



Brian Doctor KC

Call 1991 | Silk 1999

"One of the leading silks at the Bar."

The Legal 500

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Referred to as "one of the leading commercial silks at the Bar" by *The Legal 500*, Brian Doctor KC has a broad commercial and civil practice.

He is a trial lawyer with years of experience in handling hard-fought business and commercial cases. He has practised as a Silk in a number of jurisdictions, including England, South Africa and the BVI.

Brian's specialty is heavy cases, both in court and before arbitration tribunals, which are fact-dependent and involve complex issues of law. Almost all his cases involve conflicts of law, and he has wide experience, in particular, of matters originating in Russia and the CIS.

He also sits as an arbitrator and has extensive arbitration experience as counsel both here and abroad. He has acted as an arbitrator in several disputes involving international parties, both under LCIA and ICC jurisdiction, and in South Africa. He has also frequently appeared as counsel in international (ICC and LCIA) arbitrations, under English law and foreign legal systems, for example Russian, Tajik and Azerbaijan law in a Swiss arbitration.

Recent Highlights

Barthelemy Holdings v Duet Group Limited [2019] EWHC 2402 (Comm)

Breach of warranties under an Investment Agreement concerning the purchase and building of a hotel in St Barts, in the Caribbean.

Deepak Abbhi v Richard Slade [2019] EWCA Civ 2175

Whether an oral agreement with a solicitor to pay someone else's legal fees of litigation constituted a primary obligation to pay, or an unenforceable guarantee because not in writing.

VTB Bank v Firtash & Others (2019)

Commercial Court. Application to set aside and oppose generally a freezing order. Part of related proceedings in

Cyprus.

ABC Grandeservus v Emmerson International

Decision of BVI Commercial Court 27 May 2019. Successful application to set aside freezing order.

Media Gates Company v Kuwait Projects (KIPCO)

Arbitration in LCIA-DIFC; January 2020. Dispute between shareholders re option agreement.

Expertise

Banking & Finance

Brian has an extensive practice of advising in banking matters, and acts both for and against banks in the UK and abroad.

Notable Banking & Finance cases

Genra Limited v BPO Properties

Acted for a Canadian bank in proceedings in London regarding a guarantee for a subsidiary, and the appointment of a receiver.

Harrison v Blackhorse

Acted against a bank in litigation arising out of PPI selling and the Consumer Credit Act.

Advised in a potential group action arising out of the Banking credit crunch events.

Commercial First v Atkins

Mortgage claim subject to Consumer Credit and other defences.

Prospective group actions arising out of credit crunch and collapse of banks.

BTA Bank v Ablyazov (2009-2010)

Claim by Kazakh Bank against its former chief executive.

Office of Fair Trading v Abbey National Plc & Others [2008] EWHC 875 (Comm)

Trial regarding overdraft charges and fairness under the UTCCA.

Advised OFT in connection with Credit Card default charges, leading to OFT Guidance in April 2006.

Three Rivers District Council & BCCI v Bank of England (2004-2005)

Acted for Bank of England.

Shamil Bank of Bahrain v Beximco Pharmaceuticals Ltd (2004) 1 WLR 1784

Choice of law, Islamic banking.

Civil Fraud

Brian has acted in the two largest civil fraud cases: *Tajik Aluminium*, and *BTA Bank v Ablyazov*. He has been involved in many aspects of the law, raised in those cases. In addition, he has acted in arbitrations in this field.

He has also acted for the defendant in a recent trial in the BVI where the claim was held to have been fraudulently brought. He is currently representing parties in an international arbitration where both sides are making extensive allegations of fraud.

Notable Civil Fraud cases

Merlin Mineral Resources v Kermas Ltd (BVI High Court)

Fraud claim and breach of shareholders agreement.

BTA Bank v Ablyazov

Claims by Bank against former chief executive.

TadAZ v Ermatov & Ansol

Acted for Defendants in largest commercial fraud claim (\$540 million) to come to trial in the Commercial Court. 2005 – 2008. Settled end 2008.

Michael Wilson & Partners v Emmott [2019] EWCA Civ 219

Court of Appeal deals with Angel Bell exception in a freezing order.

VTB Bank v Firtash & Others (2019)

Commercial Court: Application to set aside and oppose generally a freezing order. Part of related proceedings in Cyprus.

ABC Grandeservus v Emmerson International

Decision of BVI Commercial court 27 May 2019: successful application to set aside freezing order.

Media Gates Company v Kuwait Projects (KIPCO)

Arbitration in LCIA-DIFC; January 2020. Dispute between shareholders re option agreement.

BNP Paribas Jersey Trust v Camilla de Bourbon (Jersey)

Application to set aside freezing order.

JSC BTA Bank v Shalabayev [2011] EWHC 2915 (Ch)

JSC BTA Bank v Ablyazov

Freezing orders, restriction of information to solicitors, [2009] EWHC 2840 (Comm), [2009] All ER (D) 160.

JSC BTA Bank v Ablyazov [2009] EWHC 3267 (Comm)

Maximum sum orders.

JSC BTA Bank v Ablyazov [2010] EWHC 90 (Comm), [2010] All ER (D) 68 (Feb)

Freezing orders and risks to third parties.

JSC BTA Bank v Ablyazov [2009] EWCA Civ 1125

Disclosure of documents and privilege against self-incrimination.

Tajik Aluminium v Ermatov & Others [2005] EWCA Civ 1218 (CA)

Witness summons, arbitration.

Tajik Aluminium v Ermatov & Others [2005] EWHC 2241 (Ch)

Discharge of freezing order.

Commercial Disputes

Brian has been involved in recent years in various cases in England and abroad.

Notable Commercial Disputes cases

Rawlinson & Hunter Trustees v Director of the Serious Fraud Office

Brian was briefed to represent Vincent Tschenguiz and his brother Robert Tschenguiz in their ground-breaking claims for damages against the Serious Fraud Office. The case raised issues of misfeasance in public office, wrongful arrest and false imprisonment, trespass, breaches of the Human Rights Act, and malicious prosecution. The case was due to commence in October 2014 but was settled by the SFO shortly before the trial commenced.

Barthelemy Holdings v Duet Group Limited [2019] EWHC 2402 (Comm)

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Media Gates Company v Kuwait Projects (KIPCO)

Arbitration in LCIA-DIFC; January 2020. Dispute between shareholders re option agreement.

BNP Paribas Jersey Trust v Camilla de Bourbon (Jersey)

Application to set aside freezing order.

Belport Development v Chimichanga

ICC Arbitration.

Incolabs (Pty) Ltd v SSL International

Ending of distribution contract in foreign country.

Merlin Mineral Resources v Kermas Ltd

Shareholders' dispute re mining company.

Chester Overseas Limited v Richmond Pharmacology

Unfair prejudice petition.

Netcare Hospitals (Pty) Limited v KPMG Services

Brian led a team of six counsel in a claim for an injunction in the South African High Court brought by a former client against accountants KPMG and the Competition Commission of South Africa, arising out of the latter's appointment of KPMG as adviser to a Market Enquiry in the client's field.

Commercial Disputes - Jurisdiction and conflicts of law

Brian regularly advises on conflict of law issues, including enforcement of foreign judgments, relevant law disputes in contract and tort and unjust enrichment cases.

Notable Commercial Disputes - Jurisdiction and conflicts of law cases

Bell Group Finance (in liquidation) v Gentra Limited

Tajik Aluminium v Ermatov [2006] EWHC 2374 (Comm)

Challenge to jurisdiction by Part 20 Defendants: judgment of Commercial Court.

Ansol v Rusal [2006] EWHC 2545 (Comm)

Jurisdiction challenge in computer hacking case: judgment of Commercial Court.

Connelly v RTZ Corporation [1998 AC 354 (HL); [1996] 2 WLR 251(CA)

Acted for RTZ in forum non conveniens proceedings: clam by employee of foreign subsidiary against English parent company. House of Lords.

Lubbe v Cape Plc [1998] CLC 1559

Afrika v Cape Plc[2000] 1 WLR 1545 (HL); [2000] 2 Lloyd's Rep. 283. House of Lords

Acted for Cape Plc in forum non conveniens proceedings: group action by thousands of foreign claimants alleging asbestos injuries.

Competition

Notable Competition cases

The Medicaments Reference (2001)

Represented the Director-General of the Office of Fair Trading in the successful application to remove Resale Price Maintenance on over-the-counter medicines.

Argos and Littlewoods v The Office of Fair Trading

Acted for the OFT in various applications, and the trial regarding Chapter 1 price fixing [2004] CAT 24; [2004] All ER (D) 203 (judgment on liability). Court of Appeal.

Argos & Littlewoods v The Office of Fair Trading [2005] CAT 13

Judgment on penalty.

Advised OFT on Credit Card Default charges, leading to settlement with credit card companies, and tobacco retailing.

Bookmakers Afternoon Greyhound Races v Amalgamated Racing [2008] EWHC 1978 (Ch)

Acted for defendants in abuse dispute between race-courses and bookmakers.

Bookmakers Afternoon Greyhound Races v Amalgamated Racing [2008] EWHC 2688 (Ch)

Counterclaim for alleged cartel.

Harrison v Black Horse Ltd [2011] EWCA Civ 1128

Selling of PPI policies; claim against bank for “unfair relationship” (s140A Consumer Credit Act).

Advised regarding dispute with OFT regarding retirement villages conditions of sale.

Netcare Hospitals (Pty) Limited v KPMG Services

Brian led a team of six counsel in a claim for an injunction in the South African High Court brought by a former client against accountants KPMG and the Competition Commission of South Africa, arising out of the latter's appointment of KPMG as adviser to a Market Enquiry in the client's field.

Company, Restructuring & Insolvency

Notable Company, Restructuring & Insolvency cases

Richmond Pharmaceutical v Chester Overseas Limited [2014] EWHC 2692 (Ch)

Brian acted for the defendant company and its directors in a trial brought by the claimant company for breach of confidence and breach of directors' duties. The claims were all dismissed with indemnity costs.

Rawlinson & Hunter Trustees v Director of the Serious Fraud Office

Brian was briefed to represent Vincent Tschenguiz and his brother Robert Tschenguiz in their ground-breaking claims for damages against the Serious Fraud Office. The case raised issues of misfeasance in public office, wrongful arrest and false imprisonment, trespass, breaches of the Human Rights Act, and malicious prosecution. The case was due to commence in October 2014 but was settled by the SFO shortly before the trial commenced.

Barthelemy Holdings v Duet Group Limited [2019] EWHC 2402 (Comm)

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Chester Overseas v Jorg Taubel & Others

Brian acted for the minority shareholders in a s994 (unfair prejudice) application against the majority, for winding up or purchase at a fair value. The action was settled by the majority agreeing to purchase the minority at a fair value, and he acted for the minority in the valuation proceedings before a valuer. (The counterclaim by the defendants then proceeded for breach of confidence and breach of fiduciary duties then proceeded and is reported: *Richmond Pharmacology v Chester Overseas* [2014] EWHC 2692 (Ch)).

Dimitri Garkusha v Ashot Yegiazarian & Others BVIHCMAP2015/0010

This is a shareholder dispute between two Russians being conducted in the BVI courts. He acted for the Claimant, Mr Garkusha who claims, inter alia, delivery of his shares in a company controlled by the First Defendant.

Belport Development Limited v Erturk Deger, Chimichanga Corporation & Another

Brian acted for the Turkish defendants who were being sued for breach of the shareholders agreement between them and the Claimant (Belport, an English-owned company). The dispute between the 50-50 shareholders in a project to develop a new Port in Turkey. The matter was referred to arbitration (ICC) and was heard by three arbitrators in London. The claim alleged fraud, breach of contract and various other causes of action, claiming damages of \$450 million plus interest, said to be the value of the shares they had lost. After losing on liability, the claimant's claim for damages proceeded, and after hearing expert evidence from both sides, the claimant was awarded a mere \$35 million plus interest. No reliance was placed by the Tribunal on the evidence of the Claimant's expert accounting witness, who Brian had cross-examined on behalf of the defendants.

Merlin Mineral Resources v Kermas Limited CLAIM NO: BVIHCV (COM) 2011113 & 14

This was a claim by minority shareholders for breach of the shareholders' agreement between a Hong Kong company, a BVI company (Kermas) and a company owned by South African individuals. The company was engaged in the exploration and development of a nickel mine in Burundi, Africa. The shareholders fell out and the minority commenced an arbitration in South Africa. They also sought freezing injunction relief in the BVI. They then abandoned the arbitration in South Africa and commenced proceedings for the same relief in the BVI, seeking further freezing injunction relief. After appearing in various interlocutory applications concerning expert evidence, disclosure and so on, Brian appeared for Kermas at the trial in the BVI. Kermas was successful in its defence, and the claim was dismissed with costs. The Court accepted the Defendant's contention that an important document on which the Claimant relied was a forgery. Although the issue of valuation thus fell away, he was very involved, from inception, in the question of the valuation of the shares said to have been promised and prepared extensively on that issue.

International Arbitration

Brian has acted as an arbitrator in several disputes involving international parties, both under LCIA and ICC

jurisdiction, and in South Africa. He has frequently appeared as counsel in international (ICC and LCIA) arbitrations, under English law and foreign legal systems, for example Russian, Tajik and Azerbaijan law in a Swiss arbitration.

Notable International Arbitration cases

Media Gates Company v Kuwait Projects (KIPCO) (2020)

Arbitration in LCIA-DIFC; January 2020. Dispute between shareholders re option agreement.

Sitting as sole arbitrator in 2020, in an LCIA arbitration between BVI entities in connection with a Ukrainian dispute.

Merlin Mineral Resources v Kermas Limited

Arbitration in South Africa regarding shares in nickel mine in Burundi, covering company law, shareholders' agreement and mining law. Shareholder dispute with allegations of fraud.

Belport Development v Chimichanga Corp

Arbitration under Swiss law regarding port in Turkey. Dispute between joint venture parties and shareholders in joint company. Extensive allegations of fraud. Brian then acted for the defendant to the Arbitration Award attempting to resist enforcement of the Award in the BVI.

Directory Quotes

"Able to drill down to the heart of the matter and deal in a pragmatic, results-focused manner."

The Legal 500

"A very solid performer, who is very charming. Judges like the way he makes his submissions." "He has a good reputation as being clever and not too pushy."

Chambers & Partners

"Very bright, extremely accessible and user friendly."

The Legal 500

"Cuts through the fluff and gets straight to the heart of the point." "He is absolutely excellent - he's very user-friendly, effective, bright and hard-working. He's very hands-on and always available. He takes a modern and unstuffy approach."

Chambers & Partners

"Works well as part of a team" and offers "clear and succinct advice." His is "a name one instinctively turns to when looking for good civil fraud counsel."

Chambers & Partners

"Brian Doctor has made a name for himself as an 'ebullient and compelling advocate with a talent for cross-examination'."

Chambers & Partners

"Commitment and tenacity are outstanding."

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Education

- BCL
- BA
- LLB

International Bar / Court Appointments

- Called to the Bar of the British Virgin Islands
- Ad hoc admission to the Grand Cayman Bar
- Called to the Bar of South Africa (SC)

Appointments, Memberships and Prizes

- Called to the Bar of Grand Cayman
- Called to the Bar of the British Virgin Islands
- Called to the Bar of South Africa (SC)

Languages

- Afrikaans (semi-fluent)