

# ESSEX COURT CHAMBERS

## BARRISTERS



## JEREMY BRIER

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## PROFESSIONAL PRACTICE

Jeremy has been commended for many years as a “Leading Junior” in both directories, described by the Chambers Guide 2016 as having “*the makings of a top silk*” with a “*flourishing practice*”.

Jeremy’s practice has been consistently noted for its breadth, but he specialises in heavy financial and contractual disputes, complex international jurisdictional battles and has a wealth of experience in Russian business and fraud matters. Jeremy is equally adept in High Court proceedings and International Arbitrations, whether as a senior junior unled or as part of a team where he frequently travels to work hands-on with clients as the case demands.

The Chambers Guide 2016 describes Jeremy as having “*the makings of a top silk*” in the area of commercial dispute resolution. He is “*a very good advocate who does well with difficult cases*” and “*spots the points others can’t*”. Legal 500 has described Jeremy as a “*highly intelligent*” and a “*standout junior*” in the field of shipping and commodities work in which Jeremy has a niche expertise. Further testimonials appear below in the “What Others Say” section.

Jeremy has had an extremely busy 2015-2016, with numerous reported cases. Recent cases before the High Court, the Court of Appeal and international arbitration tribunals have included:

- Three related Commercial Court matters concerning Russian business, alleged corporate raids, and the jurisdiction of arbitration tribunals – including a successful s.67 challenge in *Egiazaryan v City of Moscow* [2015] EWHC 3532 and *A v B* [2015] EWHC 1944
- Heavy commercial fraud– including the leading case *RBS v Highland* and the recent case of

- Eurobank v Kalliroi [2015] EWHC 2377; and obtaining an injunction for a Russian bank [2016].
- Matters relating to the Arbitration Act 1996 including section 66, 67, 68 and 69 applications – including the 2015 case of Y v S [2015] EWHC 612 on section 66.
  - A High Court dispute concerning arbitral confidentiality, legal privilege and disclosure – Webb v Lewis Silkin [2015] EWHC 687 (Ch).
  - An arbitration in which Jeremy appeared as sole advocate [2016] concerning the purchase of a jet and an application for anti-suit injunctive relief.
  - An arbitration concerning highly complex natural gas contracts and quantum [2015].
  - Numerous complex Shipping and Shipbuilding Arbitrations in 2015-16, one concerning the alleged repudiation of a \$40m contract, others concerning liner services and cargo claims.

Jeremy's wide-ranging practice has included a long-running ICC dispute concerning steel-making in India where Jeremy spent much time with clients in Mumbai; a number of cases concerning oil and gas; a complex software and accounting dispute following a company takeover; and a number of commercial frauds. In particular, Jeremy was the successful Junior Counsel for Scott Law in the Court Appeal, in the leading case of *RBS v Highland*, where the Court found that the "unclean hands" of RBS meant it should not be granted anti-suit injunctive relief, despite an exclusive jurisdiction clause. Jeremy was named as one of the *Top 10 Future Stars of the Bar* by *Legal Week* in his earlier years of practice, described as "superbly confident" and "a genuine class act in the making". Jeremy has also previously been a lecturer in European law (Pepperdine University, 2004-2008) and he is a former winner of the World Debating Championships (2004). He frequently gives lectures on developments in commercial law and international arbitration.

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## AREAS OF EXPERTISE

- Arbitration & related court applications
- Banking & financial services
- Civil fraud & asset tracing
- Commercial chancery disputes
- Commercial dispute resolution
- Company & insolvency law
- Conflict of laws & private international law
- Employment
- Energy & natural resources
- European law & competition
- Injunctions, interim relief
- Insurance & reinsurance
- Media, art, entertainment
- Mediation
- Offshore litigation
- Professional negligence
- Public & administrative law
- Revenue law (including VAT, IPT, duties & excise)
- Shipping & admiralty
- Sports Law
- Unjust enrichment & restitution claims

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## WHAT OTHERS SAY

**“Very personable and polished in his approach. He has the makings of a top silk.”**

(Chambers UK Bar 2016, Commercial Dispute Resolution)

**“A very good advocate who does well with difficult cases. He spots the points others can’t.”** (Chambers UK Bar 2016 , Shipping & Commodities)

**“A junior with a strong commercial practice who often appears in cases unled. He handles high-profile, complex cases, including arbitrations, and regularly appears in shipping, technology and contractual disputes”** (Chambers and Partners, Commercial, 2015)

**“Drafts very well indeed”** (Chambers and Partners, Commercial, 2015)

**“Excellent work ethic and very able”** (Legal 500, Shipping, 2014)

**“He is very clever and very bright, and he drafts very well”** (Chambers and Partners, Commercial, 2014)

**“Noted for having a broad commercial practice that includes areas such as commercial fraud and marine law”** (Chambers and Partners, Commercial, 2014)

**“A standout junior ... highly intelligent”** (Legal 500, Shipping, 2013)

**“Has a broad-ranging practice with an emphasis on commercial shipping disputes”** (Chambers and Partners, Commercial, 2013)

**“Quick-thinking with the ability to formulate unique arguments”** (Legal 500, Shipping, 2012)

**“A genuine class act in the making”** (Legal Week, Top Ten Future Stars of the Bar, 2008)”

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## EXAMPLES OF RECENT WORK

- Anti-suit injunctions and conflicts of law – including in the leading case of *RBS v Highland* in the Court of Appeal.
- Contractual disputes related to engineering, commodities and construction
- Issues concerning information technology, software and data

- Shipping, shipbuilding and marine insurance cases
- Shareholders' disputes, banking and commercial fraud cases including freezing injunctions
- VAT and complex accounting matters, including a High Court breach of warranty case
- Numerous matters relating to the Arbitration Act 1996 including section 67, 68 and 69 applications; including the recent case of *Y v S* [2015] EWHC 612 (section 66/67)
- Employment, wrongful and unfair dismissal, delivery up of goods and data

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## ARBITRATION & RELATED COURT APPLICATIONS

International arbitration is one of the centerpieces of Jeremy's practice. He is an experienced arbitration litigator and has advised and acted (solely and as part of a team of counsel) in a wide range of domestic and international arbitrations in England and abroad in LCIA, LMAA, ICC and other arbitrations. Jeremy spent much of 2013 working with Joe Smouha QC and Ricky Diwan in a major ICC arbitration concerning Indian steel. The case was highly technical in terms of engineering and quantum.

Jeremy has particular experience in complex multi-party disputes; LMAA arbitrations, in respect of which Jeremy is currently handling a number of shipping cases alone; and applications under the Arbitration Act 1996 in the Commercial Court.

Key arbitrations and arbitration cases include:

- **Y v S [2015] EWHC 612:** A hearing before Eder J on enforcement under section 66 of the Arbitration Act
- **Acting in a major section 67 challenge to an ICC Arbitration Award concerning a corporate raid involving leading Russian politicians and a number of high profile businessmen [2014].**
- **Acting for Indian steel tube producers in a complex multimillion dollar dispute about the construction of a plant in India [2012, 2013]**
- **Obtaining emergency anti-suit injunctive relief for an Insurance Company in support of London Arbitration [2013]**
- A confidential arbitration concerning a Chinese company bringing commercial fraud proceedings in an arbitration concerning a number of individuals and other companies
- **Finmoon Ltd & Anor v Baltic Reefers Management Ltd & Ors [2012] EWHC 920 (Comm):** A section 67 Arbitration Act 1996 jurisdiction battle in dispute involving complex Contract of Affreightment and Bill of Lading arrangements entered into by Russian food producers.
- **Challenging the Tribunal's jurisdiction in insurance proceedings for a Louisiana-based insured [2013]**
- **Acting for a major Middle Eastern airline in multi-million dollar ticketing dispute [2011-**

2012]

- **Acting for Russian food producers in an LMAA arbitration concerning the existence of a Contract of Affreightment [2012]**
- Acting in complex 10 year long arbitration proceedings and concurrent Commercial Court proceedings in relation to claims concerning the buyout of an insurance company and the settlement of nearly 3,000 missold pensions claims [2009-2011].
- Acting for Shipowners, Charterers and Buyers in numerous construction cases and charterparty disputes under LMAA rules
- **Van der Giessen-De-Noord Shipbuilding Division BV v Imtech Marine & Offshore BV [2008] EWHC 2904** – a successful appeal with Jeffrey Gruder QC from an arbitration award under section 69 of the Arbitration Act 1996 and a successful application under section 68 of the Arbitration Act 1996.
- **Bunge SA v ADM Do Brasil Ltda and others (“The Darya Radhe”) [2009] EWHC 845** – acting in an appeal under the Arbitration Act 1996 with Steven Berry QC.
- **Rompetrol v Romania ICSID proceedings:** Jeremy acted as Secretary to an Arbitration Tribunal in a major important ICSID arbitration

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## **BANKING & FINANCIAL SERVICES**

A number of Jeremy’s cases involve banking and financial services. Early in his practice, Jeremy acted frequently for Barclays Bank in a range of cases and he has extensive experience of the commercial and technical aspects of banking including injunctive work, letters of credits, cheques and FSA litigation.

Key recent cases include:

- **Obtaining interim relief for a hedge fund in dispute with a major international bank which “seized control” of its accounts [2014]**
- **Acting for a Greek Ship Management Agency in connection with an alleged commercial fraud perpetrated by a Greek Bank [2014]**
- **The Royal Bank of Scotland v Highland Financial Partners & Ors [2013] EWCA Civ 328:** Acting as Junior Counsel for Scott Law with Graham Dunning QC in relation to a major appeal concerning anti-suit injunctive relief and the doctrine of “clean hands” in the context of a commercial fraud in a major bank.

Jeremy also appeared in the important case on guarantees, **Van Der Merwe v IIG Capital LLC [2007] EWHC 2631 (Ch)**.

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## **CIVIL FRAUD & ASSET TRACING**

Jeremy's practice very frequently includes commercial fraud and freezing injunctions. In 2013/2014, Jeremy acted as junior counsel in the leading Court of Appeal case of **The Royal Bank of Scotland v Highland Financial Partners & Ors [2013] EWCA Civ 328** with Graham Dunning QC in relation to a major appeal concerning anti-suit injunctive relief and the doctrine of "clean hands" in the context of a commercial fraud.

Other recent cases in 2013 and 2014 include:

- A confidential arbitration concerning a Chinese company bringing commercial fraud proceedings in an arbitration concerning a number of individuals and other companies
- An instruction on behalf of a leading multinational company accused of a "concealed fraud" in relation to endorsements on bills of lading
- Acting in a major High Court challenge to an ICC Arbitration Award concerning a corporate raid involving leading Russian politicians and a number of high profile businessmen.
- Acting for a Greek Ship Management Agency in connection with an alleged commercial fraud perpetrated by a Greek Bank [2014]
- **Antonio Gramsci Shipping Corp v Reoletos Ltd [2011] EWHC 2242** concerning a freezing injunction and dissipation of assets.

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## COMMERCIAL DISPUTE RESOLUTION

Commercial Litigation is at the heart of Jeremy's practice. And he has been recommended as a leading junior by *Chambers and Partners* in 2013, 2014 and 2015.

He has advised and acted in numerous commercial disputes at all levels in the English courts, including the Court of Appeal, and abroad involving a wide range of subject matters, including major telecommunications companies, major oil and gas companies, the music and media industries and the contracts of private individuals. Cases are too numerous to list in their entirety but cases of interest include:

- **The Royal Bank of Scotland v Highland Financial Partners & Ors [2013] EWCA Civ 328:** Acting as Junior Counsel for Scott Law with Graham Dunning QC in relation to a major appeal concerning anti-suit injunctive relief and the doctrine of "clean hands" in the context of a commercial fraud.
- **Finmoon Ltd & Anor v Baltic Reefers Management Ltd & Ors [2012] EWHC 920 (Comm):** A Commercial Court jurisdiction battle in dispute involving complex Contract of Affreightment and Bill of Lading arrangements entered into by Russian food producers.
- **Obtaining interim relief for a hedge fund in dispute with a major international bank**

which “seized control” of its accounts [2014]

- Acting for Indian steel tube producers in a complex multimillion dollar dispute about the construction of a plant in India [2012, 2013]
- Acting for GBST, an Australian software company, in breach of warranty proceedings in the Commercial Court (2011 – 2013)
- Acting for a major Middle Eastern airline in multi-million dollar ticketing dispute [2011-2012]
- “The Mujur I” [2011] EWHC 643 (Comm): Jeremy wins Commercial Court jurisdiction battle, acting alone, for seven Malaysian Insurers.
- A.P. Moller – Maersk A/S v Sonaec Villas Cen Sad Fadoul [2011] 1 Lloyd’s Rep. 1: A dispute concerning bills of lading and jurisdiction in the Commercial Court.
- Kolden Holdings Limited v (1) Rodette Commerce Limited (2) Taplow Ventures Limited [2008] EWCA 1468 – acted at first instance and in the Court of Appeal with Bernard Eder QC in a case concerning conflict of laws and the Judgments Regulation.
- Fransina Johanna Van Der Merwe and Gerrit Le Roux Van Der Merwe v IIG Capital LLC [2007] EWHC 2631 (Ch): Acting in a case concerning the construction of guarantees with Paul McGrath QC.
- Acted with Richard Millett QC for Serena Equity Ltd in a dispute with collapsed Icelandic Bank, Kaupthing.
- Acting for Lukoil International Trading and Supply Company (LITASCO) in a complex Commercial Court dispute concerning the payment of VAT on oil contracts in relation to relevant EU regulations (2011).
- Acted with Vernon Flynn QC in an injunction and trial in relation to a dispute between Satellite Information Services Limited and PA Sport Limited, the sports division of the Press Association [2011].
- Acting for Dutch steel exporters in the Commercial Court concerning the Judgments Regulation, EU law and its relationship with Incoterms and English law of Sale of Goods [2010].
- Acting for DHX Media Limited in a film finance case in the Commercial Court against Headgear Films Limited [2010].
- Acting for three major insurers in respect of claims concerning imports of heavy machinery into Iraq [2010].
- Acted for Barclays Bank on numerous occasions and in numerous court hearings in relation to various banking matters.
- Also: disputes under the Commercial Agents Regulations; disputes between oil traders; disputes under call option and put agreements

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## CONFLICT OF LAWS & PRIVATE INTERNATIONAL LAW

Jeremy continually acts and advises in respect of jurisdiction issues, including in anti-suit injunctions and in relation to the Judgment Regulation.

Recent cases include:

- Acting in a major High Court challenge to an ICC Arbitration Award concerning a corporate raid involving leading Russian politicians and a number of high profile businessmen [2014]
- Challenging jurisdiction of a Tribunal in insurance proceedings [2014]
- An arbitration for shipowners in a jurisdictional battle with ship managers [2014]
- **The Royal Bank of Scotland v Highland Financial Partners & Ors [2013] EWCA Civ 328:** Acting as Junior Counsel for Scott Law with Graham Dunning QC in relation to a major appeal concerning anti-suit injunctive relief and the doctrine of “clean hands” in the context of a commercial fraud in a major bank.
- **Finmoon Ltd & Anor v Baltic Reefers Management Ltd & Ors [2012] EWHC 920 (Comm):** A Commercial Court jurisdiction battle in dispute involving complex Contract of Affreightment and Bill of Lading arrangements entered into by Russian food producers.
- Obtaining emergency anti-suit injunctive relief for Insurance Company in relation to a dispute begun in Louisiana.
- **“The Mujur I ”[2011] EWHC 643 (Comm):** Jeremy wins Commercial Court jurisdiction battle, acting alone, for seven Malaysian Insurers.
- **Kolden Holdings Limited v (1) Rodette Commerce Limited (2) Taplow Ventures Limited [2008] EWCA 1468** – acted at first instance and in the Court of Appeal with Bernard Eder QC in a case concerning conflict of laws and the Judgments Regulation.

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## INSURANCE & REINSURANCE

The majority of Jeremy’s cases include insurance and/or marine insurance issues, including:

- **The Irene EM [2013] EWHC 3644 (Comm):** A four week CTL claim in the High Court in which Jeremy acted as the sole junior for the victorious claimants
- Obtaining an anti-suit injunction in a major insurance dispute in favour of arbitration
- Acting for war risks in connection with a dispute relating to lost shipments in the Iraq war
- An arbitration on behalf of American Insureds in relation to a coverage dispute with P&I insurers and excess insurers
- Acting with Steven Berry QC for shipowners in respect of claims for chemical corrosion
- Acting in complex 10 year long arbitration proceedings and concurrent Commercial Court proceedings in relation to claims concerning the buyout of an insurance company and the settlement of nearly 3,000 misfold pensions claims [2009-2011]



## **PUBLIC & ADMINISTRATIVE LAW**

Jeremy has been involved in a number of proceedings against Government entities for over seven years, generally in cases which raise EU issues but also in cases with Human Rights or regulatory issues generally. In particular, Jeremy has developed an interest in environmental and agricultural/fisheries work.

Jeremy has also sat on a number of Tribunals for the Conservative Party to deal with internal matters which principally raise public law or administrative law issues.

Key cases include:

- **R (on the application of Summers Poultry) -v- The Food Standards Agency** – in which an emergency injunction was sought and obtained to keep open a slaughterhouse and judicial review proceedings were subsequently brought.
- **R (on the application of Partridge Farms) v Secretary of State for Environment, Food and Rural Affairs [2009] EWCA Civ 284** – EC law and compensation scheme for cattle culled under TB control measures – whether unlawful differential treatment through failing to differentiate in any way between high value and normal commercial stock – challenge upheld at first instance by CA found no differential treatment. Whether compensation scheme would in any event infringe EU state aid rules.
- **R (on the application of Henllan Farms Limited) v Minister for Rural Affairs for the Welsh Assembly Government [2009]**: Judicial review in relation to decision to cull high value cattle.
- **Single Payment Scheme**: Advising and acting in connection with a proposed judicial review of the Secretary of State's decision to reject an appeal for payment pursuant to the 2005 Single Payment Scheme.
- **Public Law**: Advised and acted for a fishing association in relation to a dispute over fisheries bylaws.

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## **REVENUE LAW (INCLUDING VAT, IPT, DUTIES & EXCISE)**

Experienced in advising and acting for the Commissioners and the taxpayer in various VAT related disputes including in an appeal by a major British company for the repayment of millions of pounds of input tax [2010-2011].

Jeremy has appeared as sole counsel and as a led Junior before the VAT Tribunal on a number of occasions.

## SHIPPING & ADMIRALTY

Jeremy is recommended as a leading Junior in the area of Shipping in the Legal 500 (2012, 2013 and 2014). He is involved in numerous shipping and shipbuilding disputes on an everyday advice basis including in relation to:

- Dry shipping (charterparties and bills of lading)
- Traditional admiralty or wet shipping work (salvage arrests, general average, collisions, safe ports)
- Shipbuilding and Commodities and Cargo

Jeremy has appeared in a number of major shipping cases including the following:

- **Acting for a Greek Ship Management Agency in connection with an alleged commercial fraud perpetrated by a Greek Bank [2014]**
- **Acting for a leading multinational company accused of a “concealed fraud” in relation to endorsements on bills of lading [2014]**
- **An arbitration for shipowners in a jurisdictional battle with ship managers [2014]**
- **“The Irene EM” [2013]:** A four-week marine insurance dispute concerning a vessel which had run aground
- **Finmoon Ltd & Anor v Baltic Reefers Management Ltd & Ors [2012]: EWHC 920 (Comm):** A Commercial Court jurisdiction battle in dispute involving complex Contract of Affreightment and Bill of Lading arrangements entered into by Russian food producers. Jeremy also acted in the LMAA arbitration preceding the court hearing
- **Iraq detained Vessel:** Acted in hearings before an LMAA Tribunal concerning detention of a vessel in Iraq during the Iraq War and related quantum and disclosure issues [2012]
- **“The Mujur I” [2011] EWHC 643 (Comm):** Jeremy wins Commercial Court jurisdiction battle, acting alone, for seven Malaysian Insurers
- **A.P. Moller – Maersk A/S v Sonaec Villas Cen Sad Fadoul [2011] 1 Lloyd’s Rep. 1:** A dispute concerning bills of lading and jurisdiction in the Commercial Court
- **Bunge SA v ADM Do Brasil Ltda and others (“The Darya Radhe”) [2009] EWHC 845 –** acting in an appeal under the Arbitration Act 1996 with Steven Berry QC as well as in the LMAA arbitration below
- **Mansel Oil Ltd and Vitol S.A v Troon Storage Tankers SA [2009] EWCA Civ 425; [2008] EWHC 1269:** Acted at first instance and in the Court of Appeal in a case concerning whether Charterers had properly cancelled their Time Charterparty in the absence of a nomination of a delivery report
- **Van der Giessen-De-Noord Shipbuilding Division BV v Imtech Marine & Offshore BV [2008] EWHC 2904:** A six week shipbuilding arbitration in Rotterdam followed by an appeal

under section 68 and 69 of the Arbitration Act 1996 in the Commercial Court

Jeremy has advised independently and acted in a number of Charterparty and bill of lading disputes, including in multi-party litigation for both shipowners and charterers, cases concerning limitation, agency, liens and wet shipping cases.

Jeremy has also handled numerous LMAA arbitrations and other forms of maritime arbitration.

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## **CAREER**

2004 Call: Middle Temple

Jeremy has previously been a lecturer in EU law (Pepperdine University, 2004-2008) and is a former winner of the most prestigious debating tournament in the World: the World Debating Championships (2004).

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## **EDUCATION**

2005 The Academy of American and International Law at The Center For American and International Law, Texas, USA

2004 BVC, ICSL – Very Competent

2003 Diploma in Law, City University – Distinction

2002 BA, Christ's College, University of Cambridge –Double First Class Honours

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## **AWARDS**

2004 Queen Mother Scholar of Middle Temple

2003 Queen Mother Scholar of Middle Temple

2002 Scholar's Award, Christ's College