



# Derrick Dale KC

Call 1990 | Silk 2010

*"Derrick is fantastic at handling difficult judges and clients alike. He has a real talent for finding the best legal route to a commercial solution."*

*Chambers & Partners*

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Described as a “hugely persuasive” silk, Derrick is known for being: “very proactive”, “a real strategic thinker” with “a real talent for finding the best legal route to a commercial solution”; “composed, conscientious, on top of all the detail” and having “excellent judgment”; an “excellent advocate”, “able to adjust on his feet” and “very much someone who has the ear of the court”.

Key to his approach is being “practical” and “getting to the realities behind disputes”. He regards client input as essential. It is said he gives “exactly what we need in terms of legal, tactical and commercial input to put our client in the strongest position.” He is described as an “obvious choice for complex disputes”.

Recent editions of the legal directories have said:

- “He is a brilliant advocate and a pleasure to work with.”
- “He has considerable charm in the way he operates in court and is excellent at establishing rapport with a judge.”
- “He rolls up his sleeves and gets stuck in. He also has the ear of the judge.”
- “He is one of those barristers who thinks out of the box. He is technically sound, but the main reason clients keep going back is that he has a habit of winning. He is responsive and produces excellent work.”

His practice encompasses commercial litigation and arbitration. He is mainly instructed as lead counsel but also sits as an arbitrator. His specialist areas include commercial disputes, banking and finance, insurance, professional negligence, civil fraud, asset tracing, financial services, insolvency and restructuring, regulatory and corporate crime (and whistleblowing). He is frequently instructed on urgent injunctions, freezing and search orders and in group litigation.

Derrick has recently spoken on *The Fountain Court Podcast* in a episode entitled ‘[Conspiracy: Tales from the Front Line](#)’.

## Recent Highlights

**Suppipat v Narongdej**

Acting for the WEH Managers in 5 month trial in respect of a \$1 billion unlawful means conspiracy claim brought by the claimant (the former majority shareholder of a wind farm company in Thailand) against the purchaser of his shares, the managers of the business and Siam Commercial Bank for alleged asset stripping to move shares out of reach of the claimant companies.

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### **Russian/Ukrainian airline insurance claims**

Acting in: (1) a very high-value insurance dispute connected with the alleged seizure of aircraft in Russia following the invasion of the Ukraine; (2) in respect of various claims in respect of aircraft restrained and unable to leave Ukraine. These claims form part of the range of high-profile coverage disputes arising from what some are predicting could be the or one of the largest aviation losses ever.

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### **Investors v Link Funds Solutions Ltd**

Acting for investors bringing seeking to bring GLO proceedings against Link for its alleged failure as the ACD to supervise Neil Woodford's fund (WEIF) and its alleged failure in breach of the COLL Rules to achieve a prudent spread of risk and/or to maintain adequate liquidity at all or in the face of the number of redemption requests from 2017 until the suspension of the fund in June 2019.

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### **Kuwait Ports Authority v Walkers**

Acting for partners of the Kuwait Port Authority bringing a \$70m claim for alleged breach of fiduciary duty and negligence on the part of the Walkers Dubai and Walkers Cayman for preferring the interest of one client over another in a piece of DIFC litigation leading to a DIFC Judgment that is alleged to be fraudulent.

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### **Swiss Cottage v Deloitte**

Acting for Deloitte defending a claim brought by investors alleging that the administration conducted in the respect of the sale of two 23,000 square foot "iceberg" houses in St John's Wood (where over half the square footage constituted subterranean accommodation) were negligently sold at an undervalue by Deloitte as the administrators.

## Expertise

### **Banking & Finance**

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#### Notable Banking & Finance cases

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### **Calyon & FGIC v IKB**

Acting in a \$1 billion action brought by FGIC and Calyon against the German Bank in which it is alleged that IKB

wrongly diverted profits from one segment of its business to another in order to induce investors to invest in the Rhineland programme and other banks to provide liquidity facilities.

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### **McDonagh v Bank of Scotland**

Acting for Bank of Scotland in respect of a dispute with a former customer of the bank over the construction of the terms of the loan agreement (including whether the loan was repayable in sterling or euros).

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### **Bank of Scotland v JLL**

Acting for Bank of Scotland in respect of a cross claim between the Bank of Scotland and receivers in respect of the sale of a portfolio of assets by JLL at a potential undervalue.

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### **O'Driscoll v IBRC**

Acting for IBRC in respect of mis-selling/misrepresentation claims against the bank brought by investors in respect of their introduction to an investment in Somerston, the property/hotel chain.

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### **BOS v Pickenham Estates Ltd**

Acting for BOS in a complex claim to realise the security where the bank's legal rights were allegedly subject to: (i) certain beneficial interests of the investors; and (ii) rights of subrogation.

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### **The Bird Group v Barclays Bank**

Acting in a dispute involving swaps mis-selling and the alleged rigging of Libor by Barclays Bank. Derrick has advised and acted in various swap mis-selling cases.

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### **Investors v ANZ**

Acting for an extensive group of Chilean and Mexican investors in group litigation bringing a mis-selling claim against ANZ Bank in London.

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### **Deutsche Bank v APBW**

Acting in the DB suit against a Taiwanese telecommunications company for breach of a Credit Agreement and counterclaim by the Taiwanese Company that DB knowingly participated in a fraud committed by the Chairman of the companies. The Court of Appeal found that under Brussels Regulation DB could also bring alternative claims against the Taiwanese companies for restitution and misrepresentation.

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### **Mahonia v WestLB**

Acting in a dispute between JP Morgan Chase and WestLB as to whether JPMorgan Chase had conspired with Enron to obtain a letter of credit from WestLB in support of a disguised loan in the form of three swaps from JP Morgan Chase to Mahonia, a special purpose vehicle incorporated in Jersey.

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### Auluk v Barclays Bank

Acting for retail investors suing Barclays in a £10m claim in respect of the failures of the Barclays Smart Investor online app (“BSI”) to implement sales of highly volatile investments in ETCs issued by Wisdom Tree (“WT”).

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### Van Zuylen v Whiston-Dew and GBT Ltd

Acting for the Claimant in a case which raised the issue of whether her financial advisor was acting as a “deposit holder” and providing banking services to the Claimant.

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### New Media v Capita Fiduciary Group

Acting for Capita in a claim brought by New Media for fraudulent conduct and breach of contract/duty in relation to the performance of their duties in allegedly preferring the interests of one partner/shareholder over another and the failure to disclose information to the other partner/shareholder.

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### Re FCA investigation of investment house

Acting for and advising an investment house in respect of the activities of an allegedly fraudulent broker/employee.

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### Brewin Dolphin v FSCS

Advising on liability/quantum in respect of Keydata claims.

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## Civil Fraud

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Derrick has a specialist fraud practice and, in July 2023, spoke on an episode of *The Fountain Court Podcast* on unlawful means conspiracy within civil law, entitled ‘[Conspiracy: Tales from the Front Line](#)’.

### Notable Civil Fraud cases

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### Suppipat v Narongdej, Collins, Reansuwan and Lakhaney

Acting for three defendants in a \$2 billion unlawful means conspiracy claim brought by the Claimant (the former majority shareholder of a wind farm company in Thailand) against the purchaser of his shares and the managers of the business.

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### Onecom Group v Palmer and Eve Connect

Acting for Mr Palmer and Eve Connect in respect of a number of disputes arising out of an SPA for the sale of a telecom business between Mr Palmer and Onecom Group involving claims for hacking, unlawful conspiracy, breach of warranty and involving crossclaims for deferred consideration and earn outs under the SPA and injunction applications to restrain from the presentations of a winding up petition.

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### Kingsmead v Powis and others

Acting for the claimants in a fraudulent misrepresentation and breach of warranty claim under an SPA arising out of the purchase by Kingfisher of an insurance broker called Fresh, where Kingfisher alleged fraudulent misrepresentation by the former management in their processing of clients' insurance data in breach of the MIB My Licence Agreement with a view to inflate the success and profitability of the business and to wrongfully manipulate the figures prior to the sale of the business to Kingfisher.

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### Panasonic Europe (BV) v Core

Acting for former individual warrantors defending application to amend warranty claim to allege fraudulent misrepresentation and manipulation of the statutory and management accounts in lead up to sale of business to Panasonic.

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### Standard Bank v EFAD

Acting in an action brought by Standard Bank in respect of an Murabaha financing and alleging deceit, conspiracy and procuring breach of contract on the part of two employees of EFAD in obtaining the Murabaha financing a loan on its behalf from Standard Bank.

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### Samara v MBI & Partners

Acting for MBI in defending a claim brought by an employee alleged by MBI to be a fraudulent claim in circumstances where MBI had allowed a default judgment to be entered against it and had failed to raise its fraud defence when seeking to set aside the default judgment.

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### Markel and QBE v SGC and others

Acting for the insurer QBE bringing a claim against its former brokers, SGC, and other individuals, who had been under-declaring the size of the book written and not accounting to QBE for premium.

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### Trebol Sud Quest and Soldefi v Berkley Finance Limited

Acting for Trebol in obtaining freezing injunctions and relation to the recovery of monies advanced in respect of a bogus investment scheme.

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## Strive Shipping Corporation v Hellenic Mutual War Risks Association (Bermuda) Ltd, the Grecia Express

Acting in a case concerning the alleged scuttling of a Greek passenger ferry by its owner, involving an important analysis of marine perils, policy coverage, the burden of proof in cases of malicious acts and scuttling or barratry, the scope of moral hazard as regards the duty of disclosure and the duty of good faith.

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## Commercial Crime

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### Notable Commercial Crime cases

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#### Foxley v GPT and MoD

Acting for Mr Foxley (a former whistleblower employee of GPT) in respect of his whistleblowing claim relating to the DPAs entered into in 2020 by Airbus and by GPT in 2021 in respect of corrupt payments to high-ranking officials in Saudi Arabia and the failure to provide a safe working environment.

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#### Williams v Bain

Acting for Mr Williams (a former employee of Bain South Africa) in respect of his whistleblowing claim relating to the management consultancy firm's approach to the Nugent and Zondo Commissions.

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#### Serco and a Deferred Prosecution Agreement (the DPA)

Advising the Board of Serco on: (i) the prosecution by the SFO of group companies in respect of an accounting fraud in a prison service contract with the MoJ; and (ii) entering into the DPA and the level of fine/redress. DPA entered into by Serco and approved by High Court in June 2019.

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#### Re Redcentric

Advising in relation to the FCA's Final Notice dated 26 June against Redcentric PLC for market abuse requiring Redcentric to initiate a compensation scheme for the benefit of all net purchasers of Redcentric shares during the period between 2015 and 2016.

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## Commercial Disputes

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### Notable Commercial Disputes cases

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#### Coward v Ambrosiadou

Acting in a \$100 million dispute between a former husband and wife who owned and ran one of the largest hedge funds in London and Cyprus. The dispute related to the terms of agreement between the various partners, the division of funds, trust structures, alleged fraudulent divergence of funds and tracing.

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### **A purchaser v a vendor**

Acting in a £73 million dispute over the sale of testosterone gel company over whether the purchaser was obliged to complete the acquisition of the company in the light of failed tests relating to the product. As well as involving technical issues relating to the product, the dispute also included consideration of the contractual regime, conditions precedent, classification of terms, measures of loss and duties to mitigate.

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### **Nightingale Lane Investment Company Ltd v Apache Capital Partners Limited and Red & Yellow Limited**

Acting for: (1) investors of a company which allegedly wrongfully and in breach of contract terminated a joint venture agreement in respect of the construction and operation of a care home; (2) their financial advisers, alleged to have wrongfully induced or procured a breach of contract by the company in the course of giving advice as advisers.

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### **Fresh v Powis and others**

Acting for the claimants in a breach of warranty claim relating to the vendor's representations and warranties in respect of processing of drivers' insurance data in breach of the MIB My Licence Agreement.

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### **Advina Care Homes Ltd v Bupa**

Acting for Advina who acquired care homes from Bupa in a dispute with Bupa as to the terms of the SPA, the Business Transfer Agreements and whether monies relating to patient's fees were held on a special purpose trust or susceptible to set off claims.

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### **Panasonic Europe (BV) v Core**

Acting for former individual warrantors defending application to amend warranty claim to allege fraudulent misrepresentation and manipulation of the statutory and management accounts in lead up to sale of business to Panasonic.

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### **Boettcher v XIO (UK) LLP**

Acting for an employee in a dispute brought against owners of a business in relation to misrepresentations and breach of warranties made by the owners in the course of their business and in their accounts.

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### **Bidco v Hamilton**

Acting for vendors of property management company sued for breach of warranty by Bidco purchasers – with particular emphasis on notice provisions, quantum and adjusted balance sheet calculations.

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### **TPI v United Learning**

Acting for TPI (an introducer) in a breach of confidence case in respect of a loss of a chance claim in relation to being cut out of a maturing business opportunity to purchase and develop a site for a 1000 pupil school.

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### **Capstan Capital Partners LLP v Rickmers Holdings**

Acting for brokers in a dispute over the contractual construction of a long tail commission fee provision payable in the light of an introduction of a third-party investor leading to a strategic partnership between Rickmers and the third party.

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### **Fentimans North America v Fentimans UK Limited**

Acting in a dispute relating to the terms of a franchise agreement between the UK parent company and its North American manufacturer and distributor in respect of the terms of manufacture, sale, marketing and profit distribution.

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### **Bibby v Nisa & DHL**

Acting for DHL in a £74 million claim brought for alleged breach of confidence, conspiracy and an account of profits in respect of the transitioning of warehouse/logistic services from one service provider to another.

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### **Harmsworth v Polestar**

Acting in a series contractual disputes between the Daily Mail and its printers involving the construction of the terms of printing agreements and when and how the agreement could be terminated and technical issues relating to the quality of the print copy supplied to the printers and the problems associated with the printing process.

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### **Re University of Cambridge**

Acting on a matter relating to the breach of a negative pledge.

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### **Elul v Paediatric Nursing Link Limited**

Advising on effect of two successive sale agreements and liability for partial disclosures and non-disclosures of personal injury claims.

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### **Amiri Capital v Rassmal Investments Ltd**

Acting in a large dispute between the owners and investors of a development of the Nash facade terrace Portland Place on the agreed terms between the parties.

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### **BDT v John Lewis**



Acting in a dispute between John Lewis and a supplier over a travel business contract, the tendering process and whether the supplier “won” the process and there was a contract implied by conduct of carrying out the services tendered for.

## Company, Restructuring & Insolvency

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### Notable Company, Restructuring & Insolvency cases

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#### Sanctions

Acting for a seller of a business and whether the proposed sale of a business was compliant with UK, EU and USA after the invasion of Ukraine by Russia. This specifically included advising in respect of the requirements of the Sanctions and Anti-Money Laundering Act 2018 (“SAML A”), and the Russia (Sanctions) (EU Exit) Regulations 2019 (“the 2019 Regulations”).

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#### Re Avara Group

Advising the Avara Group on the debentures, facility agreements, floating charges and debentures given by a subsidiary and the effect of such instruments over the assets of the Avara Group as a whole under s.245 Insolvency Act 1986.

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#### Re Galapagos Holdings SA

Acting for loan note holders to oppose the application of the administrators for administration orders under S.12(1) of the IA 1986 on the basis that the court did not have jurisdiction to open proceedings because England was not the companies’ main center of interests.

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#### Re Swiss Cottage, No 38&40 Avenue Road

Acting for Deloitte (the Administrators) in respect of a S.75(6) Schedule B1 Insolvency Act claim for equitable compensation arising from the diminution in the value of the fund and unlawful disposal of the properties at an undervalue.

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#### Bank of Scotland v JLL

Acting in a cross-claim between receivers and the bank in respect of the marketing and sale of a portfolio of properties at an undervalue and the ascription of value to a specific property within the portfolio.

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#### Re: Kaupthing Singer & Friedlander (Isle of Man) Limited (in liquidation)

Advising Liquidators of a bank on effect of Scottish Restraint and Confiscation orders in respect of two account holders final date for proof of debt and POCA and POCERA.

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## WWT v MF Global

Acting in respect of claims relating to monies held on trust arising out of the bankruptcy of MF Global.

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## Competition

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### Notable Competition cases

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Advising third parties in respect of various issues relating to the outcome of the *Merricks v Mastercard* class action.

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## WH Newson v IMI & Rangemaster

Acting for Aga in a contribution claim brought by members of a cartel against Aga arising out of an EU Commission decision and advising on a follow-on claim for conspiracy to injure Aga indirectly arising from the conduct of members of the cartel against Aga.

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## Sintesi & Ricerca S.p.A v Royal Dutch Shell & Others

Acting for a third party in respect of the claims for compensation for unlawful agreements and concerted practices infringing Article 81(1) of EC Treaty.

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## Ineos v Huntsman

Acting in a large commercial dispute between two chemical companies involving the UK gas pipelines and the construction of various agreements and whether such agreements were in breach of Competition Acts and EU treaties.

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## Construction, Energy & Infrastructure

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### Notable Construction, Energy & Infrastructure cases

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## Sul America v Enesa

Acting for insurers in respect of a \$450 million claim concerning the interpretation of a political risk clause and a delay claim in respect of the construction of a hydro-electricity plant in Brazil arising out of riots and the burning down of worker's facilities.

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## Deminor Recovery v BP

Advising on claims arising from the Deepwater Horizon disaster.

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### Ineos v Huntsman

Acting in a large commercial dispute between two chemical companies involving the UK gas pipelines and the construction of various agreements and whether such agreements were in breach of Competition Acts and EU treaties.

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### Nuwaila v BIIG Holdings LLC

Acting in a dispute over the construction of properties in Dubai.

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### KP&P Africa & Turkana Windpower v Aldwych International

Acting in a dispute relating to the construction and finance of power plants.

## Financial Services

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### Notable Financial Services cases

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#### Investors v Link Fund Solutions Ltd

Acting for investors bringing GLO proceedings against Link Fund Solutions Limited for its alleged failure as the ACD to supervise Neil Woodford's fund (Woodford Equity Income Fund) and its alleged failure to comply with the COLL Rules in respect of the investment of the funds and in particular its failure to achieve a prudent spread of risk and/or to maintain adequate liquidity at all or in the face of the number of redemption requests from 2017 until the suspension of the Fund in June 2019.

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#### S.90(a) FSMA Claims

Acting for MXC in respect of matters arising out the FCA's Final Notice dated 26 June against Redcentric PLC for market abuse requiring Redcentric to initiate a compensation scheme for the benefit of all net purchasers of Redcentric shares during the period between 2015 and 2016.

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#### Van Zuylen v Whiston-Dew & GBT

Acting for the claimant bringing a claim for breach of FSMA, deceit and breach of fiduciary duty by her former financial adviser in which the court found that the claimant's financial adviser had fraudulently misappropriated her funds, that the trust vehicle used as a sham and that the Claimant was entitled to trace through to the proceeds of the fraud.

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#### Project Walnut

Acting for an investment house in a series of investor claims brought about by the activities of a self-employed

stockbroker in breach of FSMA acting under the umbrella of the investment house.

## Insurance

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### Notable Insurance cases

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#### Re Russian/Ukrainian airline cases

Acting in: (1) a very high-value insurance dispute connected with the alleged seizure of aircraft in Russia following the invasion of the Ukraine; (2) in respect of various claims in respect of aircraft restrained and unable to leave Ukraine. These claims form part of the range of high-profile coverage disputes arising from what some are predicting could be the or one of the largest aviation losses ever.

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#### Assicurazioni Generali v Futamura Mexico

Acting in an insurance claim concerning a fire which burnt down premises in Mexico involving inconsistent clauses in the policy slip and general terms on governing law and jurisdiction and a jurisdictional challenge in the High Court.

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#### Re Grenfell

Acting in an arbitration representing primary insurers on their potential liability (and the potential liability of excess insurers) to indemnify for the fire and the costs relating to the public inquiry.

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#### Sul America v Enesa

Acting for insurers in respect of a \$450 million insurance claim concerning the interpretation of a political risk clause and a delay claim in respect of the construction of a hydro-electricity plant in Brazil arising out of riots and the burning down of worker's facilities.

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#### Shaheen Air International v Ingosstrakh Insurance Company

Acting in an insurance/reinsurance claim arising out of the crash of a Boeing 737 in Pakistan, where the key issue is whether the Russian reinsurer is required directly to cover the total loss of aircraft in a claim made by the original insured against the reinsurer using a "cut-through" clause.

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#### Godiva v Travelers

Acting for Travelers in respect of an aggregation claim arising out of the alleged participation in mortgage fraud of a partner in the firm of Willmetts.

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#### United Biscuits UK Limited v Amcor Flexibles UK

Acting in respect of an insurance claim relating to the cause of the burning down of a factory and the effect of the force majeure clause.

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### **An insurer v another insurer**

Acting in an arbitration between two insurers as to which insurer was the successor practice and which insurer was liable for losses falling between two years.

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### **Coverage issues**

Regularly acting for insurers in respect of coverage issues in respect of the conduct of directors, solicitors and other professionals.

## **International Arbitration - as Counsel**

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Derrick regularly appears as leading counsel in complex international arbitrations. He has also accepted LCIA, DIAC and ad hoc arbitral appointments. Set out below is a sample of the cases in which he appears as counsel.

### **Notable International Arbitration - as Counsel cases**

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#### **U&M v KCM**

Acting in a dispute between a Zambian mine operator and a Zambian mine owner, leading to four arbitral awards and four court challenges before the Commercial Court. These raised points of law in the areas of: (i) whether an arbitral award with a “show cause” provision is sufficiently certain (*KCM v U&M* [2014] EWHC 2374); (ii) the circumstances in which the English Court will grant a worldwide freezing injunction notwithstanding the existence of an exclusive enforcement jurisdiction clause in favour of the Zambian courts (*U&M v KCM* [2014] EWHC 3250); and (iii) the test as to when a party making a court challenge to the arbitral award should be required to pay as security the full amount due under the award as a condition of making the challenge to the award (*KCM v U&M* [2014] EWHC 2145).

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#### **A Malaysian telecoms operator v a Middle Eastern lobby company**

Acting in an arbitration between an acquirer of telecom towers in Pakistan and a lobby firm relating to whether there was an agreement (oral or by conduct) to pay a reasonable fee for obtaining Pakistan security clearance for the contemplated transaction to acquire the telecom towers and, if so, what was the reasonable sum payable for the service provided.

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#### **A prospective purchaser of a testosterone company v the vendor**

Acting in a £73 million dispute over the sale of testosterone gel company over whether the purchaser was obliged to complete the acquisition of the company in the light of failed tests relating to the product. As well as involving

technical issues relating to the product, the dispute also included consideration of the contractual regime, conditions precedent, classification of terms, measures of loss and duties to mitigate.

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### **A Mexican distributor v A Greek publisher**

Acting in an arbitration between a Greek publisher and a Mexican distributor relating to the allegedly wrongful termination of a distribution agreement.

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### **A coverholder dispute**

Acting in relation to dispute between an insurer and cover holder relating to the terms of provisional and final payment obligations for profit commission.

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### **An insurer v Another**

Acting in an arbitration between two insurers as to which insurer was liable for losses falling between two years.

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### **Another v A Law Firm**

Acting in an arbitration between a magic circle firm and a former client in which the question was whether a solicitor who had previously acted under a joint retainer for two clients could, at the end of the joint retainer, act for one of the former clients against the other in other proceedings relating to the same subject matter.

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### **Hellenic Mutual War Risk Association v Sea Trade Maritime "The Athena"**

Acting in an arbitration concerning the exercise of the discretion by the Association to pay a claim involving extensive jurisdictional challenges to the jurisdiction of the arbitrators.

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## **International Arbitration - as Arbitrator**

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### **Notable International Arbitration - as Arbitrator cases**

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#### **An Offshore Drilling corporation v an Energy Company**

LCIA (panel of 3 arbitrators also including one former Lord Justice and one former High Court judge) in a claim for breach of a contract for the drilling for oil, damages and unpaid invoices.

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#### **A Brazilian Purchaser v a Belarus Supplier**

LCIA (panel of 3 arbitrators) involving a contractual dispute in relation the sale and purchase of potash fertiliser involving whether the supply was affected by a force majeure event. Jurisdiction and governing law issues also in

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issue.

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### **A Property Developer v The Purchaser**

DIAC (panel of 3 arbitrators) involving a contractual dispute over the rights of the Developer of a residential development in Dubai to change the initial allocation of the Purchaser's plot to a less attractive prestigious/valuable plot and in particular whether that right was exercisable in its absolute discretion or whether (and if so to what extent) it was circumscribed by objective factors and not to be exercised by the Developer for an improper purpose or in its own self-interest.

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### **A UK Pharma Co v US Distributor**

LCIA (sole arbitrator) in a claim relating to whether a distributor agreement was valid, binding and entered into with authority, alternatively whether the distribution agreement was lawfully terminated.

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### **An Insurer v Two Insurers**

Ad hoc under the Arbitration Act 1996, sole arbitrator, in respect of a coverage dispute between insurers as to which insurer was required to indemnify the law firm found negligent in the underlying claim, including issues in respect of which year the circumstances/claim were notified and which firm was the successor practice in the light of a deed of separation between the partners and the holding out by both firms as the successor practices.

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### **Trustees in Bankruptcy v a London law firm**

QC Award in respect of whether wasted costs ordered in respect of the underlying litigation brought by claimant and conducted by the law firm on his behalf were covered by the insurance of the law firm and whether they constituted a civil liability, civil compensation or damages and the effect of the Insolvency Act 1986.

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## **Professional Discipline**

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### **Notable Professional Discipline cases**

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Acting for a large financial institution and assisting on initial investigation and the drafting of reports in respect of compliance and compensation arising out of the fraudulent activities of a dishonest employee.

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Acting for one of Big 4 accountancy firms in respect of the obligation to report misconduct to the regulator in respect of evidence given in court by a partner.

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Advising a Jersey investment house on duty to report to the regulator having acted for two clients and knowingly preferred the instructions of one.

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Advising law firm on risks and regulatory implications of findings made in High Court professional negligence proceedings.

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Advising a law firm as to how to handle complaints made to the regulator about the conduct of the firm and senior individuals within it whilst litigation was ongoing.

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Acting for an individual solicitor in respect of allegations of dishonesty, his position within firm and SDT proceedings.

## Professional Negligence

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### Notable Professional Negligence cases

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#### **Kuwait Ports Authority v Walkers**

Acting for partners of the KPA bringing a \$70 million claim for alleged breach of fiduciary duty and negligence on the part of the Walkers for preferring the interest of one client over another in a piece of DIFC litigation leading to a DIFC Judgment that is alleged to be fraudulent.

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#### **Swiss Cottage v Deloitte**

Acting for Deloitte defending a claim brought against them by investors claiming that the administration conducted in the respect of the sale of two “iceberg” houses in St John’s Wood were negligently sold at an undervalue by Deloitte as the administrators.

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#### **Liquidators of Park Regis Birmingham LLP v Begbies Traynor (the former administrators of the LLP)**

Acting for the former administrators defending a Para 75(6) of Schedule B1 Insolvency Act 1986 professional negligence claim and breach of fiduciary duty claim that they wrongfully sold a BPRA qualifying property at an undervalue and without authority and without considering the sale to the members of the LLP or as a going concern.

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#### **Knaresborough Investments Ltd v Styles & Wood & Messrs Lannehan & Lannigan**

Acting for the claimants bringing negligence claims against the former CEO and CFO of Styles & Wood Group Plc in respect of the financial information compiled by them and passed over to investors who acquired the business in reliance of such financial information.

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#### **Investors v Graham Rosen & Scott Fowler**

Acting for 150 Claimants in a group action for 150 property investors (who lost their deposits when the developers and bond holders went bust) against several firms of solicitors for failing to advise their clients on the solvency and



the enforcement risk relating to the bond provider chosen by the developers.

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### **Springdew v Fitzgerald**

Acting for a barrister in a professional negligence claim brought by his former client in respect of the failure to advise correctly on the limitation period in respect of a swaps claim as a result of which the client lost the opportunity to sue Barclays and recover more than he had been offered to settle by Barclays under the FSA swap mis-selling review.

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### **Partridge v Evans**

Acting for a barrister in a professional negligence claim brought by a former client in respect of the barrister's alleged failure to plead properly and advise upon a mis-selling claim brought against Barclays for mis-selling, for manipulating Euribor and the client's alleged consequential losses.

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### **Innovator litigation**

Acting for the IFAs who were sought to be joined as third parties to the claims made by over 500 Claimants against Collyer Bristow and two of its former partners. The claims arose out of a series of tax efficient investment schemes relating to technology products – the Innovator Schemes. The majority of the tax relief claimed was disallowed by HMRC and extensive “class action” litigation ensued.

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### **Langsam v Beachcrofts**

Acting for Beachcrofts in a professional negligence action brought a former client alleging that Beachcrofts let him settle his claim against his former accountants (Hacker Young) at an undervalue. Judgment upheld by the Court of Appeal.

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### **Levicom v Linklaters**

Acting for Linklaters in professional negligence case on behalf of relating to the advice given by Linklaters to their clients on liability and quantum of that claim and the decision not to accept an offer to settle a dispute under a shareholders' agreement and subsequent arbitration for the sum offered.

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### **Levi Roots v Simons Muirhead & Burton**

Acting for the firm and insurers on a wasted costs application against SMB arising out of the unsuccessful claim brought by Mr Bailey against Levi Roots concerning the commercial rights over Reggae Reggae sauce and whether the recipe was disclosed confidentially by Mr Bailey to Levi Roots.

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### **Cabvision v Hills & a Barrister**

Acting in a professional negligence action brought by Cabvision against the solicitors and barristers in respect of an unsuccessful action brought by Cabvision against FMS, the arrangers of a tax scheme.

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### **Parker v Freeth Cartwright**

Acting for Freeths in a professional negligence action brought against Freeth Cartwright for allegedly failing to plead appropriate loss and heads of damage in a professional negligence claim against SJ Berwin.

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### **REO v Aberdeen & UBS**

Acting in an action relating to the alleged failure of Aberdeen and UBS to advise on flotation the board of a company as to the inherent risks involved in split capital investment trusts and their propensity to systemic collapse by reason of their high gearing and cross holdings in other split capital companies.

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### **Williams & McLaren v Linklaters & Baker & McKenzie**

Acting in a dispute between two Formula One companies and their former legal advisers as to the drafting of an agreement with SLEC, a trust company set up by Bernie Ecclestone.

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### **The Football League v Edge Ellison**

Acting in an action brought by the Football League against its former legal advisers in respect of the alleged failure of Edge Ellison to seek and obtain a guarantee from the parent companies of OnDigital to support OnDigital's payment obligations under its TV rights contract with the Football League.

## Directory Quotes

*"Derrick is a very talented advocate, able to adjust on his feet to changes."*

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The Legal 500

*"He has a natural authority in the court room. A very effective advocate, who is composed, conscientious and on top of all the detail. He manages to steer the court with a silver tongue."*

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Chambers & Partners

*"Very smart and good with clients. Very good knowledge of the law and has good judgement."*

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The Legal 500

*"An excellent barrister; very much someone who has the ear of the court."*

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Chambers & Partners

*"He is smooth, very calm and patient. He's very good at engaging and creating rapport with clients, and he's also great at seeing the key issues." "He is very bright and user-friendly, and clients always like him."*

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Chambers & Partners

*"Derrick has both commercial and emotional intelligence, and senses the realities behind disputes." "He's amiable and pleasant, and his mind is very speedy."*

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Chambers & Partners

*"Exceptionally charming and on the ball, he also has a good way with clients."*

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The Legal 500

*"An obvious choice for complex commercial and insurance and reinsurance disputes."*

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The Legal 500

*"Gives us exactly what we need in terms of legal, tactical and commercial input in order to put our client in the strongest position."*

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Chambers & Partners

## Directory Rankings

### Chambers & Partners – Global

- Dispute Resolution: Commercial – UK

## Chambers & Partners – UK

- Commercial Dispute Resolution
- Professional Negligence

## The Legal 500

- Banking & Finance (including Consumer Credit)
- Commercial Litigation
- Fraud: Civil
- Insurance & Reinsurance
- Professional Negligence

## Education

- MA (First Class), Cambridge University
- LLM, Harvard Law School
- New York Bar

## Appointments, Memberships and Prizes

- LCIA Arbitrator
- COMBAR
- British Association for Sport & Law
- Associate Member of CIArb

## Awards

