

## Adam Kramer KC

Call: 2004

Silk: 2021

✉ akramer@3vb.com  
✉ SilksPMs@3vb.com



## Practice overview

Adam was appointed KC in 2021 after a stellar career as senior junior (Chambers & Partners Junior of Year for Banking in 2015 and Commercial Disputes in 2017), being ranked for many years as one of the very top commercial juniors. He is known for combining an unstuffy teamwork approach with forceful yet charming court and arbitration advocacy and a deep engagement with the law (as to which, he is the sole author of the leading practitioner text *The Law of Contract Damages*, often cited by courts and arbitral tribunals, now in its 3rd edition).

He is instructed on many of the leading disputes of the day, maintaining a top-flight practice across the full breadth of commercial litigation and arbitration, with particular experience of large litigation, long trials, quantum, fraud interlocutories, and group claims. His rankings extend to eight areas (Banking & Finance, Chancery Commercial, Civil Fraud, Commercial Litigation, Commodities/Energy & Natural Resources, Group Litigation, Insurance & Reinsurance, Professional Negligence) as a silk. His current and recent matters include ***Liberty Retail v Liberty Mutual*** (BI insurance prevention of access limits test case autumn 2023), **two ICC insurance arbitrations, *London International Exhibition Centre plc v RSA*** (BI insurance 'at the premises' test case spring 2023), ***PIFSS (Kuwait) v Al Rajaan, VW, Mercedes, Peugeot and other diesel group claims*** (one of the lead counsel for some claimant groups), ***Stonegate Pub Company v MS Amlin*** (BI insurance aggregation and furlough test case, appeal autumn 2023), ***Henderson & Jones v Barclays*** £45m claim (4-week trial autumn 2022), a ***\$1.1bn LCIA Angolan energy arbitration***, ***Phones4U*** £1bn fraud and collusion competition claim (10 week trial summer 2022), ***Soteria Insurance Ltd v IBM UK Ltd*** (exclusion clauses,

Court of Appeal 2022), **Lehman Brothers sub-debt waterfall** dispute (interpretation and rectification, Court of Appeal 2021), **Tecnimont Arabia Ltd v Nat West Bank plc** advance push payment fraud claim (trial winter 2021), **FCA v Arch - the Business Interruption Insurance Test case** (part of the successful FCA team at trial and in the Supreme Court), the **Tesco s90A accounts overstatement group claim** (leading the claimant counsel team in the second round action).

As a contract damages expert, Adam is frequently instructed to advise on the law relating to damages and exclusion clause points, often when considering the prospects of appeals or to support the thinking of the existing legal team on an ongoing matter.

The 2024 directories say that Adam is "*an all-round superstar. He is a true expert across a wide number of areas and balances it all whilst being exceptionally user-friendly and making himself available, even when in a trial on another matter.*", "*is exceptional. He sees angles that nobody else can, and is frightfully efficient in turning work.*", "*Brilliant advocate. Extremely bright. Leading light of junior silks.*", "*One of my favourite silks at the Bar. He's hugely impressive and his advocacy is top-drawer.*", "*He has a slightly adversarial advocacy style that is useful because he is not afraid to set up for a fight. Adam is razor sharp and focused on the detail and the issues.*"

## Expertise

### Commercial Litigation

Adam has long practised at the top of the commercial litigation field in a broad range of leading disputes, being ranked in seven areas across the directories including for commercial disputes by Chambers and Partners (UK band 3 and Global) and Legal 500 (band 6), as well as for Chancery: Commercial by Chambers and Partners (band 3), following an award of Chambers and Partners Commercial Junior of the Year in 2017. Adam acts in many high-profile cases especially complex multi-party frauds (including *Phones 4U and PIFSS v Al-Rajaan*), investment and commercial banking disputes, business interruption insurance (following *FCA v Arch* in the Supreme Court), securities claims (*Tesco*, following *RBS Rights Issue*), group litigation (including the *Diesel emissions* claims), SPA claims, and energy and other arbitrations. He is an expert in contract damages and contract interpretation, having written extensively on both (including the leading practitioner text *The Law of Contract Damages*).

The following are some of Adam's key cases, but see also the other sections of this CV:

- The 'at the premises' COVID-19 business interruption test case: *London International Exhibition Centre plc v RSA* [\[2023\] EWHC 1481 \(Comm\)](#). Lead counsel for the successful lead claimant; appeal 2024. Also lead counsel for for two claimant groups in the 'prevention of access' BI test case *Gatwick Investment and others v Liberty Mutual*

(heard autumn 2023). Also *Stonegate Pub Company Ltd v MS Amlin, Liberty Mutual and Zurich* [\[2022\] EWHC 2548 \(Comm\)](#). Co-lead counsel for the claimant pub chain in an £850m business interruption insurance aggregation, causation and furlough test case (appeal pending).

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- *Barrowfen Properties Ltd v Patel & Stevens & Bolton LLP* damages appeal, CA 2024.
- *Henderson & Jones Ltd v Barclays plc* [\[2023\] EWHC 1276 \(Ch\)](#). Lead counsel for the bank, securing dismissal after a 4-week trial of a £40m fraud claim arising out of the restructure of a medical services group.
- *Phones 4U collusion dispute* [\[2023\] EWHC 2826 \(Ch\)](#). Part of Vodafone team securing dismissal of this £1bn collusion claim after a 10-week trial in summer 2022 (led by Ewan McQuater KC).
- Lead counsel or co-lead counsel for claimant groups in certain of the *Diesel emission* group claims including Mercedes and Peugeot [\[2023\] EWHC 2568 \(KB\)](#) (following a long-standing role as part of the Leigh Day claimant group counsel team in *Crossley v Volkswagen* e.g. GLO hearing [2018] EWHC 1178 (QB), reliance in deceit failed strike out [\[2021\] EWHC 3444 \(QB\)](#)).
- *Soteria Insurance Ltd v IBM UK Ltd* [\[2022\] EWCA Civ 440](#). Co-lead counsel unsuccessfully resisting an appeal on an £80m point as to whether an IT contract claim for wasted expenditure was covered by an applicable exclusion clause (with Nigel Tozzi KC).
- *PIFSS (Kuwait) v Al Rajaan*. Lead counsel for two alleged briber defendants in major international fraud dispute.
- *Lehman Brothers sub-debt waterfall dispute* [\[2021\] EWCA Civ 1523](#), [2020] EWHC 1681 (Ch). Successfully acted for joint administrators of Lehman Brothers Holdings plc in a £1bn dispute as to the priority of subordinated debt instruments (led by Adrian Beltrami KC).
- Lead counsel on \$1.1bn LCIA arbitration in relation to the supply of turbines in Angola.
- *Persons v Tesco plc*. Lead counsel for large second stage s90A FSMA securities claim arising out of an accounts overstatement. Settled 2021.
- *FCA v Arch Insurance (UK) Ltd (Covid-19 business interruption insurance test case)* [\[2021\] AC 649](#) (Supreme Court), [\[2020\] Lloyd's Rep IR 527](#) (Divisional Ct). Senior jr for the FCA in its successful and ground-breaking test claim against 8 insurers (led by Colin Edelman KC, and at trial also Leigh-Ann Mulcahy KC).
- *UK Acorn Finance Ltd v Markel (UK) Ltd* [2020] Lloyd's Rep IR 356. Lead counsel obtaining £14m judgment after 1 week trial (the judgment being based on the products of

cross- examination) against PII insurer, concerning rationality under an unintentional non-disclosure clause. Settled at the Court of Appeal door.

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- *Etihad Airways PJSC v Flother* [2021] 2 WLR 939 (CA), [2020] QB 793 (Comm Ct). Senior jr for the defendant (insolvent airline Air Berlin) in this dispute as to the application of Brussels Recast to asymmetric jurisdiction clauses in the context of a £1bn claim under a comfort letter (led by David Joseph KC).
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- *Ivanhoe Mines Ltd v Gardner* [2020] EWHC 144 (Comm). Sole counsel obtaining a freezing and notification injunction.
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- Lead counsel on two LCIA arbitrations in relation to German hotel franchises, termination and quantum. Two 1 week hearings.
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- *Libyan Investment Authority v JP Morgan and Walid Giahmi* [2019] EWHC 1452 (Comm). Successfully set aside service on the alleged briber on grounds of non-disclosure and limitation (led by Alan Gourgey KC).
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- *Addlesee v Dentons Europe LLP* [2019] 3 WLR 1255 (CA). Successfully acting for solicitor defending in leading case on privilege in relation to insolvency company clients (led by William Flenley KC).
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- *Portland Stone Firms Ltd v Barclays Bank plc and KPMG* [2018] EWHC 2341 (QB). Sole counsel for the bank striking out a £10m fraud claim by a commercial customer.
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- *JSC BM-Bank v Vladimir Kekhman* [2018] EWHC 791 (Comm). Obtained \$150m judgment for a Russian bank in this fraud cause against the 'banana king' after a 4-week trial (led by Alan Gourgey KC).
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- *Holyoake v Candy* [2018] Ch 297 (Comm Ct). Acted for the defendants in the original 'notification injunction' fraud claim (led by Ewan McQuater KC)
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- *Avanti Communications Ltd v The Ministry of Defence of the Republic of Indonesia*. LCIA arbitration leading to \$20m award in favour of the supplier of satellite services, in relation to illegality and exclusion clauses.
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- Co-lead in 3-day Paris ICC arbitration in relation to international sanctions on Iran and oil extracting machinery (frustration and force majeure).
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- *RBS Rights Issue claim*. Acted for a claimant group of institutional investors in this s90 prospectus claim, leading to a huge settlement.
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- *Astle et al v CBRE et al* [2016] PNLR 16 (Ch Div). Sole counsel for the valuer in this summary judgment hearing in relation to the scope of duty of a valuer in the context of an information memorandum for issued notes for investors in a major property development.
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- *Challinor v Juliet Bellis & Co* [2015] EWCA Civ 59 (CA), [2013] EWHC 347 & 620 (Ch) (Chancery Div). Acted for the claimant investors in this claim against solicitors involved in an airfield investment scheme, seeking a Quistclose trust and other relief. 4-week trial and then appeal (led by Andrew Sutcliffe KC).

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- *Gard Marine & Energy Ltd v Lloyd's Syndicate 780* [2012] Lloyd's Rep IR (Comm Ct). Acted for the brokers in this \$10m 2-week trial turning on an excess of loss clause in a facultative reinsurance energy policy, following hurricane oil well damage (led by Tom Weitzman KC).

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- *Parabola Investments Ltd v Browallia Cal Ltd* [2011] 1 QB 477. Deceit claim against stockbroker, a leading case on lost opportunity damages for deceit (led by Ali Malek KC and Jeffrey Chapman).

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- *SITA v Serruys*. Acted for the defendant in a £90m deceit and SPA warranty claim arising out of sale of Easco national scrap metal business, which settled after a 10-week trial in 2010 (led by Adrian Beltrami KC and David Head).

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- *Attorney General of Zambia v Meer Care & Desai* [2008] EWCA Civ 1007 (CA), [2007] EWHC 952 (Ch) (Chancery Division). Acted for solicitor defendant in 11-week trial in relation to embezzlement of funds by former very senior Government of Zambia officials (led by David Head). Then on appeal with successful root and branch challenge to judge's fraud findings (led by Andrew Onslow KC).

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- *HIH Casualty & General Insurance Ltd v JLT Risk Solutions Ltd* [2007] 2 Lloyd's Rep 278 (CA), [2006] Lloyd's Rep IR 493 (Comm Ct). Acted for the brokers on this film finance dispute, the leading authority on post-placement duties (led by Tom Weitzman KC and Jonathan Davies-Jones KC).

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- *Pearson Education Ltd v The Charter Partnership Ltd* [2007] BLR 324 (CA). Acted for the architect in this leading cause on the duty of care where intermediate examination is reasonably foreseeable (led by Colin Edelman KC).

*"Adam is an all-round superstar. He is a true expert across a wide number of areas and balances it all whilst being exceptionally user-friendly and making himself available, even when in a trial on another matter."* – Legal 500 2024

*"Adam Kramer is a very good advocate. He is practical in his approach, is very easy to deal with and is prepared to roll his sleeves up and get involved."* – C&P 2024

*"Adam is very practical and gets the gist of what is important quickly."* – C&P 2024

*"Adam punches way above his weight. He is really intelligent and a fantastic advocate."* – C&P 2024

*"User friendly and very accessible, he is a very modern style barrister."* – C&P 2024



## Aviation

A number of Adam's disputes relate to aviation, including a 2023 ICC arbitration relating to an airline operating out of the Phillipines, his (as junior) acting for the liquidators of Air Berlin in financing dispute *Etihad Airways PJSC v Flother* [2021] 2 WLR 939 (led by David Joseph KC), a number of LCIA arbitrations as sole counsel including one relating to helicopter leasing and another relating to the provision of satellite services to the Indonesian Government, acting (as junior) for *Hertz against Ryanair Ltd* in a long running dispute arising out of termination of a car rental services marketing agreement, and acting for investors in airfields in *Challinor v Juliet Bellis & Co* [2015] EWCA Civ 59 (CA) (4 week trial and appeal, led by Andrew Sutcliffe KC).

## Banking

Adam has extensive banking litigation experience, ranking in the top tier for several years by Chambers & Partners and Legal 500 when a senior junior, and being awarded Chambers & Partners' Banking Junior of the Year 2015. As silk, he is ranked by Chambers & Partners (band 4), Legal 500 (band 2) and Who's Who Legal and continues to act on some of the biggest banking disputes around, especially in relation to fraud and securities disputes, and is a recommended silk.

Adam often defends banks in substantial fraud and other claims arising out of commercial financing and other commercial banking. He was lead or sole counsel for the banks in *Henderson & Jones Ltd v Ross* [2023] EWHC 1276 (Ch) (£40m fraudclaim arising out of a restructuring, 4 week trial), *Tecnimont Arabia Ltd v Nat West Bank plc* [2022] EWHC 1172 (Comm) (defending receiving bank against a claim arising out of a push payment fraudm *Portland Stone Firms Ltd v Barclays Bank plc and KPMG* [2018] EWHC 2341 (QB) (strike out of £10m claim), *Hall v RBS Plc* [2009] EWHC 3163 (QB) (summary judgment against a duty of care claim by an agricultural customer). He was also junior counsel for the claimants against solicitors in *Challinor v Juliet Bellis & Co* [2015] EWCA Civ 59 (CA) arising out of an airfield investment scheme (4-week trial, led by Andrew Sutcliffe KC).

He is also expert in major international bribery and other fraud claims. He is currently lead counsel for two defendants in the *PIFSS (Kuwait) v Al-Rajaan* proceedings, was jr counsel for the alleged briber obtaining set aside of service of a \$200m claim in *Libyan Investment Authority v JP Morgan and Walid Giahmi* [2019] EWHC 1452 (Comm) (led by Alan Gourgey KC), and was jr counsel for the bank obtaining a \$150m judgment after a 4-week trial in Russian fraud claim *JSC BM-Bank v Vladimir Kekhman* [2018] EWHC 791 (Comm) (led by Alan Gourgey KC).

Adam has substantial experience of jurisdictional disputes arising out of financing transactions, including acting as lead counsel setting aside a claim against Cyprus

financial trading broker for incorrect service, sole counsel for the bank in a settled appeal relating to setting aside an order on grounds that it had been obtained by fraud, and as jr counsel disputing the applicability of an asymmetric jurisdiction clause under Brussels Recast in *Etihad Airways PJSC v Flother* [2021] 2 WLR 939 (led by David Joseph KC).

Adam has extensive investment banking experience, successfully acting as junior silk on the appeal (and earlier trial) in relation to the £1bn Lehman Brothers subordinated debt priority dispute [\[2021\] EWCA Civ 1523](#). He was sole counsel for the valuers in a scope of duty dispute arising out of an information memorandum for a property investment structure in *Astle et al v CBRE et al* [2016] PNLR 16 (Ch Div), and was senior junior for a claimant group focusing on credit market exposures in the ground-breaking s90 FSMA *RBS Rights Issue* securities claim.

He was also sole counsel for the arranger in a settled bond sale dispute, jr counsel for the investment bank in \$100m success fee claim arising out of Sierra Leonan iron ore investment *Renaissance Capital Ltd v African Minerals Ltd* [2015] EWCA Civ 448 (trial and appeal, led by Michael Brindle KC), and jr counsel for a large number of noteholders in settled claim arising out of delay in termination of ISDA notes *Sisters of Charity of Jesus and Mary et al v Morgan Stanley & Co International* (led by Andrew Sutcliffe KC).

Earlier consumer banking experience includes as sole counsel for the bank in the first English trial on debit card cloning, and as junior counsel for a bank in the current account overdraft charges test case [2008] EWHC 875, 2325 (Comm) (led by Richard Salter KC and John Odgers).

*“Adam is a very good advocate; he is practical in his approach. He is very easy to deal with and prepared to roll sleeves up and get involved.”* – C&P 2024

*“Undoubtedly a star of the future. Adam is good in court, and produces very impressive written and advisory work.”* – C&P 2024

*“One of my favourite silks at the Bar. He’s hugely impressive and his advocacy is top-drawer.”* – C&P 2024

*“Adam is a fiercely intelligent and sharp-minded barrister who is as able to deploy clear and persuasive argument in written and oral submission.”* – Legal 500 2024

## Civil Fraud

As silk, Adam continues to act in many of the leading fraud disputes, after a wide-ranging career as a highly ranked senior junior. He is ranked as a leading silk by Chambers and Partners (band 3), Legal 500 (band 4) and Who’s Who Legal (both for Civil Fraud and Asset Recovery). Adam has substantial experience both of typical fraud interlocutories (freezing and notification injunctions, set aside of service, jurisdiction) and long trials and

appeals, and often draws on his damages expertise (he is sole author of *The Law of Contract Damages* and has also published on deceit damages). He was instructed for Vodafone in collusion claim *Phones4U Ltd v phone operators* [2023] EWHC 2826 (Ch) (defended \$1bn collusion claim, 10 week trial led by Ewan McQuater KC), for Barclays in *Henderson & Jones Ltd v Ross* [2023] EWHC 1276 (Ch) (defended £40m dishonest assistance claim, 4 week trial), and acts for the claimant/appellant in the *Barrowfen Properties Ltd v Patel & Stevens & Bolton LLP* damages appeal, and for two defendants in the *PIFSS (Kuwait) v Al-Rajaan* proceedings.

Current and recent interlocutory experience includes as lead counsel for a defendant in a multi-party international bribery claim seeking to set aside service, sole counsel obtaining a freezing and notification injunction and *Ivanhoe Mines Ltd v Gardner* [2020] EWHC 144 (Comm), junior counsel for the alleged briber in a \$200m claim setting aside service on grounds of non-disclosure and limitation in *Libyan Investment Authority v JP Morgan and Walid Giahmi* [2019] EWHC 1452 (Comm) (led by Alan Gourgey KC), jr counsel defending the first notification injunction in *Holyoake v Candy brothers* [2016] 3 WLR 357 (led by Ewan McQuater KC), and sole counsel in a settled appeal relating to set aside of a registration order on grounds of fraud. Also earlier experience as sole counsel for a defendant in *Ablyazov*, and led in the *HSBC v 5th Avenue* dispute.

Lengthy fraud trial experience includes, *Phones4U Ltd v phone operators* [2023] EWHC 2826 (Ch) (defended \$1bn collusion claim, 10 weeks, led by Ewan McQuater KC), *JSC BM-Bank v Vladimir Kekhman* [2018] EWHC 791 (Comm) (4 weeks, \$150m judgment for the bank in Russian fraud claim, led by Alan Gourgey KC), *SITA v Serruys* (10 weeks, £90m deceit and SPA warranty arising out of sale of Easco national scrap metal business, Led by Adrian Beltrami KC and David Head; Adam has also had experience of a number of other fraud claims in the context of SPAs), and *Attorney General of Zambia v Meer Care & Desai* [2007] EWHC 952 (Ch) (11 weeks, led by David Head, embezzlement by the former President of Zambia).

Appellate experience includes, as junior counsel, *Parabola Investments Ltd v Browallia Cal Ltd* [2011] 1 QB 477 (a leading case on lost opportunity damages for deceit, led by Ali Malek KC and Jeffrey Chapman), and *Attorney General of Zambia v Meer Care & Desai* [2008] EWCA Civ 1007 (root and branch challenge to fraud findings at trial, led by Andrew Onslow KC).

Adam also has substantial experience of defending banks and professionals against fraud claims arising out of commercial banking and investment schemes. He is lead counsel for the bank in dishonest assistance *Henderson & Jones Ltd v Ross* (£40m claim, 3 week trial late 2022), was lead counsel for the receiving bank defending a bad faith change of position claim arising out of a push payment fraud in *Tecnimont Arabia Ltd v Nat West Bank plc* [2022] EWHC 1172 (Comm), was sole counsel until 2020 defending a solicitor in *Addlesee v Dentons Europe LLP* (and junior counsel in leading decision on privilege [2019] 3 WLR 1255 (CA)), was sole counsel striking out a £10m claim in *Portland Stone Firms Ltd v Barclays Bank plc and KPMG* [2018] EWHC 2341 (QB). He was also junior counsel for the claimants against solicitors in *Challinor v Juliet Bellis & Co* [2015] EWCA



Civ 59 (CA) arising out of an airfield investment scheme (4 week trial, led by Andrew Sutcliffe KC).

Adam also has experience of group claims, and is lead counsel for claimant groups in various diesel emissions claims, after being junior counsel in the *Volkswagen* GLO claim (led by Tom de la Mare KC and Ben Jaffey KC).

*“Adam is absolutely superb. He is incredibly responsive, on top of everything, articulate and enthusiastic.”* – C&P 2024

*“Undoubtedly, Adam is a star of the future. He is good in court and produces very impressive written and advisory work.”* – C&P 2024

*“Adam is exceptional. He sees angles that nobody else can, and is frightfully efficient in turning work.”* – Legal 500 2024

On damages for deceit, see Adam’s [‘Deceit, Difference in Value and Date of Assessment’ \(2017\)](#) 133 LQR 41-36)

## Commodities, Energy & Natural Resources

Adam has developed a specialisation in commodities, energy and natural resources disputes of all stripes, typically as lead or sole advocate. This includes oil trading, drilling and well damage; iron ore mining; gas and other power generation; and various commodities. He is ranked as a silk by Chambers and Partners UK (band 4) and Global in relation to Energy & Natural Resources, and by Legal 500 (band 5) in relation to Commodities.

Currently lead in a \$40m ICC arbitration relating to east Asian commodities trading.

Previously co-lead in \$1.1bn LCIA dispute about supply of power turbines to Angola, consulting counsel in a \$50m LMAA dispute about purchase of a Chinese drillship, and recently co- counsel in a Singaporean dispute about a coal briquetting JV.

Oil disputes raising questions of sanctions include as lead counsel on a dispute as the effect of international sanctions on an advanced payment guarantee arising out of the supply of oil equipment, and as co-lead in a Paris ICC arbitration on frustration and force majeure by Iranian sanctions of a supply contract for oil extracting machinery. Also acted as sole or junior counsel on other crude oil supply and demurrage disputes, including a \$37m Albanian crude dispute with *BP*, and SPA and JV disputes relating to oil field support and seismic exploration companies including *Geophysical Service Centre Company Ltd v Dowell Schlumberger (Middle East) NV* (security for costs ruling at [2013] EWHC 147 (TCC), led by Gregory Mitchell KC). And junior counsel on energy reinsurance dispute

arising out of hurricane oil well damage *Gard Marine & Energy Ltd v Lloyd's Syndicate 780 et* [2012] Lloyd's Rep IR (Comm Ct) (led by Tom Weitzman KC).

Extensive experience of energy and commodities SPA disputes including as junior counsel in £100m SPA dispute arising out of acquisition of Teesside gas power station, junior counsel in a £90m dispute arising out of the sale of Easco national scrap metal business (10-week trial led by Adrian Beltrami KC and David Head), junior counsel in heat pump SPA dispute ([2012] EWCA Civ 1059, led by George Bompas KC), and junior counsel in dispute arising out of sale of Italian energy group Elettra.

Adam has acted on a number of cases relating to fraudulent commodities trading schemes, including defending solicitors in *Addlesee v Dentons Europe LLP*, and acting for claimants against auditors and solicitors in a dispute arising out of a Cayman scheme.

*"Adam is a very smooth and polished advocate. People sit up and listen when he speaks."*  
-C&P 2024

And see Adam's Practical Law Company Oil & Gas notes (with Ryan Ferro) on Consequential Loss and Exclusive Remedies, and Fiduciary Duties of Operators.

## Group/multi-party litigation

Adam is one of the most experienced commercial barristers at the Bar in relation to group and multi-party litigation, being experienced in GLO, cost sharing, book building, steering group and test claimant issues (for example), and ranked in band 1 in in Chambers & Partners and band 3 in Legal 500.

In the securities field, he is lead counsel on a current s90A dispute, and second lead on a current issued s90/s90A claim, was lead counsel for a large claimant group against *Tesco* in the second round of the s90A claim, having earlier acted for the Stewarts group of institutional investors in the *RBS Rights Issue* s90 FSMA prospectus GLO litigation which led to a settlement in 2016, as well as having advised on other (some very large) s90/s90A securities claims.

He has also acted on a number of large group investor claims, including acting for the defendant solicitors in *Addlesee v Dentons Europe LLP* (against over 200 investors in a gold-trading scheme), and the defendant financing house (against 17 agricultural businesses) in *Various v Nationwide Corporate Finance Ltd and other* and (as junior) for large number of noteholders in the settled claim arising out of delay in termination of ISDA notes *Sisters of Charity of Jesus and Mary et al v Morgan Stanley & Co International* (led by Andrew Sutcliffe KC).

Adam also has an important role in the *Diesel emissions* litigation, as lead counsel for certain large consumer claimant groups against a number of manufacturers (including

*Mercedes and Peugeot*- see on early disclosure [\[2023\] EWHC 2568 \(KB\)](#)), following his long-standing role for the Leigh Day claimant group in the *Volkswagen* claim (GLO hearing [2018] EWHC 1178 (QB), reliance in deceit failed strike out [\[2021\] EWHC 3444 \(QB\)](#), £193m settlement in 2022).

Adam also has substantial experience in multi-party test claims, such as the bank overdraft charges test case (for a bank) [2008] EWHC 875, 2325 (Comm) and *FCA v Arch Insurance (UK) Ltd* (Covid-19 business interruption insurance test case against 8 insurers) [2021] AC 649 (Supreme Court) (for the FCA) and the *Stonegate and ExCeL ('at the premises' clauses)* business interruption insurance test cases.

*"Adam Kramer is very good in court."* – C&P 2024

*"Adam is very astute and on the ball."* – C&P 2024

*"Highly intelligent and grasps complex financial arrangements very quickly. Very good at distilling and articulating complex information in a way a lay person would understand."* – Legal 500 2024

## Insolvency

Adam has substantial experience in large insolvency disputes, ranging from pure insolvency matters such as the Lehman waterfall dispute (at trial and on appeal in the subordinated debt priority dispute [\[2021\] EWCA Civ 1523](#), led by Adrian Beltrami KC) to large disputes brought following insolvency (the £1bn Phones4U fraud and collusion claim; the £1bn Air Berlin comfort letter claim; the £40m *Henderson & Jones v Ross* [2023] EWHC 1276 (Ch) claim involving transaction at an undervalue/defrauding creditors allegations, the *Barrowfen* fraud/prof neg damages appeal). He was also heavily involved in the *RBS Rights Issue* claim in which minute examination of the bank's liquidity and regulatory capital positions were central.

## Insurance & Reinsurance

Ranked for many years in the directories for his insurance and reinsurance experience (now ranked as a silk by C&P (band 2), Legal 500 (band 3) and Who's Who Legal).

Adam has become a leading expert in business interruption insurance and COVID-19 after appearing as part of the successful FCA team led by Colin Edelman KC in *FCA v Arch Insurance (UK) Ltd* (Covid-19 business interruption insurance test case) at trial [\[2020\] Lloyd's Rep IR 527](#) (Divisional Ct) and in the Supreme Court [2021] AC 649 (Supreme Court), and has since advised various policyholders, brokers and the FCA on the application of the decision to other policies and on unresolved issues left over from the test case. This includes being leading counsel for the lead claimant in the 'at the premises'

COVID-19 BI test case: *London International Exhibition Centre plc v RSA* [2023] [EWHC 1481](#) (Comm) (appeal pending); lead counsel for two claimant groups in the 'prevention of access' BI test case *Gatwick Investment and others v Liberty Mutual* (heard autumn 2023); and co-leading counsel for the policyholder in *Stonegate Pub Company v MS Amlin* [2022] [EWHC 2548](#) (Comm), an £850m claim for a large pub chain that stood as a test case on BI Covid aggregation, causation and furlough (appeal pending); and leading various other international and UK policyholder claims with aggregation and other issues.

Adam is lead counsel in two current substantial ICC arbitrations relating to alleged credit insurance and fraud.

He was lead counsel for the claimant on the leading case on irrationality and unintentional non-disclosure clauses *UK Acorn Finance Ltd v Markel (UK) Ltd* [2020] Lloyd's Rep IR 356 (£14m judgment, PII cover).

Broker claims experience includes disputes on business interruption broking, property insurance broking, brokers' PII, and reported claims *Gard Marine & Energy Ltd v Lloyd's Syndicate 780 et* [2012] Lloyd's Rep IR (Comm Ct) (jr counsel for the brokers, led by Tom Weitzman KC, energy reinsurance) and leading decision on post-placement duties *HIH Casualty & General Insurance Ltd v JLT Risk Solutions Ltd* [2007] 2 Lloyd's Rep 278 (CA) (jr counsel for the brokers, led by Tom Weitzman KC and Jonathan Davies-Jones KC, film finance).

Other experience includes claims relating to D&O cover, warranties and indemnities insurance (including a settled £100m claim arising out of an SPA of Teesside gas power station in *GDF Suez International Holdings BV v Teeside Power Holdings Ltd*), income protection insurance, development property indemnity cover, energy policies, cosmetic malpractice insurance (struck out at £multi-million claim as sole counsel).

Also, as to the adequacy of ATE and cross-undertaking liability policies, he appeared as junior counsel in: *Holyoake v Candy brothers* at first instance and on written appeal submissions [2017] [EWCA Civ 92](#) (led by Ewan McQuater KC) and *Geophysical Service Centre Company Ltd v Dowell Schlumberger (Middle East) NV* [2013] [EWHC 147 \(TCC\)](#) (led by Gregory Mitchell KC).

*"Clients praise him for his ability to cut through issues and get straight to the point. Adam has an ability to pick up on points that clients are commercially sensitive about, and he is creative in finding solutions to those issues."* – C&P 2024

*"Adam is extremely knowledgeable and a great advocate."* – C&P 2024

*"He has a slightly adversarial advocacy style that is useful because he is not afraid to set up for a fight. Adam is razor sharp and focused on the detail and the issues."* – C&P 2024

*"Brilliant advocate. Extremely bright. Leading light of junior silks."* – Legal 500 2024

## International Arbitration

Adam has for some years been much in demand as lead/co-lead counsel for international arbitrations (mainly LCIA and ICC), especially in the energy, commodities and general commercial fields, or where his particular expertise in relation to quantum claims is required.

Key cases in the last few years include acting as lead in two current substantial ICC arbitrations relating to alleged credit insurance, aviation and commodities in east Asia and involving fraud allegations (hearings autumn 2023); acting as co-lead in a current \$1.1bn LCIA arbitration arising out of supply of power turbines in Angola (contractual termination, affirmation, preliminary issue on exclusion clauses), hearing 2023; advising on the damages phase of a \$50m LMAA Chinese drill ship- building dispute; as lead counsel in two related LCIA arbitrations worth £10s of millions in relation to European hotel franchise agreements (two 1 week hearings, termination, affirmation, frustration, detailed quantum); as co-lead in Paris ICC arbitration in relation to international sanctions on Iran and oil extracting machinery (frustration and force majeure); as lead counsel for the claimant satellite services provider obtaining a \$20m LCIA award in *Avanti Communications Ltd v The Ministry of Defence of the Republic of Indonesia* (illegality, exclusion clauses).

## Media, Entertainment & Sport

Adam has broad experience of contractual and related disputes in the media, entertainment and sport fields over a number of years. Film experience includes as lead counsel in a settled Commercial Court dispute arising out of the financing of UK film 'London Town', as sole counsel on a £12m investment dispute arising out of a UK film tax scheme, and as junior counsel in film finance dispute *HIH Casualty & General Insurance Ltd v JLT Risk Solutions Ltd* [2007] 2 Lloyd's Rep 278 (CA) (led by Tom Weitzman KC). Other experience includes as leading counsel advising a Premiership football club in relation to its business interruption insurance claim (2021), as and as sole counsel in a dispute between a major UK broadcaster and major sports promoter (2021), a dispute against *Google* and *Youtube* in relation to breach of an NDA, a dispute arising out of the sale of video delivery hardware and software, a dispute arising out of an IP- sharing JV agreement, acting for a supermodel in relation to her promotion agreement, acting for a brand management company in a dispute with a Formula 1 driver, acting for a rugby international in an income protection insurance claim, and acting for an international pop star in a royalties dispute with Spotify and other online platforms.

*'Adam is an outstanding KC who leads the team extremely well, is highly responsive and manages to keep on top of the detail in a highly impressive manner.'* – Legal 500 2024



## Professional Negligence

Ranked as a silk by Legal 500, Adam has extensive experience of professional negligence and professional fraud disputes, on both sides, which play to Adam's strengths as a damages expert (e.g. imminent appeal in the CA in *Barrowfen Properties Ltd v Stevens & Bolton LLP*). Particular expertise in relation to professional claims in the context of banking and investment disputes.

Accountant claims include acting as lead counsel in a recent settled claim against auditors arising out of their failure to detect a major international fraudulent commodities trading scheme, sole counsel successfully defending a bank alongside solicitors in *Henderson & Jones Ltd v Ross* [2023] EWHC 1276 (Ch) a £40m claim with a 4 week trial, and *Portland Stone Firms Ltd v Barclays Bank plc and KPMG* [2018] EWHC 2341 (QB) (struck out £10m claim), and junior counsel in a settled £40m claim (see judgment on non-waiver of privilege at [2022] EWHC 2560 (Ch)) against tax accountants arising out of an SPA. Also jr counsel for the stockbroker in *Parabola Investments Ltd v Browallia Cal Ltd* [2011] 1 QB 477, a leading case on lost opportunity damages for deceit (led by Ali Malek KC and Jeffrey Chapman).

Valuer claims include commercial and residential valuers, such as *Astle et al v CBRE et al* [2016] PNLR 16 (Ch Div) (sole counsel for the valuer) in relation to the scope of duty of valuers to a property development information memorandum, and *UK Acorn Finance Ltd v Merkel (UK) Ltd* [2020] Lloyd's Rep IR 356 (lead counsel for the claimant) securing PII cover following judgments against valuers.

Solicitor claims include a damages appeal in 2024 (*Barrowfen Properties Ltd v Stevens & Bolton LLP*, CA); defence against fraud and negligence in the context of a gold trading investment scheme (*Addlesee v Dentons Europe LLP* [2019] 3 WLR 1255 (CA), jr counsel on this leading side-dispute on privilege of insolvent companies, otherwise lead counsel until 2020); see also [2022] EWHC 2560 (Ch) on non-waiver of privilege in *Henderson & Jones Ltd v Ross*, for the claimants in *Challinor v Juliet Bellis & Co* [2015] EWCA Civ 59 (CA), [2013] EWHC 347 & 620 (Ch) alleging Quistclose trust and related claims arising out of an airfield investment scheme (jr counsel, 4 week trial and appeal, led by Andrew Sutcliffe KC), and junior counsel defending the solicitors in Zambian embezzlement dispute *Attorney General of Zambia v Meer Care & Desai* [2008] EWCA Civ 1007, [2007] EWHC 952 (Ch) (11 week trial, led by David Head, and by Andrew Onslow KC on appeal). Also *Henderson & Jones Ltd v Ross* [2023] EWHC 1276 (Ch) , lead counsel for the bank defending alongside solicitors, £40m claim, 4 week trial.

Insurance broker claims include *Gard Marine & Energy Ltd v Lloyd's Syndicate 780 et* [2012] Lloyd's Rep IR (Comm Ct) (jr counsel for the brokers, led by Tom Weitzman KC, energy reinsurance) and leading decision on post-placement duties *HIH Casualty & General Insurance Ltd v JLT Risk Solutions Ltd* [2007] 2 Lloyd's Rep 278 (CA) (jr counsel for the brokers, led by Tom Weitzman KC and Jonathan Davies-Jones KC, film finance).



Adam also has construction experience, including recent adjudications, a London Underground sub-contractor dispute, and architect dispute as to the duty of care in the context of a reasonably foreseeable opportunity for intermediate inspection *Pearson Education Ltd v The Charter Partnership Ltd* [2007] BLR 324 (CA) (jr counsel for the architect, led by Colin Edelman KC).

## Recent cases

- *FCA v Arch – the Business Interruption Insurance Test case*(part of the successful FCA team at trial and in the Supreme Court)

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- *\$1.1bn LCIA Angolan energy arbitration* (lead counsel)

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- *The Tesco s90A accounts overstatement group claim* (leading the claimant counsel team in the second action)

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- *Phones4U* £1bn fraud and collusion competition claim (10 week trial in 2022)

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- *Lehman Brothers sub-debt waterfall* dispute (interpretation and rectification, respondent in the Court of Appeal autumn 2021)

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- *VW, Daimler and others diesel group claims* (lead counsel for some claimant groups)

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- *Acorn v Markel* professional indemnity insurance dispute (lead counsel, trial 2020)

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- *Henderson & Jones v Ross* £40m claim (lead counsel, 4-week trial autumn 2022)

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- *Tecnimont v Nat West* advance push payment fraud claim (lead counsel, trial winter 2021)

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- *The Etihad v Air Berlin* Court of Appeal dispute about asymmetric jurisdiction clauses under Brussels Recast

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- Other slightly less recent matters include *Libyan Investment Authority v JP Morgan*(set aside service on the alleged briber) and the high profile *RBS Rights Issue claim* (leading prospectus claim)

## Awards

- Commercial Junior of the Year – Chambers and Partners 2017

- UK Commercial Litigator of the Year – Corporate LiveWire Legal Awards 2016
- Banking Junior of the Year – Chambers and Partners 2015
- Most Outstanding Banking Litigator – Corporate LiveWire Legal Awards 2015
- Hot 100 – The Lawyer- 2014
- Alexander Maxwell Law Scholarship
- Gray’s Inn: Arden Scholar, Lee Essay Prize, Bedingfield Scholar
- McGill University: Institute of Comparative Law Essay Prize, Dean’s Honour List, Canadian Rhodes Scholars Foundation Scholarship
- Oxford University: proxime accessit to the Martin Wronker Prize, Gibbs Prize for Law, Richards
- Butler Prize for International Trade Law, Martin Wronker Fund Award for Land Law
- University College, Oxford: Alan Urbach Memorial Prize for Jurisprudence, Peter Rowley Prize for Land Law

## Publications

### Books

- *The Law of Contract Damages*, 3rd edn (Oxford, Hart Publishing, 2022)
- *Bewigged and Bewildered? A Guide to Becoming a Barrister in England and Wales* (Hart Publishing, 1st edn 2007, 2nd edn 2011, 3rd edn with I Higgins 2016)
- Editor with S Tolaney KC and C Harris, [Key Authorities in Banking Law 2011-2012](#) (Sweet & Maxwell, 2013)
- [Contract Law – An Index and Digest of Published Writings](#) (Hart Publishing, 2009)

### Articles

- ‘Implied terms: constriction instead of construction?’ in Eldridge and Pilkington (eds), *Australian Contract Law in the 21st Century* (Federation Press, 2021)
- ‘Contract damages’ in Day and Worthington, *Challenging Private Law: Lord Sumption on the Supreme Court* (Hart, 2020)

- 'English Law Report' in Baaij, Cabrelli and Macgregor, [The Common Core of European Private Law: Interpretation of Commercial Contracts](#) (Intersentia, 2020)

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- *On Practical Law Company*: ['Insurance contract law: causation'](#); ['COVID-19: Force Majeure, Frustration and Illegality in English Law: A Detailed Guide'](#) (co-authored with P de Verneuil-Smith and W Day); ['Damages for breach of contract: an overview'](#); ['Contracts: Waiver'](#); ['Damages for breach of share purchase agreements: an overview'](#); [blog on The New Flamenco](#).

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- ['Proving Contract Damages'](#) in Virgo and O'Sullivan, *Commercial Remedies: Resolving Controversies* (Cambridge University Press, 2017)

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- Co-author with A Summers, ['Deceit, Difference in Value and Date of Assessment'](#) (2017) 133 Law Quarterly Review 41-36

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- Contributor to [Paget's Law of Banking](#), 14th edition (LexisNexis, 2014)

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- Co-author with A Dyson, ['There is No "Breach Date Rule": Mitigation, Difference in Value and Date of Assessment'](#) (2014) 130 LQR 259-281

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- Co-author with A Beltrami KC, ['A Note on Incidental Benefit and Multi-party Situations'](#) (2014) Restitution Law Review 46-53

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- ['The New Test of Remoteness in Contract'](#) (2009) 125 Law Quarterly Review 408-415

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- ['Remoteness: New Problems with the Old Test'](#) in Cunnington and Saidov (eds), *Contract Damages: Domestic and International Perspectives* (Hart Publishing, 2008)

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- ['Smoothing the Rough Justice of the Fairchild Principle'](#) (2006) 122(4) Law Quarterly Review 547-55

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- ['An Agreement-Centred Approach to Remoteness and Contract Damage'](#) in Cohen and McKendrick (eds), *Comparative Remedies for Breach of Contract* (Oxford, Hart Publishing, 2005) 249-286 (cited by the House of Lords in *The Achilles* [2009] AC 61)

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- ['The Implication of Contract Terms as an Instance of Interpretation'](#) (2004) 63 Cambridge Law Journal 384-411

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- ['Common sense principles of contract interpretation \(and how we've been using them all along\)'](#) (2003) 23 Oxford Journal of Legal Studies 173-196

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- ['Proximity as principles: Directness, community norms and the tort of negligence'](#) (2003) 11 Tort Law Review 70-103

# Memberships and CSR

- Gray's Inn advocacy trainer

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- Governor at Christopher Hatton School

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- Practical Law Dispute Resolution Consultation Board

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- Journal of Contract Law editorial board

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- Commercial Bar Association

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- Chancery Bar Association

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- Professional Negligence Bar Association Commercial Fraud

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- Lawyers Association Collective Redress Lawyers Association

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- LCIA

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- Gray's Inn

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- Society of Legal Scholars

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- Bar Pro Bono Unit

# Education

- BA Jurisprudence, Oxford University (2nd highest in the year); LLM, McGill University; then law lecturer at Durham University and University College, Oxford for three years.