicant challenging an expert determination.

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### **Grizzly Business v Stena Drilling [2014] EWHC 1920, [2017] EWCA Civ 94**

Appearing for successful claimant in Commercial Court trial and in the Court of Appeal, in proceedings relating to an oil drilling contract.

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### **AXIO v UBM**

Appearing in a four-week Chancery Division trial of £20 million claim by private equity acquirer of a business: defendants settled after their Expert admitted breaching code of conduct.

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### **Cattles Rights Issue Litigation [2015] EWHC 3844**

Acting for Standard Life in its £20 million claim against former directors of Cattles Plc, who had been disciplined by the FSA.

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## **Company, Restructuring & Insolvency**

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Alex's practice spans contentious and non-contentious company and LLP law. He has been instructed in some of the largest shareholder and LLP disputes of recent times and has substantial experience of derivative actions and technical company-related litigation. He also has broad experience of advising in relation to the structuring of, and challenges to, corporate transactions and on claims arising from business acquisitions and valuation disputes.

He has a wide-ranging insolvency practice including cases arising from the insolvency of financial institutions, disputes under the Cross-Border Insolvency Regulations, and administration cases. Alex is a contributor to *Buckley* and to *Lightman and Moss*.

## Notable Company, Restructuring & Insolvency cases

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### Edwardian Group [2019] 1 BCLC 171, [2017] EHC 3112

Appearing for successful minority shareholder in four-week trial of s.994 petition relating to £1 billion hotel group. This is the largest recent case in the area and now a leading authority on corporate opportunities, directors' remuneration and discounts for minority shareholdings. Alex regularly appears in shareholder disputes of this type, including derivative claims.

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### Re Lehman Brothers Europe

Acting for funds holding equity and subordinated debt in LBIE. Application involves issues relating to administration set-off, statutory interest and the CASS regime. Case settled shortly before trial.

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### Stobart Group Limited [2019] EWHC 258

Appearing for shareholder and former CEO Andrew Tinkler in proceedings arising from boardroom dispute in this FTSE 250 company.

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### Profile Partners

Acting for Norwegian football agent Rune Hauge in s.994 dispute relating to business interests in the sports rights industry.

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### Comet Plc

Instructed by Darty in relation to its defence to £80 million preference claim relating to the sale and subsequent insolvency of Comet plc.

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### Re MF Global Limited [2019] Bus LR 40, [2018] EWCA Civ 1327

Acting for successful creditor opposing Administrators' proposed Creditors' Voluntary Arrangement on grounds of change of circumstances.

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### Re Polly Peck

Acting as sole counsel for Administrators of Polly Peck in relation to wind-down and closure of one of the longest-running administrations of recent decades.

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### Zinc Hotels (Fortress v Tchenguiz) [2018] BCC 968, [2018] EWHC 1936

Acting for Fortress investment fund, successfully resisted challenge by Vincent Tchenguiz to appointment of administrators and proposed sale of hotels.

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### Re LDK Solar

Acting in a challenge to parallel schemes of arrangement in Hong Kong and Cayman Islands, relating to investments in mainland China.

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### Re Isis Investment Limited

Acting as sole counsel on successful recognition application in the BVI Courts for English scheme of arrangement, under the UNCITRAL model law.

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### Awaze v Wyndham

Acting as sole counsel for private equity purchaser in Commercial Court dispute arising from acquisition of a vacation rental business.

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### Tonstate Hotels

Acting for majority shareholder in s.994 claim relating to a large hotel company.

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### Flanagan v Liontrust [2015] EWHC 2171

Appearing for the claimant in the leading case on LLP Agreements.

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### Paros v Worldlink [2012] EWHC 394

Acting as sole counsel for successful party in Commercial Court trial relating to an AIM takeover.

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### Re Wood DIY Ltd [2011] EWHC 3089

Acting in this and other cross-border merger and group restructuring cases, including for Air Liquide, Menzies Aviation and others.

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### RePortsmouth City Football Club Ltd [2013] EWCA Civ 916

Acting in the Leading Court of Appeal case on administration expenses.

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### Re Capitol Films Ltd [2010] EWHC 3223

Acting as sole counsel in successful challenge to administrator's sale of company assets to main shareholder.

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## Financial Services

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### Notable Financial Services cases

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#### Cattles Rights Issue Litigation

Acting for Standard Life in its £20 million claim against former directors of Cattles Plc, who had been disciplined by the FSA.

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#### Re Brightside Insurance

Acting in a claim against former director and auditors of a well-known insurance company, alleging (inter alia) breaches of FCA CASS Rules.

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#### Confidential Takeover Panel Proceedings

Acting for Fund Manager in confidential Takeover Panel proceedings relating to alleged conspiracy to manipulate share price.

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#### SFO v Barclays and others [2019] EWCA Crim 1074

Acting for the Serious Fraud Office in relation to its prosecution of Barclays executives arising from the Bank's 2008 Rights Issue – successfully resisting “half-time” application to dismiss the case on legal grounds.

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#### Confidential FCA Tribunal

Advising client in relation to FCA tribunal proceedings relating to alleged market manipulation.

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## Group Litigation

Alex is regularly instructed in large group actions, for both claimants and defendants, in matters spanning the financial services, human rights and ESG fields.

## Notable Group Litigation cases

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### Malawi Tobacco Litigation

Acting for British American Tobacco in respect of widely publicised group action claims by Malawian tobacco farmers.

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### Investors v Barclays

Acting for a group of funds and other investors (including pension funds, hedge funds and others) who invested in Barclays, in relation to claims under s.90 and s.90A of FSMA, regarding its “dark pool” trading and the role of High Frequency Traders.

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### Ghanaian Labourers v Olam

Acting as first junior on the team acting for Olam in defending threatened proceedings brought by Leigh Day on behalf of Ghanaian labourers, involving supply chain-related allegations.

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### Federal Deposit Insurance Corporation (FDIC) v LIBOR Panel Banks [2020] EWHC 2001

Acting for a US government body (as receiver for 20 failed US banks) in proceedings against UK Panel banks alleging collaborative lowballing of LIBOR rates. Successfully resisted strikeout application by UBS.

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## Insurance

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### Notable Insurance cases

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#### Re Brightside Insurance

Acting in a claim against former director and auditors of a well-known insurance company, alleging (inter alia) breaches of FCA CASS Rules.

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#### Warranty Insurance

Acting in Commercial Court proceedings for provider of warranty and indemnity insurance in £400 million M&A transaction.

## International Arbitration

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Alex has extensive arbitration experience across all his fields of practice, including shareholder and valuation cases, sovereign debt and contractual disputes and in various forms of arbitration and other ADR including expert determination.

### Notable International Arbitration cases

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#### Confidential LCIA Arbitration

Acting for substantial shareholder in a large Russian media company in arbitration relating to shareholders' information rights.

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#### Confidential Ad Hoc Arbitration

Acting in a matter relating to rights of members in a large investment management fund.

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#### Confidential ICC Arbitration

Acting for major telecoms company in relation to threatened arbitration pleadings relating to contractual arrangements.

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#### Griffin v Wainwright [2017] EWHC 2122

Appearing as sole counsel for the successful applicant challenging an expert determination.

## Offshore

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Alex is regularly instructed by leading offshore firms in relation to disputes within his areas of expertise. He is called to the Bar of the BVI and has recently been involved in disputes in Jersey, Guernsey, Hong Kong, the Cayman Islands, Dubai and the Isle of Man.

### Notable Offshore cases

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#### Re LDK Solar

Acting in a challenge to parallel schemes of arrangement in Hong Kong and Cayman Islands, relating to investments in mainland China.

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### Re Isis Investment Limited

Acting as sole counsel on successful recognition application in the BVI Courts for English scheme of arrangement, under the UNCITRAL model law.

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### Rusal Plc [2020] JRC034

Acting for aluminium giant Rusal in litigation in Jersey relating to alleged misuse of intellectual property. Issues relating to jurisdiction and corporate redomiciliation.

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### Stobart v Tinkler

Acting in injunction applications in Guernsey relating to long-running dispute over Guernsey company listed on the London market.

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### Confidential

Acting in proceedings in camera in the Royal Court of Guernsey relating to alleged breach of confidence and market manipulation.

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### DIFC

Advising in relation to shareholder dispute arising under the law of the Dubai International Financial Centre.

## Directory Quotes

*"Excellent at seeing straight to the heart of complex issues."*

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The Legal 500

*"An absolutely staggering intellect and a true advocate."*

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Chambers & Partners

*"He is great with clients and, despite being a junior, his advocacy is up there with some of the very top silks."*

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The Legal 500

*"He is clearly incredibly intelligent and astute, but also finds an excellent balance between getting stuff done whilst not over-complicating things - you can always be confident that you are getting the absolute best service from him."*

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The Legal 500

*"Exudes gravitas, even when he's against silks, and seems to be ten years more experienced than he really is."*

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Chambers & Partners

*"He is an excellent lawyer - his written advocacy is exceptional and he is extremely persuasive on his feet."*

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Chambers & Partners

*"Exhibits great thoroughness and clarity of thought." "He does a brilliant job and finds more hours in the day than the rest of us do in order to get things done."*

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Chambers & Partners

*"He is all over the detail of very complex cases and is generally extremely charming and pleasant to work with."*

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The Legal 500

*"He's very good on the technical side and great at giving guidance as to what the court will or will not most likely care about."*

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Chambers & Partners

## Directory Rankings

### Chambers & Partners – UK

- Company (Band 1)
- Chancery: Commercial
- Commercial Dispute Resolution (Band 1)
- Fraud: Civil

## The Legal 500

- Banking & Finance
- Commercial Litigation
- Company
- Insolvency

## Chambers & Partners – Global

- Dispute Resolution: Commercial – UK (Band 1)
- Dispute Resolution: Commercial Chancery – UK

## Education

- BA (Law) – St John’s College, Cambridge – first class honours in all three years, university prize in two papers
- LLM (University of Pennsylvania) – Thouron Scholar
- BCL (Oxford) – Distinction
- Princess Royal Scholar for the Bar Vocational Course

## International Bar / Court Appointments

- Called to the Bar of the British Virgin Islands

## Appointments, Memberships and Prizes

- Commercial Bar Association
- Princess Royal Scholar, Inner Temple
- Thouron Scholar, University of Pennsylvania
- Cambridge University prizes for Constitutional Law, Administrative Law, Company Law

## Publications

- Contributor to *Buckley on the Companies Act* (section on members’ rights)
- Contributor to *Lightman and Moss on Administrators* (Chapter 6 on appointment of administrators)
- “Legal Privilege and Mandatory Disclosure under the Proceeds of Crime Act 2002” [2005] *LMCLQ* (with Simon Atrill)
- “US Corporate Law Reform Post-Enron – A Significant Imposition on the Private Ordering of Corporate Governance?” (2005) *Journal of Corporate Law Studies*

## Awards

