



# Michael McLaren QC

Call 1981 | Silk 2002

*"A charming advocate with an ease of delivery that belies an iron will and formidable hard work."*

*The Legal 500*

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

Michael McLaren QC has a broad, high quality practice in all areas of commercial litigation, regulation and professional discipline.

He has particular expertise in all aspects of aviation law, being ranked Tier 1 in *The Legal 500*. He also specialises in disciplinary and regulatory matters affecting the legal, accountancy and other professions, with a particular focus on regulation of the legal profession and is ranked by both *Chambers & Partners* and *The Legal 500* for his work in this field. He has acted extensively in banking matters, including in the high-profile *Bank Mellat* case and large oligarch cases; and he has a wide range of experience in other commercial disputes.

Having led in many cases, including very substantial ones, he is very much a team player – approachability, complete mastery of the facts, the law and any technical issues, and total dedication to achieving the best outcome for the client being cornerstones of his work ethic.

## Recent Highlights

### **Bank Mellat v HM Treasury [2018] EWHC 2568 (Comm)**

Leading the team acting for Bank Mellat in its \$4 billion claim against HM Treasury for damages under the HRA for losses caused by the Treasury's imposition in 2009 of unlawful sanctions on the bank on the grounds of its alleged involvement in nuclear proliferation.

### **ACG Acquisition v Olympic [2013] EWCA Civ 369, [2012] EWHC 1070 (Comm)**

Acting in the leading case on aircraft leases, for a major US aircraft lessor resulting in the CA's judgment on the proper construction of a "hell and high water" clause and the binding effect of a certificate of acceptance. Other reported CA successful judgments in the same case include [2012] EWCA Civ 1659; and [2014] EWCA Civ 821.

### **Dubai Financial Group LLC v National Private Air Transport Services [2016] EWCA Civ 71**

Successfully acting in the CA for the appellant vendor of fractional shares in aircraft in a dispute over the repurchase

of those shares, raising novel issues of substituted service and enforcement (by aircraft arrest) of default judgments.

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#### **Williams v Solicitors Regulation Authority [2017] EWHC 1478 (Admin) & [2017] EWHC 2005 (Admin)**

Acting for the SRA in a high profile case against a distinguished solicitor (and author of a leading textbook) accused of dishonesty and want of integrity, including on appeal to the administrative court.

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#### **Nesbit Law Group LLP v Acasta European Insurance Co, Ltd. [2018] EWCA Civ 268**

Acting in this case regarding the proper construction of exclusion clauses in an insurance policy for the funding of solicitors' fees in personal injury claims.

## Expertise

### Administrative & Public Law

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#### Notable Administrative & Public Law cases

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Advising financial intermediaries as to the merits of a possible judicial review challenge to FSA Rules in relation to PPI.

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Advising bmi (ex-British Midland – then the second largest user of LHR) as to the merits of a possible judicial review challenge to increased Heathrow airport charges.

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#### **Williams v Solicitors Regulation Authority [2017] EWHC 1478 (Admin) & [2017] EWHC 2005 (Admin)**

Acting for the SRA in a high profile case against a distinguished solicitor (and author of a leading textbook) accused of dishonesty and want of integrity, including on appeal to the administrative court.

### Aviation & Travel - Aircraft leases and aircraft condition

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#### Notable Aviation & Travel - Aircraft leases and aircraft condition cases

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#### **ACG Acquisition v. Olympic [2013] EWCA Civ 369, [2012] EWHC 1070 (Comm)**

Acting in the leading case on aircraft leases, for a major US aircraft lessor resulting in the CA's judgment on the proper construction of a "hell and high water" clause and the binding effect of a certificate of acceptance. Other reported CA successful judgments in the same case include [2012] EWCA Civ 1659; and [2014] EWCA Civ 821.

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Acting for a Kuwaiti lessee of a business jet in its dispute with the lessor over the recovery of c.\$7 million of pre-payments for block hours.

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Acting for a Cypriot airline in a dispute with the lessor over the financial consequences of its refusal to accept onto lease an Airbus aircraft non-compliant with the agreed specification.

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Advising a major British long-haul airline on a dispute with the lessor of an A340 as to the release of maintenance reserves for landing gear maintenance.

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Acting for AerCap in a substantial LCIA Arbitration over the return condition and payments due in relation to two Airbus aircraft at the end of their leases.

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Acting for a flag carrier airline in an LCIA Arbitration with ILFC over the return condition and payments due in relation to six Airbus aircraft at the end of their leases.

## Aviation & Travel - Aircraft works and maintenance

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### Notable Aviation & Travel - Aircraft works and maintenance cases

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Acting for a UK MRO in relation to various disputes with another UK MRO concerning aircraft maintenance works, “de-parting” of aircraft and sales of aircraft parts.

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Advising a UK cargo airline on whether the proposed upgrading project for an Antonov AN-124 aircraft would breach any EU or UK Government prohibitions or restrictions (2016).

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### Tarom v Jet2.com [2014] EWCA Civ 87

Acting for the Romanian flag carrier airline in the CA concerning the distinction between causation and the assessment of damages, in the context of a long-term maintenance contract.

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Advising maintenance / storage providers at Stansted in relation to liens and threatened injunctions in relation to two executive jets.

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Advising the owners of an Airbus aircraft in relation to a dispute with a US MRO concerning the conversion of the aircraft into a prestige executive jet.

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Advising the owners of BAe146 and RJ85 aircraft in relation to their contractual rights in relation to preferred supplier status with a major defence contractor, arising out of modifications to the aircraft.

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Acting for the owners of an executive jet in an LCIA Arbitration, in a dispute as to the work done and charges levied by the manufacturer / repairers, Gulfstream.

## Aviation & Travel - Aircraft seizure

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### Notable Aviation & Travel - Aircraft seizure cases

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Wide experience over many years of acting for and advising various mortgagees (including Kaupthing and GE Capital), aircraft owners and unpaid maintenance / storage providers, in various aviation cases, seeking preservative relief, injunctive or equivalent relief restraining the unauthorised use of various executive jets, and the exercise of liens on the grounds of unpaid storage charges.

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Advising an African flag carrier airline as to the release from arrest / seizure in Europe of 4 Boeing aircraft.

## Aviation & Travel - Aircraft accidents and incidents

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### Notable Aviation & Travel - Aircraft accidents and incidents cases

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Advising the relatives of a UK national oil-worker killed in a helicopter crash in Norway as to choice of forum / jurisdictional / product liability issues.

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Advising the relatives of a UK national killed when Malaysian Airlines MH17 was shot down over Ukraine as to choice of forum / jurisdictional issues.

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Advising Airbus on jurisdiction issues in relation to actions brought in the USA as a result of an engine fire on an Airbus A319 on a British Airways flight from Heathrow to Oslo in 2013.

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Acting for Eurocopter in relation to helicopter crashes allegedly caused by defective gearbox assemblies.

## Aviation & Travel - Aircraft purchasing and financing

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### Notable Aviation & Travel - Aircraft purchasing and financing cases

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**Odyssey Aviation Ltd. v GFG 737 Ltd. [2019] EWHC 1927 (Comm), [2019] EWHC 1987 (Comm):**

Successfully acting for vendor in an abortive aircraft sale in recovering the deposit from the escrow holder. Novel / interesting points on an implied duty to cooperate, the construction bar on being able to rely on one's own wrong and waiver of conditions precedent.

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Advising a major Mexican airline which had contracted to purchase 30 Sukhoi Superjet SSJ100 aircraft in relation to its claims and its obligations to take the later deliveries, in view of issues with multiple defects in the aircraft, the grounding by Russian authorities of the aircraft type and the availability of spare parts.

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### **Flyington Freighters Ltd. v Airbus SAS**

Instructed on behalf of an Indian cargo airline in a major action against Airbus arising out of a contract for the purchase of 12 A330F freighter aircraft, raising complex issues in relation to the financing of Pre-Delivery Payments and as to equity contributions by the purchaser (settled on eve of four+ week trial).

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### **Dubai Financial Group LLC v National Private Air Transport Services [2016] EWCA Civ 71**

Successfully acting in the CA for the appellant vendor of fractional shares in aircraft in a dispute over the repurchase of those shares, raising novel issues of substituted service and enforcement (by aircraft arrest) of default judgments.

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Advising Lombard in relation to the recovery of finance provided to a borrower for the purchase of an allegedly defective helicopter, which had been sold by Lombard as mortgagee in possession.

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Advising a major global airline in relation to its purchase obligations in relation to multiple future deliveries of Airbus A380s, in view of significant issues with wing cracks in A380s.

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### **Shaker v Vistajet [2012] EWHC 1329 (Comm)**

Successfully acting for the prospective purchaser of a new \$24 million aircraft in his claim to recover the deposit, despite his alleged failure to exercise good faith and reasonable endeavours; the case also raised issues of estoppel.

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Advising a major UK airline in relation to its potential liability for the recalculation of payments due to engine manufacturers for maintenance services, in the event of any cancellation of purchase orders for B787 aircraft, production / delivery of which had been delayed.

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### **Tandrin v Aero Toy Store [2010] EWHC 40 (Comm); [2009] EWHC 1450 (QB) (Comm)**

Acting for the vendors of a new \$32 million executive jet when the purchasers declined to complete the transaction due to the 2008 financial crash; judgments on jurisdiction, penalty clause and inability to rely on force majeure clause for economic circumstances (*Tandrin* is now being widely cited in relation to the COVID-19 pandemic and force majeure).

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Advising a borrower in relation to a lender's attempted implementation of a "Market Disruption Clause" in an aircraft financing agreement.

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## Aviation & Travel - Aircraft and engine design issues

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### Notable Aviation & Travel - Aircraft and engine design issues cases

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Advising the owner of an executive jet in relation to its potential claims against the global engine manufacturer in relation to a design / manufacturing defect relating to the delamination of coatings, causing the blockage of the cooling holes and the early grounding / maintenance of the engines.

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Advising a major global airline in relation to its purchase obligations in relation to multiple future deliveries of Airbus A380s, in view of significant issues with wing cracks in A380s.

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Acting for Eurocopter in product liability claims arising from several fatal accidents allegedly caused by the failure of helicopter gearboxes in Eurocopter helicopters.

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Advising Kingfisher (Indian airline) in its dispute with a manufacturer as to the non-contractual condition of a leased aircraft due to defects in the design and manufacture of its aero engines.

## Aviation & Travel - Airports

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### Notable Aviation & Travel - Airports cases

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Acting in disputes / mediations between various police forces and various airport operators, as to the operators' statutory obligation to contribute towards the costs of policing the airports.

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Acting for the owners of a vandalised Boeing aircraft claiming damages against a UK airport for inadequate airport security.

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Advising in relation to various disputes connected with noise at various regional UK airports.

## Aviation & Travel - Regulation

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### Notable Aviation & Travel - Regulation cases

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Advising the prospective administrators of a major insolvent British airline as to how to realise any value or maximum value from the sale of landing slots, despite the airline being prospectively in liquidation.

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Advising a UK cargo airline in relation to the CAA's approach to its application for an operating licence, including the

CAA's wish to consult with the European Commission.

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Acting for Virgin Atlantic Airways at a Scarce Capacity Hearing before a CAA Panel, on their application for designation as the second UK airline to fly the London-Moscow route.

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Advising bmi (ex-British Midland – then the second largest user of LHR) as to the merits of a possible judicial review challenge to increased Heathrow airport charges.

## Banking & Finance

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### Notable Banking & Finance cases

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#### **Bank Mellat v HM Treasury [2018] EWHC 2568 (Comm)**

Leading the team acting for Bank Mellat in its \$4 billion claim against HM Treasury for damages under the HRA for losses caused by the Treasury's imposition in 2009 of unlawful sanctions on the bank on the grounds of its alleged involvement in nuclear proliferation.

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#### **Wall v RBS**

Acting for the litigation funder of the claimant in major bank litigation, successfully resisting the bank's application against the litigation funder for security for costs of c.£18 million.

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#### **Russian Commercial Bank (Cyprus) Ltd v Khoroshilov [2011] EWHC 1721 (Comm); [2009] EWHC 2630 (Comm)**

Acting on behalf of a Russian bank in three very substantial cases against an oligarch and his companies, with extensive Siberian oil and gas interests (claims were for c.\$250 million and c.\$115 million, and the counterclaim for c.\$5 billion).

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Advising a property developer with a £19 million claim against a UK bank, where excessive lending had been granted by the manager who stood to make a secret profit out of the property development.

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Advising Lloyds TSB in relation to the recovery of substantial sums under a guarantee in relation to a fleet hire business.

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Part of various teams of counsel advising large numbers of UK investors in Cypriot holiday properties, involving multiple claims for mis-selling etc against Cypriot banks.

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#### **Ulster Bank v Taggart**

Acting for property developers in relation to guarantee claims by banks (for £5 million and €5.3 million) in a high-profile case brought against them in Northern Ireland.

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Advising a borrower in relation to a lender's attempted implementation of a "Market Disruption Clause" in an aircraft financing agreement.

## Civil Fraud

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### Notable Civil Fraud cases

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Acting for VTB Bank & Russian Commercial Bank (Cyprus) Ltd, where various allegations of fraud / forged documents were made in various proceedings brought by VTB against an oligarch and his companies.

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#### **Mbasago v Logo Ltd. (No.1) [2006] EWCA Civ 1370**

Acting for the alleged financier and co-conspirator in the notorious Equatorial Guinean coup case, where extensive allegations of various nefarious conduct were made against the conspirators.

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Acting for Stoy Hayward, where the fraud by Asil Nadir / Polly Peck International was central to the claim against the accountants for their negligence in the audit of Polly Peck.

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Acting for a Kuwaiti sheikh in the substantial fraud action arising out of the KIO (Kuwait Investment Office) scandal following the Iraqi invasion of Kuwait.

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#### **Law Society v Habitable Concepts [2010] EWHC 1449 (Ch) & Law Society v Isaac & Isaac [2010] EWHC 1670 (Ch)**

Successfully acting for the SRA in two Chancery trials to recover from knowing recipients the proceeds of three very substantial mortgage fraud schemes perpetrated by dishonest solicitors.

## Commercial Crime

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### Notable Commercial Crime cases

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#### **Bank Mellat v HM Treasury [2018] EWHC 2568 (Comm)**

Leading the team acting for Bank Mellat in its \$4 billion claim against HM Treasury for damages under the HRA for losses caused by the Treasury's imposition in 2009 of unlawful sanctions on the bank on the grounds of its alleged involvement in nuclear proliferation.

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Advising on the consequences of the incorrect listing of US sanctions against an Iranian company, which incorrect listing thwarted the sale of a cargo vessel for several million dollars.

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Acting in a substantial claim relating to power plants in Iraq, where the performance / execution of the contract was affected by sanctions then in place against Iraq.

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Acting in a claim in relation to sanctions against Serbia, in the context of its airline, Jugoslav Air Transport (JAT).

## Commercial Disputes

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Michael's broad commercial practice has covered agency, assignment, chancery issues, commodities, competition, conspiracy, costs, IT/technology, mediation, shipbuilding, unsafe ports/ berth cases.

## Construction, Energy & Infrastructure

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### Notable Construction, Energy & Infrastructure cases

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Advising in two cases in relation to the construction of power stations in Iraq.

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Acting in relation to a dispute in relation to a combined heat and power plant in Smithfield.

## Insurance

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### Notable Insurance cases

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#### Nesbit Law Group LLP v Acasta European Insurance Co Ltd [2018] EWCA Civ 268

Acting in this case regarding proper construction of exclusion clauses in an insurance policy for the funding of solicitors' fees in personal injury claims.

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#### Wall v RBS

ATE insurance: Acting for the litigation funder of the claimant in major bank litigation, successfully resisting the bank's application against the litigation funder for security for costs of c.£18 million.

## International Arbitration

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Michael's aviation-related arbitration experience can be found in the 'Aviation & Travel' sections. Below are some details of his experience outside of the aviation sector.

## Notable International Arbitration cases

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Two shipbuilding arbitrations against an Australian shipbuilder for substantial sums as a result of the defective construction of two fast ferries.

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Advising the intended purchaser of a ship, the purchase of which was thwarted by the incorrect reporting of US sanctions against an Iranian company.

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Successfully acting for a Russian bank in an arbitration for c.\$250 million.

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Advising as to the jurisdiction of arbitrators in a substantial commodities (zinc-trading) arbitration involving Trafigura BV.

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Acting for a packaging manufacturer in the arbitration of a dispute as to commission payments.

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Acting for the London Ambulance Service in a high profile arbitration concerning the control system for its operations.

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Advising a Russian property developer in relation to a partnership / JV dispute concerning development land in Moscow (English arbitration clause).

## Product Liability

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See 'Aviation & Travel' sections.

## Professional Discipline - Work for the SRA

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### Notable Professional Discipline - Work for the SRA cases

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#### **Williams v Solicitors Regulation Authority [2017] EWHC 1478 (Admin) and [2017] EWHC 2005 (Admin)**

Acting for the SRA in a high profile case against a distinguished solicitor (and author of a leading textbook) accused of dishonesty and want of integrity.

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#### **Solicitors Regulation Authority v Dennison [2012] EWCA Civ 421, [2011] EWHC 291 (Admin)**

Successfully appealing an SDT decision for not striking off a solicitor who was found to have been dishonest; and resisting the solicitor's further appeal to the CA.

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### **Faniyi v Solicitors Regulation Authority (2012) EWHC 2965 (Admin)**

Successfully resisting a solicitor's appeal from the SDT's refusal of a re-hearing of an earlier SDT decision made in his absence.

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### **Solicitors Regulation Authority v Davis & McGlinchey [2011] EWHC 232 (Admin)**

Challenging the basis on which costs are not awarded to the SRA when successful in the SDT on the grounds of impecuniosity of the respondent.

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### **Solicitors Regulation Authority v Grindrod [11030-2012]**

Advising the SRA on solicitors' disciplinary issues arising out of Stamp Duty Land Tax "avoidance" schemes; and acting for the SRA in the lead case in the SDT on those issues.

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### **Virdi v The Law Society [2010] EWCA Civ. 100; [2009] EWHC 918 (Admin)**

Successfully resisting appeals challenging not only a SDT decision, but also the delay by the SDT in producing reasons and the role of the SDT clerk.

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Acting for the SRA in enforcing, or resisting challenges to, various interventions.

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Advising the SRA in relation to the regulation of Alternative Business Structures; and as to strategic / framework issues.

## **Professional Discipline - Other work regarding the legal profession**

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Notable Professional Discipline - Other work regarding the legal profession cases

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Acting for a solicitor accused of dishonesty in the evidence he gave at trial.

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### **Solicitors Regulation Authority v Pike (11493-2016)**

Successfully defending a solicitor, who had been acting for News Group in the phone-hacking scandal, against professional misconduct charges in relation to the surveillance of opposing solicitors to ascertain whether they were in a relationship.

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Advising / defending solicitors accused of dishonesty.

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Advising as to disciplinary issues where an opposing solicitor was (arguably) party to blackmail by his client in a case concerning sexual abuse.

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Advising numerous solicitors on various regulatory / disciplinary issues, including potential conflict and client confidentiality issues; overcharging issues; disciplinary / other issues arising out of misleading the court; the use of solicitors' accounts as a bank account; disclosure of ongoing disciplinary proceedings in other jurisdictions; self-reporting / COLP reporting issues in relation to SDLT avoidance work; self-reporting issues in relation to unidentified conflicts of interest; internal investigation of partners in other jurisdictions in breach of fiduciary duties; threatened SRA investigations and interventions; referral agreements; and partnership disputes.

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### **Anderson v Penningtons Manches LLP (11261-2014)**

Striking out a private complaint in the SDT against solicitors, who had been acting for the SRA in separate proceedings against the complainant.

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Advising the Bar Standards Board in relation to various matters, including issues as to its rules; the provision of a regulatory regime for Alternative Business Structures, Legal Disciplinary Practices and Barrister-Only Entities; and the COIC Rules.

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### **In re P. [2005] 1 WLR 3019**

Acting for the Bar Council in seeking to defend a challenge to the composition of the Visitor's Panel hearing a disciplinary appeal.

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### **Report on Cab Rank Principle**

Leading (pro bono) the team producing the report for the Bar Standards Board.

## **Professional Discipline - Other professions**

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### **Notable Professional Discipline - Other professions cases**

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Acting for and/or advising various senior accountants in three separate high-profile Joint Disciplinary Scheme proceedings (Resort Hotels, Queens Moat Houses and Transtec).

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Advising the AADB in relation to procedural matters at a preliminary stage of the MG Rover proceedings.

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Successfully clearing an insolvency practitioner facing seven allegations (including dishonesty and want of integrity) before an ACCA Disciplinary Committee.

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Successfully acting for a bankrupt accountant seeking to retain his ACCA membership.

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Acting for leading practitioners in ICAEW disciplinary proceedings.

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Advising a high-profile individual in relation to a complaint by him to the ICAEW in relation to the misconduct of insolvency practitioners targeting him.

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Advising a top-20 firm in relation to regulatory and other consequential issues arising out of audits signed off by a partner with a lapsed practising certificate.

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Acting for the Insolvency Practitioner's Association in a procedural challenge in disciplinary proceedings.

## Professional Negligence

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### Notable Professional Negligence cases

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Advising in relation to various claims against accountants for negligent tax advice.

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Acting for Stoy Hayward in the £350 million litigation resulting from the collapse of Polly Peck International.

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Acting for accountants in various other claims based on the negligent audit of accounts or the negligent approval of financial statements prepared in the context of bids / share-purchase agreements.

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Acting for accountants engaged by a regulator to carry out various spot-checks on licensed conveyancers.

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Advising solicitors in relation to a potential claim against them for alleged negligence in drafting a settlement agreement of a substantial commercial dispute.

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Advising solicitors in relation to an ombudsman finding against them for negligence in relation to a property transaction; and successfully reduced that to a very modest amount.

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Acting against solicitors in a substantial claim for negligence in not serving Particulars of Claim within the time permitted by the CPR.

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Acting for solicitors facing a £25 million claim for negligent advice / work done in connection with a share purchase agreement; three-week Chancery trial settled very favourably.

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Acted for Richard Ellis (surveyors) in defending c.£100 million claim for the Trocadero development.

## Directory Quotes

*"Well-suited to complex litigation and works well in teams, being able to make the most of assistance and delegation. As an advocate, forceful and courageous."*

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The Legal 500

*"He has an incredibly analytical mind."*

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The Legal 500

*"Strategically very astute, taking wise decisions about which points to emphasise and when to steer clear of an issue."*

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The Legal 500

*"He stands out for his forensic approach and knowledge of aviation law."*

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The Legal 500

*"His ability to marshal his thoughts when on his feet is very impressive, and he can wrong-foot the very best ... has a very good rapport with judges."*

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Chambers & Partners

*"He's a very cerebral guy with a phenomenal eye for detail. His delivery is very smooth and I don't think I have ever seen him flustered because he's so well prepared."*

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Chambers & Partners

*"He has an extremely tidy mind - he's very accurate and his eye for detail is phenomenal. Issues that are vague and fuzzy in your head, he has a way of cutting through very sharply and very quickly. There is no case too big for him."*

#### Chambers & Partners

*"Both cerebral and full of energy, he rolls his sleeves up and gets stuck into things. He gets his head around a lot of technical detail and presents it precisely and straightforwardly."*

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#### Chambers & Partners

*"Forensic in his approach, incredibly thorough and a delight to work with in conference." "Technically sound and able with a thorough understanding of the SRA's policies and strategic objectives. He has an extremely smooth and urbane manner which is particularly well suited to the tribunal work in this field."*

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#### Chambers & Partners

## Directory Rankings

### Chambers & Partners – Global

- Dispute Resolution: Commercial

### Chambers & Partners – UK

- Aviation
- Professional Discipline
- Commercial Dispute Resolution

### The Legal 500

- Aviation (Tier 1)
- Professional Disciplinary & Regulatory Law
- Commercial Litigation

## Education

- MA (Law) (First Class Hons), Christ's College, Cambridge

## International Bar / Court Appointments

- Ad hoc admission to the Bar of Northern Ireland

## Publications

- 'COVID-19: The Airlines' Battle for Survival' in *Issues in Aviation Law and Policy*, Chaddick Institute for Metropolitan Development – DePaul University (June 2020)

## Languages

- French (basic)
- Italian (basic)

## Awards

