



Deepak Nambisan

Call 1998

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Deepak Nambisan is widely recognised as a leading junior commercial barrister, with a broad commercial and civil practice.

His work is both domestic and international and he has wide experience of the laws of foreign jurisdictions including BVI, Cayman, Chilean, Cypriot, German, Kazakh, Kenyan, Russian, St. Kitts & Nevis, Spanish, Swedish, Swiss and Tajik law. He 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 or as part of a larger team of barristers, led both within and outside chambers. He was one of the Attorney General's Junior Counsel to the Crown and he is the co-author of *Paolini & Nambisan on Directors' and Officers' Liability Insurance* (Informa), winner of a BILA Prize for "the most notable contribution to literature in the field of law as it affects insurance." Deepak also co-authored the chapter on company directors in *Simpson, Professional Negligence & Liability*.

He was legal advisor to the BBC1 drama series *Mistresses* and is a trustee of the charity Anno's Africa, a creative arts education project for children in Kenya.

Expertise

Aviation & Travel

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

Notable Aviation & Travel cases

Acting for an underwriting agent and pool in a US\$35 million reinsurance arbitration arising out of the 9/11 property damage and business interruption claims (with Sir Sydney Kentridge KC and David Railton KC).

Acting for leading aviation direct underwriters in an insurance dispute arising from the collapse of Fortress Re (with David Railton KC).

Advising in disputes with Netjets, the fractional private jet aircraft ownership company.

Acting 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 KC).

Advising the CAA on the applicability of the Competition Act to the provision of air traffic services in the UK (with Bankim Thanki KC).

Acting in a number of trials both for and against commercial airlines and their passengers.

Banking & Finance

Deepak 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.

Notable Banking & Finance cases

Advising one of India's largest corporate groups in dispute with listing authorities.

Acting for FSA in connection with one of the largest retail collapses of recent times (Arch Financial Products, Arch Cru).

Acting for hedge fund managers in a US\$200 million + claim in the Cayman Islands courts (with Lord Falconer KC, Gibson Dunn & Crutcher).

Acting for owner of one of Europe's largest privately held companies in dispute with a hedge fund re investment activities.

Acting in a US\$1.5 billion Nigerian banking dispute (with Michael Bloch KC, Wilberforce Chambers).

Acting in a US\$3 billion Kazakh banking dispute.

Acting in a US\$350 million dispute concerning sale of main oil terminal in Batumi, Georgia (with Nigel Jones KC, Hardwicke Building).

Acting for the director of a multinational plc in a claim against the wealth management function of a leading bank.

Advising on the enforceability of guarantees following novations of underlying financing agreements.

Advising and acting for a US venture capital firm in relation to injunctive relief restraining a counterparty from exercising a call option under a share purchase agreement.

Advising 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 £668 million.

Acting for the FSA in a number of high-profile matters in recent years.

Acting for the FSA in disciplinary proceedings brought against various directors of one of the UK's largest financial advisory firms (against Ali Malek KC, 3VB).

Acting for the FSA in disciplinary proceedings arising out of the collapse of MyTravel Plc (with Charles Hollander KC, Brick Court Chambers).

Advising a German investment bank on the content of its UK advertising campaigns and compliance with FSMA 2000.

Acting 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 KC).

Civil Fraud

Deepak has been recommended as a Leading Junior in this field in *The Legal 500*. 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.

Notable Civil Fraud cases

Striking out multi-billion dollar claim against Russian companies in St Kitts & Nevis (with Lord Goldsmith KC, Debevoise & Plimpton).

Discharging ex parte US\$3.5 billion freezing injunction granted to Rusal which prevented a Norilsk Nickel subsidiary from completing share buyback transactions (with Lord Goldsmith KC, Debevoise & Plimpton).

Acting in a multi-million-pound claim for breach of fiduciary duty against former director of leading manufacturer of electronic cigarettes.

Acting for major agricultural enzyme technology developer in multi-million-pound fraud claim.

Acting in a US\$3 billion Kazakh banking dispute.

Acting in proceedings arising out of a US\$350 million worldwide freezing injunction (with Nigel Jones KC, Hardwicke Building).

Acting as sole counsel in advising foreign shareholders in a Russian joint venture in a US\$330 million conspiracy, fraud and restitution claim involving complex questions of Russian law and jurisdiction.

Tajik Aluminium Plant v Ermatov & Others

Acting as first junior counsel for the claimant in a US\$485 million fraud claim concerning bribery and the supply of raw materials to an aluminium smelting company in Tajikistan (with Murray Rosen KC, Herbert Smith, and Neil Kitchener KC, One Essex Court). 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 KC, Herbert Smith).

Acting 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.

Acting for the Second Defendant in a £130 million fraud claim brought by Anglian Water Plc following its September 2000 acquisition of Morrison Construction Plc, Scotland's largest construction firm (with Philip Marshall KC, Serle Court). 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).

Acting for the Law Society in recovering over £1 million of monies from offshore accounts fraudulently diverted from a solicitor's client account (with Timothy Dutton KC).

Acting 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.

Acting for JP Morgan in a fraud claim surrounding a private placement of shares in a European telecommunications start-up company (with John Nicholls, Maitland Chambers).

Representing a Swiss multinational company in a £22 million deceit claim (with Philip Brook Smith KC).

Acting 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 (with Ian Geering QC, 3VB, and Tony de Garr Robinson, One Essex Court).

Commercial Disputes

Deepak 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).

Notable Commercial Disputes cases

Advising one of India's largest corporate groups on appeal from adverse decision in a multi-billion-dollar commercial dispute.

Advising hedge fund arm of Gulf-based financial services firm in multi-million-dollar dispute.

Acting for and advising in connection with multi-billion-dollar dispute over control of one of Russia's largest companies (with Lord Goldsmith KC, Debevoise & Plimpton).

Advising Indian billionaire's family office private equity arm in connection with claims against private equity introducer arising out of failed business purchase.

Advising international bank on terms of share purchase agreement for US\$1.7 billion sale of insurance arm.

Advising the board of a major UK private company in dispute with lenders on interpretation of contractual terms applying to debt reduction bonus scheme.

Acting for ITV in a commercial dispute concerning interpretation of contractual terms.

Acting for Microsoft in a contractual dispute with a former employee.

Representing a major international biotech firm in a multi-million-pound dispute with former management.

Acting in a contractual dispute concerning a major hospitality venue.

Acting for a high street bank in a high-profile sponsorship dispute with the organisers of an international awards event.

Advising a London Borough Council in its dispute with a care provider threatening to withdraw care services from ~300 vulnerable adults (with Charles Béar KC, then of 11 KBW).

Advising a major multinational on the prospects of rectifying a share purchase agreement for mistake (with Anthony Boswood QC).

Advising 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).

Havelaar & Ors v Amey Plc [2005] EWHC 1330 (Ch)

Appearing in a £35 million 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).

Gill v Dhillon & ors [2003] All ER (D) 336

Representing the successful defendants.

Acting 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.

Acting for boxing promoter Frank Warren in the trial of a contractual dispute with former WBO World Heavyweight Champion Herbie Hide.

Acting 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.

Competition

Notable Competition cases

Acting for automotive, clothing and furniture manufacturers in a number of multi-million-pound follow-on damages claims arising out of the Threads and Fasteners cartels (with Rhodri Thompson KC, Matrix Chambers).

Acting for a major UK retail bank in the Interchange fees dispute (with Rhodri Thompson KC, Matrix Chambers).

Employment

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.

Notable Employment cases

Advising and acting for Government departments of state in employment disputes with a commercial aspect.

Obtaining strike-out of multi-million-pound employment claim against London private equity house.

Advising on a pensions dispute between former senior manager and leading financial services firm.

Acting for a former company director in a £1.2 million dispute concerning unlawful deduction from wages, whistleblowing and breach of contract claims in a three-week tribunal claim.

Acting 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 KC, Outer Temple Chambers): [2006] EWHC 3151 (Ch).

Advising a UK coal mining company involved in a contractual dispute with senior employees over working hours (with Nicholas Underhill QC).

Acting 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.

Advising Coach, the US based luxury goods retailer, on TUPE and redundancy issues arising out of the sale of their Sloane Street and Harrods concessions.

Advising 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

Deepak has 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 has represented insurers, Lloyd's underwriters and others on a wide range of policy coverage and avoidance issues and contractual claims.

Notable Insurance cases

Acting in numerous D&O coverage disputes at both direct and reinsurance levels.

Acting for underwriting agent and pool in US\$35 million reinsurance arbitration arising out of the 9/11 property damage and business interruption claims (with Sir Sydney Kentridge KC and David Railton KC).

Acting in US\$30 million ARIAS reinsurance arbitration concerning 9/11 losses (with David Railton KC).

Acting for Resolute, managers of the run-off of the liabilities reinsured by Equitas, in a fraudulent misrepresentation claim concerning a commutation agreement.

Acting for a reinsurer as sole counsel in its multi-million-pound dispute with reinsured over deductibles in respect of employers' liability claims.

Acting as junior counsel for reinsured in a major dispute culminating in a three-month £170 million 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 KC).

Acting 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).

Advising 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 KC).

Acting as sole counsel for Nigerian insured in their successful dispute with London market insurers concerning a US\$8 million claim (against John Lockey, Essex Court Chambers).

International 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.

Notable International Arbitration cases

Acting in a US\$2 billion LCIA arbitration concerning control of one of Russia's largest public companies (with Lord Goldsmith KC, Debevoise & Plimpton).

Acting in a US\$35 million reinsurance arbitration arising out of the 9/11 property damage and business interruption claims (with Sir Sydney Kentridge KC and David Railton KC).

Acting in a US\$30 million ARIAS reinsurance arbitration concerning 9/11 losses (with David Railton KC).

Acting as sole counsel in €24 million ECA arbitration for major UK broadcaster concerning co-production of global preschool animation property.

Acting as sole counsel in four conjoined LCIA arbitrations (€33 million) concerning disputed put and call options and hedge fund investment decisions.

Acting in a US\$75 million ARIAS reinsurance arbitration (with David Railton KC).

Acting in a Swiss Rules IT / software dispute for major US manufacturer.

Acting in a US\$10 million GAFTA arbitration concerning animal feedstuffs.

Acting in a US\$14 million reinsurance fraud arbitration.

Acting in a US\$220 million Swiss Rules arbitration concerning supply of aluminium.

Media & Entertainment

Notable Media & Entertainment cases

Acting as sole counsel for global broadcaster in reality TV dispute.

Acting as sole counsel in €24 million ECA arbitration for major UK broadcaster concerning co-production of global preschool animation property.

Acting 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.

Professional Discipline

Deepak combines 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.

- Advising Lloyd's PA market on judicial review proceedings against Financial Ombudsman Service.

Notable Professional Discipline cases

Advising Lloyd's PA market on judicial review proceedings against Financial Ombudsman Service.

Acting 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.

Acting 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.

Acting for individual solicitors and law firms in disputes with regulators.

Appearing both for and against regulatory authorities in judicial review proceedings brought within a commercial context, such as *(Norwich and Peterborough Building Society) v Financial Ombudsman Service* [2003] 1 All ER (Comm) 65 (with Anthony Boswood QC).

Acting 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.

Professional Negligence

Deepak co-authored (with Mark Simpson KC) 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.

Notable Professional Negligence cases

Acting as sole counsel for UK plc in professional negligence claim against major UK law firm.

Acting as sole counsel for a major firm of financial advisers in relation to a multi-million-pound claim in respect of a film tax relief scheme.

Acting for the director of a multinational plc in a claim against the wealth management function of a leading bank.

Acting for firm of valuers in claim arising out of valuation of block of flats.

Acting for auditors in claim relating to audit of plc.

Sports

Notable Sports cases

Acting for production company in dispute with major terrestrial broadcaster over archive Formula 1 footage.

Advised 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 £29 million claim brought by a football club and in related proceedings.

Education

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

International Bar / Court Appointments

- Called to the Bar of New York

Appointments, Memberships and Prizes

- Gray's Inn Prince of Wales Scholarship
- Fulbright Scholarship
- British Academy Scholarship
- Christ's College Scholar
- English Speaking Union BASS Scholarship
- Junior Counsel to the Crown (B Panel, C Panel)
- Member of the BVC Practitioner Advisory Group, City University
- Speaker, Freshfields Dispute Resolution Foundation Course, London
- Lecturer, British Council Law Summer School, Hong Kong
- BVC Practitioner Advocacy Trainer, College of Law, London
- Visiting Barrister, Herbert Smith, London
- Legal Advisor, *Mistresses*, BBC1, 6 x 1 hour drama
- Bar Pro Bono Unit work
- Some time Legal Adviser, University House Legal Advice Centre, Bethnal Green
- Assisted on a number of death row appeals to Privy Council
- Trustee of the charity Anno's Africa, a creative arts education project for children in Kenya

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 KC and Dr Adolfo Paolini)
- *Guide to Practice in Media Law* (2004, Target Law)
- *Human Rights and the Business Lawyer* (2001, Business Law International), Co-author (with Lord Goldsmith KC, Timothy Dutton KC and Thomas Keith)
- *Commercial Court Procedure* (2001, Sweet & Maxwell), Editor