



## Rupert Reed QC

Year of Silk: 2014

Year of Call: 1996

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### Overview

Rupert was appointed as a QC in 2014, having won 'Chancery Junior of the Year' at the Chambers Bar Awards in 2013. In the same year he was included in the Chambers 100: UK Bar list of the top 100 junior barristers across all fields. He has been repeatedly identified as a 'Leader of the Bar' in Chambers Global since 2014.

He has a broad commercial and financial disputes practice, with a focus on agreements arising out of property investment, finance, development and management, as well as wider fraud, banking and shareholder disputes.

His practice in England is primarily in the Commercial Court and Chancery Division of the High Court and the Court of Appeal. He has a substantial overseas practice before arbitral tribunals and in the courts of offshore jurisdictions, in particular the Dubai International Finance Centre (DIFC) Courts. His international work commonly has issues as to interim injunctive relief, jurisdiction, applicable law and cross-border enforcement.

Rupert has an established reputation in cases in the Middle East and in London involving parties from the MENA region. He is fluent in French and has a working knowledge of Arabic, and has significant experience of issues of law and practice arising in Saudi Arabia, as well as the UAE, Egypt and other civil law jurisdictions.

Rupert has acted and been appointed as arbitrator in a number of London and Dubai seated arbitrations under the LCIA, LMAA, LCIA-DIFC and DIAC Rules.

He also takes professional negligence and indemnity work for both claimants and defendants across a broad range of professionals, including solicitors, barristers, IFAs, company directors, and property professionals.

Rupert's work and reputation have been widely recognised in Chancery Commercial practice in Chambers Global, in Chancery Commercial, Real Estate Litigation and Professional Negligence in Chambers UK Bar Guide, in Property Litigation and Banking and Finance in The Legal 500 and in Real Estate in Who's Who Legal: UK Bar.

### Areas of expertise

- Commercial Litigation
- Banking
- Financial Services
- Civil Fraud

- Company
- Partnership and LLP
- Insolvency
- Insurance and Reinsurance
- Regulatory and Disciplinary
- Property
- Professional Liability
- Trusts, Tax, Probate and Estates
- Chancery
- Offshore
- International Arbitration

## Recommendations

Chancery: Commercial (*Chambers UK Bar 2018*)

Real Estate Litigation (*Chambers UK Bar 2018*)

Dispute Resolution: Commercial Chancery (*Chambers Global 2018*)

Property Litigation (*Legal 500 UK Bar 2017*)

Real Estate (*Who's Who Legal 2017*)

Property Barrister of the Year (*Finance Monthly Global Awards 2017 and 2018*)

## Quotes

Chambers UK Bar 2018 classifies him as being in Band 3 for Chancery Commercial litigation: *"Destined for great things, and clever enough to make the work look easy." "He's someone who makes sure he gets the law and facts right in advance, so that he's totally in control in Court." "A respected silk who is described by sources as pleasant, polished and smooth. His commercial chancery practice has an international thread running through it, and he has a particular specialism in work with a Middle Eastern aspect to it."*

Chambers UK Bar 2018 also classes him as a leader in Real Estate litigation: *"Always contactable and extremely approachable, he's a lawyer whose analytical skills are amazing." "He's very good at getting his head around very complex problems and working with the more difficult clients." "Well known for his extensive property practice, he regularly undertakes disputes concerning the management and development of commercial properties. He is particularly known for his work on financial and joint venture disputes relating to commercial property for clients in the retail and leisure sectors."*

Chambers Global 2018: *"Destined for great things, and clever enough to make the work look easy." "He's someone who makes sure he gets the law and the facts right in advance, so that he's totally in control in court."*

Legal 500: UK Bar 2017 confirms that: *"He is very client-friendly in his approach and provides creative solutions to complex legal disputes."*

Chambers UK Bar 2017 describes him as *"a popular choice for Middle Eastern clients, who has carved out a distinctive reputation in the chancery commercial market. His work spans property development and investment disputes, as well as cases that relate to commercial transactions or trust arrangements. He handles work across multiple jurisdictions". "Rupert's special skill set is anything to do with the Middle East, and he is also very good on work with a fraud element." "He's very bright".*

Chambers UK Bar 2017 comments: *"Well known for his extensive property practice, he regularly undertakes disputes concerning the management and development of commercial properties." "His written work is very good. He is very approachable..." "Hands-on and very proactive."*

Chambers UK Bar 2016 recognises him as *"a recent silk who has a fine reputation [and] is regularly involved in matters concerning property developments and investments, many of which have an international or Middle Eastern flavour". "He is super bright." "He has a calm and easy manner as an advocate that is very effective."*

Chambers UK Bar 2016 reported that he has a *"diverse practice that includes property-related commercial and financial disputes [and] also handles cases that raise issues of planning". "He is very thorough, clever and good at liaising with solicitors. He is also very helpful in conference."*

Chambers UK Bar 2015 described him as *"a much-praised new silk who regularly works on multiparty disputes, and is renowned for his work in real estate litigation". "He quickly absorbs complicated legal documentation and navigates his way through it." "He is efficient, smart and has good attention to detail."*

Chambers UK Bar 2015 noted his particular skill in handling disputes arising from commercial agreements concerning property developments. *"He is really good: he thinks outside the box, and outside the remit of his instructions." "He is very user-friendly and gives sensible, practical advice."*

Chambers & Partners 2015 noted Rupert's specialisation in legal and financial professional negligence disputes, particularly in cases of alleged negligence by lawyers on property transactions. It describes him as being *"extremely good at fighting his client's corner".*

Chambers UK Bar 2014 reported that *"he has a strong commercial focus to his practice, and considerable experience in international breach of fiduciary duty and warranty cases. He is also expert at complex fraud matters." As for his expertise: "He has a great legal mind; he listens to clients and understands the issues." "He quickly assimilates complex sets of facts and uses them effectively in legal arguments."*

Chambers UK Bar 2014 described him as *"[a] noted practitioner whose real estate litigation work ties in with his complementary commercial and financial practice, he specialises in resolving transactional commercial property disputes and advising on developments." As to his expertise: "Great at getting to grips with technical matters."*

Chambers & Partners 2014 reported that, he *"handles cases against solicitors brought by claimants and large insurers. His professional negligence work is boosted by his strong commercial practice". As to his expertise: "Responsive and approachable. He assimilates complex sets of facts quickly and uses them effectively in legal arguments."*

Chambers UK Bar 2013 noted that *"multiple sources comment that Rupert Reed is an "outstanding" practitioner. He operates within the commercial and chancery spaces, and handles breach of warranty, fraud and breach of fiduciary claims."*

The Legal 500, in commenting on his banking and finance practice, has described him as *"A real star who has a calm authority and an unflappable manner". It has further described him as being "very well informed and wise".*

Who's Who Legal: UK Bar 2016 reported that *"Rupert Reed QC is a "superb" property development, management and finance barrister, with an "enviable client list"".*

Who's Who Legal: UK Bar 2015 noted that *"the "chancery star" Rupert Reed QC is "fiercely intelligent" in complex financing and real estate transactions. Reed has a high profile client base and receives positive feedback from clients who say he is "excellent on his feet, with a fluid style of advocacy, which resonates well*

## Commercial Litigation

Rupert is identified in Chambers UK Bar 2018 as a leader at the Bar in Chancery Commercial litigation, and has been recommended in that field by Chambers UK Bar and in banking and finance litigation by Legal 500.

Chambers UK Bar 2018 says of him as follows: *"A respected silk who is described by sources as pleasant, polished and smooth. His commercial chancery practice has an international thread running through it, and he has particular specialism in work with a Middle Eastern aspect to it."*

It quotes the following comments from sources: *"Destined for great things, and clever enough to make the work look easy."* *"He's someone who makes sure he gets the law and the facts right in advance, so that he's totally in control in Court."*

Over the years, he has been involved in very substantial Commercial Court cases including the *Equitable Life* and *Berezovsky* litigation. Much of his commercial practice is focused on contracts relating to property development, investment and finance.

A significant part of his work has an international dimension, for example in dealing with disputes relating to investments from the Middle East in property and related funds in Europe and the UK, and involves allegations of fraud, corruption, breach of AML regulations, conspiracy, breach of fiduciary duty, and negligence.

Part of his commercial work arises from disputes within companies, partnerships and other joint ventures, often concerned with property development projects.

He has a related specialisation in directors duties from his years of prosecuting company directors' disqualification cases while on the Treasury panel and he still acts in a significant number of shareholder and partnership disputes.

Rupert does an increasing amount of general banking and finance work, extending to trade finance and Islamic finance written in London and the Middle East. Much of this work requires a detailed knowledge of the relevant financial services and regulatory regimes.

He acts regularly on commercial claims in the Dubai International Finance Centre (DIFC) Courts. He has edited four editions of a Commentary on the Rules of the DIFC Court that is widely used in the Dubai legal community.

Recent cases include:

Acting with Freshfields for a major Saudi conglomerate in successfully resisting FedEx's application for an Anti-Suit Injunction to prevent the Saudi conglomerate from pursuing §1782 proceedings in the US for document disclosure and witness deposition: *Federal Express International Inc v. Abdul Latif Jameel Transportation Co Ltd* [2018] DIFC CFI 038 (15 July 2018).

Acting with Al Tamimi for an Indian educational entrepreneur and the holding company of a large school in Ajman in successfully obtaining and defending urgent injunctive relief against actions taken by the shareholder who was the local partner in that company: (1) *Vinod Sharma* (2) *Avalon Global Education Services Ltd* (3) *Avalon Heights World Private School LLC v. Sheikh Khaled Saeed Humaid al Nuaimi* [2018] DIFC CFI 022 (24 April and 7 June 2018).

Acting with Norton Rose Fulbright for a Canadian internet entrepreneur in defending claims for USD 40 million based on fraud allegations made in DIFC proceedings relating to equity commitment letters filed in support of a 'go private' bid to acquire Amaya Inc: *KBC Aldini Capital Ltd v. (1) Davie Baazov (2) Canaccord Genuity Corp* [2017] DIFC CFI 002.

Acting with Sherrards for the two principal European groups of investors in the North Kensington Gate development project in successfully obtaining summary judgment in the High Court on fraud claims brought against the former promoters of the project: *Aurora Developments Ltd & Ors v Delta Holdings Limited & Ors*: [2018] EWHC 1047 (Ch).

Acting for the Air Tanzania and the Government of Tanzania in the Commercial Court in successfully obtaining relief from sanction to permit the defence of claims for USD 30 million under the lease of an Airbus A320 and a guarantee on the grounds that they were executed without authority and in breach of Tanzanian procurement law: *Wallis Trading Inc v. (1) Air Tanzania Company Ltd (2) The Government of the United Republic of Tanzania* [2018].

Acting with Shakespeare Martineau for an asset management company in the Noé Group in pursuing Commercial Court claims for £11 million from the vendor of the Winnersh Triangle business park for breaches of its obligations of good faith, of reasonable endeavours in assisting the Claimant's due diligence, and of exclusivity relating to the Claimant's intended acquisition of the business park: *Capreon (UK) Ltd v. Winnersh Holdings LP* [2018].

Acting for a major Middle East retail group in DIFC-LCIA arbitral proceedings at the trial of claims brought under an alleged parent company guarantee of purchases made by its Spanish and UAE subsidiaries [2018].

Acting with KBH Kaanuun for the liquidators of various DIFC and US companies in successfully resisting a jurisdiction challenge brought by a Swiss bank in resisting claims by the liquidators to have certain pledges made by fraudulent directors declared invalid: *(1) Orion Holdings Overseas Ltd (2) Orion Global Financial Services LLC (3) Orion Capital Ltd v. (1) Mohammed Abdel Khaleq Mohammad (2) Nidal Abdel Khaleq Mohammad (3) Privatbank Ihag Zurich QC* [2015] DIFC CFI 033 (8 February 2018).

Acting with Cooke Young & Keidan for the former head of the family office of the late Prince Fahd bin Salman of Saudi Arabia in claiming unpaid remuneration, expenses and commission owed on various Knightsbridge property developments pursued for the benefit of the family: *Hussein v. Her Highness Princess Nouf Bint Khalid bin Abdullah al Saud* [2018].

Acting with Dentons for a Saudi retail group in the Commercial Court in challenging the validity of service of English proceedings in Saudi Arabia, in resisting an order for substituted service, and in defending claims that by entering certain invoicing arrangements the Saudi parent had become the purchaser of goods supplied to various of its subsidiaries: *(1) Peter Black Footwear and Accessories Ltd (2) Visage v. Fawaz Abdullah Alhokair & Co SJSC* [2018].

Acting with Lalive and Simmons & Simmons for a wife of the late King Fahd of Saudi Arabia in defending certain restitutionary and other claims made in the English Courts by a Liechtenstein foundation to London assets on alleged grounds that the transfer of those assets was invalid as a matter of Liechtenstein, Saudi and Shari'a law: *Asturion Foundation v Her Highness Princess Al Jawharah bint Ibrahim Abdulaziz al Ibrahim* [2018].

Acting with Clyde & Co for a joint venture party in obtaining and defending in the DIFC Court an injunction restraining an escrow agent from releasing Shares worth USD 85m under the terms of an escrow agreement; and successfully resisting a challenge by the other joint venture party to the jurisdiction of the DIFC

Courts: *Sunteck Lifestyles Ltd v. (1) Al Tamimi and Company Ltd and (2) Grand Valley General Trading LLC* [2017] DIFC CFI 048 (15 November 2017).

Acting with DWF for an angel investor in successfully resisting a freezing injunction and summary judgment of claims of his vicarious liability for the alleged fraud of another shareholder in the sale of a sports advertising company to US investors: *(1) BHSC Global LLC and (2) BHSC Global Holdings LLC v. (1) Griffith (2) McKechnie* [2017] EWHC 2035 (Ch).

Acting with Pepper Hamilton in successfully obtaining a worldwide freezing order in the DIFC Courts to freeze assets up to USD 80 million in value to secure an Indian arbitral award that was to be enforced in the DIFC and Dubai Courts [2016] DIFC CFI 034 (6 October 2016).

Acting for a UK asset manager against a US investment firm in denying alleged breaches of their asset management and joint venture agreements and in defending claims that the asset manager had forfeited its entitlement to a £15 million profit share [2016].

Acting for the same UK asset manager against the same US investment firm in claiming that its best internal estimate' of the value of the relevant assets for the purpose of calculating the asset manager's profit share undervalued them by £90 million by wrongfully excluding information of an open market offer made for those assets by a third party [2016].

Acting with Field Fisher for the victim of an identity fraud in suing the fraudster's representatives for breach of their express and implied warranties of authority and for breach of trust in transferring the purchase monies to the bank account of the fraudster: *Rees v Walter Saunders* [2016].

Acting with Field Fisher for the purchasers of a development property in London Fields in obtaining an order freezing the vendor's assets up to £2 million to secure their claims against the seller for fraudulent misrepresentations after evidence had emerged of assets being transferred to an entity in Cyprus: *Sledkova & Ors v Sidworth Street Ltd* [2016].

Advising a major Dubai reinsurer as to the grounds on which it could decline policy cover to an Omani insurer for non-disclosure under a quota share treaty relating to the reinsured's MENA energy portfolio by reference to the claims history on certain underlying policies within that portfolio [2016].

Acting with King & Wood Mallesons and Gately for a Belgian dry bulk ship owner in obtaining before Justice Sir John Chadwick a worldwide freezing order against the assets of a Dubai charterer in seeking to enforce arbitral awards totalling USD 110 million and orders of both the London Commercial Court and the DIFC Court recognising those awards: *Bocimar International NV v Emirates Trading Agency LLC* [2015] DIFC CFI 008 (31 January 2016): Please click [here](#) to view video

Acting with King & Wood Mallesons for the Meydan Group in resisting the enforcement in the DIFC Court of an arbitral award for AED 1.1 billion in arguing that the Court should not accept jurisdiction in view of significant defects in the award on issues of UAE law that went to the underlying jurisdiction of the tribunal: *WCT Berhad (Dubai Branch) v Meydan Group LLP* [2015] DIFC ARB 003 [2016]: Please click [here](#) to view video

Acting with DLA Piper for an Egyptian labour supply company at the trial in the Dubai World Tribunal of claims for USD 50m on claims that DP World had incited the Claimant's workers in Sokhna Port to cease working for it, causing strikes and ultimately the transfer of the Claimant's workers to a government-owned entity: *Platinum Services Company EJSC v DP World Ltd* [2015] DWT 005;

Acting for a global litigation funder in obtaining and defending a preservation order that over US\$10 million of its Kuwaiti client's interim recovery on mis-selling claims against Bank Sarasin be paid into court pending an arbitral determination of the funder's entitlement: *Vannin Capital PCC plc v Khorafi & Ors* [2015] DIFC CFI 036 (11 February 2015 and 18 February 2015); Please click [here](#) to view article

Acting for the DAMAC Group in the DIFC Court of Appeal on a successful appeal in which the Chief Justice confirmed the contractual validity of property reservation agreements and a commercial approach to the construction of the related credit agreements: *Damac Park Towers Company Ltd v Ward* [2015] DIFC CA 006 (14 December 2015); Please click [here](#) to view article

Acting with CMS Cameron McKenna on a damages claim arising out of delayed performance of a contract for the sale of a shopping centre in circumstances where the claimant had relied on a condition precedent in declining to complete the sale: *British Overseas Bank Nominees Ltd v Analytical Properties Ltd* [2014] EWHC 802; [2015] EWCA Civ 43; [2015] PLSCS 38.

Advising reinsurers in the London Market on the construction under English and Qatari law of an exclusion, LEG 2/96, in a common Construction All Risks policy, and as to claims arising from the defective water-proofing of underground car parks around a Doha marina [2015].

Acting for DAMAC in the DIFC Court in having struck out various agency, negligence and misrepresentation claims relating to the purchase of various units in a development: *First Rand Property Holding (Middle East) Ltd v Damac Park Towers* [2014] DIFC CFI 030 (2 April 2015); Please click [here](#) to view article; Please click [here](#) to view video

Acting for DAMAC in the DIFC Court of Appeal in appealing findings that various units of a development had not been ready for occupation within the terms of the relevant SPAs: *Damac Park Towers Company Ltd v Dattani* [2014] DIFC CA 007 (10 November 2015); Please click [here](#) to view article; Please click [here](#) to view video

Acting in resisting the enforcement by the English Courts of an order of the Druze Courts of Lebanon on grounds that it had not been ratified by the Civil Courts in Lebanon and was therefore not enforceable there: *El Tarabey v Kade* [2014].

Advising a major litigation funder on arbitral claims for US\$118m arising from a conspiracy by a Central Asian crude oil supplier and a Middle Eastern refinery to exclude from the supply chain under their joint venture a Cayman trading company [2014].

Acting with Eversheds in obtaining a judgment in the Commercial Court on claims for the repayment of Euros 148 million of Islamic finance provided by a Qatari bank to fund a property development in Luxembourg: *Aquarelle Etoile II SA v Etoile Développement I SA* [2014].

Acting with Clyde & Co in obtaining the settlement before trial in the DIFC Court of fraud claims for US\$24m against Barclays relating to its involvement in providing finance for the supply of pipes by a Greek manufacturer to an Omani oil company: *Corinth Pipeworks v Barclays* [2014] DIFC CFI 024 .

Acting with CMS Cameron McKenna in obtaining arbitral declarations as to the contractual operation of a change model used to allocate risk and impose charges relating to cash flows arising under the historic sale and lease-back by a telecoms operator of its national property portfolio [2013].

Acting with DAC Beachcroft for various Saudi, Anguillan and English entities involved in the development of the Pinnacle tower in the City in defeating claims in fraud, conspiracy and breach of an investment agreement:

*Abbar v SEDCO* [2013] EWHC 2132 (Ch) [2013]: Please click [here](#) to view article

Acting with Linklaters for the Administrators of a Lehman subsidiary against Northern Rock on warranty claims for £8.5m arising from the sale for securitisation of a mortgage portfolio *LCMC v Northern Rock (Asset Management) plc* [2013].

Acting with KBH Kaanuun on misselling claims in the DIFC Court against a Credit Suisse subsidiary in respect of its advice to transfer assets into a high risk account from an ABN Amro account: *Mana v Clariden Leu Asset Management (Dubai) Ltd*, [2013] DIFC CFI 030.

## Property

Before his appointment as a QC in 2014, Chambers UK Bar, The Legal 500 and Legal Experts all consistently identified Rupert as being a leading junior in Property litigation. As a silk practising in that field, he has been recognised as a leading practitioner in Property and Real Estate litigation in all of those directories, as well as Who's Who Legal: UK Bar.

Chambers UK Bar 2018 comments on his practice in Real Estate litigation: *"Well known for his extensive property practice, he regularly undertakes disputes concerning the management and development of commercial properties. He is particularly known for his work on financial and joint venture disputes relating to commercial property for clients in the retail and leisure sectors."*

Comments from sources quoted in that directory included: *"Always contactable and extremely approachable, he's a lawyer whose analytical skills are amazing."* *"He's very good at getting his head around very complex problems and working with the more difficult clients."*

Legal 500 UK Bar 2017 noted further that: *"He is very client-friendly in his approach and provides creative solutions to complex legal disputes."*

Who's Who Legal: UK Bar 2016 reported that *"Rupert Reed QC is a "superb" property development, management and finance barrister, with an "enviable client list"*.

Who's Who Legal: UK Bar 2015 noted that *"the "chancery star" Rupert Reed QC is "fiercely intelligent" in complex financing and real estate transactions. Reed has a high profile client base and receives positive feedback from clients who say he is "excellent on his feet, with a fluid style of advocacy, which resonates well with clients and judges."*

In 2017 and 2018, he won Property Barrister of the Year in the Finance Monthly Global Awards.

He combines a strong academic interest in the law of Real Property with significant experience of contractual disputes arising out of the transfer, development, financing and management of commercial property.

While his core property practice is in England, Rupert is a registered advocate before the courts of the Dubai International Finance Centre (DIFC) and has acted in a number of property disputes arising there and heard in the DIFC Courts.

He further has some experience of the principles of the laws of planning and compensation and acts in cases requiring knowledge of both those principles and the law of Real Property.

Recent cases include:

Acting with Shakespeare Martineau for a property management company within the Noé Group in claiming damages from the intending vendor of the Winnersh Triangel business park for breaches of its duties of good faith, of reasonable endeavours in assisting the purchaser's due diligence, and of exclusivity pursuant to the ultimate sale of the park to a Frasers Property group subsidiary: *Capreon (UK) Ltd v. Winnersh Holdings LP* [2018].

Acting with Simmons & Simmons for a wife of the late King Fahd of Saudi Arabia in defending claims made by a Liechtenstein foundation to ownership of a substantial London property transferred to the wife by the foundation on the instructions of King Fahd: *Asturion Foundation v Her Highness Princess Al Jawharah bint Ibrahim Abdulaziz al Ibrahim* [2018].

Acting for the former head of the family office of the late Prince Fahd bin Salman of Saudi Arabia in pursuing contractual and restitutionary claims for commission owed on various Knightsbridge property developments pursued on behalf of the *Hussein v Her Highness Princess Nouf Bint Khalid bin Abdullah al Saud* [2018].

Acting for two groups of European investors in successfully obtaining declarations as to their company's beneficial ownership of part of the North Kensington Gate development site pursuant to a deed executed on its acquisition, and successfully obtaining summary judgment on fraud claims relating to the promotion of the development site: *Aurora Developments Ltd & Ors v Delta Holdings Limited & Ors*: [2018] EWHC 1047 (Ch).

Advising the owners of development land in Hampshire whether the purchaser of the land could prevent the making of an application for planning permission and the consequential termination of the sale agreement by failing to appoint a director of the property holding company [2018].

Advising a property fund owning development land in Northamptonshire on its exposure on an indemnity provided in its long lease of the land for the costs of complying with a section 106 agreement relating to a specific grant of outline planning permission that was likely to have expired [2018].

Advising the property fund owning a major business park in Hampshire as to whether it could continue to provide a shuttle bus service within the 'sweeper clause' in the provision for estate services in its management deed and whether certain occupants were paying a fair and reasonable proportion of the cost of that provision [2018].

Acting for a developer in the North East on claims against the other members of a consortium of landowners seeking planning permission for the redevelopment of green belt land around Durham who acted in breach of their original partnership and option agreements in secretly entering a new partnership with Durham County Council: *Galaxy Land Ltd v. Corney & Ors* [2017].

Acting in the Property Chamber of the First Tier Tribunal for the registered proprietor of the North Kensington Gate development in defending claims to the registered title by a Guernsey entity controlled by the original promoters of the development: *Delta Holdings Ltd v Aurora Developments Ltd* [2017].

Acting with Browne Jacobson for a leading UK businessman on a boundary dispute affecting his principal residence in Nottingham: *Nathu Ram Puri v. John Michael Gibney* [2017]: Please click [here](#) to view article 1; Please click [here](#) to view article 2

Acting with Gowling for a Jersey property company against Hewlett-Packard in obtaining a statutory extension of Hewlett-Packard's lease of its UK premises in Warrington for a new term of sufficient length to give reasonable commercial certainty to the landlord: *Lamont Property Acquisition Company (Jersey) IV Ltd v Hewlett-Packard Limited* [2016].

Acting with Field Fisher for the victim of a vendor identity fraud in suing the firm of licensed conveyancers which had acted for the fraudster, who had impersonated the owner of a valuable property in Fulham, for breach of the firm's warranties of authority, alternatively breaches of trust in paying the purchase monies to the fraudster: *Rees v Walter Saunders* [2016].

Advising the Hong Kong purchaser of a property in Canary Wharf worth £130 million on the implications of a challenge to the sale by a shareholder of the vendor and the risks of the forfeiture of the purchaser's deposit or of constructive trust claims being advanced [2016].

Acting with Brecher for the freehold owner of retail premises on Guildford High Street in compelling a national supermarket chain to enter a new agreement for lease and pay damages and costs under its guarantee of the original lessee which had been put into administration [2016].

Advising a property fund owning a significant part of the apron of a major UK motor-racing circuit whether a land exchange agreed with the circuit owner was enforceable and had been repudiated by the circuit owner's refusal to execute the required documents [2016].

Acting for the UK asset manager of a portfolio of industrial sites around Heathrow in a contractual dispute with a leading US investment firm as to the forfeiture of the asset manager's £15 million profit share under its asset management agreement for alleged bad faith, breaches of a restrictive covenant, and the breach of a key executive provision [2016].

Acting for the same UK asset manager against the same US investment firm in claiming that its 'best internal estimate' of the value of the relevant assets for the purpose of calculating the asset manager's profit share undervalued them by £90 million by wrongfully excluding information of an open market offer made for those assets by a third party [2016].

Acting for DAMAC in the DIFC Court of Appeal on a successful appeal in which the Chief Justice confirmed the contractual validity of property reservation agreements and a commercial approach to the construction of those agreements: *Damac Park Towers Company Ltd v Ward* [2015] DIFC CA 006 (14 December 2015); Please click [here](#) to view article

Acting with CMC McKenna on a claim for damages for the purchaser of a shopping centre for late completion by the purchaser on the Court's finding that the production of certain certificates was a condition precedent only to the purchaser's obligations: *BOBN Ltd v Analytical Properties Ltd* [2014] EWHC 802 (Ch); [2015] EWCA Civ 43; [2015] PLSCS 38 [2015].

Acting for DAMAC in the DIFC Court of Appeal in appealing findings that a developer had not given 'possession and occupation' within the terms of the relevant SPAs: *Damac Park Towers Company Ltd v Dattani* [2014] DIFC CA 007 (10 November 2015) CA 007/2014 [2015]; Please click [here](#) to view article; Please click [here](#) to view video

Acting for DAMAC in the DIFC Court in having struck out various purchaser claims relating to changes in the floor layout of office units in a tower built in the DIFC: *First Rand Property Holding (Middle East) Ltd v Damac Park Towers* [2014] DIFC CFI 030 (2 April 2015) CFI 030/2014 [2015]; Please click [here](#) to view article; Click [here](#) to view video

Acting with King & Wood Mallesons for a Dubai developer in defending contractor claims for in excess of AED 1 billion in a DIAC arbitration in respect of a major infrastructure development by a former member of a joint venture [2015].

Acting for members of a leading Saudi family in claiming their late father's beneficial ownership under a presumed resulting or constructive trust of various London properties: *El Seif & Anor v Tavina Holdings Inc & Ors* [2015].

Acting with Linklaters for the administrators of Lehmans on claims for breach of warranty and of the servicing obligations under the transfer from Northern Rock of a mortgage portfolio: *LCMC v Northern Rock (Asset Management) plc* [2014].

Acting with Berwin Leighton Paisner for National Grid on the appeal of a decision by the Upper Tribunal (Lands Chamber) awarding a developer compensation on the grant of a wayleave for the injurious affection of land arising on the loss of a contract: *Arnold White Estates Ltd v National Grid Electricity Transmission plc* [2014] EWCA Civ 216; [2014] Ch 385; [2014] 2 WLR 1055.

Acting for a developer and purchaser of land in Durham on an indemnity provided by the vendor that it would rectify an option to which the land was subject so as to exclude from the option part of the purchased land: *Galaxy Investments Ltd v North of England Estates Ltd* [2014].

Acting with DLA Piper in obtaining a settlement of claims for £18m for deferred consideration on the sale of an interest in a major business park in the North East, for damages for the diversion of profits from relevant plots, and for a declaration that another plot was held on constructive trust [2013].

Acting with CMC Cameron McKenna for a national telecoms operator in obtaining arbitral declarations on the construction of complex effective sale and lease-back arrangements involving the operator's entire property portfolio, and in particular as to the calculation of compensation payable on the early vacation of subject premises [2013].

Acting with DAC Beachcroft for the Anguillan SPVs holding the freehold and long leasehold estates in the Pinnacle Tower in the City in defeating claims by a Saudi equity investor that he had a beneficial interest in those estates: *Abbar v SEDCO & Ors* [2013] EWHC 1414 (Ch) [2013]: Please click [here](#) to view article

Acting for the purchaser of a DIFC property off-plan in claims against the developer with issues as to the delay in handover, the registration of the property, and the developer's failure to provide an SPA: *Dorsey v Union Properties*, CFI 05/2011 [2013].

Advising on a US\$1 billion claim by the owner of a development property in Dubai in respect of the alleged unlawful enforcement of a security over the land [2012].

## Professional Liability

Rupert has been recommended in Chambers & Partners as a leading practitioner in the field of professional negligence. His work, both for claimants and for defendants' insurers, extends right across his areas of practice, with a strong focus on solicitors, barristers, company directors, tax advisers, IFAs, accountants and other property and pension professionals.

He has particular experience in cases raising issues of the responsibility of professionals, in particular solicitors and conveyances, for failures to identify frauds perpetrated on clients and their counter-parties, and the relevance to those issues of their breaches of anti money laundering obligations.

He also has significant experience in *SAAMCo* issues relating to the scope of the professionals' duty and the alleged causation of financial loss.

His work on lawyers' negligence claims arises principally both from drafting or advisory errors on major commercial and corporate transactions and from the alleged mishandling of litigation. In a number of recent cases, he has acted for the victims of identity fraud in property transactions in suing their solicitors and licensed conveyancers who paid money out to fraudsters without complying with their relevant professional and regulatory rules and guidelines.

His directors' negligence practice has followed his involvement in successfully defending one of the non-executive directors of Equitable Life from the Society's claims. He has a particular interest in the definition of the scope of the duty of directors by reference to their particular functions.

His work on advisory claims against financial services professionals builds on his related expertise in banking and financial services regulation. The scope of the relevant duty of care is commonly informed by the defendant's regulatory responsibilities in the FCA Handbook or DFSA Rulebook.

His accountants' negligence practice arises not only from core audit, assurance and advisory work but also from financial due diligence carried out on the sale and acquisition of significant businesses.

Recent cases include:

Acting for a waste management and haulage company in suing its former solicitors for negligent advice in respect of their failure to withdraw a Part 36 offer where disclosure significantly improved the merits of its claims against Renault Trucks in respect of a defective fleet of vehicles: *George Killoughery Ltd v Cubism Law* [2017].

Advising a firm of solicitors on its defence to an application for committal for alleged civil contempt in making collateral use of disclosed documents: (1) *Grosvenor Chemicals Ltd* (2) *Whyte Chemicals Ltd* (3) *Melvyn Whyte v (1) UPL Europe Ltd* (2) *UPL Deutschland GmbH* (3) *Mishcon de Reya LLP* (4) *Jeremy Herzog* [2017] EWHC 1893 (Ch).

Acting with Field Fisher for the victim of an identity fraud in pursuing claims against a firm of licensed conveyancers that had acted for the fraudster on the purported sale of a house in Fulham for breach by that firm of its express and implied warranties of authority and for breach of trust in paying the purchase monies to the fraudster: *Rees v Walter Saunders* [2016].

Acting for a property developer in the DIFC Court in having struck out claims that the developer had assumed, and was in negligent breach of, a duty of care in respect of representations said to have been made to purchasers: *First Rand Property Holding (Middle East) Ltd v Damac Park Towers* [2014] DIFC CFI 030 (2 April 2015); Please click [here](#) to view article; Please click [here](#) to view video

Acting with Clyde & Co in defending claims for £2.5m against a firm of solicitors which had drafted contractual documentation in assuming that the relevant transaction was the assignment of a lease of commercial and residential premises, when what was contractually required was the grant of a sub-lease: *F&M (Investment Holdings) Ltd v Seabourne Lawleys Ltd* [2015].

Acting with William Sturges against solicitor administrators in respect of alleged gross negligence in the administration of the high-value estate and various will trusts: *Eley v Magwells & Ors* [2015].

Acting with Clyde & Co in defending a national firm of solicitors on the basis that an admitted drafting error in an overage agreement was not causative of any loss because the agreement could still be read to require the market value underpin to be determined at the date of exchange and not completion [2014].

Acting on claims of audit and advisory negligence against Grant Thornton both in its auditing of a UK company

and for its corporate finance advice on the acquisition of that company for over £16m: *Wilson & Go Plant Ltd v Grant Thornton UK LLP* [2014].

Acting successfully with Clyde and Co for a firm of solicitors at trial in the Chancery Division and on appeal to the Court of Appeal in defending claims arising out of a failure to ensure that certain shares were charged as security for a substantial commercial loan: *Clack v Wrigleys Solicitors LLP* [2013] EWHC 413 (Ch); (2013) 163 NLJ 17; [2013] All ER (D) 127 (Mar).

Acting successfully with Mills & Reeve for a barrister in securing the withdrawal of negligence claims in respect of the barrister's advice, while on holiday, that a chargee could exercise immediately its power of sale without any valid exclusion of the statutory requirement of notice [2013].

Acting with Linklaters for a Lehman subsidiary in pursuing claims that Northern Rock had been negligent in servicing loans pursuant to the transfer of a portfolio of 68 mortgages: *LCMC v Northern Rock (Asset Management) plc* [2014].

Acting with DAC in a lengthy trial and subsequent appeal on claims by the owner of Britannia Hotels against his former solicitors on their advice as to the value of his earlier claim against a firm of accountants and as to the merits of a settlement: *Langsam v Beachcroft LLP* [2011] EWHC 1451 (Ch); [2011] 3 Costs LO 380; [2012] EWCA 1230; [2013] 1 Costs LO 112 [2012]: Please click [here](#) to view article 1; Please click [here](#) to view article 2.

## Trusts, Tax, Probate and Estates

Rupert has significant experience of trust and contentious probate litigation, with a particular emphasis on commercial and property claims involving trust and fiduciary claims by or against nominees, trustees or personal representatives.

Much of his commercial work involves proprietary and personal claims arising from the fiduciary roles of company directors, partners and agents in a wider business context.

Rupert has a particular interest in the imposition of fiduciary duties by Islamic finance instruments that may be said to create trust and agency relationships.

He has been called (ad hoc) to the Bar of the Cayman Islands and advised in litigation with significant trust elements in the Channel Islands and British Overseas Territories.

Recent cases include:

Acting with Boodle Hatfield for the trustees of a charitable foundation in agreeing with the joint administrators of its founder's estate the terms of a Beddoe order authorising proceedings in Jersey in respect of transfers out of the estate: *In the Estate of James Donald Hanson Deceased* [2017].

Acting with Lalive and Simmons & Simmons for a wife of the late King Fahd of Saudi Arabia in defending trust claims made in the Chancery Division by a Liechtenstein foundation in respect of a high-value London property on alleged grounds that the transfer of those assets was invalid as a matter of the law of Liechtenstein foundations as well as Saudi and Shari'a law of succession: *Asturion Foundation v Her Highness Princess Al Jawharah bint Ibrahim Abdulaziz al Ibrahim* [2017].

Acting with William Sturges for the administrators of a high-value estate in pursuing claims against the previous executors of a will trust and a beneficiary overpaid by them: *Eley v Magwells & Ors* [2015].

Acting for the younger siblings in a Saudi family in claiming that certain London properties held by Panamanian companies were beneficially owned by their father and fell into his English estate to be distributed on his intestacy: *El Seif & Anor v Tavina Holdings Inc & Ors* [2015].

Acting with Marcus Sinclair for the interim administrators of Arkadi Patarkatsishvili ('Badri') in collecting US\$45m in funds held for Badri's estate by various interpleading parties, and defending claims made by Boris Berezovsky against the estate: *Berezovsky v Abramovich; Berezovsky v Hine & Ors* [2010] EWHC 2044 (Ch).

Acting with Marcus Sinclair for the Interim Administrators of Badri's estate in obtaining directions as to the interim distribution of funds to permit the defence of the estate by certain family beneficiaries under Badri's intestacy: *Hine & Ors v Gudavadze & Ors* [2011].

Advising on trust litigation that could be pursued in the Channel Islands in seeking to secure funds paid into a trust structure used by an aggressive film finance scheme to avoid tax [2010].

Acting with DAC in obtaining judgment for US\$12m deposited with a Kuwaiti bank by a Lebanese bank under various Islamic Finance agency agreements on the basis that the relevant deposits had been held by the agent on express or resulting trust: *BLOM v The Investment Dar* [2010].

## International Arbitration

A significant part of Rupert's property and commercial practices, both in England and the Middle East, arises in arbitration, in particular under the LCIA, UNCITRAL, ICC, LMAA, DIFC-LCIA and DIAC Rules and seated in London, Paris and the Middle East.

Early in his career he assisted in the long-running arbitral claims in *Bankers Trust v City of Moscow*, arising from the Respondent's failure to repay loans of some 200m Swiss francs.

More recently, he has acted in the long-running DIAC arbitration between the Meydan Group and the Dubai branch of WCT Berhad in respect of contractor claims arising from the construction of the Meydan race-course and leisure complex in Nad al Sheba in Dubai, and in proceedings in the DIFC Court in resiting recognition and enforcement of the award in the DIFC. He further acted as lead advocate at the evidentiary hearing of a major DIFC-LCIA arbitration in Dubai of debt and guarantee claims pursued by a chinese group against a major saudi conglomerate.

Rupert has a working knowledge of the Civil Codes of the Middle East derived from the Egyptian Civil Code of Professor Al Sanhoury. He has significant experience of working on the underlying texts and in particular the French *Code Civil* and *Al Waseet fi Sharh al Quanoun al Madani al Jadid*, often with the assistance of experts from the UAE and other Arab jurisdictions.

He has advocated on issues of UAE law both in international arbitrations and, following the adoption by the DIFC Courts of the international approach of presenting issues of foreign law, in advancing submissions on UAE law, both in writing and orally, as for example in *WCT Berhad (Dubai Branch) v Meydan Group LLP* [2016] DIFC, ARB 003: Please click [here](#) to view video

Rupert has also acted in relation to the conduit jurisdiction of the DIFC Courts used by successful claimants to enforce their awards and judgments first in the DIFC and then, pursuant to the reciprocal enforcement mechanisms between the DIFC and Dubai Courts, against property and assets in Dubai, as for example in *Bocimar International NV v Emirates Trading Agency LLC* (31 January 2016) CFI 008/2015 [2016].

More recently, he acted in obtaining a worldwide freezing order in the DIFC Courts in support of an award rendered in an LCIA India arbitration even before his client, the award creditor, had been able to apply for the recognition and enforcement in the DIFC of the award.

He regularly advises lawyers and clients in London as to the relative merits of their enforcement options in a number of jurisdictions in particular in the Gulf and wider Middle East.

Rupert was part of a working group that assisted the Chief Justice of the DIFC Courts in drafting a practice direction, Practice Direction No. 2 of 2015, which provides a model arbitration clause to allow parties to refer to DIFC-LCIA arbitration any issues arising on the enforcement of judgments by the DIFC Courts. This development has been the subject of widespread discussion among both academics and practitioners in the field of international arbitration.

He has been appointed and acted as arbitrator in a number of LCIA, DIFC-LCIA and DIAC arbitrations in hearing financial, commercial and property disputes.

Recent cases include:

Acting with Dentons in a DIFC-LCIA arbitration in defending claims by a Chinese supply chain management group against a Saudi entity on an alleged parent-company guarantee of the liabilities of a European fashion chain [2018].

Acting with Freshfields in the DIFC Court in successfully resisting an anti-suit injunction against US proceedings in support of a DIFC-LCIA arbitration and against Saudi arbitral proceedings: *Federal Express International Inc v. Abdul Latif JUameel Transportation Co Ltd* [2018] DIFC CFI 038 (15 July 2018).

Acting with Dentons on a LMAA arbitration in dealing with issues as to the functionality and performance of a crane and vessel chartered on BIMCO terms [2018].

Advising a major UK clothing retailer on arbitral claims advanced by franchisees in various East European and Middle Eastern jurisdictions in respect of the pricing of the retailer's goods on sale to the franchisees [2016].

Acting for a Belgian ship owner in successfully seeking the enforcement in the Commercial Court and then the DIFC Court of LMAA arbitral awards for over USD \$114 million; *Bocimar International NV v Emirates Trading Agency LLC*, Claims No. 2014 Folio 826 and 827 (London); [2015] DIFC CFI 008 (26 January 2016); and obtaining a Worldwide Freezing Order and related injunctions to be enforced in Dubai: [2015] DIFC CFI 008 (31 January 2016)

Acting for the Meydan Group in resisting the enforcement in the DIFC Court of a DIAC arbitral award for AED 1.1 billion in arguing that the Court should not accept jurisdiction in view of significant defects in the award on issues of UAE law going to the underlying jurisdiction of the tribunal: *WCT Berhad (Dubai Branch) v Meydan Group LLP*, [2015] DIFC ARB 003 [2016]; Please click [here](#) to view video.

Acting with King & Wood Mallesons in a DIAC arbitration for a major infrastructure developer in defending contractor claims for AED 1.1 billion by a former member of a joint venture in circumstances where the joint venture and its claims were severed by agreement and order of the tribunal [2015].

Acting with Clyde & Co in the DIFC Courts in obtaining interim relief in support of a DIFC-LCIA arbitral claim by a funder against its client to recover its investment and return [2014].

Advising a major litigation funder on claims for USD 118m arising from breaches of a chain of crude oil

processing agreements being pursued in an arbitration under the UNCITRAL Rules in the Cairo Regional Centre for ICA [2014].

Acting with CMS Cameron McKenna in obtaining declarations in a LCIA domestic arbitration as to the construction of contracts for the effective sale and lease-back of a national property portfolio [2013].

Acting in an ICC arbitration against French and Saudi employer entities on claims for SAR 135m arising from the termination of a contract for the construction of four gas treatment centres in Saudi Arabia [2013].

Advising on a DIFC-LCIA arbitration for the main contractor in the construction of an Abu Dhabi hospital in defending claims for US\$10m by a sub-contractor and on related DIFC Court proceedings for a freezing injunction in support of those arbitral claims [2012].

Acting with Ince & Co for a substantial British P&I Club in pursuing LMAA arbitral proceedings for contributions from former ship-owning members of the club [2011].

## Qualifications

BA Hons (First Class with Distinction) History and Modern Languages (French), Oxford

MA Hons (Double First) Law, Cambridge

LLM Harvard

Scholar of Lincoln College, Oxford, and Downing College, Cambridge

Kennedy Scholar at Harvard Law School

## Appointments

1999: Called (ad hoc) to the Bar of the Cayman Islands

2000-2005: Attorney General's C Panel of Treasury Counsel

2009: Registered as Advocate before the DIFC Courts

## Memberships

Chancery Bar Association

Commercial Bar Association

## Publications

'Permission to serve out, good arguable case within gateways' LexisNexis case note on *Bazhanov v. Fosman* [2017] EWHC 3404 (Comm), 6 February 2018

'Sukuk enforceable even if not Shari'a complaint' LexisNexis case note on *Dana Gas PJSC V. Dana Gas Sukuk Ltd* [2017] EWHC 2928 (Comm), 22 November 2017

'DIFC court jurisdiction - clarifying an 'opt-in' LexisNexis case note on *Sunteck Lifestyles v. (1) Al Tamimi & Co (2) Grand Valley General Trading* [2017] DIFC CFI 048

'Islamic finance – an attempt to mitigate Shari'a compliance risk' [2017] Journal of International Banking and Finance Law 553

'Under pressure? New business tenancies' (2017) New Law Journal 29 Sep 2017, p. 11

'The Invisible Export' – a study of competition between the international commercial courts of London and Dubai

(2017) 161/24 Solicitors Journal 28

'Rules of the DIFC Courts' Wilberforce Chambers, 1st-4th edition, 2010-2016

'The application of Islamic finance principles under English and DIFC law'(2014) 29 Journal of International Banking and Finance Law 573

'Bad business acquisitions: commercial and professional liability claims' (with Tom Roscoe), Beyond Negligence, Wilberforce Chambers, 2012

'Company directors: collective or functional responsibility' (2006) 27 Company Lawyer 170

'The Meaning of the Working Classes' (with Sam Millar) (2003) 114 Property Law Journal 14

'Derivative Claims' (2000) 21 Company Lawyer 15