

Adam Kramer

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Year Of Call: **2004**



Adam is ranked in the directories in six areas (in the top band in three), is identified as one of the top ten commercial juniors (Chambers and Partners), and has twice been Chambers & Partners' Junior of the Year (Banking 2015, Commercial 2017). The directories say he is *'a legend in the making', 'a senior-junior superstar', 'one of the brightest juniors of his generation', 'a super brain', 'fiendishly clever', 'brilliant on paper', 'a dangerous opponent', 'unbelievably intelligent, incisive, quick-witted and great on his feet', 'a tremendous legal and factual analyst', 'the complete package', 'a go-to person for heavy disputes' with 'a great sense of humour and a strong teamwork ethic', 'really down to earth', 'a joy to work with' and 'one of the best juniors I have ever worked with'*. He has previously been listed in the top 100s (Chambers 100 juniors, Lawyer's Hot 100 lawyers).

He is an experienced commercial litigator, including in large-scale high-profile disputes (such as the Covid-19 business interruption insurance test case, *Phones 4U* alleged collusion dispute, the *Libyan Investment Authority* fraud claims, *Lehman* waterfall litigation, *VW (and other) Diesel Emissions* group claims, *RBS Rights Issue* prospectus claim, *Holyoake v Candy brothers*, Russian frauds). He is equally comfortable as senior junior and as sole advocate, often appearing against silks, and is an expert in damages and has extensive experience of group/multi-party litigation. He is the sole author of the leading practitioner text on contract damages. Adam seeks to attack complex disputes proactively, creatively and quickly, to never be beaten on the law, and to argue forcefully but with charm.

Directory Quotes

"He is technically strong, and has a client-friendly, pragmatic, responsive and commercial approach."

Chambers & Partners UK 2016

"An absolutely top-notch junior, who gains the respect of clients and lawyers quickly."

Legal 500 UK 2014

Expertise

Aviation

An increasing amount of Adam's time is taken up with aviation disputes or commercial matters with an aviation aspect.

Highlights:

Etihad Airways PJSC v Air Berlin - Commercial Court: [2020] QB 793, appeal 2020. €2bn airline financing dispute, jurisdiction battle. (Led by David Joseph QC.)

LCIA arbitration, 2019. Lead advocate in a helicopter-leasing dispute.

Avanti Communications Ltd v The Ministry of Defence of the Republic of Indonesia - LCIA arbitration, 2018. Obtained as lead advocate a \$20m final award for non-payment in breach of a contract to provide satellite services.

A share purchase warranty dispute arising out of sale of a private jet charter and aircraft management services company.

Ryanair Ltd v Hertz Europe Ltd - Commercial Court, 2015-17, settled. Dispute arising out of termination of a car rental services marketing agreement with an airline. (Led by Andrew Sutcliffe QC.)

Challinor v Juliet Bellis & Co - Chancery Division: [2013] EWHC 347 & 620 (Ch), Court of Appeal: [2015] EWCA Civ 59. Represented the claimant investors in a Guernsey unregulated collective property investment scheme into airfields, arguing that investment monies were held on Quistclose trust by the defendant solicitor. Succeeded after a four week trial, but overturned on appeal. (Led by Andrew Sutcliffe QC.)

Banking & Finance

Adam has extensive banking litigation experience, identified as one of the top six leading banking juniors by Chambers & Partners UK and one of the top fifteen by Legal 500 and awarded Chambers & Partners' Banking Junior of the Year 2015.

Adam was involved at the start of his career in the ground-breaking bank charges test case (for a bank), and was a senior junior in the equally ground-breaking RBS 2008 Rights Issue litigation (for the claimants), the latter of which provided a broad education in all aspects of investment bank structured credit products, liquidity, regulatory capital, and other matters and has led to him being one of the few specialists in securities litigation at the UK bar.

It has been said that he is 'easily capable of carrying a large banking dispute with minimal silk input' (Legal 500), 'highly knowledgeable and analytical, devours complex facts and superb on paper' (C&P) and is '*one of the most talented and impressive banking litigators at the junior Bar*' (Who's Who Legal). He is one of the authors of Paget's Law of Banking, and has given evidence on English law in foreign proceedings.

Highlights:

Lehman Brothers Sub-Debt Priority Dispute - Companies Court: [2020] EWHC 1681 (Ch), appeal 2021. Successfully acted for the joint administrators of Lehman Brothers Holdings plc in this latest waterfall dispute worth some hundreds of millions of dollars. (Led by Adrian Beltrami QC.)

Henderson & Jones Ltd v Barclays plc and others - Birmingham Business Court, ongoing. Lead advocate for the bank defending £47m claim arising out of commercial lending.

Tecnimont Arabia Ltd v Nat West plc - London Circuit Commercial. Lead advocate for the bank in £3m claim arising out of failure to freeze proceeds of fraud.

Various v Nationwide Corporate Finance Ltd and others - Bristol Business Court. Lead advocate for finance companies in group action relating to agricultural equipment financing.

Wilson v Lead Capital Markets Ltd - Central London County Court, ongoing. Lead advocate for a Cyprus financial trading broker. Set aside £1.3m default judgment and successfully defended that set aside on appeal. Defending further claim.

Libyan Investment Authority v JP Morgan and Walid Giahmi - Commercial Court, [2019] EWHC 1452 (Comm). Acted for Mr Giahmi, service set aside in this bribery claim in relation to financial instruments (\$200m+) on grounds of non-disclosure and limitation. (Led by Alan Gourgey QC.)

JSC BM-Bank v Vladimir Kekhman - Commercial Court, 4 week trial: [2018] EWHC 791 (Comm). Obtained for the claimant Russian bank a judgment for \$150m in damages in this fraud claim against 'The Banana King'. (Led by Alan Gourgey QC.)

Portland Stone Firms Ltd v Barclays Bank plc and KPMG - Queen's Bench Division: [2018] EWHC 2341 (QB). Sole advocate for the bank striking out a c.£10m claim arising out of commercial lending. Frequently cited as authority on striking out fraud claims and poorly pleaded claims.

Sole counsel for the bank in an £multi-million international factoring dispute, 2017, settled.

Royal Bank of Scotland's 2008 Rights Issue prospectus claim - Chancery Division, 2013-16, settled. Acted for one of the institutional lead claimant groups (that represented by Stewarts Law) in this £multi-bn s90 FSMA GLO claim that the prospectus in the spring 2008 £12bn rights issue was misleading, for over three years until settlement in December 2016. Main focus was on structured credit issues especially CDOs, MBSs and monoline insurance. (Led by Andrew Onslow QC.)

Holyoake v Candy brothers and others - Chancery Division, 2015-16. Represented the Candy brothers and other defendants in the interim stages of this £130m conspiracy, duress and fraud dispute arising out of the financing of the Grosvenor Gardens House property development. Appeared at first instance [2016] 3 WLR 357, and prepared written appeal submissions [2017] EWCA Civ 92, in the 'notification injunction' proceedings. (Led by Ewan McQuater QC.)

Astle et al v CBRE et al. Chancery Division, 2016, settled - £27m claim by 128 claimants against valuers and others in relation to an information memorandum for a unit trust and loan note property-development vehicle. Failed strike out on SAAMCo scope of duty: [2016] PNL R 16. Sole counsel for

the valuers.

Faisal Islamic Bank v Satellite Communications Network Ltd - Court of Appeal, 2016, settled after permission to appeal obtained. Sole advocate for the appellant bank seeking to set aside a registration order on grounds of fraud.

Renaissance Capital Ltd v African Minerals Ltd - Chancery Division: [2014] EWHC 2004 (Comm), Court of Appeal: [2015] EWCA Civ 448. Represented the claimant investment bank in this \$100m+ claim for success fees from Chinese investments into the defendant's iron ore mine in Sierra Leone. Succeeded at trial but partly overturned on appeal. (Led by Michael Brindle QC.)

Challinor v Juliet Bellis & Co - Chancery Division: [2013] EWHC 347 & 620 (Ch), Court of Appeal: [2015] EWCA Civ 59. Represented the claimant investors in a Guernsey unregulated collective property investment scheme into airfields, arguing that investment monies were held on Quistclose trust by the defendant solicitor. Succeeded after a four week trial, but overturned on appeal. (Led by Andrew Sutcliffe QC.)

Molton Street Capital LLP v Shooters Hill Capital Partners LLP - Commercial Court, 2014-15, settled (but other parties continued to trial: [2015] EWHC 3419 (Comm)). Sole counsel for the arranger in a bond sale dispute.

Sisters of Charity of Jesus and Mary et al v Morgan Stanley & Co International - Commercial Court, 2010-12, settled. Acted for a group of 132 noteholders under an ISDA swap, with claims of over \$20m based on delay in termination for downgrade. (Led by Andrew Sutcliffe QC.)

Hall v RBS Plc - Queen's Bench Division [2009] EWHC 3163 (QB). Obtained summary judgment for the bank in relation to an agricultural overdraft and allegations that the bank owed a duty of care.

Job v Halifax Plc - Nottingham County Court, 2009 (Lawtel AC0122846). Appeared for the bank in the first English trial on debit card cloning and ATM use.

Bank charges test case - Commercial Court, [2008] EWHC 875, 2325 (Comm). Test case on overdraft charges, penalty clauses, and the Unfair Terms in Consumer Contracts Regulations 1999. Appeared at the trial for Clydesdale plc. (Led by Richard Salter QC and John Odgers.)

Civil Fraud

Fraud has long been one of Adam's principal areas of practice, with court experience ranging from freezing orders to long trials and Court of Appeal hearings, and he is ranked as a leading junior in this area by Chambers and Partners UK (band 2), Legal 500 (band 3) and Who's Who Legal (national leader). He has particular experience of fraud in the context of SPAs, and fraudulent document-creation in a variety of complex transactions, with Court of Appeal experience of both dishonest assistance and deceit. He also brings his expertise in damages to bear in the fraud field (see e.g. ['Deceit, Difference in Value and Date of Assessment'](#) (2017) 133 LQR 41-36). The directories say "He has a super brain, is really easy to deal with and thinks deeply about issues" and "His analysis is brilliant."

Highlights:

Phones4U Ltd v phone operators - Business Courts Competition List, trial 2022. Acting for the Vodafone defendants in this claim alleging that wrongful collusion led to P4U's insolvency in 2014. (Led by Ewan McQuater QC and Rob Williams QC.)

Tecnimont Arabia Ltd v Nat West plc - London Circuit Commercial. Lead advocate for the bank in £3m claim arising out of failure to freeze proceeds of fraud.

Bank of India v Firestar Diamond FZE and others - London Circuit Commercial Court, ongoing. Acting for Nirav Modi in this loan dispute arising out of allegations against him of a \$multi-billion fraud.

Addlesee & others v Dentons Europe LLP - Chancery Division, trial 2022. Defending the lawyers in this deceit, conspiracy and negligence claim by 200 claimants in relation to the 'Anabus' gold trading scheme. Leading case on privilege of insolvency companies in the Court of Appeal: [2019] 3 WLR 1255.

Volkswagen Diesel Emissions Scandal class action - Queen's Bench Division, ongoing. Acting for a claimant group. GLO obtained May 2018. (Led by Tom de la Mare QC and Ben Jaffey QC.) Also instructed on other diesel scandal actions.

Libyan Investment Authority v JP Morgan and Walid Giahmi - Commercial Court, [2019] EWHC 1452 (Comm). Acted for Mr Giahmi, service set aside in this bribery claim in relation to financial instruments (\$200m+) on grounds of non-disclosure and limitation. (Led by Alan Gourgey QC.)

Advising on claims arising out of a major international fraudulent commodity trading investment scheme primarily operated out of the Cayman Islands. Sole advocate for the claimants, settled.

JSC BM-Bank v Vladimir Kekhman - Commercial Court 4 week trial: [2018] EWHC 791 (Comm). Obtained for the claimant Russian bank a judgment for \$150m in damages in this fraud claim against 'The Banana King'. (Led by Alan Gourgey QC.)

Auden McKenzie (Pharma Division) Ltd v Patel - Commercial Court, 2018. Acted for the first defendant in the early stages of this over £200m deceit claim arising out of a share sale of a pharmaceutical group. (Led by Jonathan Adkin QC.)

Holyoake v Candy brothers and others - Chancery Division, 2015-16. Represented the Candy brothers and other defendants in the interim stages of this £130m conspiracy, duress and fraud dispute arising out of the financing of the Grosvenor Gardens House property development. Appeared at first instance [2016] 3 WLR 357, and prepared written appeal submissions [2017] EWCA Civ 92, in the 'notification injunction' proceedings. (Led by Ewan McQuater QC.)

Faisal Islamic Bank v Satellite Communications Network Ltd - Court of Appeal, 2016, settled. Sole advocate for the appellant bank seeking to set aside a registration order on grounds of fraud.

BP Oil Ltd v Bankers Petroleum Ltd - Commercial Court, 2014-15, settled. \$37m Albanian crude oil sale dispute, with allegations of dishonest invoice-raising. (Led by Ali Malek QC.)

Seaton Trustees v Schneider Electric FZE - Commercial Court, 2014, settled. Acted for the sellers in

a £10m fraud, SPA warranty and mismanagement dispute following sale of a Dubai electronic solutions company. (Led by Andrew Onslow QC.)

The Ablyazov dispute - Chancery Division, 2011. Acted for Mr Ereshchenko in one of the Ablyazov actions. (Led by Paul Lowenstein QC.)

Parabola Investments Ltd v Browallia Cal Ltd - Court of Appeal: [2011] 1 QB 477. Appeared for the defendant stockbroker at the appeal against a £19m award turning on the measure of lost opportunity damages in deceit. (Led by Ali Malek QC and Jeffrey Chapman.)

SITA v Serruys - Queen's Bench Division, 2010, settled after 10 weeks of trial. Appeared for the defendants in £90m deceit and SPA warranty action arising out of sale of Easco national scrap metal business. (Led by Adrian Beltrami QC and David Head.)

Attorney General of Zambia v Meer Care & Desai - Chancery Division: [2007] EWHC 952 (Ch), Court of Appeal: [2008] EWCA Civ 1007. Dishonest assistance and conspiracy, embezzlement of \$55m by the former President of Republic of Zambia, appeared for 1st defendant solicitors firm through whose client account the money was laundered, 11-week trial and then successful appeal. (Led by David Head at trial; Andrew Onslow QC on appeal.)

HSBC v 5th Avenue - Commercial Court, 2006. Acted at freezer and other interim hearings early on in this investment fraud litigation. (Led by Gregory Mitchell QC and Ian Wilson.)

Commercial Litigation

Adam practices in a broad range of commercial disputes — he was Chambers and Partners Commercial Junior of the Year 2017 and is ranked in six areas across the directories. He has been ranked as a leading junior for commercial disputes since 2010, and is listed as one of the top nine juniors in band 1 in Chambers and Partners UK and Legal 500. Adam is an expert in contract and tort damages and contract interpretation (see his Publications list).

Highlights (and see other specialism sections for more examples):

Covid-19 business interruption insurance test case, senior jr for FCA – Commercial Court [2020] EWHC 2448 (Comm), appeal pending.

Various Covid-19 frustration/force majeure disputes. See further [this](#) detailed note.

Phones4U Ltd v phone operators – Business Courts Competition List, trial 2022. Acting for the Vodafone defendants in this claim alleging that wrongful collusion led to P4U's insolvency in 2014. (Led by Ewan McQuater QC and Rob Williams QC.)

Volkswagen Diesel Emissions Scandal class action – Queen's Bench Division, ongoing. Acting for a claimant group. GLO obtained May 2018. (Led by Tom de la Mare QC and Ben Jaffey QC). Also instructed on other diesel scandal actions.

Addlesee & others v Dentons Europe LLP – Chancery Division, ongoing. Defending the lawyers in this deceit, conspiracy and negligence claim by 200 claimants in relation to the 'Anabus' gold

trading scheme. Leading case on privilege of insolvency companies in the Court of Appeal: [2019] 3 WLR 1255.

Libyan Investment Authority v JP Morgan and Walid Giahmi - Commercial Court, [2019] EWHC 1452 (Comm). Acting for Mr Giahmi, service set aside in this bribery claim in relation to financial instruments (\$200m+) on grounds of non-disclosure and limitation. (Led by Alan Gourgey QC.)

JSC BM-Bank v Vladimir Kekhman - Commercial Court 4 week trial: [2018] EWHC 791 (Comm). Obtained for the claimant Russian bank a judgment for \$150m in damages in this fraud claim against 'The Banana King'. (Led by Alan Gourgey QC.)

Auden McKenzie (Pharma Division) Ltd v Patel - Commercial Court, 2018. Acted for the first defendant in the early stages of this over £200m deceit claim arising out of a share sale of a pharmaceutical group. (Led by Jonathan Adkin QC.)

£1.5m SPA tax warranty claim arising out of acquisition of a construction company. Sole counsel for the vendors, ongoing.

Canouan Resorts Development Ltd v CDCH Ltd - Chancery Division, 2017, settled. Acted for the defendant in this dispute under shareholders' agreements relating to an island resort and club development in the Grenadines Islands. (Led by Andrew Fletcher QC.)

Royal Bank of Scotland's 2008 Rights Issue prospectus claim - Chancery Division, 2013-16, settled. Acted for one of the institutional lead claimant groups (that represented by Stewarts Law) in this £multi-bn s90 FSMA GLO claim that the prospectus in the spring 2008 £12bn rights issue was misleading, for over three years until settlement in December 2016. Main focus was on structured credit issues—especially CDOs, MBSs and monoline insurance. (Led by Andrew Onslow QC.)

Holyoake v Candy brothers and others - Chancery Division, 2015-16. Represented the Candy brothers and other defendants in the interim stages of this £130m conspiracy, duress and fraud dispute arising out of the financing of the Grosvenor Gardens House property development. Appeared at first instance [2016] 3 WLR 357, and prepared written appeal submissions [2017] EWCA Civ 92, in the 'notification injunction' proceedings. (Led by Ewan McQuater QC.)

Ryanair Ltd v Hertz Europe Ltd - Commercial Court, 2015-17, settled. Dispute arising out of termination of a car rental services marketing agreement. (Led by Andrew Sutcliffe QC.)

Astle et al v CBRE et al - Chancery Division, 2016, settled. £27m claim by 128 claimants against valuers and others in relation to an information memorandum for a unit trust and loan note property-development vehicle. Failed strike out on SAAMCo in the context of this structure: [2016] PNLR 16. Sole counsel for the valuers.

Renaissance Capital Ltd v African Minerals Ltd - Chancery Division: [2014] EWHC 2004 (Comm), Court of Appeal: [2015] EWCA Civ 448. Represented the claimant investment bank in this \$100m+ claim for success fees from Chinese investments into the defendant's iron ore mine in Sierra Leone. Succeeded at trial but partly overturned on appeal. (Led by Michael Brindle QC.)

BP Oil Ltd v Bankers Petroleum Ltd - Commercial Court, 2014-15, settled. \$37m Albanian crude oil

sale dispute. (Led by Ali Malek QC.)

Technology SPA earn-out and warranty dispute - 2014-15, settled. (Led by Paul Lowenstein QC.)

Benedetti v Sawiris - Supreme Court, 2013. Acted for the trust defendants in this leading case on the law of unjust enrichment, which arose out of a telecomms deal commission claim. Appellant discontinued against these defendants just before the hearing. (Led by Adrian Beltrami QC.)

GDF Suez International Holdings BV v Teeside Power Holdings Ltd - Technology & Construction Court, 2013, settled. £100m share warranty claim in relation to defects in Teesside gas power station, including insurance warranty claim. (Led by Martin Bowdery QC and Jonathan Davies-Jones QC.)

Kudos Catering (UK) Ltd v Manchester Central Convention Centre - Queen's Bench Division: [2012] EWHC 1192 (QB), Court of Appeal: [2013] 2 Lloyd's Rep 270. A leading decision on construction of an exclusion clause to avoid a result rendering obligations illusory. (Led by Stephen Phillips QC.)

Ener G Holdings v Hormell - Commercial Court: [2011] EWHC 3290 (Comm), Court of Appeal: [2012] EWCA Civ 1059. Construction of a service of notice provision in an energy company SPA. (Led by George Bompas QC.)

Major recording artist v major label - 2011. Acted for a major music artist in a £multi-million recording contract dispute in relation to digital music royalties. (Led by Andrew Sutcliffe QC.)

SITA v Serruys - Queen's Bench Division, 2010. Appeared for the defendants in £90m deceit and SPA warranty action arising out of sale of Easco national scrap metal business. Settled in week 10 of trial. (Led by Adrian Beltrami QC and David Head.)

SPA dispute - 2009, settled. £50m misrepresentation, deceit and tax and related warranty claims under a publishing company SPA. (Led by Andrew Onslow QC.)

Energy & Natural Resources

Adam has developed a specialisation in energy and natural resources disputes of all stripes, both led and, more frequently, as sole advocate. Includes oil trading, drilling and well damage; iron ore mining; gas power generation. He is ranked by Chambers and Partners UK (band 3) & Global (band 3) as a leading junior, which said '*He's amazing. Outstandingly brilliant*' and '*Noted for his academic rigour and robust courtroom demeanour, he is frequently involved in energy cases and has a depth of experience in oil and gas cases*'. He is the author of Practical Law Company Oil & Gas notes (with Ryan Ferro) on Consequential Loss and Exclusive Remedies, and Fiduciary Duties of Operators.

Oil Highlights:

Dispute in relation to the effect of international sanctions on an advanced payment guarantee arising out of the supply of oil equipment.

ICC arbitration in relation to international sanctions on Iran, oil extracting machinery and frustration and force majeure, Paris seat, 2018, co-lead advocate.

Crude oil demurrage dispute, 2018, settled

Offshore oil field support services company share purchase agreement dispute, ongoing.

Crude oil supply dispute, 2016, settled. (Led by Ali Malek QC).

BP Oil Ltd v Bankers Petroleum Ltd. Commercial Court, 2014-15, settled. \$37m Albanian crude oil sale dispute. (Led by Ali Malek QC.)

Geophysical Service Centre Company Ltd v Dowell Schlumberger (Middle East) NV - Technology and Construction Court, 2012-13, settled. Acted for seismic oil exploration services company in a JV dispute arising out of a Jordanian project. (Led by Gregory Mitchell QC.)

Gard Marine & Energy Ltd v Lloyd's Syndicate 780 et al - Commercial Court: [2011] EWHC 1658 (Comm). Appeared for the brokers in this \$10m two-week trial turning on an excess of loss clause in an energy facultative r/i policy, following oil well damage caused by Hurricane Rita. (Led by Tom Weitzman QC.)

Other Energy Highlights:

LCIA arbitration in a \$500m Angolan power turbine supply dispute, London seat, ongoing. Co-lead.

Singaporean dispute about coal briquetting j.v, ongoing.

GDF Suez International Holdings BV v Teeside Power Holdings Ltd - Technology and Construction Court, 2013, settled. £100m share warranty claim in relation to defects in Teesside gas power station, including insurance warranty claim. (Led by Martin Bowdery QC and Jonathan Davies-Jones QC.)

Ener G Holdings v Hormell - Commercial Court: [2011] EWHC 3290 (Comm), Court of Appeal: [2012] EWCA Civ 1059. Dispute about compliance with a service of notice provision in an energy SPA. (Led by George Bompas QC.)

Mackenzie and Hassoport Ltd v Sharratt - Chancery Division, 2008. Contract and trusts dispute arising out of the 2004 sale of Italian energy group Elettra. (Led by Andrew Onslow QC.)

Natural Resources and Commodities Highlights:

Addlesee & others v Dentons Europe LLP - Chancery Division, ongoing. Defending the lawyers in this deceit, conspiracy and negligence claim by 200 claimants in relation to the 'Anabus' gold trading scheme. Leading case on privilege of insolvency companies in the Court of Appeal: [2019] 3 WLR 1255.

Advising on claims against professionals arising out of a major international fraudulent commodities trading investment scheme primarily operated out of the Cayman Islands, ongoing.

Portland Stone Firms Ltd v Barclays Bank plc and KPMG - Queen's Bench Division, [2018] EWHC 2341 (QB). Sole advocate for the bank striking out a c.£10m claim arising out of commercial lending. Frequently cited as authority on striking out fraud claims and poorly pleaded claims.

Fraud by employees of a scrap metal and waste services business.

Renaissance Capital Ltd v African Minerals Ltd - Chancery Division: [2014] EWHC 2004 (Comm), Court of Appeal: [2015] EWCA Civ 448. Represented the claimant investment bank in this \$100m+ claim for success fees from Chinese investments into the defendant's iron ore mine in Sierra Leone. Succeeded at trial but partly overturned on appeal. (Led by Michael Brindle QC).

SITA v Serruys - Queen's Bench Division, 2010. Appeared for the defendants in £90m deceit and SPA warranty action arising out of sale of Easco national scrap metal business. Settled in week 10 of trial. (Led by Adrian Beltrami QC and David Head.)

Insurance & Reinsurance

Adam regularly advises and acts in insurance and reinsurance disputes, for insurers, insureds and especially brokers. He is ranked in four directories in this field (Chambers and Partners UK band 3, Legal 500 band 4, Who's Who Legal and Legal Experts), described in one as '*Absolutely great - academic and practical*' and '*Capable across the full spectrum of insurance and reinsurance work, he is particularly notable for his sterling reputation in the banking sector. He further demonstrates expertise in professional indemnity disputes. He has an in-depth knowledge of insurance broker issues.*'

Highlights:

Covid-19 business interruption insurance test case, senior jr for FCA - Commercial Court [2020] EWHC 2448 (Comm), appeal pending.

UK Acorn Finance Ltd v Markel (UK) Ltd - Commercial Court; [2020] Lloyd's Rep IR 356 - £14m claim under valuers' professional indemnity policy, successfully disputed avoidance for fraud, considering unintentional non-disclosure clause. Lead advocate for the claimant.

Brightside Group Ltd and other v AIG Europe Ltd and others - Commercial Court, settled. £2m claim under an insurance brokers' professional indemnity policy, with a claim over against the brokers, settled 2019.

Dispute as to the valuation of an outgoing co-owner's share of an insurance brokerage, settled 2018.

Sole counsel for the brokers in a £1.5m professional indemnity policy dispute with various insurers, ongoing.

Corporate acquisition warranties and indemnities policy coverage dispute, settled 2018.

£2m broker's negligence claim arising out of business interruption underinsurance, acting for the arranger/broker, ongoing.

AIG Europe Ltd v Bank Leumi Le-Israel BM - Commercial Court, 2017, settled. £½m reinsurance dispute, defending Bank Leumi's captive reinsurer from a claim arising out of D&O insurance. Sole advocate for the defendant.

Holyoake v Candy brothers and others - Chancery Division, 2015-16. New law on whether a 'cross-undertaking liability' policy can provide good fortification for a cross-undertaking to an interim injunction. Appeared at first instance and prepared written appeal submissions [2017] EWCA Civ 92. (Led by Ewan McQuater QC.)

Professional sportsperson's income protection policy coverage dispute - 2015, settled.

GDF Suez International Holdings BV v Teesside Power Holdings Ltd - Technology and Construction Court, 2013, settled. £100m share warranty claim in relation to defects in Teesside gas power station, including insurance warranty claim. (Led by Martin Bowdery QC and Jonathan Davies-Jones QC.)

Geophysical Service Centre Company Ltd v Dowell Schlumberger (Middle East) NV - Technology and Construction Court, 2012-13, settled. The extent to which ATE insurance is satisfactory security for costs: [2013] EWHC 147 (TCC). (Led by Gregory Mitchell QC.)

Manorview Estates Ltd v Lansdown Insurance Brokers - London Mercantile Court, 2012, settled. Acted for the claimants in a four-party £½m claim against development property insurance brokers and others.

Gard Marine & Energy Ltd v Lloyd's Syndicate 780 et al - Commercial Court: [2011] EWHC 1658 (Comm). Appeared for the brokers in this \$10m two-week trial turning on an excess of loss clause in an energy facultative r/i policy, following oil well damage caused by Hurricane Rita. (Led by Tom Weitzman QC.)

Jooste v Hamilton Fraser Insurance plc - Queen's Bench Division, 2011. Obtained a strike out of a £multi-million claim against packagers of a cosmetic malpractice insurance policy.

HIH Casualty & General Insurance Ltd v JLT Risk Solutions Ltd - Commercial Court: [2006] Lloyd's Rep IR 493, Court of Appeal: [2007] 2 Lloyd's Rep 278. Appeared for brokers in this \$42m film finance insurance dispute, the leading authority on reinsurance brokers' post-placement duties, causation and contributory negligence. (Led by Tom Weitzman QC and Jonathan Davies-Jones.)

International Arbitration

LCIA arbitration in a \$500m Angolan power turbine supply dispute, London seat, ongoing. Co-lead.

LCIA arbitration in a helicopter-leasing dispute, London seat. Lead advocate.

Two related LCIA arbitrations worth £10s of millions in relation to European hotel franchise agreements, London seat, 2018-19. Lead advocate.

LCIA arbitration worth £10s of millions in relation to rail transport, London seat, settled 2019. (Led by Jonathan Davies-Jones QC.)

ICC arbitration in relation to international sanctions on Iran, oil extracting machinery and frustration and force majeure, Paris seat, 2018, co-lead advocate.

Avanti Communications Ltd v The Ministry of Defence of the Republic of Indonesia - LCIA arbitration, London seat, 2018. Obtained as lead advocate a \$20m final award for non-payment in breach of a contract to provide satellite services.

Media, Entertainment and Sport

Broad experience of contractual and related disputes in the media, entertainment and sport fields, including:

Kyte Property Ltd v Vandermolen Film Co Ltd - Commercial Court, 2019. Lead counsel for the defendant in this dispute arising out of the financing of UK film 'London Town'.

Be In Inc v Google and Youtube - Commercial Court, 2019. Sole counsel for the claimant in this dispute in relation to breach of an NDA and the use by the defendants of the claimant's ideas.

Dispute arising out of the breach of an IP-sharing JV agreement, 2018, settled.

Thomson Video Networks Asia Pacific Pte Ltd v CMMB Vision Holdings Ltd - London Circuit Commercial, 2018. Resisted set aside of \$1.5m default judgment arising out of the provision of video delivery hardware and software.

£12m investment dispute arising out of a UK film tax scheme, 2018.

Acting for a supermodel in her dispute relating to a promotion agreement, 2016.

Acting for a brand management company in its contractual dispute with a Formula 1 driver, 2016.

Advising an international pop star on royalties in relation to Spotify and other online platforms.

Acting for a former rugby international in his claim against his income protection insurer following professional injuries, 2014.

Professional Negligence

Extensive experience of professional negligence disputes, on both sides, which play to Adam's strengths as a damages expert. Particular experience of solicitor and valuer negligence claims arising out of property transactions (especially complex commercial transactions), and insurance broker claims. Ranked as a leading junior by Legal 500 (band 2).

Highlights:

Addlesee & others v Dentons Europe LLP - Chancery Division, trial 2022. Defending the lawyers in this deceit, conspiracy and negligence claim by 200 claimants in relation to the 'Anabus' gold trading scheme. Leading case on privilege of insolvency companies in the Court of Appeal: [2019] 3 WLR 1255.

Henderson & Jones Ltd v Barclays plc and others - Birmingham Business Court, ongoing. Lead advocate for the bank defending £47m claim arising out of commercial lending, with borrower prof

neg claim against solicitors.

Advising on claims against professionals arising out of a major international fraudulent commodities trading investment scheme primarily operated out of the Cayman Islands, ongoing.

Defective waterproof roofing adjudication, 2019.

Brightside Group Ltd and other v AIG Europe Ltd and others - Commercial Court. £2m claim under an insurance brokers' professional indemnity policy, with a claim over against the brokers, settled 2019.

£1.8m claim for negligent provision of logistics consultancy services, sole advocate for the defendant, ongoing.

£1m commercial valuer negligence claim, sole advocate for the lender claimant, ongoing.

£2m broker's negligence claim arising out of business interruption underinsurance, sole advocate for the arranger/broker, ongoing.

Astle et al v CBRE et al - Chancery Division, 2016, settled. £27m claim by 128 claimants against valuers and others in relation to an information memorandum for a unit trust and loan note property-development vehicle. Failed strike out on SAAMCo in the context of this structure: [2016] PNLR 16. Sole counsel for the valuers.

Challinor v Juliet Bellis & Co - Chancery Division: [2013] EWHC 347 & 620 (Ch), Court of Appeal: [2015] EWCA Civ 59. Represented the claimant investors in a Guernsey unregulated collective property investment scheme into airfields, arguing that investment monies were held on Quistclose trust by the defendant solicitor. Succeeded after a four week trial, but overturned on appeal. (Led by Andrew Sutcliffe QC.)

O'Brien v De Pinna - Queen's Bench Division, 2012-13, settled. £4m claim against an English notary in relation to French property transaction.

Gard Marine & Energy Ltd v Lloyd's Syndicate 780 et al - Commercial Court: [2012] Lloyd's Rep IR 1. Appeared for the brokers in this \$10m two-week trial turning on an excess of loss clause in an energy facultative r/i policy, following oil well damage caused by Hurricane Rita. (Led by Tom Weitzman QC.)

£40m claim against solicitors and tax accountants arising out of an SPA - 2011, settled. (Led by Andrew Onslow QC.)

Parabola Investments Ltd v Browallia Cal Ltd - Court of Appeal: [2011] 1 QB 477. Appeared for the defendant stockbroker at the appeal against a £19m award turning on the measure of lost opportunity damages in deceit. (Led by Ali Malek QC and Jeffrey Chapman.)

Bank of Scotland plc v Dundas & Wilson LLP - Commercial Court, 2011, settled. Sole advocate for the third defendant solicitors in this £18m multi-party dispute arising out of a secured loan.

Pearson Education Ltd v The Charter Partnership Ltd - Court of Appeal: [2007] BLR 324. Siphonic drainage case, the leading authority on the relevance to duty of care of a reasonably foreseeable opportunity for intermediate inspection. (Led by Colin Edelman QC.)

HIH Casualty & General Insurance Ltd v JLT Risk Solutions Ltd - Commercial Court: [2006] Lloyd's Rep IR 493, Court of Appeal: [2007] 2 Lloyd's Rep 278. Appeared for brokers in this \$42m film finance insurance dispute, the leading authority on reinsurance brokers' post-placement duties, causation and contributory negligence. (Led by Tom Weitzman QC and Jonathan Davies-Jones QC).

Publications

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

The Law of Contract Damages, 2nd edn (Oxford, Hart Publishing, 2017)

Practical Law Company: 2017 Blog on The New Flamenco; contract damages note (behind paywall); waiver note (behind paywall).

'Damages and Proof' in Virgo and O'Sullivan, Commercial Remedies: Resolving Controversies (CUP, 2017)

Co-author with A Summers, 'Deceit, Difference in Value and Date of Assessment' (2017) 133 LQR 41-36

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)

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

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

Co-author with A Beltrami QC, 'A Note on Incidental Benefit and Multi-party Situations' (2014) RLR 46-53

Editor with S Tolaney QC and C Harris, Key Authorities in Banking Law 2011-2012 (Sweet & Maxwell, 2013)

'Guarantees' in the Encyclopaedia of Banking Law (LexisNexis looseleaf, until 2012) 'The New Test of Remoteness in Contract' (2009) 125 LQR 408-415

Contract Law - An Index and Digest of Published Writings (Hart Publishing, 2009)

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

'Smoothing the Rough Justice of the Fairchild Principle' (2006) 122(4) LQR 547-553

'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 Achilleas* [2009] AC 61)

'The Implication of Contract Terms as an Instance of Interpretation' (2004) 63 CLJ 384-411

'Common sense principles of contract interpretation (and how we've been using them all along)' (2003) 23 OJLS 173-196

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

Awards & Background

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

Background

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.

Professional Memberships

Practical Law Dispute Resolution Consultation Board

Commercial Bar Association

Chancery Bar Association

Professional Negligence Bar Association

Commercial Fraud Lawyers Association

LCIA

Gray's Inn

Society of Legal Scholars

Bar Pro Bono Unit