



# Stephen Rubin KC

Call 1977 | Silk 2000

*"A hugely experienced fraud expert and cross-examination supremo." "He's very effective and very talented."*

*Chambers & Partners*

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Stephen Rubin KC specialises in heavy commercial litigation in this jurisdiction and overseas.

He has been the lead counsel in a number of major, long and complex cases – many of them involving conspiracy and civil fraud. He is used to difficult cases and is easy to work with. Having been regularly in court from the start of his practice he has considerable experience of oral and written advocacy and is well used to coping with the challenges presented by substantial trials (and arbitrations), applications and appeals at all court levels in England and the Caribbean and of heavy cross-examinations.

## Recent Highlights

### CSLN v Various investment funds

2022/23 – Lead Counsel for CSLN (acting by receivers) in contested just and equitable winding up petitions in Cayman and the BVI by which CSLN sought winding up orders and recovery of \$500m invested in 4 investment funds structured and promoted by Floreat bank. Trial Cayman 6 weeks in April and May 2023 against Floreat management shareholders – successful. 3 Cayman Funds wound up. Appearances also in BVI action at first instance and on appeal to the ECCA. Continuing in both jurisdictions and before the PC.

### Renova Industries Limited & Ors v Emmerson International Corporation & Ors

BVI Commercial Court November 2019 (part-heard) and separately February 2020, acting for several defendants in a \$1 billion+, long-running fraud claim by Russian energy sector interests. One of the largest cases currently litigating in the BVI – concerned at this stage for these defendants with jurisdiction, freezing order and LPP issues. Upcoming hearings in July and later in 2020. Still continuing but stayed due to sanctions.

### Motorola Solutions Inc v Hytera Communications Corporation Ltd

English Commercial Court Jacobs J – April 2020 – acting for Defendants resisting Sec 25 freezing order, WW information order and Chabra applications from Motorola in support of \$750 million US claim. Important issue of

admissibility of WP/mediation conversations on freezing order application (pending before Court of Appeal). See [here](#) for the High Court judgment. May 2023 [successful stay of Motorolas enforcement proceedings](#) for non-payment of earlier costs – Commercial Court – equitable set off.

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### **Kunlun Newcentury & Ors v Lunan Pharmaceutical Group Corp & Ors**

BVI Commercial Court June 2019 and March 2020 – claims to ownership by rival claimants to 25% of the shares of very substantial Chinese pharmaceutical corporation held in BVI company with allegations of fraudulent misappropriation. ECCA October 2022.

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### **Robert Tchenguiz & Others v Grant Thornton & Others October 2018**

Commercial Court 12-week trial Stephen acted for the Claimants, October 2018 – very large claim for damages for conspiracy to injure by unlawful means including deceit and malicious prosecution. (One of *The Lawyer's* 'Top 20 Cases' of 2018). Instructed by Debevoise & Plimpton.

## Expertise

### **Banking & Finance**

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#### Notable Banking & Finance cases

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#### **KPMG LLP v Equity Trust 2007 - trial Commercial Court**

Merchant banking negligence.

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#### **Miller & Moody v Condor Insurance [2006] 1 WLR 1847, [2006] 1 All ER 934**

This is the leading case on corporate finance/loan note guarantees by way of deed poll. Stephen acted for the successful claimants.

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#### **Campden Hill Ltd v Chakrani & Others (2005) NPC 652**

This case examines several issues including tracing in equity through client account and extortionate credit bargains. Stephen acted for the successful claimants.

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#### **Sequin v UBS A.G. [2002] Comm Ct**

This case concerned forex trading. Stephen acted successfully for UBS.

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### Saab v Jones Day [2002] LTL 5/12/2002

This trial concerned corporate finance in the Middle East and the duties owed by advisers.

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### First American v Sheikh Zayed Al Nahayan [1999] 1 WLR 1154

This case concerned the collapse of First American Bank in the USA and auditing issues. Stephen also acted in the mirror applications in the Cayman Islands. The immediate issue in England was obtaining evidence from Price Waterhouse employees.

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### Ata v American Express (1996)

A very complex six-week forex trial in the Commercial Court. Stephen conducted almost all of this trial and carried out all the examination and cross-examination of witnesses.

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Advised major clearing bank on standard terms for guarantees and major corporation on banking regulatory issues.

## Civil Fraud

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Stephen is recommended for this work in *Chambers & Partners* and *Legal 500*. In addition to the matters listed below, Stephen has experience of and good knowledge and connections to Gulf and Middle East.

### Notable Civil Fraud cases

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#### Premier Motorauctions Limited & Lloyds Bank PLC & PwC May 2018

Chancery Division for trial April 2018 (eight weeks) Snowden J. Stephen acted for Lloyds Bank defending a £40 million + claim for conspiracy to defraud and breach of contract. (One of *The Lawyer's* 'Top 20 Cases' of 2018). See [here](#) for *The Lawyer* article entitled 'Premier Motorauctions drops claims against Lloyds and PwC'.

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#### LICT Communications SARL v VTB Capital Plc & Others

Trials December 2017(Waksman J) and May 2019 (fraud claim. Stephen acting for the claimants. Trial of preliminary issues in Commercial Court in London of issues of Luxembourg law of delict and causation and the *fraus omnia corrumpit* doctrine under civil law [2018] EWHC 169 (Comm) fraud and conspiracy claim concerning the ownership and control of Bulgarian Telecom QBD (Comm) (Judge Waksman QC) 7/02/18 and 14/07/2016- LTL 15/7/2016; Moulder J – 5 July 2019 LTL 5/7/2019 : [2019] 7 WLUK 59. Instructed by Fried Frank.

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#### Rogalskiy v JSC MCC Eurochem 2017 East Caribbean Court of Appeal [BVIHCMAP 2017/0007]

Successfully challenging the power of the BVI Commercial Court to order cross-examination of a defendant on his affidavit of assets provided pursuant to a Worldwide Freezing Order. Instructed by Appleby BVI.

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### UBS New York & Others v Fairfield Sentry March 2015

BVI Commercial Court and East Caribbean Court of Appeal – for banks in Madoff related claims to stop BVI liquidator proceeding in actions in the USA for recoveries of approx. \$6 billion. Instructed by Gibson Dunn.

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### VTB v Katunin and various investment companies – 2015 – 2016 BVI Commercial Division (Bannister J) and East Caribbean CoA [BVIHCMAP2015/0007] and elsewhere

Acting for the defendants in various proceedings in BVI and Europe relating to large bank lending and fraud.

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### VTB Capital Plc v Nutritek International Corp & Ors [2013] 2 A.C. 337 SC

Appearing for Russian entrepreneur, Mr Konstantin Malofeev at first instance and in the UK Supreme Court in successfully challenging the jurisdiction of the English courts to hear a \$350 million claim and in discharging a \$200 million worldwide freezing order. Parallel and successive connected litigation in BVI in which jurisdiction and freezing orders also successfully challenged (2013). Landmark case on jurisdiction and piercing the corporate veil.

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### Chodiev & Others v Stein - 2015 Burton J LTL 8/6/2015

Fraud action in Commercial Court seeking to reverse decision of court in an earlier trial concerning corporate finance fees on grounds of perjury. [2015] EWHC 1428 (Comm) QBD (Comm) (Burton J) 20/05/2015 References: LTL 8/6/2015. Instructed by Hogan Lovells.

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### Deutsche Bank AG v Sebastian Holding Inc. & Alexander Vik [2014] EWHC 112 (Comm) QBD (Comm) (Cooke J) 30/01/2014 References: LTL 5/2/2014

Successful application to set aside service of third party costs application – service under the Hague Convention – forum non conveniens and also heavy third part costs claim [2014] 4 Costs L.R. 711 Instructed by Cooke, Young and Keidan.

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### Palmer & Harvey McLane Ltd V (1) Clive Garrad (2) Susan Garrad Ch D (LTL 04/12/2013)

Successful three-week trial – sham agreements, settlement agreements, forgery – indemnity costs. Instructed by Herbert Smith Freehills.

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### A-G of the Turks & Caicos Islands v Coxco & Others - Supreme Court of TCI June/July 2013

Successfully defeated of major Norwich Pharmacal action against proposed defendants for substantial disclosure as precursor to claims. Instructed by Griffiths & Partners.

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### Baldwin & Sons & Others v Sheikh Saud Bin Mohammed Al-Thani [2012] EWHC 3156 - LTL 9/11/2012

Sec 25 WFO and auctions.

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### **A-G of Turks & Caicos Islands v Salt Cay DevCo Limited - Supreme Court of TCI 2012**

Leading Counsel for the Defendants 2010 to date in high profile commercial fraud and bribery case. Claim is for damages of £100 million and rescission of the contracts for the purchase of much of the island of Salt Cay which is due to be developed as an upmarket resort and villa development. Case concerns allegations of secret profits/bribes to the Prime Minister of TCI. Trial listed for 6 weeks – Last hearings in TCI CoA in May 2012.

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### **Congo Mining Disputes**

Working on various of these disputes alleging conspiracy being litigated or arbitrated outside DCR.

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### **Digicel Limited v Cable & Wireless Plc**

Five-month trial in Chancery Division in 2009-2010 – heavy and complex claim of conspiracy to injure, breach of statutory duty, dishonest practices – telecoms market in Caribbean – LTL 17/6/2009, LTL 21/4 2010, [2010] EWHC 774 (ch). Instructed by Jones Day.

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### **The Wahr - Hansen litigation**

Grand Court, Cayman Islands, 2004-2009, heavy and complex fraud and breach of trust litigation in the Cayman Islands. Stephen as Counsel for the Claimants was the leading counsel of a team of four counsel and several law firms. Preliminary trial 2006 on foreign revenue issue – judgment for Claimants [2007] CILR 2007]. Instructed by BAHR Oslo and Jones Day.

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### **First American v Sheikh Zayed Al Nahayan [1999] 1 WLR 1154, and Pharaon v BCCI [1998] 4 All ER 455**

Fraud litigation in USA concerning also UK and Cayman arising from collapse of the First American Bank. Instructed by Jones Day.

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### **Den Norske Bank v Antonatos [1999] QB 27**

Banking fraud – leading case on search and freezing orders and related matters. Instructed by S J Berwin.

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## **Commercial Disputes**

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Recommended in *Chambers & Partners* and *The Legal 500*. Examples of Stephen's work can be found below and within the 'Civil Fraud' section.

## Notable Commercial Disputes cases

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### **Digicel Limited v Cable & Wireless Plc**

Five-month trial in Chancery Division in 2009-2010 – heavy and complex claim of conspiracy to injure, breach of statutory duty, dishonest practices – telecoms market in Caribbean – LTL 17/6/2009, LTL 21/4 2010, [2010] EWHC 774 (ch). Instructed by Jones Day.

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### **euNetworks v Abovenet - Briggs J - LTL 9/1/2008**

Contractual construction – private dictionary – specific performance and rectification – London Fibre Optic Network dispute.

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### **KPMG LLP v Equity Trust - Commercial Court**

Merchant banking negligence – trial 2007.

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### **Miller & Moody v Condor Insurance [2006] 1 WLR 1847, [2006] 1 All ER 934**

This is the leading case on corporate finance/loan note guarantees by way of deed poll. Stephen acted for the successful claimants.

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### **Campden Hill Ltd v Chakrani & Others (2005) NPC 652**

This case examines several issues including tracing in equity through client account and extortionate credit bargains. Stephen acted for the successful claimants.

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### **Pedley v Avon Insurance Plc LTL 31/7/2003**

Insurance – non-disclosure/misrepresentation.

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### **Den Norske Bank v Antonatos [1999] QB 271**

Banking fraud – leading case on search and freezing orders and related matters. Instructed by S J Berwin.

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### **BOC plc v Centeon Inc [1999] 1 All ER (Comm) 970**

Leading case on guarantees and construction of contracts.

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### **IPC v Middlesbrough F.C. [2002] QBD**

Mistake and non est factum in contracts – sporting image rights exploitation.

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### Sequin v UBS A.G. [2002] Comm Ct

This case concerned forex trading. Stephen acted successfully for UBS.

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### Saab v Jones Day [2002] LTL 5/12/2002

This trial concerned corporate finance in the Middle East and the duties owed by advisers.

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### Davidson v Davidson - 2017 QBD, London

Wealthy family very substantial chattels dispute.

## International Arbitration

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Stephen has acted and advised in several substantial commercial arbitrations and has been appointed as an arbitrator.

### Notable International Arbitration cases

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Advising on scope and effect of arbitration clause in complex international dispute.

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Appearing in several LCIA and ICC Arbitrations in London concerning fraud and share ownership claims.

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LCIA arbitration London defending bank guarantee claims.

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LCIA Arbitration – Defending part of majority interests from claims by Russian minority interests.

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Sole arbitrator in reinsurance dispute.

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Acting for the Claimants in on-going arbitration in London concerning city-wide fibre-optic network.

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Sole Arbitrator in heavy multi-million insurance and banking arbitration in London.

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Instructed by Claimants in substantial Brussels arbitration (Belgian and UK arbitrators) concerning fraud and warranty claims arising from share purchase agreement on take-over of industrial corporation.

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Instructed by Claimant in Commercial Court challenges to award under Sec 67 and 68 of the Arbitration Act.

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Instructed by the Respondents in substantial LCIA arbitration in London concerning film production, sales and distribution (subject to Danish and English Law).

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Instructed for developers in substantial arbitration against utility company relating to large housing developments.

## Offshore

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Notable Offshore cases

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**Renova Industries Limited & Ors v Emmerson International Corporation & Ors - BVI Commercial Court - November 2019 and Feb 2020**

Acting for several defendants in \$1 billion + long-running fraud claim by Russian energy sector oligarch. One of the largest cases currently litigating in the BVI – concerned at this stage for these defendants with jurisdiction, freezing order and LPP issues.

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**VTB v Katunin & various investment companies - BVIHCMAP2015/0007] East Caribbean Court of Appeal**

Successful for defendant in BVI relating to large bank lending and fraud. Instructed by Withers.

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**Kunlun Newcentury & Ors v Lunan Pharmaceutical Group Corp & Ors - BVI Commercial Court June 2019 and March 2020**

Claims to ownership by rival claimants to 25% of the shares of very substantial Chinese pharmaceutical corporation held in BVI company as trustee with allegations of fraudulent misappropriation. For trial October 2020. Instructed by Appleby HK.

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**Zone Advanced General Trading Company v Mosawi and ITC Group Limited 2019 BVI Commercial Court**

Minority shareholders' claim alleging fraudulent conduct by majority and contractual counterclaims concerning the internet in Iraq – six-week trial January 2021.

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**Chen Mei Huan (Peckson Limited) v Victory Success**

Instructed by Applebys BVI for Victory Success. The Macao Casino Case. Hearing May or June 2020.

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**Chudnovsky v Silver Storm Limited & Shtainer**



Fraud claim involving Russia and Monaco. Hearing fixed for January 2020. Settled beforehand.

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### **Rogalskiy v JSC MCC Eurochem 2017 East Caribbean Court of Appeal [BVIHCMAP 2017/0007]**

Successfully challenging the power of the BVI Commercial Court to order cross-examination of a defendant on his affidavit of assets provided pursuant to a Worldwide Freezing Order.

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### **UBS New York & Others v Fairfield Sentry - March 2015**

BVI Commercial Court and East Caribbean Court of Appeal – for banks in Madoff related claims to stop BVI liquidator proceeding in actions in the USA for recoveries of approx. \$6 billion.

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### **In the matter of VK.COM - 2014**

Defending part of majority interests in BVI minority shareholders action in relation to V Kontakte, “Russia’s Facebook”, in BVI and elsewhere from claims by Russian minority interests; and other related disputes.

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### **A-G of the Turks & Caicos Islands v Coxco & Others –Supreme Court of TCI June/July 2013**

Successfully defeated of major Norwich Pharmacal action against proposed defendants for substantial disclosure as precursor to claims.

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### **A-G of Turks & Caicos Islands v Salt Cay DevCo Limited - Supreme Court of TCI 2012**

Leading Counsel for the Defendants 2010 to date in high profile commercial fraud and bribery case. Claim is for damages of £100 million and rescission of the contracts for the purchase of much of the island of Salt Cay which is due to be developed as an upmarket resort and villa development. Case concerns allegations of secret profits/bribes to the Prime Minister of TCI. Trial listed for six weeks – Last hearings in TCI Court of Appeal in May 2012.

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## **Singapore**

Advising local firm on jurisdiction challenge relating to multiple possible jurisdictions.

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## **Malaysia**

Assisting with presentation and advising on what became a leading commercial case on sale of goods in that jurisdiction.

## Offshore - Evidence to and from foreign jurisdictions

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Stephen specialises in problems relating to gathering evidence for and from foreign jurisdictions. He has extensive experience of both incoming and outgoing Letters of Request and foreign subpoenas. He has been involved in several of the leading modern cases on Letters of Requests from US courts and has presented applications or appeared in connection with the taking of evidence in England, Cayman and Canada and advised on letters issued from Norway.

### Notable Offshore - Evidence to and from foreign jurisdictions cases

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#### Land Rover North America v Windh QBD LTL 29/3/2005

Contested Californian Letter of Request.

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#### First American v Sheikh Zayed Al Nahayan [1999] 1 WLR 1154 C.A.

Contested applications for evidence following Letters of Request from Washington DC District Court trying fraud claims connected to BCCI.

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#### Pharaon v BCCI [1998] 4 All ER 455

BCCI related – NY District Court subpoena in banking case.

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#### Sequin v UBS Comm Ct

This case concerned forex trading. Stephen acted successfully for UBS. Letters of Request to Singapore.

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Advice to major bank US bank with English branch on US District Court subpoenas.

## Directory Quotes

*"Incredibly experienced and loves the law. He is generous with his ideas and very nice to work with."*

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Chambers & Partners

*"Stephen has an incredibly deep and detailed understanding of both English and BVI law. He is able to draw on that*

*knowledge in order to identify relevant and helpful legal principles on matters of both procedure and substance."*

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The Legal 500

*"He is a brilliant technical lawyer and his analysis of cases is always spot-on. But he is also tremendous fun to work with, which is very important in a difficult case where morale can suffer."*

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The Legal 500

*"Extremely experienced, he's an excellent leader and a very safe pair of hands who is unfazed by anything." "In tough litigation he keeps things light but always makes the right points."*

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Chambers & Partners

*"A standout silk for fraud work."*

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The Legal 500

*"Very powerful and determined in court."*

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The Legal 500

*"An extremely robust counsel who will always challenge and test assumptions."*

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The Legal 500

*"Excellent for offshore recovery matters."*

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The Legal 500

*"He's a good advocate and he's done a lot of Russian and offshore fraud work. He certainly brings something to the party."*

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The Legal 500

## Directory Rankings

### Chambers & Partners – Global

- Dispute Resolution: Commercial – UK

### Chambers & Partners – UK

- Fraud: Civil
- Commercial Dispute Resolution

### The Legal 500

- Fraud: Civil – Tier 1
- Commercial Litigation

## Education

- MA Jurisprudence, Brasenose College, Oxford
- Merchant Taylor's School, Northwood

## International Bar / Court Appointments

- Admitted to the Bar of the British Virgin Islands
- Ad hoc admission to the Cayman Islands Bar
- Ad hoc admission to the Turks & Caicos Bar

## Appointments, Memberships and Prizes

- Chair Bar Disciplinary Tribunals
- Ad hoc admissions to Bars of the Turks & Caicos and Cayman Islands
- Member of the Bar of the BVI (2013)
- Bar Council Working Party on proposed Supreme Court (2004)
- Committee of London Common Law and Commercial Bar Association (2001-2004)
- Professional Conduct and Complaints Committee of Bar (1995-1999)
- Trustee and Council member of the University of Buckingham
- Bencher of the Middle Temple
- Recorder (2004)

- Entrance Exhibition, Brasenose College, Oxford

## Languages

- French (working knowledge)

## Awards

