



# Ian Bergson

Call 2015

*"One of the very best juniors at the commercial Bar. He is incredibly clever, hardworking and a pleasure to work with - a star of the future."*

*The Legal 500*

✉ [ib@fountaincourt.co.uk](mailto:ib@fountaincourt.co.uk) ☎ +44 (0)20 7583 3335

Ian Bergson has a broad civil practice, with a particular specialism in commercial litigation, civil fraud and banking matters. His practice frequently involves an international element or conflict of laws issues.

Ian is recommended as a 'Rising Star' in *The Legal 500* for Banking & Finance, Commercial Dispute Resolution and Civil Fraud and is described as an "excellent junior". He is also ranked as "Up & Coming" by *Chambers & Partners* in Banking & Finance and Commercial Dispute Resolution. Ian frequently acts as part of larger teams in heavy commercial litigation or arbitration, as well as significant Supreme Court or Court of Appeal appeals. He is equally happy working as junior counsel in a team or as sole counsel. Before transferring to the Bar, Ian was a solicitor at Linklaters LLP, qualifying in 2012.

Ian acted in the *Tchenguiz* and *Slater and Gordon* claims (*The Lawyer* 'Top Cases' of 2018 and 2019 respectively), *SKAT v Solo Capital* (>£1.5 billion claim), *VTB Capital v Republic of Mozambique and ors* (>\$750 million claim) and *Auden McKenzie v Patel* (>£250 million claim). He has also acted on significant Supreme Court and Court of Appeal appeals, including the recent landmark decision in *Philipp v Barclays* on APP fraud and the *One Step* case on negotiating damages.

## Recent Highlights

### Philipp v Barclays Bank UK plc [2023] UKSC 25

Acting for Barclays Bank in their successful appeal to the Supreme Court concerning whether banks owe a duty of care to their customers in respect of authorised push payment fraud. The Supreme Court recast the *Quincecare* duty, and rationalised it by reference to agency principles (led by Patrick Goodall KC).

### SKAT v Solo Capital Partners & Others

Acting for certain defendants in claims for >£1.5 billion brought by the Kingdom of Denmark relating to dividend arbitrage and cum ex trading and allegations of fraudulent withholding tax reclaim applications. The case is ongoing and is one of the largest fraud claims to have been brought in the English courts in recent years, involving up to thirty separate legal teams (led by Adam Zellick KC and as sole counsel).

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### Tchenguiz v Grant Thornton

Acting for the claimants in unlawful means conspiracy and malicious prosecution claims arising from an SFO investigation. 12-week Commercial Court trial and one of The Lawyer's 'Top Cases' of 2018. A settlement was reached with a related party once the case had been opened (led by Stephen Rubin KC and Charles Béar KC).

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### Slater & Gordon v Watchstone

Acting for Slater & Gordon in their £637 million claim for fraud and breach of warranty following the sale of Watchstone's / Quindell's professional services division in 2015. This is one of The Lawyer's 'Top Cases' of 2019 (led by Simon Salzedo KC). Acting in the successful defence of subsequent Part 20 proceedings arising out of the same transaction: [2023] EWHC 1133 (Comm) (led by James Brocklebank KC).

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### One Step v Morris Garner [2018] UKSC 20, [2019] A.C. 649

Acting for the successful appellants in their Supreme Court appeal in a substantial restrictive covenant dispute. The decision is a leading authority on the law of damages, concerning Wrotham Park / negotiating damages for breach of contract (led by Charles Béar KC).

## Expertise

### AI, Crypto & Technology

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#### Notable AI, Crypto & Technology cases

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Advising a leading technology company on an e-commerce dispute (as sole counsel).

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Advising a leading investment bank on a claim by a fund relating to a trading platform and the provision of prime brokerage services (as sole counsel).

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Advising on claims against a contractual counterparty arising out of a data breach incident (as junior counsel).

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Appearing in the County Court defending a claim concerning an online marketplace (as sole counsel).

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(At Linklaters) advising on civil liability issues arising following a significant data loss incident.

## Aviation & Travel

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### Notable Aviation & Travel cases

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Regularly appearing in the County Court in claims for compensation under Regulation 261/2004 (as sole counsel).

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Regularly appearing on a number of other claims against airlines alleging breach of contract, negligence and/or under the Montreal Convention (as sole counsel).

## Banking & Finance

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### Reported Banking & Finance cases

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#### Philipp v Barclays Bank UK plc [2023] UKSC 25

Whether banks owe a duty of care to their customers in relation to APP fraud.

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#### Elite Property Holdings Ltd v Barclays Bank Plc [2019] EWCA Civ 204

Claim in unlawful means conspiracy allegedly arising in connection with the Review.

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#### Elite Property Holdings Ltd v Barclays Bank Plc [2018] EWCA Civ 1688, [2018] 2 BCLC 460

Whether banks owe contractual duties in the Review.

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#### Bartels v Barclays Bank Plc [2017] EWCA Civ 1073, [2018] 1 W.L.R. 2137

Whether banks owe a duty of care to customers in relation to the Review.

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#### Elite Property Holdings Ltd v Barclays Bank Plc [2017] EWHC 2030 (QB)

Acting for Barclays Bank plc in High Court proceedings concerning claims in the economic torts following interest rate hedging product mis-selling (led by Patrick Goodall KC).

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#### Standard Chartered Bank v Ceylon Petroleum Corporation [2011] EWHC 1785 (Comm)

(At Linklaters) acting for the claimant bank in proceedings against a Sri-Lankan state-owned oil company for sums due under oil hedging transactions.

## Notable Banking & Finance cases

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Acting for Barclays Bank plc unled in a permission application before the Court of Appeal in the Bartels litigation.

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Acting for Barclays Bank plc following further proceedings in the Elite litigation (as sole counsel).

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Acting on a substantial dispute concerning a capital guarantee scheme (as junior counsel).

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Appearing in the Magistrates Court for a Bank in connection with a witness summons in criminal proceedings (as sole counsel).

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Acting on various claims concerning the sale of payment protection insurance (as sole counsel).

## Civil Fraud

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### Notable Civil Fraud cases

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#### SKAT v Solo Capital Partners & Others (led by Adam Zellick KC)

Acting for defendants in claims for >£1.5 billion brought by the Kingdom of Denmark relating to dividend arbitrage and cum ex trading and allegations of fraudulent withholding tax reclaim applications.

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Successfully appeared as sole counsel on contribution and stay application: [2023] EWHC 1351 (Comm).

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#### Auden McKenzie & Ors v Patel (led by Camilla Bingham KC)

Acting for a defendant in >£250 million claims in deceit, breach of fiduciary duty and breach of warranty following the sale of a substantial pharmaceutical business.

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Acting for a company in High Court proceedings following the discovery of a fraud by a senior employee, obtaining orders for delivery up and an interim payment (as sole counsel).

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#### J.P.Morgan v BVG

Defending a claim arising from the global financial crisis concerning the alleged mis-sale of financial products. A \$200 million fraud and mis-selling claim arising out of the sale of a collateralised debt obligation.

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(At Linklaters), acting for the liquidators of an insolvent Cayman Islands company advising on certain aspects of claims arising from an alleged multi-billion-dollar fraud.

## Commercial Disputes

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### Reported Commercial Disputes cases

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#### **One Step v Morris Garner [2018] UKSC 20, [2019] A.C. 649**

Acting for the appellants in their successful Supreme Court appeal. A leading authority on the law of damages addressing Wrotham Park / negotiating damages for breach of contract (led by Charles Béar KC).

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#### **Slater & Gordon (UK) 1 Ltd v Watchstone [2019] EWHC 2371 (Comm), [2023] EWHC 1133 (Comm)**

Acting for Slater & Gordon in their £637 million claim for fraud and breach of warranty against Watchstone following the sale of Watchstone's / Quindell's professional services division (one of The Lawyer's 'Top Cases' of 2019, led by Simon Salzedo KC).

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#### **Palladian Partners LP v Republic of Argentina & Anr [2020] EWHC 1946 (Comm), [2023] EWHC 711 (Comm)**

Acting for Bank of New York Mellon, as trustee of certain GDP-linked securities issued by the Republic of Argentina in relation to >€1 billion proceedings brought in the Financial List (led by Adam Zellick KC).

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#### **Idemitsu Kosan Co Ltd v Sumitomo Corp [2016] EWHC 1909 (Comm)**

(During pupillage, assisting Edward Levey), defending misrepresentation claims advanced following the sale of an oil and gas business for \$575 million.

### Notable Commercial Disputes cases

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#### **Frasers Group plc v The Official Receiver and others**

Acting for a trust company in substantial proceedings to set aside a settlement agreement in connection with the collapse of Debenhams (as sole counsel).

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#### **VTB Capital v Republic of Mozambique & Ors**

Acting for VTB Capital in multiple proceedings in the Commercial Court arising from the so-called "hidden loans" controversy involving in excess of \$2 billion of debt guaranteed by the Republic of Mozambique (with David Railton KC, Timothy Howe KC and Adam Sher).

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## Tchenguiz & Others v Grant Thornton & Others

Acting for the claimants in unlawful means conspiracy and malicious prosecution claims arising from an SFO investigation (12-week Commercial Court trial and one of The Lawyer's 'Top Cases' of 2018, settlement reached with a related party once the case had been opened) (led by Stephen Rubin KC and Charles Béar KC).

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Acting for Slater & Gordon defending a £63 million contribution claim brought following Watchstone issuance of proceedings against its advisor, PricewaterhouseCoopers LLP (led by Daniel Toledano KC).

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Acting for the claimant in claims for breach of warranty following an M&A transaction, which were the subject of an Early Neutral Evaluation (ENE) process (as junior counsel).

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Acting for a services company on a range of claims on the small claims track and the fast track concerning allegations of breach of contract and misrepresentation (as sole counsel).

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Acting on various claims on the small claims track and the fast track concerning breach of contract and negligence (as sole counsel).

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Acting for a claimant in a contractual dispute concerning allegations of bribery and misrepresentation (as sole counsel).

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Acting on linked claims arising following the issuance of overlapping ICSID arbitration awards (as junior counsel).

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Advising on jurisdiction issues and the availability of anti-suit relief to restrain potential proceedings in a CIS country (as sole English counsel).

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(At Linklaters), defending a number of claims arising from the global financial crisis concerning the alleged mis-sale of financial products, including J.P.Morgan v BVG (a \$200 million fraud and mis-selling claim arising out of the sale of a collateralised debt obligation).

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(At Linklaters), acting for the liquidators of an insolvent Cayman Islands company advising on certain aspects of claims arising from an alleged multi-billion-dollar fraud.

## Commercial Disputes - Conflict of laws and private international law

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### Reported Commercial Disputes - Conflict of laws and private international law cases

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AML Creditor Recovery Vehicle PTC v Madison Pacific Trust Ltd and others [2023] SC (Bda) 66 Civ.

Advising in relation to a challenge to the jurisdiction of the Bermudian Courts, considering various issues including the application of the Fiona Trust presumption to anti-assignment clauses (with Ben Valentin KC).

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### **SKAT v Solo Capital Partners [2021] 1 WLR 4237, [2022] QB 772**

Application of Dicey's Rule 3.

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### **Coward v Ambrosiadou [2019] EWHC 2105 (Comm)**

Acting for the claimant, Dr Coward, in a high-value multi-jurisdictional dispute with his former wife and business partner concerning the profits of a hedge fund that they started (led by Derrick Dale KC).

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### **WPP plc v Ghossoub [2017] EWHC 2401 (Comm)**

Acting for the defendant resisting claims for an anti-suit injunction arising from the sale of a global advertising business (assisting Edward Levey KC during pupillage).

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### **J.P.Morgan v BVG [2011] 1 W.L.R. 2087**

Acting on a leading case concerning the exclusive jurisdiction provisions of the Brussels I Regulation, which was ultimately resolved by the Court of Justice of the European Union (at Linklaters).

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## **Notable Commercial Disputes - Conflict of laws and private international law cases**

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Acting for Citta Metropolitana di Milano in a challenge to the jurisdiction of the English Court, involving issues concerning Article 31(2) of the Brussels Regulation (Recast) (led by Craig Ulyatt).

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Acting on linked claims arising following the issuance of overlapping ICSID arbitration awards (as junior counsel).

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Advising on jurisdiction issues and the availability of anti-suit relief to restrain potential proceedings in a CIS country (as sole English counsel).

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Advising on complex choice of law issues concerning the validity of assignments (at Linklaters).

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Bringing English proceedings for damages for breach of an exclusive jurisdiction agreement (at Linklaters).

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## **Company, Restructuring & Insolvency**

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## Reported Company, Restructuring & Insolvency cases

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### **In re Lehman Brothers International (Europe) [2014] AC 209**

(At Linklaters) advising on various matters arising from the Lehman Brothers administration, including the Supreme Court appeal concerning the ranking of statutory liabilities that arose in connection with the Lehman Brothers Pension Scheme.

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### **HHY Luxembourg Sarl v Barclays Bank plc [2010] EWCA Civ 1248, [2011] 1 BCLC 336**

(At Linklaters) acting for a syndicate of senior lenders in a successful appeal to the Court of Appeal concerning a challenge to the debt restructuring of the European Directories group.

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## Notable Company, Restructuring & Insolvency cases

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Acting on various winding up petitions and an application to set aside statutory demands (as sole counsel).

## Insurance

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### Notable Insurance cases

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Acting for war risks insurers in multi-billion dollar claims brought by lessors of Russian aircraft following Russia's invasion of Ukraine and the imposition of sanctions in early 2022 (led by David Railton KC and Simon Atrill KC).

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Advising a claimant in respect of claims under a warranty and indemnity insurance policy (led by Ben Valentin KC).

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Advising a policyholder on claims under non-payment insurance policies (as junior counsel).

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(During pupillage, assisting Ben Lynch KC) advising on illegality issues arising in connection with a claim under an insurance policy.

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Advising an insurance company in relation to liability and coverage issues arising from a high-profile insolvency (as junior counsel).

## International Arbitration

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### Notable International Arbitration cases

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Acting in arbitration proceedings concerning the construction and enforcement of a settlement agreement (led by Patrick Goodall KC).

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Advising on a substantial international arbitration concerning a joint investment in a telecoms business (as sole English counsel).

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Acting as an arbitral assistant to the Tribunal on a Bahamian seated arbitration.

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(During pupillage, assisting Ben Valentin KC) applying for a share sale order in relation to a British Virgin Islands company to satisfy a substantial ICC arbitration award.

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(During pupillage, assisting Alexander Milner KC) bringing LCIA arbitration proceedings to enforce a Put Option Agreement.

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(At Linklaters), advising the majority shareholder of a major CIS corporation in connection with a shareholders' dispute.

## Professional Discipline

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### Notable Professional Discipline cases

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Acting for a firm of auditors in connection with an investigation by the ICAEW (as sole counsel).

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#### SRA v Thomas

(During pupillage, assisting Edward Levey), bringing proceedings before the Solicitors Disciplinary Tribunal in connection with fraudulent overbilling.

## Professional Negligence

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### Notable Professional Negligence cases

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Acting for the claimant in a substantial claim for negligence against a firm of solicitors acting on a property transaction (as junior counsel).

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(At Linklaters), advising a leading firm of auditors in connection with a professional negligence claim arising from the fraudulent diversion of assets from an offshore fund.

## Sports

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### Notable Sports cases

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Acting for an individual in connection with an Ethics investigation by a sports governing body (led by Timothy Howe KC).

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(During pupillage, assisting Timothy Howe KC), acting for an individual in connection with a dispute regarding their proposed admission to the board of an international sports governing body.

## Directory Quotes

*"He is very hard-working and bright. He is able to get on top of very complex issues quickly and come up with a strategy."*

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Chambers & Partners

*"He is super smart and just a great junior. He is really good at writing and spots points others miss."*

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Chambers & Partners

*"He has an encyclopaedic knowledge of the law, and is thoughtful and hard-working."*

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Chambers & Partners

*"Ian is a standout civil fraud junior, who is increasingly being instructed in many of the top cases, and is in demand by top firms and silks across the commercial Bar."*

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The Legal 500

*"Superbly clever and spots points that others miss, alongside being commercial and practical, collaborative, generous with his time and very nice."*

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The Legal 500

*"Extremely clever and his knowledge of the law is remarkable. He is also incredibly hard-working, which makes for a very effective combination."*

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The Legal 500

*"He is very bright and capable - an upcoming star of the Bar."*

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The Legal 500

*"Extremely responsive and highly technical as well as being a delight to work with, he is practical and solutions-focussed as well as unflappable under pressure - one to watch for the future, and an excellent junior."*

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The Legal 500

*"Ian has outstanding judgment and is a natural lawyer. He gets to grips with the significance of novel points of law in the most complex multi-jurisdictional litigations which makes him a must-have junior."*

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The Legal 500

## Directory Rankings

### Chambers & Partners

- Banking & Finance (Up & Coming)
- Commercial Dispute Resolution
- Dispute Resolution: Commercial – UK (Up & Coming) (Global Guide)

### The Legal 500

- Banking & Finance
- Civil Fraud
- Commercial Litigation

## Education

- BCL (Distinction), Balliol College, Oxford University (2013)
- Legal Practice Course (Distinction), College of Law (2009)

- BA (Jurisprudence) (First Class), Balliol College, Oxford University (2008)

## Appointments, Memberships and Prizes

- Eldon Scholarship (for the most promising graduate of Oxford University commencing practice at the Bar) (2016)
- Vinerian Scholarship (proxime accessit, for being ranked joint second in the year on the BCL) (2014)
- Allen & Overy Prize (for the Best Performance in Corporate Insolvency Law on the BCL) (2014)
- Martin Wronker Prize (for the Final Honour School examinations in Jurisprudence [proxime accessit, for being ranked joint second in the year]) (2008)
- Gibbs Book Prize (for the Best Combined Performance in Contract, Tort, Land & Trusts) (2008)
- All Souls Prize (for the Best Performance in Public International Law) (2008)
- Brackenbury Scholarship (2005)

## Publications

- An account of profits: when if ever in commercial banking claims (2022) 37 Butterworths Journal of International Banking and Financial Law 689
- Case Comment: *Service out in the Supreme Court (again)* (2022) 138 L.Q.R. 199
- Chapter on *Godard v Gray* and *Schibsby v Westernholz* (April 2023, co-author): Merrett and Day (ed.), *Landmark Cases in Private International Law*
- Chapter on 'Good arguable case' (November 2020, co-author): Worthington and Day (ed.), *Challenging Private Law: Lord Sumption on the Supreme Court*
- Case Comment: *Service Out in the Supreme Court* (2018) 134 L.Q.R. 344 (co-author)
- A new frontier for Brussels I – private law remedies for breach of the Regulation? [2017] 13 *Journal of Private International Law* 356
- Consequential damage and the tort gateway (2016) 132 L.Q.R. 42 (cited to the Supreme Court in oral argument in *Brownlie v Four Seasons Holdings Inc* [2017] UKSC 80, [2018] 1 W.L.R. 192)
- The death of the torpedo action? The practical operation of the Recast's reforms to enhance the protection for exclusive jurisdiction agreements within the European Union. [2015] 11 *Journal of Private International Law* 1 (cited in the Commercial Court in *Etihad Airways PJSC v Flother* [2019] EWHC 3107 (Comm))

## Awards

