Adam Sher  Call Date: 2007

Adam, who practices across a broad range of practice areas, is particularly recognised for his expertise in banking work and has been involved in many of the leading disputes in that field in recent years.

He is recognised in all the leading directories (Chambers and Partners, Legal 500 and Who’s Who’s Legal) and was named Banking Junior of the Year at the 2017 Chambers UK Bar Awards (having also been nominated for the same award in 2016).

Recent commentary in the directories includes:

“He has a first-rate mind, a wonderful drafting style, unstinting energy and is a real pleasure to work with.” (Legal 500 UK Bar Guide 2020)

“Incredibly passionate, very knowledgeable and a fantastic lawyer.” (Chambers Bar Guide 2020)

“He is one of the leading juniors in this area and someone with encyclopaedic legal knowledge and incredible enthusiasm.” (Chambers Bar Guide 2020)

“One of the outstanding juniors at the Bar and a superstar of the future.” (Legal 500 UK Bar Guide 2019)

“Absolutely excellent. A standout junior...really rated in the banking world” (Who’s Who Legal 2019)

“Absolutely superb. Exceptionally clever, good on paper and really nice to work with – the quality of his work is much higher than his years would suggest.” (Chambers Bar Guide 2019)

“A superb barrister, who offers substantial experience in a wide range of commercial and banking matters” (Chambers Bar Guide 2018)

“A very bright and passionate junior who is fun to have on the team.” (Chambers Bar Guide 2018)

“He’s outstanding and has a very strong following among the top firms.” (Chambers Bar Guide 2018)

“Has a brilliant mind, formidable energy and a good sense of humour...his raw intellect means he is always three steps ahead in his thinking” (Who’s Who Legal, 2018)

“First-rate, with a big following among City firms” (Legal 500 2017)

“Extremely clever and very imaginative, he is determined confident and offers very powerful analysis” (Chambers Bar Guide 2017)

“Relentlessly enthusiastic and has a brilliant grasp of the detail” (Chambers Bar Guide 2017)

“He has a control over papers and a way with clients and solicitors which belies his relatively junior call. He’s mature and confident. He is someone I will deliberately look to use – commercial, incisive, clipped.” (Chambers Bar Guide 2016)

“He’s an extremely passionate, very talented lawyer. Because he cares so much he won’t let something drop. He doesn’t need to be led, prompted or pushed” (Chambers Bar Guide 2015)
Much of Adam’s work has an international dimension, and he has been instructed in matters before courts or arbitral tribunals in The Bahamas, Gibraltar, Guernsey, Abu Dhabi, Singapore and the BVI. He is regularly instructed on cases featuring in The Lawyer’s “Top 20 Cases” of the year, including cases in 2013, 2014, 2016 (two cases) and 2017.

He is also frequently involved in cases before the appellate courts, including the Court of Appeal and Supreme Court.

**AREAS OF EXPERTISE**

- Banking & finance
- Commercial dispute resolution
- Financial services
- Fraud: civil
- Insurance and reinsurance
- Professional negligence
- Aviation

**RECENT PRACTICE**

**Banking and finance**

Much of Adam’s practice is banking/finance related, covering the full spectrum from investment banking and investment management to private and retail banking, with previous and present clients including Barclays, NatWest / The Royal Bank of Scotland, Bank of America Merrill Lynch, Deutsche Bank, CA-CIB (formerly Calyon), Julius Baer, HSH Nordbank, ING Bank, CaixaBank and Nomura.

Adam has particularly notable experience of LIBOR/EURIBOR manipulation cases, mis-selling disputes relating to derivatives (interest rate, credit and currency) including claims under FSMA, and those arising from securitisations and syndicated lending. Adam is used to acting both unled and as part of larger teams on larger matters.

Highlights include:

- **Property Alliance Group v RBS**: Adam was instructed for RBS throughout these hard-fought and highly significant Financial List proceedings (encompassing derivatives mis-selling, allegations relating to RBS’s GRG restructuring arm and LIBOR manipulation). Adam was led by David Railton QC and then David Foxton QC in the pre-trial phase of proceedings, which resulted in no fewer than nine interlocutory judgments. Adam appeared (with Richard Handyside QC, Paul Sinclair and Laurie Brock) in the 10-week trial before Asplin J and in the 7-day appeal before the Court of Appeal, where the dismissal of all claims against RBS was upheld.

- **Marme Inversiones v RBS, HSH, BayernLB, ING and La Caixa**: Adam acted (with Tim Howe QC) for four banks defending multi-hundred million euro claims arising from alleged EURIBOR manipulation. The trial of this action was the first ever civil claim concerning EURIBOR manipulation and raised important questions concerning the role of arranging banks in syndicated lending, resulted in a judgment for Adam’s clients in early 2019.

- **Deutsche Bank v Unitech**: Adam acted (with a series of leaders, Mark Hapgood QC, Tim Howe QC and Sonia Tolaney QC) for DB in this long-running litigation including (among others) claims arising relating to LIBOR manipulation. The case went twice to the Court of Appeal on interlocutory claims before concluding with a judgment after trial in DB’s favour in 2019.

- **FDIC-R v Barclays, RBS and ors**: Adam is instructed (with Robert O’Donoghue QC) by RBS in connection with these competition law proceedings brought by an arm of the US Government as receiver for 39 failed banks in connection with LIBOR manipulation

- **Barclays LOBO Claims**: Adam is currently instructed (with Adrian Beltrami QC) for Barclays in defending LIBOR-manipulation based misrepresentation claims brought by a number of local authorities who had entered into long term lending with Barclays.

- **Barclays v Borkhatria**: Adam acted (as sole counsel) for Barclays in a successful summary judgment application in relation to a claim on a personal guarantee raising wide-ranging issues including economic duress, breaches of duties of disclosure in the context of guarantees and misrepresentation.

- **WW Property Investments v NatWest**: Adam acted (with Andrew Mitchell QC) for NatWest, successfully striking out a case that the bank owed a duty of care to a customer taking part on the Interest Rate Hedging Review programme. The decision was upheld by the Court of Appeal in a conjoined appeal (with CGL v RBS).

- **Stuart Wall v RBS**: Adam was instructed (with Andrew Mitchell QC, Jeremy Goldring QC, James Cutress, Tamara Oppenheimer and Laurie Brock) for RBS to defend a £700 million claim concerning an abortive CMBS transaction and involving allegations concerning RBS’s GRG division and LIBOR manipulation. The case (one of the Lawyer’s Top 20 Cases of 2017) settled shortly before a 12-week trial in 2017.

- **Nextia Properties Ltd v RBS**: Adam acted (as sole counsel) for the banks in a successful summary application against a claimant alleging the invalidity of an interest rate swap on grounds relating *inter alia* to the existence at the inception of the trade of a positive mark-to-market value in favour of the bank: see [2013] EWHC 3167 (QB).

- **Italian Swaps litigation**: for a number of years Adam acted for Bank of America Merrill Lynch in a number of cases (led in some cases by Richard Handyside QC and in others by David Railton QC) involving derivative transactions entered into between Merrill Lynch and various Italian local authorities, including *Merrill Lynch v Verona* and *Merrill Lynch v Florence*
Civil Fraud

In recent years civil fraud claims have formed an increasing part of Adam’s practice.

- Since 2017 he has been acting (with David Mumford QC) for two Ukrainian businessmen in a substantial dispute involving allegations of forgery, sham trust, dishonest assistance and conspiracy. The case raised a wide range of legal issues on interlocutory applications including relation to the proper scope of proprietary injunctions, the powers of receivers and access to their documents, as well as issues relating to champerty and litigation funding.
- Adam has previously acted (with Michael McLaren QC) in proceedings brought against English solicitors alleging conspiracy resulting in the fraudulent misappropriation of US$17.5 million of client money.

Commercial litigation and arbitration

Adam is instructed in a wide ranging of commercial litigation and arbitration, both in the UK and abroad. Instructions have included:

- GMR v Government of the Maldives: (Arbitration in Singapore under UNCITRAL rules): acting (with Bankim Thanki QC) for Indian infrastructure giant GMR in its USD 1.3 billion claim against the Republic of the Maldives relating to the repudiation by the Maldives Government of a concession agreement to operate and develop Male International Airport
- Glencore v Total: acting (with Patrick Goodall QC) for Total in a claim brought against it by Glencore in respect of a delivery (or lack of delivery) of petroleum product in Kenya.

Legal Professional Privilege and related issues

An increasing feature of Adam’s practice is the occurrence of contentious questions of privilege, with a particular emphasis on claims to privilege in the context of regulatory investigations, a subject on which he has lectured. As well as extensive advisory work, cases which have raised such issues include:

- FRC v Sports Direct International: acting (with Richard Lissack QC) for Sports Direct International in an action brought by the Financial Reporting Counsel (the accountancy regulator) which raised important issues of privilege issues arising from a regulatory investigation in which documentary requests were made of it as a witness. Judgment was given by Arnold J in September 2018, with an appealed scheduled for late 2019.
- PAG v RBS: the long-running dispute (see above under Banking & Finance) involved numerous interlocutory applications and a series of judgments from Birss J and Snowden J on matters including the scope of the “without prejudice” privilege, limited/selective waiver, collateral waiver, the scope of so-called “waiver by pleading” and claims to litigation privilege over secretly taped interviews procured by dishonesty. An appeal from the first decision of Birss J, in which the FCA intervened in respect of the “without prejudice” communication issue, was compromised shortly before hearing in the Court of Appeal.
- RBS v Cooke, Young & Keidan LLP: acting (with Patrick Goodall QC and Laurie Brock) for RBS in urgent injunctive proceedings against Cooke, Young & Keidan LLP (the then-solicitors for Property Alliance Group) concerned with the obligations on firms to protect confidential information received by or in possession of an employee of the firm as a result of his prior employment.

Conflict of laws / jurisdiction

Adam has a good knowledge of the conflict of laws, including issues of jurisdiction, choice of law and recognition of foreign judgments, which arise very frequently in his practice. Examples of recent cases raising jurisdiction issues include:

- Barclays v ENPAM: acting (with Sonia Tolaney QC) for Barclays in a claim against an Italian pension fund for breach of an exclusive jurisdiction clause and the application of the lis pendens rules under the Judgments Regulation, at both first instance (Blaire J) and before the Court of Appeal.
- NZ Super v Novo Banco: acting (with Laurence Rabinowitz QC and Tom Smith QC) at first instance for the claimants in a jurisdiction battle over claims against a Portuguese “Bridge Bank”. The case subsequently went to on to the Court of Appeal and then Supreme Court.
- Marme Inversiones v RBS, HSH, BayernLB, ING and La Caixa: acted (with Tim Howe QC and Simon Atrill) in the jurisdiction battle phase over this dispute which raised issues as to the relationship between the jurisdiction provisions of the Judgments Regulation and the Insolvency Regulation.

Insurance
Adam has also increasing experience in the insurance field, including advising on coverage. Recent experience includes:

- **Confidential Arbitration** (LCIA): currently acting with James Cutress QC for insurers in relation to a dispute under a credit insurance policy.
- **Confidential Arbitration** (LCIA): acting with David Railton QC and James Cutress for insurers in a substantial (US$200 million) arbitration, held in early 2015, which concerned to coverage under a financial institutions crime and civil liability policy.
- Advising (as part of a team of counsel lead by Mark Simpson QC) insurers in connection with a £50m+ aggregation dispute arising from the *Innovator* litigation

**Professional negligence**

Adam has acted (with Patricia Robertson QC) by a Guernsey-based fund administrator and its former directors in connection with a high-value claim for negligence and breach of fiduciary duty arising from the high profile failure of the Arch Cru investment funds.

Adam has also acted:

- for the claimant in a claim before the Gibraltar Courts against an independent financial advisor for negligent advice.
- (with Mark Simpson QC) for a firm of accountants in relation to a professional negligence claim in relation to tax advice.
- (with Bankim Thanki QC) for a law firm in proceedings in The Bahamas in respect of a claim for professional negligence arising from a conveyancing transaction.

**Company Law**

Company law issues often arise in Adam’s practice. Adam also acted (with Michael Green QC) for HMRC in the appeal to the Supreme Court in *Commissioners for HMRC v Michael Holland* concerning the interaction of the doctrines of *de facto* directorship and the use of corporate bodies as directors.

**EDUCATION**

BA Law, Oriel College, Oxford (First Class)
BCL, Oriel College, Oxford (Distinction)
LLM, Harvard Law School
BVC, BPP Law School (Outstanding, Highest mark in year)

**PRIZES & SCHOLARSHIPS**

Sunley Scholarship (Lincoln’s Inn, 2007)
Buchanan Prize (Lincoln’s Inn, 2007)
Lord Mansfield Scholarship (Lincoln’s Inn 2005)
Hardwicke Scholarship (Lincoln’s Inn 2002)
Clarendon Scholarship (Oxford University, 2003)
Prize for best performance in Commercial Law finals paper (Oxford University, 2003)
College Prize for Finals results (Oriel College, 2003)
Lady Norma Dalrymple-Champey’s Prize (Oriel College, 2002)
College Prize for final year student (Oriel College, 2002)
College Scholarships (Oriel College, 2001-2)

**PUBLICATIONS**


‘Consensus, separability and Article 23 of the Brussels Regulation’ [2009] LMCLQ 275

**OTHER EXPERIENCE**


Teaching Fellow in the Conflict of Laws, University College London (2004-5).
Teaching Fellow in Contract Law, University College London (2006-7).

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