

ESSEX COURT CHAMBERS

BARRISTERS



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PROFESSIONAL PRACTICE

Damien Walker is a senior junior counsel specialising in international commercial litigation and arbitration and, more recently, investment treaty arbitration. He is also available to accept appointment as an arbitrator.

Damien practises in the English Courts at all levels, in the Cayman Courts, in the DIFC, and before international arbitral Tribunals operating under various institutional rules (including the LCIA, ICC, SCC and ICSID), both in London and abroad.

He has acted in commercial cases involving a wide variety of subject matter, such as insurance and reinsurance, banking and finance, oil and gas pipelines, mining and wind farm joint ventures, share sale and shareholder agreements, commodity sale contracts, agency agreements, franchise agreements, high-tech, and civil fraud and asset tracing. Further detail concerning these cases is provided in the following sections.

While the substantive issues in Damien's cases are often governed by English law, he also has extensive experience of handling cases governed by foreign law such as, for example, Manx, Cayman, French, Greek, Swedish, Ukrainian, Brazilian, Ghanaian, Syrian, Lebanese, Egyptian, UAE, DIFC and Qatari law.

By virtue of their international character, Damien's cases also typically involve jurisdictional battles, conflict of laws issues or questions concerning arbitral procedure, including those which give rise to arbitration-related proceedings in the English Courts.

Damien has been instructed as the sole or senior junior in numerous complex and very high

value cases. His work has led to him being consistently ranked as one of the leading juniors for International Arbitration by both Chambers & Partners and the Legal 500, where he has been noted for his technical skills (“An outstanding and meticulous advocate. Someone you want on your side”; “commended for his strong advocacy skills”; “very good drafting skills”; “a highly intelligent and energetic counsel”; “excellent on both the factual detail and the legal issues”; “a good details man”), approach to dispute resolution (“highlighted for his maturity and tactical judgment”; “continues to impress sources with his commercial capabilities”; “always willing to look for constructive answers and to move the client’s case onto the front foot”; “commended for his ... commercial acumen”) and user-friendliness (“works hard, is user-friendly and listens to the client’s needs”; “really understands the practical issues involved in managing a case”; “happy to roll his sleeves up and get involved”). Most recently, it has been said that he is “First rate. A great legal mind. Forceful, persuasive and extremely attentive. A very solid barrister”.

AREAS OF EXPERTISE

- Banking and financial services
- Civil fraud and asset tracing
- Commercial dispute resolution
- Conflicts of laws and private international law
- Energy and natural resources
- Insurance and reinsurance
- International commercial arbitration and related court applications
- International trade, transport and commodities
- Investment treaty disputes
- Offshore Litigation
- Shipping and Admiralty

WHAT OTHERS SAY

Damien Walker is ranked as one of the leading juniors in the field of international commercial arbitration by both Chambers and Partners and Legal 500, where it has been said that he:

- is “*First rate. A great legal mind. Forceful, persuasive and extremely attentive. A very solid barrister*”
- is “*An outstanding and meticulous advocate. Someone you want on your side*”
- is “*commended for his strong advocacy skills and commercial acumen*”
- is “*routinely engaged to assist leading QCs in ... high-value ICC, LCIA and ad hoc arbitrations*”
- “*is a highly intelligent and energetic counsel who is always willing to look for constructive answers and to move the client’s case onto the front foot*”
- “*continues to impress sources with his commercial capabilities*”

- “is highlighted for his maturity and tactical judgment”
- “has very good drafting skills”
- “is excellent on both the factual detail and the legal issues”
- “a good details man”
- “is happy to roll his sleeves up and get involved”
- “works hard, is user-friendly and listens to the client’s needs”
- “really understands the practical issues involved in managing a case”
- “is experienced in handling disputes in many different arbitral fora”

BANKING AND FINANCIAL SERVICES

Acting for the Panama Canal Authority in its US\$290 million claims against a series of major international construction companies (proper interpretation of guarantees governed by English law): ***Autoridad del Canal de Panama v Sacyr SA, Salini-Impregilo SpA, Jan de Nul NV, Constructora Urbana SA and Sofidra SA*** (Commercial Court), see [2017] EWHC 2228 (Commercial Court)

Deutsche Bank AG v Vik: acted for the bank in relation to its restitutionary claim to recover money paid by to Vik by mistake (Commercial Court)

Acted in relation to a claim by ***Shinhan Bank*** to enforce a letter of comfort against a syndicate of South Korean banks (Commercial Court)

Acted in a claim against agents in respect of errors made in the allocation of shares following an IPO

CIVIL FRAUD AND ASSET TRACING

Acted for offshore trustees in defence of claims for dishonest assistance of a breach of trust and conspiracy arising out of the US\$1.8 billion sale of a business in Ukraine (**arbitration; Ukrainian governing law**)

Acted in a worldwide dispute between two high net worth individuals involving allegations of breach of contract, breach of trust, knowing receipt and dishonest assistance

AWG (Anglian Water Group) v Sir Fraser Morrison & anor: acted for the claimant purchaser in respect of its claims for fraudulent misrepresentation arising out of its purchase of Morrison

PLC (Chancery Division)

KNIC v Allianz: acted for a London reinsurance syndicate in its attempts to resist enforcement of a foreign judgment allegedly obtained by fraud by the North Korean state insurance company, including [2008] EWHC 2829, [2008] EWCA Civ 1355 (justiciability of allegations of criminal activity on the part of a foreign state) **(Commercial Court)**

Acted in a case involving the laundering of the proceeds of stolen property and claims for knowing receipt and dishonest assistance

Acted in a case involving a promissory note fraud

COMMERCIAL DISPUTE RESOLUTION

Acted for **DP World** and **DP World (Sokhna)** in defence of claims by **Platinum Services Company** for unlawful means conspiracy, inducing breach of contract and defamation arising out of the termination of contracts concerning the provision of services at Sokhna Port, Egypt **(Dubai World Tribunal, in the public domain)**

Acted for the defendant in relation to claims brought against it under a licensing agreement pertaining to the use of the name of an international sportsman in connection with the marketing of a major real estate development **(ICC arbitration, confidential)**

Acted for **Play LA Inc** in its claim against multiple defendants for repudiation of a share purchase agreement concerning the purchase and sale of a majority shareholding in **NFC Data Inc** (an online gaming company) **(BVI litigation)**

Acted for **Airbus S.A.S** in defence of claims by **Aviation Partners Inc**, provisionally quantified at in excess of US\$1 billion, for alleged misuse of confidential information provided under a Non Disclosure Agreement in connection with the development of the winglets for the A320 family of aircraft **(ICC arbitration, in the public domain)**

Acted for **Invensys Systems Inc and Invensys Systems Italia SpA** in a dispute against members of the **Mytilneos Group** in a case concerning the operation of a high-tech computerised control system (DCS) at a cogeneration power plant in Greece and an incident at the plant in which substantial damage occurred to turbines **(ICC arbitration; Greek governing law)**

Acted in arbitration proceedings concerning a major construction and engineering project in

Estonia (ICC arbitration)

Acted for the UAE subsidiary of a UK company in defence of claims brought by a Qatari company for commission alleged to be due under consultancy and sponsorship agreements (**ad hoc Doha arbitration; Qatari governing law**)

Bassam Y Alghanim v Kutayba Y Alghanim: acted in the worldwide proceedings between the Alghanim brothers concerning the division of their billion dollar business empire, including English proceedings concerning email hacking

ITPU Holdings Ltd v Sophos Public Listed Company: acted for the minority shareholder in connection with the sale of Sophos by the majority shareholders to a third party; enforcement of pre-emption rights; resistance of attempt to enforce drag rights; opposition to re-registration of the company (**Commercial Court**)

Acted in a matter concerning the enforceability of a “Poison Pill” provision which had been inserted in an agreement between a company and its preferred suitor in an attempt to discourage a hostile takeover by a third company

Acted in a matter concerning the interpretation of a “Make Whole” provision in a share sale agreement

JND Dairies Ltd v Johal Dairies Ltd [2010] EWCA 348: acted for the successful respondent on an appeal in which it was alleged that the trial judge had closed his mind to the appellant’s case (**Court of Appeal**)

Tesco Holdings Ltd v Indigo Ltd & ors: acted for Indigo and the Spicerhaart Group in their dispute with Tesco concerning a joint venture to develop the internet estate agency i-Sold.com (**Commercial Court**)

Laura Ashley v L’Oreal: acted for the claimant in relation to its claim for wrongful termination of a 20 year licensing agreement (**ICC arbitration, in the public domain**)

Acted in relation to a claim by an agent for commission in respect of his introduction of two companies in the pharmaceutical industry

Acted in relation to a dispute between two publishing houses concerning royalty payments

Acted in relation to an attempt by an employment agency to recover unpaid fees from various NHS trusts

Acted in relation to a dispute concerning the ownership of the original Darth Vader costume

ENERGY AND NATURAL RESOURCES

Acting for the Cypriot minority shareholders (ultimately owned by Messrs Igor Kolomoisky and Gennadiy Bogolyubov) of **PJSC Ukrnafta**, a major Ukrainian oil and gas company, in their claims against **NJSC Naftogaz of Ukraine**, the national oil and gas company of Ukraine and majority shareholder in PJSC Ukrnafta (the claims are made under an SHA which is governed by English law; the enforceability of the SHA is challenged by Naftogaz on various grounds) **(LCIA arbitration, in the public domain)**

Acting for an international gold mining company in its claim to enforce an option agreement concerning mining rights relating to a site in the Caribbean **(LCIA arbitration, confidential)**

Acted for **Central Asia Minerals Ltd, Ratel Group Ltd and CGA Mining Ltd** in a dispute against **Westchester Resources Ltd** which involved claims for US\$2.7 billion for breach of contract and fraudulent misrepresentation which arise out of a joint venture agreement concerning a gold mining tenement in Ghana **(LCIA arbitration, in the public domain; Ghanaian governing law)**

Acted for **Botas International Ltd** (a Turkish state entity) in its claims worth approximately US\$2.5 billion against a **consortium led by BP** arising out of the host government and operating agreements in respect of the Baku-Tbilisi-Ceyhan Pipeline **(ICC arbitration, in the public domain)**

Rosukrenergo v Naftogaz: acted for Rosukrenergo (a JV between Gazprom and Centragas) in its claims worth approximately US\$5 billion against the Ukrainian national gas company, Naftogaz, concerning the supply of gas to and through Ukraine, the switching off of the gas supply by Gazprom, and the misappropriation of gas by Naftogaz **(Stockholm arbitration, in the public domain; Ukrainian and Swedish governing law)**

Proton Bank S.A. v Greenoak Renewable Energy Ltd: acted for Proton in relation to its claims against GRE arising out of a joint venture to develop a windfarm in the North Sea **(Commercial Court)**

Acted for a claimant in a dispute about rights in relation to an unincorporated joint venture concerning a gold mine in Africa **(LCIA arbitration)**

Acted for the claimant in a dispute between joint venture partners in relation to the exploitation of rights to oil fields in west Africa **(LCIA arbitration)**

INSURANCE AND REINSURANCE

Acted for the insured (a major pharmaceutical company) in its claim against its insurers pursuant to a Bermuda form policy (allocation of settlement amounts and defence costs between covered and uncovered claims, and between insured and uninsured parties) (**London arbitration, confidential**)

A number of disputes involving issues such as avoidance for material non-disclosure, coverage and proof of loss.

INTERNATIONAL COMMERCIAL ARBITRATION AND RELATED COURT APPLICATIONS

Acting for the respondent in relation to multiple challenges under section 67, 68 and 69 of the 1996 Act to an award rendered by a Tribunal in long-running multi-billion dollar proceedings (**Commercial Court, confidential at this stage**)

Acting for the Panama Canal Authority in its US\$290 million claims against a series of major international construction companies (the claims are made under guarantees which are governed by English law and contain exclusive English jurisdiction agreements; the Defendants have commenced arbitration proceedings in which they seek negative declaratory relief under other guarantees which are governed by Panamanian law and contain Miami arbitration agreements, and seek a stay of the English proceedings under section 9 of the 1996 Act or as a matter of case management): ***Autoridad del Canal de Panama v Sacyr SA, Salini-Impregilo SpA, Jan de Nul NV, Constructora Urbana SA and Sofidra SA*** (**Commercial Court**), see **[2017] EWHC 2228** (main judgment dismissing section 9 stay application) and **[2017] EWHC 2337** (whether there should be a stay pending appeal)

Acting for the Cypriot minority shareholders (ultimately owned by Messrs Igor Kolomoisky and Gennadiy Bogolyubov) of ***PJSC Ukrnafta***, a major Ukrainian oil and gas company, in their claims against ***NJSC Naftogaz of Ukraine***, the national oil and gas company of Ukraine and majority shareholder in PJSC Ukrnafta (the claims are made under an SHA which is governed by English law and contains an LCIA arbitration agreement; the enforceability of the arbitration agreement is challenged by Naftogaz on various grounds) (**LCIA arbitration, in the public domain**)

Acted for insurers in their application for an anti-suit injunction to restrain insureds from pursuing their US\$550 million claims in the Brazilian courts in breach of an agreement for London arbitration (governing law of an arbitration agreement where there is no express choice of law but an English seat; enforceability of an agreement to mediate; construction and reconciliation of an arbitration agreement and an exclusive jurisdiction clause): ***SulAmerica & ors v Enesa & ors* [2012] EWHC 42 (Commercial Court), affirmed [2012] EWCA Civ 638 (Court of Appeal)**

Acted in relation to a successful application to the LCIA challenging a party-appointed arbitrator's appointment on the ground of circumstances giving rise to justifiable doubts as to his impartiality **(LCIA arbitration)**

Acted in a case involving issues arising out of the purported commencement of arbitration proceedings against companies which have been dissolved, and the purported tolling of limitation periods on behalf of those companies following their dissolution **(LMAA arbitration)**

Acted for ***Central Asia Minerals Ltd, Ratel Group Ltd and CGA Mining Ltd*** in a dispute against ***Westchester Resources Ltd*** in which the former commenced arbitration proceedings in London seeking negative declaratory relief, and the latter commenced judicial proceedings in Ghana (anti-suit injunction from the Tribunal to restrain the pursuit of the Ghanaian proceedings; claims for damages and a *West Tankers* indemnity for breach of the arbitration agreement; application for a stay of the Ghanaian proceedings, which was opposed on the grounds of non-justiciability) **(LCIA arbitration, in the public domain)**

Acted for ***Invensys Systems Inc and Invensys Systems Italia SpA*** in a dispute against members of the ***Mytilineos Group*** in which the former commenced Belgian arbitration proceedings against their contractual counterparty seeking negative declaratory relief, but the latter, attempting to circumvent the arbitration agreement, procured the commencement of judicial proceedings in Greece by members of the Group which are not party to it (application for a stay of the Greek proceedings; responding to preliminary objections to the Tribunal's jurisdiction) **(ICC arbitration, in the public domain)**

Acted for the claimant buyers in their application for an anti-suit injunction to restrain the respondent yard from pursuing Chinese proceedings brought in breach of a London arbitration agreement: ***Spliethoff v Rongcheng Xixiakou Shipyard Co Ltd* (LCIA arbitration, in the public domain)**

Acted for US insurers, against whom negative declaratory proceedings had been commenced by reinsurers in London, in their application to set aside service out (construction of reference to "Service of Suit Clause" in reinsurance contracts; forum conveniens principles in service out context): ***BAIC & ors v OneBeacon America* (Commercial Court)**

Acted for a claimant in relation to its application for an anti-suit injunction to restrain the respondent from pursuing Indian proceedings brought in breach of a London arbitration agreement (**arbitration**)

Acted for claimants in two different sets of proceedings in relation to their applications for orders under section 18 of the 1996 Act to complete the constitution of tribunals

Various other applications under s 66 and 67 of the 1996 Act

Acted in relation to a dispute as to whether a party had waived its rights under an arbitration agreement by participating in foreign judicial proceedings (**arbitration**)

INTERNATIONAL TRADE, TRANSPORT AND COMMODITIES

Acted for the claimant in a dispute as to whether or not a price renegotiation clause in a long term contract for the sale of alumina had been triggered (**LCIA arbitration**)

Acted for the claimant seller in an action for damages for repudiatory breach of a contract for the sale and purchase of coal (**LCIA arbitration**)

INVESTMENT TREATY DISPUTES

Acting for the Cypriot minority shareholders (ultimately owned by Messrs Igor Kolomoisky and Gennadiy Bogolyubov) of **PJSC Ukrnafta**, a major Ukrainian oil and gas company, in their US\$4.67 billion claims against the **Republic of Ukraine** under the Energy Charter Treaty (**SCC arbitration, in the public domain**)

Acting for Gilward Investments BV, a minority shareholder of **CJSC Aerosvit Airlines**, formerly the leading Ukrainian carrier, in its claim against the **Republic of Ukraine** under the bilateral investment treaty between the Netherlands and Ukraine (**ICSID arbitration, in the public domain**)

OFFSHORE LITIGATION

Walker v Olearius: acted for a syndicate of banks in relation to an attempt by vulture funds to attach the proceeds of a structured trade financing arrangement through a Cayman SPV (**Grand Court of the Cayman Islands**)

Wafic Said v Sheikh Abdullah Saleh Kamel: acted for the defendants in relation to claims concerning a disputed shareholding in a company with rights to a Syrian mobile telecommunications licence (**Grand Court of the Cayman Islands; Syrian and Lebanese governing law**)

Acted for hedge fund administrators in defence of claims by the liquidators of the fund for breach of contract, negligence and breach of fiduciary duty arising out of the misappropriation and overvaluation of assets by the fund's investment manager (**Cayman arbitration**)

SHIPPING AND ADMIRALTY

Acted in a case concerning the sale of vessels

Classic Maritime v Lion [2009] EWHC 1142 (frustration of contract of affreightment and the measure of damages) (**Commercial Court**)

CAREER

2006 Tenant, Essex Court Chambers

2001-2006 Associate, Litigation & Arbitration Division, Herbert Smith (London)

2000 Associate to Justice Lehane, Federal Court of Australia (Sydney)

1999 Law Graduate, Litigation Division, Mallesons Stephen Jacques (Sydney)

1997 Paralegal, Litigation Division, Ashurst Morris Crisp (London)

EDUCATION

2006 Called to the Bar at Lincoln's Inn

2006 Admitted as a solicitor of the Supreme Court of England & Wales

2000 Admitted as a solicitor of the Supreme Court of New South Wales, Australia

1997-1999 Two year Bachelor of Civil Laws (BCL), St Catherine's College, Oxford; First Class Honours; Subjects included Conflict of Laws and Evidence

1996 Awarded Commonwealth Scholarship to Oxford; Awarded Kobe Steel Scholarship to Oxford

1991- 1996 Bachelor of Laws, University of Sydney; First Class Honours (placed in top five in year); Prize for Commercial Equity

1991-1994 Bachelor of Arts (Economics Honours), University of Sydney; First Class Honours and University Medal (first in year)

1989 Higher School Certificate, St Joseph's College, Hunters Hill (Sydney)