ESSEX COURT CHAMBERS

BARRISTERS



STEPHEN HOUSEMAN QC

Call: 1995 | Silk: 2013 shouseman@essexcourt.com

24 Lincoln's Inn Fields, London WC2A 3EG, UK T +44 (0)20 7813 8000 F +44 (0)20 7813 8080 DX 320 Chancery Lane E clerksroom@essexcourt.com www.essexcourt.com

PROFESSIONAL PRACTICE

The "highly commercial" and "savvy" Stephen Houseman QC handles a wide range of commercial disputes. He is instructed by UK and international clients in cases across the spectrum of the business and financial world, with particular emphasis on the following sectors: banking, finance & investment; insurance & reinsurance; mining & energy; telecoms & technology; media, entertainment & sport. Many of Stephen's cases are substantial and complex in nature, and the majority of them involve multi-jurisdictional contexts and foreign law elements. Stephen appears regularly as sole/lead advocate in the High Court and appellate courts, international arbitrations conducted in the UK and abroad (including as co-counsel with foreign lawyers), and also courts in offshore jurisdictions. He also acts as arbitrator in commercial disputes.

Stephen has been recognised in the main legal directories for his profile in several practice areas: Commercial Dispute Resolution / Litigation; International Arbitration; Energy & Utilities; Insurance & Reinsurance. He was shortlisted for Commercial Litigation Junior of the Year at the Chambers Bar Awards in October 2012. He has attracted praise for his "*exemplary judgement in complex litigation*" as well as "*technical excellence … on complex points of law and contractual elucidation*". He is known for being "*very bright*", "*talented*" and "*strategically superb*", an all-rounder who "*focuses on the real issues, handles the client well and has a good sense of humour*".

Clients and observers have consistently praised Stephen for his abilities both inside and outside the courtroom. He is described as a "considered advocate" with "an extremely strong reputation

in the commercial arena", who is "very quick to spot the most pertinent points" and who has an "assertive and to-the-point approach" when presenting cases on behalf of his clients. His advocacy style ensures that "judges trust him". He is also recognised for his "good strategic sense" and "exemplary judgement" when advising and guiding on tactical aspects of complex proceedings. On a more personal level, market commentators describe Stephen as a "delight to work with", "thorough and charming to deal with" and "utterly reliable", reflecting his "down-to-earth" and "good–humoured" manner with judges, tribunals, clients and fellow professionals.

AREAS OF EXPERTISE

- Arbitration (including arbitration-related court applications)
- Banking & financial services
- Civil fraud & asset tracing
- Commercial dispute resolution
- Conflicts of laws / private international law
- Insurance & reinsurance

- Media, art, entertainment
- Professional negligence
- Public & administrative law
- Shareholder disputes
- Sports Law

WHAT OTHERS SAY

As noted in the most recent edition of **Chambers Bar UK Guide**, Stephen took silk in 2013 *"affirming the esteem in which he is held by a loyal following of instructing solicitors"*.

Recent commentary quotes include the following

2013 – 2014

"He has superb judgment and, presentationally, he is the best barrister I have seen on his feet. Really impressive." **[Chambers 2014 – CDR]**

2012 – 2013

"utterly reliable" [Chambers 2013 – CDR] *"outstanding practitioner"* [Chambers 2013 – Insurance]

2011 – 2012

"highly commercial and responsive" / noted for his "clear and succinct pleadings" [Chambers

2012 – CDR] "talented" [Chambers 2012 – Insurance]

The "very bright" Stephen Houseman "focuses on the real issues, handles the client well and has a good sense of humour" [L500 2011 – Insurance & Reinsurance]

2010 – 2011

Clients laud Stephen Houseman as a "considered advocate" who is "very quick to spot the most pertinent points" [Chambers Global 2011]

Stephen Houseman is "a considered advocate" who is developing an extremely strong reputation in the commercial arena [Chambers 2011 – CDR]

Stephen Houseman has "excellent drafting skills and a turnaround time that is second to none" [L500 2010 – Insurance & Reinsurance] [Chambers 2011 – Insurance]

2009 – 2010

Stephen Houseman ... appeared to good effect in Digicel v Cable & Wireless [Chambers 2010 – CDR]

"impressive" / "analyses his cases clearly and does an excellent job in thinning them down to the genuinely strong points" [Chambers 2010 – Insurance]

2008 – 2009

Observers stress the fine reputation of the "down-to-earth and proactive" Stephen Houseman. Combining "a hands-on attitude with good strategic sense," he adopts an "assertive and to-thepoint approach" [Chambers 2009 – CDR]

"a profound understanding of not only the law of this country but also that of many others" [Chambers 2009 – Insurance]

"approachable, good-humoured but immensely hard-working and savvy" [L500 2008 – Arbitration]

Stephen Houseman is a "delight to work with" [L500 2008 – Insurance & Reinsurance]

2007 – 2008

Stephen Houseman scores highly for "technical excellence" in proceedings that turn on complex points of law and contractual elucidation. Users of his services find him "thorough and charming

A. ARBITRATION (INCLUDING ARBITRATION-RELATED COURT APPLICATIONS)

Advice and appearances in numerous arbitrations conducted in the UK and abroad involving a wide range of subject matter. (Parties and details are private & confidential.)

Arbitration-related cases before the High Court include:

BNP Paribas v. OJSC 'Russian Machines' & others (see **Section E** below): anti-suit action relating to proceedings in Moscow Arbitrazh Court & LCIA arbitration in London concerning guarantee of a US\$1.3 billion credit facility.

Sulamérica Cia Nacional de Seguros v. ENESA (see *Section E* below): anti-suit action relating to proceedings in Brazilian Courts & ARIAS arbitration in London concerning an insurance claim said to be worth over US\$500 million arising out of damage or delay to construction of hydro-electric facility in Brazil.

Telenor East v. Altimo & VimpelCom [2011] EWHC 735 (Comm) (Gloster J): resisting an interim injunction, sought under s.44 of the 1996 Act, concerning a strategic merger in the telecoms market said to be worth over US\$10 billion.

Digicel v. West Indies Cricket Board (August 2008, Christopher Clarke J): seeking an interim injunction under s.44 of the 1996 Act in support of LCIA arbitration concerning the Stanford '20/20 for 20' cricket match in Antigua in October 2008.

Sheffield United FC v. FA Premier League (July 2007, Andrew Smith J): resisting application for leave to appeal under s.69 of the 1996 Act concerning disciplinary action against West Ham United FC in relation to the 'Tevez / Mascherano' affair.

C v. D / Noble v. Gerling (see *Section E* below): post-award injunctive proceedings arising out of Bermuda Form arbitrations.

Leibinger v. Stryker Trauma [2006] EWHC 690 (Comm) (Cooke J): striking out a challenge under s.67 of the 1996 Act on the grounds of issue estoppel, time-bar and exclusion under s.73 and CPR 62 (requirements for an arbitration claim form).

Law Debenture v. Elektrim [2005] 2 Lloyd's Rep. 755 (Mann J): meaning and application of ss.9

& 72 of the 1996 Act; proper construction of a composite arbitration/jurisdiction clause contained within a bond trust deed (see *Section B* below).

The 'Trade Nomad' [1998] 1 Lloyd's Rep. 58 (Colman J): appeal from arbitrator's award on a standard-form charterparty.

Canadian Forest Navigation v. Minerals Transportation (Steel J, 6/8/01): application under s.68 of the 1996 Act.

NOTE: A separate profile of Stephen's experience in arbitration-related injunctions and other applications under the 1996 Arbitration Act is available with this link: https://essexcourt.com/wp-content/uploads/2014/10/SHQC-ARBITRATION-ANTI-SUIT-INJUNCTIONS-June-2014.pdf

B. BANKING & FINANCIAL SERVICES

Banking Disputes – General

Advisory and court work in a wide range of domestic and international banking-related disputes, including:Acting for BNP Paribas in connection with LCIA arbitration proceedings, related antisuit proceedings (see **Section E** below) and disputes as to confidentiality of arbitration materials. Acted for Deutsche Bank during 2011-2012 in Commercial Court action relating to stock lending arrangements involving Hong Kong listed securities. Acted for Swiss bank (BCG) in Commercial Court action arising out of credit facility and pledge arrangements. Field J granted summary judgment in favour of BCG for full claim in 2009. Acted for ING in a dispute with Spanish client as to fees under under a retainer for advising on M&A transaction. Acted for German bank / credit card issuer (Wirecard) in High Court (QB) proceedings involving claims arising out of fraudulent online 'sales' of tickets for the *2008 Beijing Olympics* (including freezing orders) (see **Section C** below). Providing opinion for use in Ukrainian proceedings on behalf of European Bank of Reconstruction and Development (pending 2015). Acting for subsidiary of ICBC in dispute relating to purchase of aircraft leases from RBS (trial set for 2016).

ICS v. West Bromwich Building Society [1999] Lloyd's Rep (Prof Neg) 496: multi-party trial involving undue influence, negligent lending & solicitors' negligence. Preliminary issue produced the leading House of Lords authority on construction of contracts, [1998] 1 WLR 896.

Bondholder Disputes

Acted for holders of Elektrim Bonds in a series of related actions arising out of the restructuring

of a €510 million bond issue. Judgments include: *Law Debenture Trust v. Acciona* [2004] EWHC 270 (Ch) (Peter Smith J); *Concord Trust v. Law Debenture Trust* [2004] EWHC 1216 (Ch) (Morritt V-C); [2005] 1 Lloyd's Rep. 113 (CA); and [2005] 1 WLR 1591 (HL).Further judgments during Elektrim Bonds enforcement include: *Law Debenture v. Elektrim* [2005] 2 Lloyd's Rep. 755; (2005) 2 CLC 39 (Mann J): preliminary arbitration/jurisdiction issues; *Law Debenture v. Elektrim* [2005] EWHC 1999 (Ch) (Hart J): summary judgment entered on the accelerated bond debt; Court of Appeal refused to adjourn appeal [2005] EWCA Civ 1354.

Also instructed on behalf of bondholders in the following:

- ISS bondholders in mid-2005 in relation to threatened proceedings arising out of LBO;
- Yukos-related bondholders during 2006; and
- Eurotunnel bondholders during 2006 in relation to *sauvegarde* proceedings in Paris Commercial Court: see *Elliott v. Law Debenture* [2006] EWHC 3063 (Ch) (Warren J).

C. COMMERCIAL DISPUTE RESOLUTION

Day-to-day advice and appearances in disputes covering a wide range of commercial sectors and activities in the UK and around the world. Extensive experience of ADR/mediation processes.

Ferrexpo (see Section E below): Commercial Court action seeking declaratory relief as to ownership of the largest iron ore mining & production facility in Ukraine, said to be worth over US\$1 billion. Involved political issues as well as Ukrainian law as to ownership & registration of shares.

WMS Gaming (see Section E below): acted for WMS, a world-leading manufacturer of gaming machines, in Commercial Court proceedings arising out of termination of negotiations for a supply contract in Italy. Involved Illinois law and Italian law.

Digicel v. Cable & Wireless [2010] EWHC 774 (Ch): major trial relating to mobile telecoms networks in the Caribbean which lasted April-November 2009, with judgment in April 2010. Ancillary judgments of Morgan J dealing with: *(a)* approach to 'e-disclosure' searches under CPR Part 31 (2009) 2 All ER 1094; *(b)* implied waiver of legal advice privilege [2009] EWHC 1437 (Ch); *(c)* principles as to award of indemnity costs [2010] EWHC 888 (Ch).

Forrest v. Glasser & Whitley [2006] 2 Lloyd's Rep. 392 (CA): proper construction of notice requirements for breach of warranty & misrepresentation claims under share subscription/acquisition agreements.Counsel at trial and in CA in

Lotus Cars v. Southampton Cargo Handling (The 'Rigoletto') [2000] 2 Lloyd's Rep. 532: stevedores' and port authority's negligence; ambit and effect of *Himalaya* clauses; sub-bailment on terms.

Bernhard Schulte & Ors v. Nile Holdings [2004] 2 Lloyd's Rep. 352 (Cooke J): enforcement of expert determinations relating to sale price adjustments for a fleet of LPG tankers.

Gregg & Co. v. Emhart Glass [2005] EWHC 804 (TCC): trial of liability issues relating to sale & supply of technical equipment in the glass production industry.

Aoun v. Bahri [2002] 2 All ER 182: security for costs under CPR 25.13(2)(g) (movement of assets); leading to two Court of Appeal decisions in same case regarding 'stay of appeal' [2002] EWCA Civ 1141 and 'form of security' [2002] EWCA Civ 1390.

Dranez Anstalt v. Hayek (2002) 1 BCLC 693 (Evans Lombe J): 4 week trial (Chancery Division) involving restraint of trade; confidential information; trade secret; fiduciary duty; passing off.

Nikitenko v. Le Beouf, Lamb, Greene & McRae (Blackburne J, 18/8/00): principles governing disclosure of documents on Court's file under CPR 5.4 (Chancery Division).

D. CIVIL FRAUD & ASSET TRACING

Advice and appearances (including in Cayman Islands) on behalf of both claimants and defendants in fraud & asset-tracing disputes, many involving freezing / proprietary injunctions.

Acted for a corporate defendant in one of the actions comprising **BTA Bank v. Ablyazov et al** in which the combined claims exceed US\$5 billion (trial of three selected actions commencing October 2012).

Antonio Gramsci Shipping Corp v. Recoletos & others [2011] EWHC 2242 (QB) (Cooke J): acted for defendant (Lembergs) seeking discharge of worldwide freezing order in the context of an alleged fraudulent scheme to deprive the Latvian Shipping Company of US\$130 million of charterparty income.

Acted for German bank, Wirecard, in proceedings and freezing injunctions concerning fraudulent sham 'sales' of Beijing Olympics tickets (see **Section B** above). Successfully resisted application to set aside freezing order (Edey J, October 2008). (The claim later succeeded at trial, [2010] EWHC 51 (QB).)

E. CONFLICTS OF LAWS / PRIVATE INTERNATIONAL LAW

Cases involving a wide range of multi-jurisdictional disputes and issues of conflict of laws including e.g. Brussels Regulation, Brussels/Lugano Conventions, Rome I & Rome II Regulations, enforcement of judgments & anti-suit (including anti-arbitration) injunctions.

Sulamérica Cia Nacional de Seguros & others v. Enesa Engenharia SA & others [2012] 1 Lloyd's Rep 671 (CA): anti-suit relief concerning Brazilian proceedings involving an interim antiarbitration injunction. Issues include: *(a)* proper law of arbitration agreement (post *C v D* – see below); *(b)* meaning & effect of mediation clause; *(c)* reconciliation of arbitration agreement & Brazilian exclusive jurisdiction clause.

BNP Paribas v. OJSC 'Russian Machines' & others [2012] 1 Lloyd's Rep 649 (CA): anti-suit relief concerning Russian proceedings seeking invalidation of a guarantee which is the subject of London arbitration. Issues include: *(a)* vexatious collusion as ground for anti-suit relief; *(b)* jurisdictional gateways for non-contractual anti-suit claim; *(c)* service by alternative method on foreign defendants (arbitrating & non-arbitrating parties) and deemed retrospective service under CPR 6.15.

Ferrexpo AG v. Gilson Investments Ltd & Others [2012] 1 Lloyds Rep 588 (Andrew Smith J); stay of proceedings in favour of pre-existing Ukrainian proceedings on three grounds: *(a)* the 'reflexive' application of Brussels Regulation (Arts. 22, 27 & 28) post-*Owusu (b)* abuse of process; and *(c)* case management powers. This decision has been described as being of *"great significance"* and has attracted much academic and practitioner commentary since being handed down in April 2012.

WMS Gaming Inc v. B plus Giocolegale Ltd [2012] ILPr 5 (Simon J): acted for claimant successfully defeating jurisdiction challenge under Arts. 27 & 28 of Brussels Regulation. Issues included: (a) whether parent & subsidiary could be treated as "same party" for Art.27 lis pendens regime; (b) whether court could adopt a claim-by-claim or issue-by-issue approach under Art. 27 or Art. 28 and (c) analysis of 'related actions' under Art. 28 and court's approach to exercise of its remedial discretion.

C v. D [2008] Lloyd's Rep. 239 (CA): anti-suit injunction & declaratory relief to restrain threatened proceedings in US courts seeking to challenge an arbitral award made in England; also includes principles governing privacy/anonymity of arbitration-related court proceedings.

Noble Assurance v. Gerling- Konzern General Insurance (2007) 1 CLC 85 (Toulson LJ): declaratory relief in respect of reinsurers pursuit of US proceedings involving collateral attack upon findings contained in an arbitral award made in England.

Morin v. Bonhams & Brooks [2004] 1 Lloyds Rep. 702; (2004) 1 All ER (Comm) 880 (CA):

applicable law of the tort of negligent mis-statement under the Private International Law (Miscellaneous Provisions) Act 1995.

Pearson Education v. Prentice Hall of India [2005] EWHC 655 (QB) (Gloster J): issues of forum conveniens and lis pendens in relation to the enforcement of publication licences for educational textbooks in India.

Tryg Baltica v. Boston Compania & Ors [2005] Lloyds Rep IR 40 (Cooke J): negative declaratory relief arising out of London market reinsurance of Argentine fronting insurers.

Society of Lloyds v. White (Cresswell J): anti-suit injunctions granted in connection with disputes in the English, Australian and US Courts. Both interim injunction (The Times 14/4/00) and final injunction ([2002] I.L.Pr.11).

F. INSURANCE & REINSURANCE

A wide range of insurance and reinsurance-related matters in court and arbitration. Instructed to provide expert evidence on aspects of English re/insurance law for use in foreign proceedings (including cross-examination / deposition).

General

Deepwater Horizon (2012). Instructed during early 2012 on behalf of reinsurers in connection with a claim made under a Non-Elemental Marine Industry Loss Warranty arising out of the Gulf of Mexico oil spill which occurred in April 2010.

Sulamérica (see Section E above): underlying coverage dispute concerns all risks programme for the construction of the world's largest hydro-electric facility, known as 'Jirau', located in the Amazon region of Brazil. Claim said to be worth over US\$500 million arising from property damage during unrest.

Coromin v. Axa & Others [2008] Lloyd's Rep IR 467 (Cooke J): successful claim by captive insurer of Anglo American against reinsurers in respect of PD & BI claims (estimated at US\$250 million) arising from damage to copper mining facility in Chile.

Swiss Re v. United India Insurance [2005] Lloyd's Rep IR 341; [2005] 1 CLC 203 (Morison J): EAR/CAR coverage for major power plant construction project known as 'Dabhol' in India; material change to insured risk; cessation of cover; principles relating to return of premium (s.84 Marine Insurance Act 1906). *Tryg Baltica v. Boston Compania & Ors* [2005] Lloyd's Rep IR 40 (Cooke J): claims cooperation/notification issues; 'follow the settlements'; nature of back-to-back reinsurance (including risk of currency conversion) arising out of civil liability insurance covering Argentinian railway network.

Lloyd's Litigation

Society of Lloyd's v. Jaffray [2000] EWHC 51 (Comm) (Cresswell J): 5 month trial involving issues of fraud in relation to the regulation of the Lloyd's insurance market in the 1980s arising out of the impact of long-tail asbestos-related liabilities. Subsidiary judgments in the *Jaffray* litigation include: 'common costs order' (2000) CLC 725 (Colman J); proper ambit of CPR 32.5 (Cresswell J, *The Times* 3/8/00).

Stop Loss Litigation (2005-2006). Acted in group litigation against brokers/managers of personal stop loss (PSL) scheme and Lloyd's members' agents. Also acted in related proceedings which determined the scope of coverage under PSL insurance following settlement of the main action: *Integer – The Underwriting Members Mutual Club Ltd. v. Phillips* [2006] EWHC 722 (QB) (Tomlinson J).

G. MEDIA, ART, ENTERTAINMENT

Numerous cases involving rights & royalties arising out of publications, films, internet, multimedia, television, West End theatre productions, and musical recordings.Recent cases include:

A dispute relating to adult entertainment television channel (Top Up TV);

Acting for **Kodak** in a dispute with Technicolor in the Commercial Court concerning purchase of raw film stock

Advising about legal issues concerning contestants on the eve of the launch '*Celebrity Big Brother*' on Channel 5.

Other notable cases:

Instructed on behalf of '*The Beach Boys*' (Brother Records Inc) to protect their claim to ownership of stolen property entered into an auction of rock & pop memorabilia held at *Madame Tussaud*'s in October 2005.

Independiente v. Music Trading On-Line (HK) (2007] FSR 21 (Evans Lombe J): acted a former director of '*CD WOW*? at the trial of contempt proceedings in early 2007.

Pearson Education v. Prentice Hall of India [2005] EWHC 655 (QB) (Gloster J): involving publication licences for educational textbooks; and related judgment concerning ambit of "without prejudice" material and its admissibility to prove independent facts: (2006) FSR 8 (Crane J).

Directly instructed by **Camelot** in connection with various matters arising in relation to the operation of the National Lottery, including scratch cards.

H. PROFESSIONAL NEGLIGENCE

Experience in a range of professional negligence disputes, including: auditors, solicitors, brokers, banks/building societies, auctioneers (e.g. *Morin v. Bonhams & Brooks* – see **Section E** above).

Acted during 2013/2014 on behalf of purchasers of a Dubai-based automation systems company in Commercial Court proceedings involving alleged negligent management of an electric installation project at the New Doha International Airport.

Acted on behalf of major international law firm defending allegations of professional negligence under German law in swaps mis-selling litigation, heard by Commercial Court during January and March 2014.

I. PUBLIC & ADMINISTRATIVE LAW

Advice and appearances in a wide variety of matters including:

- regulation at Heathrow airport ((on app. of Guernsey Transport Board) v. Airport Coordination Ltd. [1998] EWHC Admin 969);
- inter-governmental cooperation on evidence for criminal investigations;
- disciplinary powers of the Premier League and Football Association;
- disciplinary powers of educational institutions, telecommunications regulators and financial services regulators (UK and Hong Kong);
- Government's compensation scheme for 2001 Foot & Mouth Disease: (on app. of NFU) v.
 Sec. State for Environment, Food & Rural Affairs (Forbes J, 6/3/03);
- Scope of HM Customs & Excise powers of search and seizure.

Instructed as sole counsel for the Legal Services Ombudsman in connection with various public law challenges and private law proceedings.

J. SHAREHOLDER DISPUTES

Shareholder Disputes

Cases concerning a variety of contractual and ownership disputes relating to companies registered onshore and offshore. Examples include:

- Claims for breach of warranties & undertakings in share sale / transfer / subscription / acquisition agreements (e.g. *Forrest v. Glasser* (see Section D above) concerning notification condition precedent);
- Disputes arising out of shareholder agreements (e.g. *Telenor v. Altimo* (see Section A above) concerning proposed merger of telecoms companies / shareholding in BVI-registered company);
- *Ferrexpo v. Gilson* (see Section E above) concerning ownership of Ukrainian-registered company; and
- Dar Al Arkan & Others v. Al Refai & Others concerning alleged nominee shareholding of Bahraini Islamic Finance bank in Commercial Court proceedings due to be tried early 2015 (8-9 week trial).

K. SPORTS LAW

Cases involving a variety of sporting contexts, including:

- contractual disputes between professional footballers and international rugby players and their respective agents;
- sponsorship, advertising & marketing-related disputes;
- supply arrangements involving sportswear & equipment.

Acted for claimant (Digicel) in legal proceedings in both the Commercial Court & LCIA arbitration against West Indies Cricket Board during July-September 2008 in connection with sponsorship-related rights in the *'Stanford 20/20 for 20'* cricket match held in Antigua in October 2008 (see **Section A** above).

Acted during 2004-2006 for The FA and FIFA in Chancery Division proceedings brought by a former professional football agent involving alleged infringement of EC Treaty.

Junior counsel for The FA Premier League in *Sheffield United FC v. Premier League* (2007) arising out of disciplinary action taken against West Ham United FC in connection with the *'Tevez/Mascherano'* affair (see **Section A** above).

CAREER

2013 Appointed Queen's Counsel

2006 Appointed Junior Counsel to the Crown ('B' Panel)

1998 Attorney at Walkers, Cayman Islands (2 months)

1997 Joined Essex Court Chambers

1995 Lecturer in Public & Administrative Law, Hertford College, Oxford University (until 2000)

1995 Called to the Bar (Inner Temple)

EDUCATION

1995 Inns of Court School of Law

1994 Bachelor of Civil Law (First Class), Oxford University

1992 BA Jurisprudence (First Class), Oxford University

AWARDS

1994 Major Scholarship, Inner Temple

1992 Martin Wronker Prize (joint), Oxford University

1990 College Scholarship, Hertford College