



## Zoe O'Sullivan QC

Year of Silk: 2015 Year of Call: 1993

*"A real fighter, who is incredibly focused and charismatic and has real gravitas, but who is also easy to work with." "Great intellect and commerciality."*

Chambers & Partners

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### Practice Overview

Zoe O'Sullivan QC is a robust and experienced advocate who thrives on the challenges of oral advocacy and cross-examination. She is recommended by Chambers UK Bar for Commercial Dispute Resolution and Information Technology.

Zoe is described in Chambers UK as "very easy to work with and very hands-on", "very technically able" and "formidably bright". The Legal 500 says: "Zoe is - even by the standards of the commercial bar - highly intelligent and extremely diligent: she is seriously very hard-working. As a result she displays complete mastery of the documents and of the law. She is an extremely tough, but always fair and decent, opponent. A star silk for the future."

Zoe's commercial/Chancery practice spans a broad range including IT and outsourcing disputes, shareholder disputes/joint ventures, directors' duties, banking and finance, civil fraud, oil and gas, and shipbuilding. She is highly experienced in jurisdiction issues and in key interim applications including freezing orders, anti-suit injunctions, and applications under section 44 of the Arbitration Act 1996.

Zoe is also ranked by the Legal 500 as a leading silk in international commercial arbitration. She is regularly appointed as presiding, sole and co-arbitrator in claims proceeding under the LCIA, DIFC-LCIA, ICC and UNICTRAL rules. She is on the List of Arbitrators of the HK IAC.

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### Areas of Expertise

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## Arbitration

Zoe is frequently appointed both as counsel and arbitrator in a wide variety of institutional and ad hoc international commercial arbitrations, involving joint ventures, share sale agreements, oil and gas, derivatives and financial services.

### Recent cases as counsel include:

Acting (with [Rupert Reed QC](#)) for the successful claimant in a landmark decision of the DIFC Court, refusing on public policy grounds to recognise a judgment of the Dubai Court of Cassation that an arbitration clause was invalid for lack of authority. ***YYY Limited v ZZZ Limited [DIFC] 2019 ARB 005***

Acting for a Ukrainian businessman in an LCIA arbitration claim against a Russian state bank for the wrongful termination of a share purchase agreement relating to a distressed Ukrainian bank, including appearing on an application for interim relief under the LCIA's Emergency Arbitrator rules.

Acting in an LMAA claim for the claimant shipowner in a dispute with a Chinese shipyard over the construction of four drillships.

Acting for the Respondent to an LCIA arbitration claim for unfair prejudice and damages arising out of an agricultural joint venture in Ukraine which failed following the revolution in 2014.

Acting for a Chinese individual in a Hong Kong seated ad hoc arbitration claim against Goldman Sachs for loss arising out of the delayed liquidation of a portfolio of derivatives contracts.

Acting for the Kazakh claimant in an LCIA arbitration claim against a Chinese respondent arising out of a joint venture to exploit an oil exploration concession in Kazakhstan.

Appearing for the claimant in its AA s. 67/68 application to set aside a partial award on the grounds of lack of jurisdiction and procedural unfairness. ***Interprods Ltd v. De La Rue International Ltd [2014] EWHC 68 (Comm)***

Acting for the claimant mining company in a dispute about the defective construction of a floating offshore transfer platform.

Acting for a telecoms company opposing the enforcement in England of an Austrian New York Convention arbitration award for €268 million.

Acting (with David Wolfson QC) for a major investment bank in an LCIA arbitration claim to enforce obligations under a cross currency swap agreement with a Kazakh counterparty.

Acting for the Defendant in the Court of Appeal in his application to set aside an award of the Beth Din on grounds of lack of jurisdiction. ***Zwiebel & Anr v. Konig & Anr [2009] EWCA Civ 892***

Acting for the Claimant to obtain an interim injunction restraining a share transfer in support of a pending LCIA arbitration. ***Tchigirinski v. Orton Oil Company Ltd [2009] EWHC 1739 (Comm)***

Acting for the Claimant to obtain an interim injunction restraining a share transfer in support of a pending LCIA arbitration. ***v. Orton Oil Company Ltd [2009] EWHC 1739 (Comm)***

Acting for the Claimant in a Hong Kong seated ICC arbitration arising out of a distribution agreement for Naxos recordings.

Acting for a major water company in an ad hoc arbitration concerning the collection of sewerage charges by another water company.

## Banking and Financial Services

Zoe's experience includes acting for and against banks in a wide variety of cases involving letters of credit, guarantees, the ISDA Master Agreement and standard form loan and security documents.

### Recent cases include:

Zoe acts (leading [Adrian de Froment](#)) for Barclays Bank in its US\$135 million claim against Dr BR Shetty, founder of the collapsed NMC Health group. The claim is brought under a guarantee given by Dr Shetty of the trading liabilities of UAE Exchange, the Dubai-based money exchange owned by Finabl plc.

Acting for a Ukrainian businessman in an LCIA arbitration claim against a Russian state bank for the wrongful termination of a share purchase agreement relating to a distressed Ukrainian bank.

Acting for the Indian defendants to a claim by Bank of Baroda to enforce an Indian judgment in England.

Acting for the defendant to a claim by the Bank of Dubai to enforce a court judgment.

Acting for a derivatives trader subject to freezing and proprietary injunctions

Advising the claimant as to its rights and obligations under a portfolio of Contracts for Differences governed by the 2002 ISDA Master Agreement.

Acting for the defendant Russian businessman, resisting enforcement of Russian court judgments totalling £150 million on public policy and human rights grounds. ***Bank of Moscow v Chernyakov [2016] EWHC 1353 (Comm)***

Acting for a bank, resisting a Bankers' Trust application for documents held by its foreign branch

Acting for corporate defendants in the **BTA Bank v Ablyazov** litigation brought by Kazakhstan's largest bank against its former managing director and majority shareholder.

Acting for the borrower (with David Wolfson QC) in a dispute as to whether events of default had arisen under Facility Agreements granted for the purchase of Frankfurt real estate.

Acting in a claim to enforce a deed of guarantee given in relation to the restructuring of Parmalat Brazil.

Acting (with David Wolfson QC) for a major British investment bank in an LCIA arbitration claim to enforce a cross currency swap agreement against a foreign counterparty.

Acting (with Jeffery Onions QC) for the defendant finance company in a dispute under a guarantee where the claimant alleged that guarantee was illegal under Singapore money lending legislation.

Acting (with Jeffrey Gruder QC) for Standard Chartered Bank in the House of Lords, in a letter of credit fraud case which remains a leading case on directors' liability in fraud and the recoverability of lost management time as damages. ***Standard Chartered Bank v. Pakistan National Shipping Corporation [2003] 1 AC 959 (liability appeal) [2001] EWCA Civ 55; Standard Chartered Bank v. Pakistan National Shipping Corporation [2001] 1 All ER (Comm) 822 (quantum appeal)***

Acting (with Geraldine Andrews QC) for SGS, the international inspection company, in a letter of credit fraud claim, and in the contribution proceedings between SGS and Credit Agricole Indosuez, in which the Court of Appeal gave a leading decision on subrogation and contribution between defendants. ***Niru Battery v. Milestone Trading [2001] 2 All ER Comm 705; Niru Battery v. Milestone Trading [2004] EWCA Civ 487***

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## Civil Fraud

Zoe's experience in bringing and defending civil fraud claims encompasses Ponzi schemes, claims for deceit and

conspiracy, dishonest assistance and unconscionable receipt, proprietary, and trust-based claims, freezing orders and Norwich Pharmacal relief, claims against professional defendants, rogue traders, letter of credit frauds, VAT (MTIC) fraud and premium rate telephone frauds. She acted for the sons of Bernard Madoff, successfully defending a fraud claim brought against them by the liquidator of Madoff's fund.

### Recent cases include:

Representing Dr Michael Fakh in his claim in the DIFC Court arising out of the insolvency of the NMC Health group. Dr Fakh sold his stake in the Fakh IVF group (which he founded) to NMC in 2018 but seeks to set aside the sale on the grounds of fraud by the former NMC management.

Representing the Respondent to a claim for damages and unfair prejudice relief arising out of an agricultural joint venture in Ukraine, involving questions of alleged fraud and breach of fiduciary duty, alleged breach of the shareholders' agreement and reflective loss.

Acting for the claimant, obtaining freezing and inspection orders against a senior director found to have engaged in systematic invoice fraud.

Acting for a derivatives trader subject to freezing and proprietary injunctions.

Acting for a Russian businessman, resisting enforcement of Russian court judgments for £150 million on public policy and human rights grounds. ***Bank of Moscow v Chernyakov [2016] EWHC 1353 (Comm)***

Acting for Anglo-American Mining in English proceedings to freeze and trace the proceeds of a fraud by a manager of its Australian subsidiary.

Appearing in the Court of Appeal for corporate defendants in the ***BTA Bank v Ablyazov*** fraud claim brought by Kazakhstan's largest bank against its former managing director and majority shareholder.

Acting for the sons of Bernard Madoff in their defence of claims for fraudulent and negligent breach of directors' duties brought against them by the liquidator of Bernard Madoff's former London trading operation. ***Madoff Securities International (In Liquidation) v Raven [2013] EWHC 3147 (Comm)***

Acting (with Neil Kitchener QC) for the claimant oil exploration company, seeking damages for fraudulent misrepresentation brought when the defendant entered into a farm-out agreement weeks after the claimant agreed to sell its minority interest in an offshore oil and gas exploration block. ***Leni Gas & Oil v. Mediterranean Gas & Oil [2014] EWHC 893 (Comm)***

Acting for claimant victim of a Ponzi scheme for over £50 million: obtained (and upheld) proprietary freezing order within 1 day of discovery of the fraud.

Acting (as part of the counsel team) for Sumitomo Corporation in claims against a metal broker arising out of the fraud of the rogue copper trader Yasuo Hamanaka.

Acting (with Geraldine Andrews QC) for SGS, the international inspection company, in a letter of credit fraud claim, and in the contribution proceedings between SGS and Credit Agricole Indosuez, in which the Court of Appeal gave a leading decision on subrogation and contribution between defendants. ***Niru Battery v. Milestone Trading [2001] 2 All ER Comm 705; Niru Battery v. Milestone Trading [2004] EWCA Civ 487***

Acting (with Jeffrey Gruder QC) for Standard Chartered Bank in the House of Lords in a letter of credit fraud case which remains a leading case on directors' liability in fraud and the recoverability of lost management time as damages. ***Standard Chartered Bank v. Pakistan National Shipping Corporation [2003] 1 AC 959 (liability appeal) [2001] EWCA Civ 55; Standard Chartered Bank v. Pakistan National Shipping Corporation [2001] 1 All ER (Comm) 822 (quantum appeal)***

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## Commercial Litigation

Acting for Dixons Carphone in a contractual dispute about the sunset provisions of its revenue sharing agreement with Telefonica UK, owner of the O2 brand.

Acting for a major beer manufacturer in a dispute against a market rival arising out of a long-term distribution agreement for premium lager.

Acting for a parent company guarantor, defending a Commercial Court claim brought by a Chinese shipyard seeking payment under the guarantee after the shipowner denied liability to make payment for four drillsips.

Acting for a defendant to the claims brought by the Danish Tax Authority to recover withholding tax payments alleged to have been induced by fraud.

Acting for a commodities trader in a claim arising out of forged warehouse receipts.

Acting for McLaren Automotive Services at trial in its defence of a damages/quantum meruit claim brought by a supplier who had contributed to the development of a new GT series road car. **CRS GT Limited v McLaren [2018] EWHC 3209 (Comm)**

Acting for McLaren in a separate dispute brought by a supplier claiming to be entitled to terminate its supply contract on short notice: obtained interim relief as to the terms of continuing supply.

Acting for Tower Hamlets Council in its defence at trial in a substantial software licensing dispute. **Inform CPI Ltd v Tower Hamlets LBC [2018] EWHC 2730 (Comm)**

Acting for a minority shareholder in a series of actions about the ownership and control of a Malaysian fibre optic network, including whether the issue of share certificates gives rise to an estoppel. **Blomqvist v Zavarco Plc [2016] BCC 542**

Acting for the defendant in a tax warranty claim under a share sale agreement between two major players in the gaming industry.

Acting for the claimant in a summary judgment claim under a Joint Operating Agreement relating to a proposed "fracking" project.

Acting for a mining company in its summary judgment claim arising out of a failed joint venture to mine iron ore in China.

Acting for the sons of Bernard Madoff in their defence of the claims for fraudulent and negligent breach of directors' duties brought against them by the liquidator of Bernard Madoff's former London trading operation. **Madoff Securities International (In Liquidation) v Raven [2013] EWHC 3147 (Comm)**

Acting (with Neil Kitchener QC) for the claimant seeking damages for fraudulent misrepresentation brought when the defendant entered into a farm-out agreement weeks after the claimant agreed to sell its minority interest in an offshore oil and gas exploration block. **Leni Gas & Oil v. Mediterranean Gas & Oil [2014] EWHC 893 (Comm)**

Acting (with Ken MacLean QC) for the defendant to a claim for damages arising out of a Software Licensing and Development Agreement relating to a betting exchange software program developed by the claimant. **Matchbet Limited v Openbet Retail Limited [2013] EWHC 3067 (Ch)**

Acting (with David Wolfson QC) for the claimant at the trial of a dispute between two wealthy Israeli-Russian businessmen about an agreement to share revenues from the Angolan diamond industry. **Gaydamak v Leviev [2012] EWHC 1740 (Ch)**

Acting (with John Higham QC) for the claimant in a share sale dispute about Ukrainian steel interests. Obtained and upheld proprietary freezing order for US\$110 million. **Luxe Holding Ltd v. Midland Resources Holding Ltd [2010] EWHC 1908 (Ch).**

Acting for claimant in a breach of share sale warranty claim arising out of the sale of Oddbins, the wine retailer.

Acting for the claimant (with Geoffrey Hobbs QC) in a licensing dispute relating to the Fashion TV franchise in Russia.

Advising Formula One Administration Limited (with Lord Grabiner QC and Daniel Toledano QC) in relation to the threatened breakaway of F1 teams in mid-2009.

Appearing (with Bill Wood QC) for Lloyds underwriters defending a claim under a political risk policy by the operators of a lottery in Azerbaijan. ***ILM International Lottery Management Limited v. Dumas [2002] Lloyds Rep IR 237***

Acting (with Jeffrey Gruder QC) in the House of Lords for Standard Chartered Bank in a letter of credit fraud case which remains a leading case on directors' liability in fraud and the recoverability of lost management time as damages. ***Standard Chartered Bank v. Pakistan National Shipping Corporation [2003] 1 AC 959 (liability appeal) [2001] EWCA Civ 55; Standard Chartered Bank v. Pakistan National Shipping Corporation [2001] 1 All ER (Comm) 822 (quantum appeal)***

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## Insurance and Reinsurance

A dispute with ATE insurers following the dismissal of the insured's claim with indemnity costs.

Acting for the insured in a claim under a professional indemnity policy in respect of the defective design of military equipment, where insurers contended that the liability was in fact product liability and not covered.

Acting for Lloyds underwriters in the successful defence at trial of a claim under a political risks policy relating to the operation of a lottery in Azerbaijan. The chief issue was non-disclosure.

Acting for Lloyds underwriters in relation to a claim under a jewellers' block insurance policy.

Advising Equitas (with Lord Grabiner QC) in relation to its exposure to run-off claims in respect of asbestosis claims in the United States.

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## Telecommunications and Information Technology

Zoe has been recommended as a silk in IT by Chambers and Partners since 2016. She has been described as "*very easy to work with and very hands-on. She is clearly fiercely intelligent, cares a lot about her cases and gets very absorbed in them.*" "*She shows strong analytical skills in dissecting facts and applying legal principles.*"

Acting for the defendant IT contractor in a substantial dispute over the digitisation of NHS patient records. Appeared at first instance and in the Court of Appeal on the trial of preliminary issues relating to the limitation of liability. ***Royal Devon and Exeter NHS Foundation Trust v ATOS IT Services UK Ltd [2017] EWHC 2197 (TCC)***

Acting for Tower Hamlets Council at trial in a substantial software licensing dispute. ***Inform CPI v Tower Hamlets LBC [2018] EWHC 2730 (Comm)***

Acting for an IT contractor in a dispute with an NHS hospital about the development of a client portal.

Acting for an IT contractor in a dispute with a FTSE-100 insurance company over business process outsourcing and exit terms.

Acting for IBM in a substantial dispute with an insurance client concerning the provision of "software as a service".

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Acting for a County Council in an expert determination concerning the meaning and effect of a long-term IT outsourcing contract, including contractual responsibility for the cost of a software upgrade.

Acting for an IT contractor in a complex case relating to the implementation of an SAP ERP system for a housing association.

Advising Government agencies in relation to agreements for the Next Generation Shared Services plan Advising the Foreign and Commonwealth Office in relation to a desktop infrastructure services contract.

Acting (with Ken MacLean QC) in the defence of a multi-million pound claim for damages for the alleged repudiation of a Software Licensing and Development Agreement relating to a betting exchange software program developed by the claimant. **Matchbet Limited v Openbet Retail Limited [2013] EWHC 3067 (Ch)**.

Acting for the customer in a dispute over the development of a bespoke software package for the sale of books on internet marketplaces.

Acting in the landmark BSKyB case (with Mark Barnes QC and Alan Gourgey QC) involving the year long trial of a claim of £900m for deceit in relation to a contract to supply new contact centres for Sky TV. The action involved numerous complex technical issues arising in the fields of IT, forensic accounting and economics. **BSkyB v HP Enterprise Services Ltd [2010] EWHC 862 (TCC)**

Acting for a specialist in GIS software, in a contractual dispute raising issues as the quality of the delivered system and allocation of responsibility for testing.

Advising a Finnish bank in a dispute with its US supplier of risk management software.

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## Company

Zoe frequently acts in claims involving company law issues, including unfair prejudice petitions and minority shareholder and disputes between shareholders and joint venturers. Her cases have concerned issues such as the existence and scope of fiduciary duties owed by directors and co-venturers, the reflective loss principle, the application of section 40 of the Companies Act 2006 and remedies.

### Recent cases involve:

Acting for a creditor challenging the administration's decision to reject a proof of debt.

Acting for Vincent Tchenguiz in an application to remove the administrators of a company.

Acting for the Respondent to an LCIA arbitration claim for unfair prejudice relief and damages arising out of an agricultural joint venture in Ukraine which failed following the revolution in 2014.

Acting for a minority shareholder in a series of actions about the ownership and control of a Malaysian fibre optic network, including whether the issue of share certificates gives rise to an estoppel. **Blomqvist v Zavarco Plc [2016] BCC 542**

Acting for the sons of Bernard Madoff in their successful defence of the claims for fraudulent and negligent breach of directors' duties brought against them by the liquidator of Bernard Madoff's former London trading operation. **Madoff Securities International (In Liquidation) v Raven [2013] EWHC 3147 (Comm)**

Acting for corporate defendants in the **BTA Bank v Ablyazov** litigation brought by Kazakhstan's largest bank against its former managing director and majority shareholder.

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## International and Offshore

Zoe is registered as a foreign legal practitioner in the Dubai International Financial Centre Court and the Singapore International Commercial Court. She is also instructed as arbitrator in foreign seated commercial arbitrations in Dubai, Istanbul and Rwanda.

Acting (with Rupert Reed QC) for the successful claimant in a landmark decision of the DIFC Court, refusing on public policy grounds to recognise a judgment of the Dubai Court of Cassation that an arbitration clause was invalid for lack of authority. **YYY Limited v ZZZ Limited [DIFC] 2017 ARB 005.**

Advised the appellant in the first appeal to the Singapore Court of Appeal from a judge of the Singapore International Commercial Court.

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## Recommendations

Commercial Litigation (The Legal 500)

Arbitration (The Legal 500)

Commercial Dispute Resolution (Chambers and Partners)

Information Technology (Chambers and Partners)

Dispute Resolution: Commercial (Chambers Global)

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## Quotes

*"She gives the right answer quickly and her advice is really clear."* (Chambers Global, 2021)

*"Decisive, commercial and approachable." "She is a highly intelligent and extremely hard-working and thorough advocate, and a very robust cross-examiner."* (Chambers and Partners, 2021)

*"She gives the right answer quickly and her advice is really clear."* (Chambers and Partners, 2021)

*"Zoe is - even by the standards of the commercial bar - highly intelligent, extremely hard working, and a very tough (but always fair and decent, and realistic) opponent. She displays complete mastery of the documents and of the law. She is a very tough cross-examiner. She gives her all for her clients."* (The Legal 500, 2021)

*"A real fighter, who is incredibly focused and charismatic and has real gravitas, but who is also easy to work with." "Great intellect and commerciality."* (Chambers and Partners, 2020)

*"Very easy to work with and very hands-on. She is clearly fiercely intelligent, cares a lot about her cases and gets very absorbed in them." "She shows strong analytical skills in dissecting facts and applying legal principles."* (Chambers and Partners, 2019)

*"Very technically able and very client-oriented", "She's got the brain the size of a planet".* (Chambers and Partners, 2018)

*"Has a growing IT practice that sees her handling cases concerning software development and licensing, major contractual disputes and outsourcing issues. She is also experienced at handling media tech issues."* (Chambers and Partners, 2017)

*"She's formidably bright, writes very well and has a good balance of gravitas and humour"* (Chambers and Partners, 2016)

*"She's able to have very practical and pragmatic conversations and to communicate effectively with clients."* (Chambers and Partners, 2016)

*"An accomplished commercial silk with growing prominence in the technology sector, founded in part on her work in the landmark case of B SkyB v EDS. She is particularly experienced at handling software licensing disputes."*

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(Chambers and Partners, 2016)

"A very hardworking and strategic barrister, who is excellent on her feet and has a good way with clients" (The Legal 500, 2015)

"Highly regarded for IT procurement disputes" (The Legal 500, 2015)

## Publications

### Articles:

"Judgment in *Shanghai Shipyard v Reignwood International Investment (Group) Company Ltd* [2020] EWHC 803 (Comm)" 6th April 2020

## In the Press

'*The ICC's new rules: late to the party, but welcome as tools to ensure efficient and fair process*' Global Legal Post, Zoe O'Sullivan QC, and [Tim Benham-Mirando](#) 30 October 2020

'*Covid-19 impact: How fast has dispute resolution transitioned to a digital model in UAE*' Gulf Business, 20 July 2020

"*Diversity of arbitrator appointments: are the parties doing enough?*" CDR Magazine, 18th February 2020

"*O'Sullivan makes a sure move to Serle Court*" CDR Magazine, 9th April 2019

"*Experienced commercial silk joins chambers*", New Law Journal, 29th March 2019

*NLJ Profile*, New Law Journal, 1 April 2019

*Serle Court - Zoe O'Sullivan QC, Experienced Commercial Silk Joins Chambers*, New Law Journal, 29 March 2019

*Zoe O'Sullivan QC Joins Serle Court*, The Times Brief, 28 March 2019

*Rare silk departure for One Essex Court as QC joins Chancery set*, The Lawyer, 27 March 2019

*Serle Court announces appointment of leading commercial silk Zoe O'Sullivan from One Essex Court*, The Barrister, 27 March 2019

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## Education & Qualifications

Oxford University, MA English Language and Literature (Congratulatory First)

City University, Diploma in Law (Distinction, Arbitrators' Prize)

## Appointments

Registered Foreign Lawyer with the Singapore International Commercial Court

2019: Registered as Advocate before the DIFC Courts

## **Memberships**

Member of the Society for Computers and Law Adjudication Scheme Panel

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