

# Arbitrators

AT 24 LINCOLN'S INN FIELDS



## Stuart Cribb

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Stuart specialises in international commercial litigation and arbitration. As an advocate, he has argued at all levels of the English judicial system, including before the Supreme Court of the United Kingdom. In arbitration, he has advised and acted in disputes seated in various jurisdictions, and has experience of cases under the ICC, UNCITRAL, LCIA, LMAA, CIARB, SIAC, CIETAC and DIAC rules.

Stuart has a particular interest in arbitrations with a connection to:

- The Caribbean (where he is called to the bar of the British Virgin Islands, and has acted in disputes connected with the BVI, Nevis, the Cayman Islands, the Bahamas and Trinidad and Tobago);
- Africa (where he has acted in disputes connected with Nigeria, Zimbabwe, Zambia and Egypt); and
- The Middle East (where he has acted in disputes connected with Dubai, Kuwait, Qatar, Sharjah, Abu Dhabi, Bahrain, Saudi Arabia and Iran).

Stuart has substantial experience of litigation and arbitration focused on energy and natural resources. His cases have spanned issues of force majeure relating to interruptions in supply under long-term gas sale contracts, gas pricing, production sharing agreements, and litigation arising out of catastrophic oil spills. Energy disputes in which Stuart is involved typically involve difficult technical issues of expert evidence, including in relation to the extraction, marketing and behaviour of hydrocarbons or other natural resources.

Stuart also appeared as counsel in the leading English case on challenges to arbitration awards for serious irregularity under section 68 of the Arbitration Act 1996, *Therapy Beach Club Incorporated v RAV Bahamas Limited & Bimini Resort Management Limited* [2006] 1 A.C. 221.

In June 2024, Stuart was appointed onto the DIAC List of Arbitrators.

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**Arbitration** (including arbitration-related court applications)

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- **G v R:** Acted (led by Stephen Houseman KC) for the claimant bank seeking final mandatory and negative anti-suit injunction relief against a Russian entity part-owned by Gazprom. Proceedings were commenced in the St. Petersburg Arbitrazh Court seeking payment under seven guarantees/ bonds relating to two major construction projects. The Hon. Mr Justice Knowles CBE granted interim relief without notice. Sir Nigel Teare dismissed the claim for lack of jurisdiction in September 2023, on the basis that the arbitration clause sought to be enforced was not governed by English law and that England was not in any event the proper forum for the claim: [2023] EWHC 2302 (Comm). An application for expedited permission to appeal was made in October 2023.
- **Therapy Beach Club Incorporated v RAV Bahamas Limited & Bimini Resort Management Limited:** Acted for RAV Bahamas and Bimini Resort Management (led by Vernon Flynn QC) in their appeal to the Privy Council from the Court of Appeal of the Bahamas. The appeal was concerned with their challenge to an arbitral award on the basis of serious irregularity, made under section 90 of the Bahamas Arbitration Act 2009 (which is materially identical to section 68 of the English Arbitration Act 1996). That challenge was successful at first instance but overturned by the Bahamas Court of Appeal. The appeal to the Privy Council raised important issues as to the operation of section 90 of the Arbitration Act 2009 and its English equivalent, which had not previously been the subject of judicial consideration. The appeal was heard in February 2021. It was the first time the requirement of 'irregularity causing substantial injustice' had been considered by the highest court since the decision of the House of Lords in *Lesotho Highlands Development Authority v Impregilo SpA* [2006] 1 A.C. 221. The case has been reported in numerous places: [2021] A.C. 907; [2021] UKPC 8; [2021] 2 W.L.R. 1369; [2021] 2 Lloyd's Rep. 188; [2021] 4 WLUK 136; 196 Con. L.R. 1; Times, April 29, 2021.
- Acted (led by Graham Dunning QC) in a London-seated arbitration under the UNCITRAL rules between two shareholders in company which operates a substantial Zambian copper mine. The dispute relates to the management of that mine and the investment of c.US\$500m of the company's assets.
- Acted (led by Siddharth Dhar) in London-seated arbitration under the CIARB rules in respect of the supply of a defective component to a manufacturer of aircraft engines.
- Acted (led by Charles Ciumei QC) in an arbitration in relation to the enforceability of certain post-termination restrictive covenants in the Members' Agreement of a leading professional services provider. The arbitration was heavily expedited,

progressing from the first statement of case to the evidential hearing in two months.

- Acted (led by Paul Key QC) on behalf of the claimants, which were owned and controlled by the investment authority of a Middle Eastern state, in a SIAC arbitration. The claim related to the claimants' acquisition from the respondents of shares in an Indian company. The claimants alleged they had been led to believe that the Indian company in question was a thriving and valuable one, when it was in fact worthless, and claimed damages for fraud and misrepresentation.
- Acted (led by Claire Blanchard QC and David Davies) in a series of related gas disputes between a state-owned midstream aggregator of gas and a number of its downstream petrochemical customers. The individual arbitrations were seated in different jurisdictions and were governed by a number of different arbitral rules. However, each case involved damages claims for alleged failures to supply the contractually required quantity of gas for a sum in excess of US\$100m, as well as a dispute relating to the exercise of a contractual option to extend a long-term gas supply contract, in each case worth hundreds of millions of US dollars. The matters arose in the wake of the Macondo incident and involved a number of factual issues relating to the discovery, extraction and sale of gas and LNG. In view of the size of these disputes, they each involved a number of phases, and one involved a sampling process so as to reduce the scope of the evidence to a triable size. In addition, another of them was heard on a heavily expedited time frame.
- Advised (as sole counsel) the ambassador from one middle eastern state to another in connection with an LCIA arbitration relating to the exploration and development of two gas fields.
- Acted (led by Paul Key QC) on behalf of the claimant in an LCIA arbitration seated in Paris. The claim was for loss of profits of over US\$400m following the termination of an 'Off-Take Agreement' relating to a hydrocarbons plant, and involved a number of issues of Iranian law, including in relation to loss of profits.
- Acted (as sole counsel) for the applicants in application under section 43 of the Arbitration Act 1996 for a witness summons in connection with an LCIA arbitration.
- Advised (led by Vernon Flynn QC) a CIS state in connection with an UNCITRAL arbitration seated in Sweden. The dispute centred on a Production Sharing Agreement between the state and an international oil major, and involved a number of issues of contractual construction relating to the proper parties to the

arbitration agreement, whether the purported claimant had standing to sue, and whether it had commenced arbitration against the correct respondent.

- Acted (as sole counsel) for the buyer in its claims for breach of contract against the seller in a series of related arbitrations governed by the SIAC and CIETAC rules, which arose out of a series of contracts for the international sale of goods. Significant issues included the possible consolidation of related arbitrations, contractual construction and variation and sale of goods law.

### **Caribbean-related disputes**

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Stuart has substantial experience of disputes in the Caribbean, and he was admitted as a barrister of the Eastern Caribbean Supreme Court (Territory of the Virgin Islands) in March 2022. He has acted in various cases governed by the laws of the BVI, the Cayman Islands, the Bahamas, Nevis and Trinidad and Tobago.

Stuart was seconded to a leading BVI law firm from April to July 2022, and in that period, he acted on a number of matters across the firm's commercial practice, including the following:

- Acted (led by David Allison QC) before the Eastern Caribbean Court of Appeal in a confidential appeal brought by the joint liquidators of a company against an order granting an application to reverse a decision of theirs brought pursuant to section 273 of the BVI Insolvency Act 2003. Stuart also appeared unled in applications at first instance for leave to appeal and for a stay of execution pending the appeal.
- Acted (as sole counsel) in a claim in the Commercial Division of the BVI High Court brought by the joint liquidators of a BVI company, seeking to reverse the transfer of shares valued at approximately US\$50m to a connected company and for which no consideration was received. The joint liquidators alleged that the transaction was both at an undervalue pursuant to section 246 of the BVI Insolvency Act 2003, and intended to defraud the company's creditors within the meaning of section 81 of the Conveyancing and Law of Property Act 1961 and the Statute of Elizabeth.
- Acted (as sole counsel) in application before the Commercial Division of the BVI High Court by provisional joint liquidators for approval of their fees and disbursements incurred in relation to their investigations into alleged wrongdoing in connection with the asserts of a BVI company.
- Acted (as sole counsel) for the liquidators of a BVI company in connection with an appeal by the company to the Eastern Caribbean Court of Appeal against the winding-up order which put it into liquidation.

- Acted (as sole counsel) for a supporting creditor in connection with the first hearing of a winding-up petition presented before the Commercial Division of the BVI High Court.
- Acted (as sole counsel) for an opposing creditor in connection with the first hearing of a winding-up petition presented before the Commercial Division of the BVI High Court.
- Advised (as sole counsel) the former directors of a BVI company in relation to various issues of limitation and contribution arising in connection with claims for misfeasance brought against them by the liquidator of the company.
- Acted (as sole counsel) in application before the Commercial Division of the BVI High Court seeking summary judgment on the claimant's claims for declaratory relief that he is the sole beneficial owner of all the issued shares in two BVI companies, and an order rectifying the register of members for those two companies to record him as the sole registered holder of those shares.
- Acted (as sole counsel) for the former liquidator of a BVI company in connection with an application before the Commercial Division of the BVI High Court for declaratory relief confirming that the company was validly dissolved and for other associated relief restricting certain other parties' ability to challenge that dissolution.

In addition, Stuart has acted on a number of other Caribbean matters both before and after his secondment, including the following:

- **Real Assets (RA) Global Opportunity Fund I Limited:** Acted (as sole counsel) in various sealed applications before the Commercial Division of the BVI High Court by provisional joint liquidators in relation to their investigations into alleged wrongdoing in connection with the asserts of a BVI company.
- **Globe Investment Holdings Limited v Westdene Investment Limited & Ors:** Acted (as sole counsel) for the claimant in its claim before the Commercial Division of the BVI High Court to enforce a judgment of the Sharjah Court in the sum of approximately AED 700m.
- Acted (led by Richard Millett KC) advising a company on various issues of Cayman Islands law.
- Acted (led by Philip Marshall QC) on a confidential application for leave to appeal to the Privy Council from a BVI-law decision of the Eastern Caribbean Court of Appeal. Leave was granted, but the date of the appeal hearing before the Privy Council has not yet been fixed.

- Acted (led by David Davies KC) in a sealed 2-week trial of a c.US\$10m claim heard before the High Court of Nevis.
- **Mex Clearing Limited v Mex Securities SARL & Ors:** Acted (led by Ben Valentin QC, Alex Hall-Taylor QC and Alexander Cook) for the first ancillary claimant, VDHI, in its claims before the Commercial Division of the BVI High Court. In these proceedings, VDHI brought representative claims on behalf of various third-party noteholders, who it said had been defrauded out of approximately €36.4m, pursuant to an unlawful means conspiracy between the ancillary defendants and by means of various abuses of the process of the BVI Court, including the collusive commencement and settlement of proceedings by a fraudulently obtained Consent Order. The case gave rise to a large number of judgments and appeals. Stuart also acted as sole counsel for VDHI in respect of applications by the fourth ancillary defendant, Mr Taher, to challenge the jurisdiction of the BVI Court to hear the claims against him.
- Acted (as sole counsel) for the applicant in its application before the Commercial Division of the BVI High Court for without notice freezing and proprietary injunctions in support of its claim in respect of attempts by the respondent to fraudulently misappropriate assets worth approximately US\$25m.
- **Therapy Beach Club Incorporated v RAV Bahamas Limited & Bimini Resort Management Limited:** Acted for RAV Bahamas and Bimini Resort Management (led by Vernon Flynn QC) in their appeal to the Privy Council from the Court of Appeal of the Bahamas. The appeal was concerned with their challenge to an arbitral award on the basis of serious irregularity, made under section 90 of the Bahamas Arbitration Act 2009 (which is materially identical to section 68 of the English Arbitration Act 1996). That challenge was successful at first instance but overturned by the Bahamas Court of Appeal. The appeal to the Privy Council raised important issues as to the operation of section 90 of the Arbitration Act 2009 and its English equivalent, which had not previously been the subject of judicial consideration. The appeal was heard in February 2021. It was the first time the requirement of 'irregularity causing substantial injustice' had been considered by the highest court since the decision of the House of Lords in *Lesotho Highlands Development Authority v Impregilo SpA* [2006] 1 A.C. 221. The case has been reported in numerous places: [2021] A.C. 907; [2021] UKPC 8; [2021] 2 W.L.R. 1369; [2021] 2 Lloyd's Rep. 188; [2021] 4 WLUK 136; 196 Con. L.R. 1; Times, April 29, 2021.
- Acted (led by Claire Blanchard QC and David Davies) in a series of related gas disputes between a state-owned midstream aggregator of gas and a number of its downstream petrochemicals customers. The individual arbitrations were seated in different jurisdictions and were governed by a number of different arbitral rules. However, each case involved a damages claim for alleged failures to supply the contractually required quantity of gas for a sum in excess of US\$100m, as well as a dispute relating to the exercise of a contractual option to extend a long-term gas supply contract, in each case worth hundreds of millions of US dollars. The

matters arose in the wake of the Macondo incident, and involved a number of factual issues relating to the discovery, extraction and sale of gas and LNG. In view of the size of these disputes, they each involved a number of phases. One dispute involved a sampling process so as to reduce the scope of the evidence to a triable size, and another was heard on a heavily expedited time frame. The claims were governed by Trinidadian law.

### **Africa-related disputes**

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Before joining Essex Court Chambers, Stuart spent a month at Group 621 Chambers in Johannesburg as a research assistant to advocate JJ Meiring, whom he assisted on a number of matters spanning competition law, financial services regulation, employment law, commercial agency and jurisdiction. In his own practice as an advocate, Stuart has since then acted in a number of disputes connected with various African jurisdictions:

- **The 'Bonga Litigation' (including Harrison Jalla & Ors v Royal Dutch Shell Plc & Ors):** Acted (led by Oba Nsugbe QC, and previously by Graham Dunning QC) in various proceedings concerning claims brought by approximately 45,000 Nigerian claimants against companies in the Royal Dutch Shell Group. The claims all arose out of the December 2011 Bonga oil spill, in which over 40,000 barrels of oil were spilled into the ocean in the Niger delta, making it one of the largest offshore spills in the history of oil exploration and production in Nigeria. The spill occurred during loading operations from a floating production storage and offloading unit in the Bonga oil field, operated by Shell Nigeria Exploration and Production Company, to the oil tanker the MV Northia, the technical manager of which was Shell International Trading and Shipping Company Limited. In each set of proceedings, the claimants alleged that the spill was caused by the recklessness or negligence of the Shell defendants, and that it caused devastation to their communities, waterways and estuaries in the Niger delta that persists to this day. The case was one of the largest pieces of group litigation before the English Courts, and also one of the most complicated. It resulted in 11 judgments, and 3 hearings before the Court of Appeal (permission having been granted on each occasion). A 4-week trial of preliminary issues was heard in February and March 2022, at which Stuart undertook a substantial portion of the advocacy. An appeal was then heard by the Supreme Court in March 2023, at which Stuart argued two of the four issues that arose for determination. The case gave rise to a number of issues of Nigerian law, which governed the claims, and a number of expert issues relating to the transshipment of oil and its behaviour and weathering in the marine and delta environments.
- Acted (led by Graham Dunning QC) in a London-seated arbitration under the UNCITRAL rules between two shareholders in a company which operates a substantial Zambian copper mine. The dispute related to the management of that mine and the investment of c.US\$500m of the company's assets, and gave rise to a number of issues of Zambian law and expert issues relating to the development and financing of the mine.

- Advised (as sole counsel) a Nigerian bank in connection with a number of disputed repo transactions with an American bank cumulatively worth approximately US\$120m.
- **ABB (Private) Limited v Charlotte Sarudzai Ndenda:** Acted (as sole counsel) for ABB in the Commercial Court in its urgent without notice application for a freezing order over the assets of its former employee, Ms Ndenda, in the United Kingdom and Jersey, and on the return date on that order at which it was continued. The freezing order was sought pursuant to section 25 of the Civil Jurisdiction and Judgments Act 1982 in support of proceedings brought by ABB against Ms Ndenda and others in Zimbabwe. Ms Ndenda was alleged to have fraudulently misappropriated at least US\$3.7m from ABB, and to have sought to conceal some of the proceeds of that fraud in the United Kingdom and Jersey.
- **Platinum Services Company v DP World Ltd:** Acted (led by Graham Dunning QC and Damien Walker) in Dubai for DP World 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, in the aftermath of the Egyptian Revolution of 2011.

#### **Middle East-related disputes**

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- **Emirates NBD Bank PJSC & Anr v Saadat-Yadzi & Ors:** Acted (led by Paul McGrath KC) for two Kuwaiti defendants to a claim brought in the London Commercial Court by two Dubai-based banks seeking to enforce judgments obtained in the Dubai Courts based on personal guarantees allegedly given in support of lending facilities granted to a Dubai companies. The claim gave rise to a number of issues of UAE law, including banking law and practice, as well as the law and procedure of litigation before the 'onshore' Dubai Courts.
- Advised (as sole counsel) an Bahraini energy and commodities company on issues of contractual construction arising out of two LNG sales agreements with a counter-party based in Abu Dhabi.
- **Globe Investment Holdings Limited v Westdene Investment Limited & Ors:** Acted (as sole counsel) for the claimant in its claim before the Commercial Division of the BVI High Court to enforce a judgment of the Sharjah Court in the sum of approximately AED 700m.
- **Mex Clearing Limited v Mex Securities SARL & Ors:** Acted (led by Ben Valentin QC, Alex Hall-Taylor QC and Alexander Cook) for the first ancillary claimant, VDHI, in its claims before the Commercial Division of the BVI High Court. The claims gave rise to a number of issues of Dubai law.



- Advised (as sole counsel) the ambassador from one middle-eastern state to another in connection with an LCIA arbitration relating to the exploration and development of two gas fields.
- Acted (led by Paul Key QC) on behalf of the claimant in an LCIA arbitration seated in Paris. The claim was for loss of profits of over US\$400m following the termination of an 'Off-Take Agreement' relating to a hydrocarbons plant, and involved a number of issues of Iranian law, including in relation to loss of profits.
- **Prince Al-Waleed bin Talal bin Abdulaziz Al Saud v Aoun:** Acted (as sole counsel) for HRH Prince Al-Waleed of the Kingdom of Saudi Arabia in a claim for injunctive relief to enforce compliance with a settlement agreement.
- Acted (led by Paul Key QC) on behalf of the claimants, which were owned and controlled by the investment authority of a Middle Eastern state, in a SIAC arbitration. The claim related to the claimants' acquisition from the respondents of shares in an Indian company. The claimants alleged they had been led to believe that the Indian company in question was a thriving and valuable one, when it was in fact worthless, and claimed damages for fraud and misrepresentation.
- Advised (led by Vernon Flynn QC) the victim of a large-scale fraud in connection with the possibility of enforcing a freezing order and obtaining a search order in the DIFC.
- **Platinum Services Company v DP World Ltd:** Acted (led by Graham Dunning QC and Damien Walker) in Dubai for DP World 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, in the aftermath of the Egyptian Revolution of 2011.

## CAREER

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- 2022** Called to the Bar of the Eastern Caribbean Supreme Court (Territory of the Virgin Islands)
- 2014** Tenant at Essex Court Chambers
- 2013-14** Pupillage at Essex Court Chambers (with David Scorey QC)
- 2013** Called to the Bar of England and Wales, Lincoln's Inn
- 2012-13** Supervisor in Civil Law, Selwyn College, University of Cambridge

Research assistant to Lord Neuberger of Abbotsbury

Research assistant to the Secured Transactions Law Reform Project

## EDUCATION

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**2012-13** BPTC, Kaplan Law School (Outstanding)

**2011-12**BCL, St Catharine's College, University of Oxford (Distinction)

**2008-11**BA (Hons) Law, Selwyn College, University of Cambridge (First Class, ranked second in final year, ranked fourth in first year)

## **AWARDS**

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### **2013**

Buchanan Prize (Lincoln's Inn)

### **2012**

ESU John Smith Memorial Mace for England Champion

Lord Denning Scholarship (Lincoln's Inn)

Allen & Overy Prize for Corporate Insolvency (University of Oxford)

### **2011**

Hardwicke Entrance Award (Lincoln's Inn)

3 Verulam Buildings Scholarship (University of Oxford)

Clifford Chance Prize for European Union Law (University of Cambridge)

Clifford Chance CJ Hamson Prize for Aspects of Obligations (University of Cambridge)

Fairest Prize in Law (Selwyn College, University of Cambridge)

### **2009**

Fairest Prize in Law (Selwyn College, University of Cambridge)