

ESSEX COURT CHAMBERS

BARRISTERS



GRAHAM DUNNING KC

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PROFESSIONAL PRACTICE

Graham Dunning KC has a full time specialist practice as an advocate and arbitrator in substantial international and commercial disputes.

Graham has recently appeared at all levels in the English courts from the Supreme Court down, offshore and in international arbitrations in London and other arbitration venues around the world. Amongst other things, he has conducted two long fraud trials, several appeals to the English Court of Appeal, Supreme Court and Privy Council, an important Commercial Court banking/commodities trial, commercial arbitrations in London, Dubai and Singapore, a trial in the DIFC in Dubai, various anti-suit injunctions and applications for freezing relief, an appeal in the Eastern Caribbean Court of Appeal, major oil and gas arbitrations and numerous arbitration-related court applications (including issues of state immunity). His clients have included states and state entities, banks, major commercial corporations and high net-worth individuals.

An independent survey in 2015 found that Graham was the advocate who had featured the most often in the Commercial Court in the preceding 12 months. From 2013-2017 he was Co-Head of Essex Court Chambers.

Graham is widely recognised as a leading expert on international arbitration, including the Chambers Bar Awards 2014 "International Arbitration Silk of the Year". He has acted as lead counsel in major international arbitrations, including investment arbitrations in Washington and Paris and substantial international commercial arbitrations (e.g. ICC, UNCITRAL, LCIA, LCIA-

India, SCC) in seats across the world concerning a wide range of industries, including finance, insurance, mining, oil and gas, commodities, energy, transport, construction and manufacturing.

Graham also frequently sits as arbitrator in international arbitrations of all kinds, having been appointed in more than 70 cases. He has extensive experience of disputes relating to investments in oil and gas, mining, international trade in all types of commodities, energy and infrastructure, as well as shareholder disputes.

AREAS OF EXPERTISE

- Banking & financial services
- Civil fraud & asset tracing
- Commercial dispute resolution
- Conflict of laws & private international law
- Energy & natural resources
- Insurance & reinsurance
- International commercial arbitration
- Offshore litigation
- Professional negligence
- Public international law & investment arbitrations
- Shipping

WHAT OTHERS SAY

Graham Dunning KC has been recognised consistently as a leading Silk by both Chambers & Partners and Legal 500, the two established directories of the legal profession, which are produced annually and based on independent and objective market research.

'He really is stunning Dunning – the complete advocate.' – (The Legal 500 UK Bar 2017 – Commercial Litigation)

'Probably the best international arbitration silk at the Bar.' (The Legal 500 2017 – International Arbitration: Counsel)

Chambers UK Bar 2017 say Graham is *"an incredible strategist and someone with a brilliant legal mind"* and *"an absolutely outstanding master of the courtroom, extraordinarily user-friendly and very good with clients. The type of silk you want in a very difficult case."*

"Dunning is a fantastic trial advocate. He is incredibly well prepared, has an encyclopaedic knowledge of the law and is very good at jurisdictional matters." (Chambers UK Bar 2017 – International Arbitration)

'He retains his charm and sense of humour even in high-octane situations.' (Legal 500 UK Bar 2016 – Commercial Litigation)

'A formidable and highly effective advocate and an excellent strategist.' (Legal 500 UK Bar 2016 – International Arbitration)

Graham was recognised in the Chambers Bar Awards 2014 as *"International Arbitration Silk of the Year"*. Chambers UK Bar 2014 describes him as *"quite a fearless advocate if you want somebody who will fight your case"*.

Graham Dunning KC is an *"incredibly professional"* performer. Impressed sources reflect: *"I think all silks are bright but he consistently comes up with more quality points than anyone I've instructed before."* (Chambers UK 2013 – Civil Fraud)

Graham Dunning KC stands out as a *"very effective" advocate and "the first barrister to seekad vice from if there are difficult conflicts of law or jurisdictional issues. He is adept at both commercial and investment treaty arbitrations."* (Chambers UK 2013 – International Arbitration)

Graham Dunning KC is *"one of the first names on the team sheet if the case involves a need for really penetrating cross-examination," according to sources. Dunning is a formidable advocate, who is "a very good man to have on your side because he's absolutely relentless" and "very good at crushing the opposition."* (Chambers UK 2013 – Shipping & Commodities)

EXAMPLES OF RECENT CASES

- An ICSID arbitration in Paris representing a large Asian state
- A LCIA India arbitration in Delhi
- An extremely fact and law heavy six month Commercial Court civil fraud trial
- An appeal in the Supreme Court
- Several jurisdictional challenges including a complex jurisdictional appeal (in an offshore case) before the Privy Council
- A substantial commodity related financial dispute in the Commercial Court in London
- A major international fraud trial in the Isle of Man
- A Commercial Court case about an alleged commodity fraud
- Various anti-suit injunctions and applications for freezing relief
- An appeal in the Eastern Caribbean Court of Appeal
- Several appeals to the English Court of Appeal An ICSID arbitration against Ukraine
- A multi-billion dollar oil and gas arbitration in London

- Representing a state seeking to resist enforcement of a substantial ICSID award
 - An investment arbitration at the World Bank in Washington DC
 - Numerous and varied substantial international commercial arbitrations (e.g. ICC, UNCITRAL, LCIA, LCIA-India, SCC)
 - Various London Commercial Court cases, including stay applications, anti-suit, freezing and Chabra injunctions
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BANKING & FINANCIAL SERVICES

All aspects of banking disputes and litigation, including derivatives, loan agreements, repos, letters of credit, bills of exchange, performance bonds, guarantees, ECGD backed transactions, enforcement of judgments and awards, freezing orders, and enforcement of judgments and awards.

Recent cases include:

Successfully representing Barclays Bank Plc in the Court of Appeal in a dispute with a hedge fund manager over appointment of an expert to determine fees and efficacy of expert determination clause

Representing BNP Paribas in proceedings before the Commercial Court and Court of Appeal to protect London arbitration relating to a large loan to a Russian company

Representing Texan trustee, in a dispute between RBS and a Texan investment manager, in a trial concerning setting aside of judgments for alleged fraud in connection with termination of a CDO warehouse and litigation relating to it.

Representing a commodity trading house in a Commercial Court trial in relation to “repo” transactions with Citibank.

CIVIL FRAUD & ASSET TRACING

Substantial experience of commercial fraud litigation and asset tracing measures including Chabra injunctions and enforcement of awards and judgments.

Recent cases include:

Fiona Trust Litigation – Representing ex-Senator Skarga, former Director General of Sovcomflot, on freezing order applications and in a 6 month Commercial Court trial and appeal raising allegations of fraud and breach of fiduciary duty in respect of the Russian state-owned shipping business, Sovcomflot

Acting for claimant in a substantial fraud trial in the Isle of Man relating to mobile telephone investments in Kyrgyzstan, including obtaining a freezing order for deposit of shares in NY listed company

Representing Texan trustee, in a dispute between RBS and a Texan investment manager, in a trial concerning setting aside of judgments for alleged fraud in connection with termination of a CDO warehouse and refusal of anti-suit injunction for lack of “clean hands”

Acted for Chabra defendants on successful challenge to jurisdiction of the English Court

Acting for an individual in proceedings in the Commercial Court related to an alleged commodity fraud

COMMERCIAL DISPUTE RESOLUTION

Very wide experience of all aspects of commercial litigation, interlocutory, trial and appeal: banking, securities and derivatives; commodities; commercial agreements; insurance/reinsurance; international trade and transport; shareholders’ agreements; professional negligence; and shipping.

Recent cases include:

Fiona Trust Litigation – Representing ex-Senator Skarga, the former Director-General of the Russian 100% state-owned corporation Sovcomflot, in a 6 month Commercial Court trial and appeal raising allegations of fraud and breach of fiduciary duty in respect of Sovcomflot. In March 2013, the Court of Appeal dismissed Sovcomflot’s appeal against the dismissal of all its claims against Mr Skarga;

Representing Isle of Man subsidiaries of MTS (Russian mobile telecoms operator) in respect of long-running dispute over BITELECOM, the principal Kyrgyzstan mobile phone operator

Representing Texan trustee, in a dispute between RBS and a Texan investment manager, in a lengthy hearing concerning setting aside of judgments for alleged fraud in connection with

termination of a CDO warehouse and anti-suit injunctions relating to associated Texan proceedings

Successfully representing Barclays Bank Plc in the Court of Appeal in a dispute with a hedge fund manager over appointment of an expert to determine fees and efficacy of expert determination clause

Representing BNP Paribas in proceedings before the Commercial Court and Court of Appeal to protect London arbitration relating to a large loan to a Russian company.

Representing Konkola Copper Mines in various Court applications related to a London arbitration

Representing a major commodities house in Commercial Court proceedings in a trial against Citibank

Acting for an individual alleged to have participated in a substantial commodity fraud

CONFLICT OF LAWS & PRIVATE INTERNATIONAL LAW

Extensive experience of all aspects of jurisdictional and private international law disputes; stays of proceedings, anti-suit injunctions, forum conveniens, applicable law, etc. Graham Dunning's cases frequently involve jurisdictional issues and application of many different substantive applicable laws from around the world. He is very familiar with Russian and other CIS systems of law.

Recent cases include:

Disputes over the law governing contracts, restitution claims and claims founded on fraudulent obtaining of a foreign judgment

A leading case on the law governing allegations of fraud and conspiracy: the Court of Appeal in the Fiona trust litigation

Various jurisdictional challenges, including in the Privy Council in the AK Investment case on appeal from the Isle of Man

Numerous anti-suit injunction cases, based on attempts to enforce the negative covenants in jurisdiction and arbitration clauses

An anti-suit injunction to enforce an employee's jurisdictional rights under the Judgments Regulation: the Court of Appeal in the Samengo-Turner case

Cases involving the recognition or enforcement of awards and foreign judgments, both in rem and in personam

ENERGY & NATURAL RESOURCES

Extensive experience in court cases and arbitrations involving trade, partnerships and joint ventures in respect of virtually every commodity, as well as energy and offshore infrastructure; oil, gas, metals, chemicals, sugar, cotton, grain and other foodstuffs (including futures and options).

Recent cases include:

Representing a Middle-Eastern government in a multi-billion dollar oil & gas arbitration and related court proceedings

Representing a major commodities house in relation to a dispute concerning an apparent large scale fraud relating to storage of copper and aluminium in warehouses in China

Representing the State of Azerbaijan in an ICSID arbitration in Washington under the Energy Charter Treaty 1994;

Representing Russian interests in an LCIA arbitration relating to a dispute over failed joint venture in privatised Russian electricity industry;

An LCIA arbitration relating to Uranium mining assets in one of the "stans"

Representing Pakistan in an investment dispute with mining investors relating to a copper mining lease in Balochistan

Conducting a major arbitration hearing for a state entity of a Near Eastern state in an ICC arbitration relating to a long term contract and investment relating to a major international oil pipeline

Acting for a Zambian copper mine

INSURANCE & REINSURANCE

Substantial experience of all types of insurance and reinsurance, including property and liability insurance, “Bermuda form” arbitrations and “PA spiral” reinsurance arbitrations.

Recent cases include:

Acting for Greek ship-owner in major Commercial Court proceedings relating to total loss marine insurance claim in respect of a bulk carrier

Representing US insurer in a reinsurance arbitration relating US workers compensation business

Advising major Bermuda reinsurers in respect of potential liabilities in respect of US Bermuda form business

Experience as arbitrator in large insurance and reinsurance disputes

INTERNATIONAL COMMERCIAL ARBITRATION

International Commercial Arbitration as Counsel

Substantial experience in numerous arbitrations of all types as Counsel (ad hoc, LCIA, ICC, SCC, ICSID, UNCITRAL, LME, RSA, LCA, LMAA, AAA) in London and elsewhere, including Hong-Kong, Copenhagen, Moscow, Dubai, Geneva, Stockholm.

Wide experience of industries and subject areas covered, including joint ventures, shareholders’ agreements, energy, finance, mining, offshore industry, oil & gas, mobile telephone and other technology disputes.

Substantial experience of all aspects of enforcement, recognition and setting aside of arbitration awards. Participated in ICC UK Working Party on Enforcement of Arbitral Awards.

Chambers Bar Awards 2014 “International Arbitration Silk of the Year”.

Recent cases include:

Representing a middle-eastern government in a multi-billion dollar oil & gas dispute

Acting in a shareholders dispute and unfair prejudice complaint relating to a BVI investment vehicle

Acting as advocate in an LCIA-India arbitration in Delhi

Representing a European state in an arbitration relating to a satellite

Representing the State of Azerbaijan in an ICSID arbitration in Washington under the Energy Charter Treaty 1994

Representing entity owned by an eastern European State in an ICC arbitration relating to a billion dollar dispute over major oil pipeline

Representing Russian interests in an LCIA arbitration relating to a dispute over failed joint venture in privatised Russian electricity industry

Acting in dispute under shareholders' agreement for 50% shareholder in BVI joint venture vehicle in respect of mining interests in a CIS country

Representing a Far Eastern government in a private arbitration

International Arbitration as Arbitrator

Frequently appointed as an arbitrator (more than 60 appointments), with several current references ongoing both as sole arbitrator, chair and member of three person tribunal

Numerous arbitration appointments have been accepted at a number of different seats both ad hoc and under ICC, LCIA, SCC, LMAA and UNCITRAL rules, including disputes concerning commercial and investment agreements; insurance contracts; oil and gas projects; energy, construction and engineering; commodity trading; transport and shipping. Further details available on request

Member of Singapore International Arbitration Centre Panel of Arbitrators, with office in Maxwell Chambers Singapore, and Member of Kuala Lumpur Regional Arbitration Centre panel

Courts cases related to English arbitration

Acted as Counsel and advised in many and varied court cases related to arbitration

Recently succeeded in the Court of Appeal in upholding an anti-suit injunction in support of a London arbitration that was granted not only against the party to the arbitration agreement but

also against another company in the same ownership and/or control, which was alleged to have acted collusively in bringing proceedings in the Courts in Russia challenging the validity of the underlying contract, something that had been agreed to be determined in arbitration

Recently advised on impact of EU sanctions on enforcement of New York Convention award

Often instructed to advise or represent clients on challenges to awards under ss. 67, 68 and 69 of the Arbitration Act 1996

Often instructed to advise on enforcement issues relating to domestic or New York Convention awards

Many cases relating to s.44 of the Arbitration Act 1996 and injunctions of all types related to arbitration. Acted in several leading cases in this area

OFFSHORE LITIGATION

Acts in offshore jurisdictions. He is called to the Bar in the BVI and in St Vincent and the Grenadines, as well as having been specially licensed for long-running proceedings in the Isle of Man.

Recent cases include:

Representing the Isle of Man subsidiaries of MTS (Russian mobile telecoms operator) in respect of long-running dispute over BITEL, the principal Kyrgyzstan mobile phone operator in a substantial CIS fraud case

Representing unregistered shipowner in dispute in Eastern Caribbean Court of Appeal, St Vincent (March 2012), over legal effect of judicial sale and out of date ship register

Acting in proceedings in the BVI related to alleged fraudulent acquisition of assets

PROFESSIONAL NEGLIGENCE

Experience of cases involving insurance brokers, actuaries, architects, accountants, solicitors, et al.

PUBLIC INTERNATIONAL LAW & INVESTMENT ARBITRATIONS

Studied Public International Law at both Cambridge, England, and Harvard Law School, USA

Numerous cases involving public international law issues, including issues of:

- State succession on break up of former Soviet Union and former Yugoslavia
- State responsibility for breaches of contract
- Effect of UN and EU sanctions
- State immunity, injunctions against states or state entities and enforcement issues e.g. Third Party Debt Orders and what are state assets

Has advised and acted in many cases (arbitration and court) involving a wide range of states, governments and state entities. Recent cases include representing the Kurdistan Regional Government of Iraq, SOMO and Venezuela in English Court proceedings

Investment arbitration hearings include:

- Representing Azerbaijan in energy charter dispute at World Bank in Washington DC
- Representing Pakistan in a BIT dispute relating to refusal of a mining lease to mining investors

Representing claimant against Ukraine

SHIPPING

Extensive experience of disputes relating to trading in all types of commodities and natural resources (see above), charterparty disputes and bill of lading claims, ship sale and shipbuilding.

Numerous maritime arbitrations as Counsel and as arbitrator.

Recent cases include:

Representing a key defendant (former General Director of Sovcomflot) accused of fraud in the 6 month Fiona Trust trial in the Commercial Court, the “*shipping case of the decade*” – raising a large number of shipping related issues (charters, finance, commissions, new buildings, sales)

Representing unregistered shipowner in dispute in Eastern Caribbean Court of Appeal, St Vincent (March 2012), over legal effect of judicial sale and out of date ship register

Representing owner of the vessel "Fedra" in the Commercial Court action against her insurers in respect of the total loss of the vessel off Gibraltar

Representing Korean and Chinese shipyards in arbitrations relating to termination of shipbuilding contracts

Representing a shipowner in a dispute relating to the operation of ice clauses in a contract of affreightment

Representing a bareboat charterer in a delivery dispute

CAREER

2013-2017 Co-Head of Essex Court Chambers

2012 Called to Eastern Caribbean Supreme Court (St Vincent)

2011 Called to Eastern Caribbean Supreme Court (BVI)

2009 Bencher, Lincoln's Inn

2001 Silk

1983 Joined Essex Court Chambers

1982 Called to the Bar Lincoln's Inn

EDUCATION

1984 MA, Emmanuel College, Cambridge University

1982 Inns of Court School of Law

1981 LLM, Harvard Law School (Kennedy Scholar)

1980 BA (Law) (First Class Hons), Emmanuel College, Cambridge University

AWARDS

Chambers Bar Awards 2014, “International Arbitration Silk of the Year”

1981 Denning Scholarship

1980 Kennedy Scholar to Harvard University

1979-77 Various scholarships at Cambridge University

He is a member of (inter alia): British Insurance Law Association; British Maritime Law Association; Commercial Bar Association (COMBAR); London Court of International Arbitration; London Maritime Arbitrators Association