



# Stephen Moriarty KC

Call 1986 | Silk 1999

*"He has frightening intelligence and is an obvious choice for the most challenging cases."*

*The Legal 500*

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Stephen Moriarty KC has a very broad commercial litigation, arbitration and advisory practice.

He is equally at home undertaking large and complex commercial trials involving heavy amounts of cross-examination or arguing difficult points of law in the appellate courts. He also sits as an arbitrator.

Stephen likes to keep his commercial practice as wide as possible and, particularly given his academic background, especially enjoys cases which involve developing a new area of law from first principles, or by reference to case law in different areas of the law. Areas in which he has had particular expertise over the years are banking and finance disputes, insurance and reinsurance disputes, international arbitrations, professional negligence cases, joint venture disputes and commercial dispute resolution more generally.

The international nature of Stephen's work means that he frequently deals with issues of private international law, as well as cases where foreign law issues are important aspects of the dispute. Over the years, he has dealt with cases involving questions of US law, Indian law, French law, German law, Italian law, Greek law, Iranian law, Egyptian law, Mexican law, Chinese law and Indonesian law. He has also given expert evidence of English law in a number of foreign proceedings.

After spending seven years teaching a wide range of subjects, both at undergraduate and graduate level, in the law faculty of the University of Oxford, Stephen commenced practise as a barrister in 1987. He was called to the Bar in 1986 and took silk in 1999.

## Recent Highlights

### AEGIS v European Re [2003] 1 WLR 1041

Acting in a leading case in the Privy Council on the duty of confidentiality in arbitrations, and the res judicata effect of an arbitration award.

### Angove's v Bailey [2016] 1 WLR 3179

#### London

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Appearing in the Supreme Court for the successful appellant, raising what Lord Sumption described as “two important and controversial questions of commercial law”. The first concerned the circumstances in which English law will treat an agent’s authority as irrevocable. The second concerned the circumstances in which English will give rise to a constructive trust allowing priority in an insolvency.

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## UBS v Kommunale Wasserwerke Leipzig GMBH [2017] 2 CLC 584

Acting in a Court of Appeal case concerned with the enforceability of a series of single tranche collateralised debt obligations, raising a number of controversial questions of English law, including the circumstances in which the dishonest conduct of an individual can be attributed to his employer, and when a party can be made responsible for bribery committed by a third party.

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## Investment Trust Companies (In Liquidation) v Revenue & Customs Commissioners [2018] AC 275

Acting in a leading case in the Supreme Court on the law of unjust enrichment in which Stephen acted for the successful appellant. Amongst other things, the case concerned the circumstances in which a claimant has a cause of action in unjust enrichment against a third party who was not directly enriched by the claimant; and the circumstances in which a cause of action is ousted by a statutory provision.

# Expertise

## Aviation & Travel

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### Notable Aviation & Travel cases

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#### Alpstream AG v PK Airfinance Sarl [2016] CLC 135

Acting in the leading aircraft finance case concerning the duty owed by a mortgagee realising its security.

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#### Blue Sky One v Mahan [2010] EWHC 631 Comm

Acting in a case regarding the applicable law governing the validity of aircraft mortgages.

## Banking & Finance

Stephen has had experience of a broad area of work, including domestic and investment banking; futures and derivatives trading; securitisations; tracing actions; and regulatory and other proceedings involving financial intermediaries.



## Notable Banking & Finance cases

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### Barclays Bank v Boulter [1999] 1 WLR 1919

Appearing as amicus curiae in the House of Lords (burden of proof when seeking to set aside a guarantee for undue influence).

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### Blue Sky One v Mahan [2010] EWHC 631 Comm

Acting in a case regarding the applicable law governing the validity of aircraft mortgages.

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### Alpstream AG v PK Airfinance Sarl [2016] CLC 135

Acting in a dispute regarding the duties owed by a secured lender in non-recourse financing.

## Commercial Disputes

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The international nature of Stephen's work means that he frequently deals with issues of private international law, as well as cases where foreign law issues (both common law and civil law) are an important aspect of the dispute.

## Insurance

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Stephen has advised and acted for insurers, reinsurers and brokers in all manner of disputes, and dealt with almost all fields of marine and non-marine insurance and reinsurance, including comprehensive general liability insurance, credit insurance, aviation insurance, war risks insurance, D&O insurance, insurance on the Bermuda form, LMX reinsurance, and alternative risk transfer products.

## Notable Insurance cases

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Acting in a Bermuda Form arbitration for insurers in relation to claim by a major oil and gas company to be indemnified against substantial environmental liabilities in California.

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Acting in a Bermuda Form arbitration for an insured in relation to environmental liabilities which it sought to be indemnified against.

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### Lord Napier & Ettrick [1993] AC 713

Acting in the leading House of Lords case on an insurer's right of subrogation.

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### The Grecia Express [2002] 2 Lloyd's Rep. 88



Acting in a case regarding a claim relating to the alleged actions of terrorists in sinking a ferry.

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## **The Athena [2007] 1 Lloyd's Rep 280**

Acting in a case regarding a claim relating to Tamil Tigers blowing up a vessel in Sri Lankan waters.

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## **The Silva [2011] 2 Lloyd's Rep. 141**

Acting in a case regarding a claim relating to Egyptian Courts seizing a vessel in Port Suez on the basis of trumped up allegations.

## **International Arbitration**

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Stephen has extensive experience of appearing as counsel in arbitration proceedings, both ad hoc and institutional (including ICC, LCIA, SIAC and AAA) in a whole range of different areas. Insurance and reinsurance disputes figure prominently in this aspect of his practice, but other areas include defence-related disputes, joint venture disputes, aviation disputes and disputes arising out of sale and purchase agreements.

He also regularly accepts arbitral appointments, and has sat as an arbitrator in as wide a variety of cases as those in which he has acted as counsel, including insurance and reinsurance disputes, joint venture and company-related disputes and claims in relation to the alleged mis-selling of derivatives.

## **Professional Negligence**

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Stephen has extensive experience of claims in a wide range of professional disciplines, including those against accountants, banks, solicitors, brokers and other financial intermediaries. He has acted for a number of well-known law firms in defence of proceedings brought against them for professional negligence.

## **Notable Professional Negligence cases**

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**Levicom International Holdings BV v Linklaters [2010] PNLR 29**

**Langsam v Beachcroft LLP [2012] EWCA 1451 (Civ)**

**Caparo v Dickman [1990] 2 AC 605**

Acting in a landmark professional negligence case in the House of Lords on duties of care in tort, in which Stephen was instructed for the successful accountants. It was recently voted one of the fifteen most significant cases of the past 150 years.



## Directory Quotes

*"Unbelievably clever, able and a great advocate."*

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The Legal 500

*"Stephen is quite simply the finest mind at the Bar. He is exceptionally quick to identify the core of any legal issue and extremely rigorous in solving it. At the same time he is excellent to work with, very responsive, and happy to work as part of a team, with no airs and graces."*

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The Legal 500

*"Stephen is able to grasp the fine legal nuances of the case while paying keen attention to the details. He has an outstanding intellect which combined with his considerable experience makes him a formidable and highly effective advocate."*

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The Legal 500

*"A phenomenally clever lawyer, whose grasp of fine detail is as strong as his hold on complex overarching legal principles. His advocacy is unabrasive and extremely compelling."*

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The Legal 500

*"An utterly charming man who is able to bring other areas of the law to bear on the issue at hand and engage in excellent lateral thinking." "Stephen Moriarty is extraordinary; he's so inventive and energetic."*

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Chambers & Partners

*"He's brilliant on his feet." "He does a lot of insurance work of the highest calibre." "Extremely bright and incredibly hard working."*

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Chambers & Partners

*"As impressive as it gets - knows everything there is to know about the workings of the Commercial Court."*

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The Legal 500

*"Impressive cross-examination skills, and makes submissions that are lucid and easily understood."*

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The Legal 500

*"A top-tier advocate who provides a 360 degree view of the legal issues."*

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The Legal 500

## Directory Rankings

### Chambers & Partners – Global

- Dispute Resolution: Arbitration: The English Bar – Singapore (Band 1)
- Dispute Resolution: Commercial – UK

### Chambers & Partners – UK

- Aviation
- Commercial Dispute Resolution
- Insurance

### Chambers & Partners – Asia Pacific

- Dispute Resolution: Arbitration: The English Bar – Singapore (Band 1)

### The Legal 500 – UK

- Aviation
- Commercial Litigation
- Insurance & Reinsurance
- International Arbitration: Counsel
- Professional Negligence

### The Legal 500 – Asia Pacific

- The English Bar: Commercial (Tier 1)
- Leading Arbitrator: Regional International Arbitration (Tier 1)

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## Education

- BA in Jurisprudence (First Class), Brasenose College, Oxford (1977)
- B.C.L. (First Class), Brasenose College, Oxford (1978)
- MA (Oxon) (1983)

## International Bar / Court Appointments

- Registered as a Foreign Lawyer at the Singapore International Commercial Court (2015-).
- Member of the Delhi International Arbitration Centre's panel of Arbitrators.

## Appointments, Memberships and Prizes

- Member of the Delhi International Arbitration Centre's panel of Arbitrators.
- Member, Panel of Advisors to the Attorney-General of Singapore (2015-).
- Registered Foreign Lawyer, Singapore International Commercial Court (2015-).
- Head of Chambers (2013-2018).
- Chairman, Commercial Bar Association (2011-2013).
- Benchers, Middle Temple, (2009-).
- Fellow and Tutor in Law, Exeter College, Oxford, and University Lecturer in Law in the University of Oxford (1979-1986).
- Vinerian Scholarship (best result in BCL at University of Oxford) (1978).

## Publications

- Editor of Insurance Chapter in *Chitty on Contracts* 26th edition (1989) and 27th edition (1994)
- Contributor to *Laundering and Tracing* U.P. 1995 (Chapter entitled Tracing, Mixing and Laundering dealing with the tracing of laundered monies through bank account)
- General Editor (with Raymond Cox) *Commercial Court Procedure* (Sweet & Maxwell)
- Member of Advisory Group to Professor Andrew Burrows QC (Hon): *Burrows, A Restatement of the English Law of Unjust Enrichment* (OUP, 2012); *Burrows, A Restatement of the English Law of Contract* (OUP, 2016).

## Languages

- French (basic)

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## Awards



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