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## Simon Johnson

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**Year of Call:** 2000

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### PRACTICE AREAS

Commercial

Company

Insolvency & Restructuring

Banking and Finance

Professional Negligence and Disciplinary

Property

### PROFILE

Simon is an experienced commercial chancery barrister specialising in large-scale, technically demanding litigation.

He has particular knowledge of and expertise in group actions arising from failed property investment schemes and the interlocking specialisms involved: civil fraud, freezing orders, banking, professional

negligence and private international law.

Simon also acts in a wide range of business disputes, including contractual claims of all kinds, claims for breach of warranty and fiduciary duty, together with company, insolvency and restructuring matters, particularly in the real estate sector.

The directories describe Simon as “*a brain and a half*” and “*a fearless and compelling advocate*”, who is “*always up for a very challenging case*”, while “*seeing him on his feet and firing on all cylinders is a pure pleasure*”. He is “*an outstanding barrister who is a KC and High Court Judge in the making*”. Simon is a seasoned trial and appellate advocate and has acted in the Court of Appeal and Supreme Court.

Simon’s recent work includes:

- *Morris & Ors v. Williams & Co* [2024] EWCA Civ 376: Leading counsel for the successful claimants in a group action against negligent solicitors, who applied to strike out the claim as an abuse of process. Simon defeated the application at first instance and on appeal. The Court of Appeal’s judgment is the leading case on using a single claim form in multi-party litigation. Simon’s articles on this subject can be found [here](#).
- *4VVV Ltd. & Ors v. Spence & Ors*: Leading counsel for defendants to a £50 million fraud and conspiracy claim brought by 430 claimants. Simon conducted a 3 day application to discharge a worldwide freezing order and appeared in numerous hearings before the claim against Simon’s clients settled.
- *A v. B*: Leading counsel for the claimants in a £14 million group action against negligent solicitors and their insurers. Simon overturned an arbitration award obtained by the insurers by which they purported to avoid liability and outflank the claim and represented the claimants in a fresh arbitration.
- *Multi Service JG Ltd & Anor v. Maybrook Properties Germany Ltd*: Counsel for the claimants in a multi-million pound claim for breach of contract and fiduciary duty. Simon defeated a £500,000 application for security for costs, on the basis of stifling.
- Junior counsel for the claimants in 4 forfeiture claims regarding multi-million pound leasehold properties in London arising from breaches of covenants in relation to guarantor insolvency. The claims raise the issue of whether a novel form of US corporate reorganisation (a plan of division, the “Texas two-step”) infringes the rule in *Antony Gibbs & Sons v. La Société Industrielle et Commerciale des Métaux* [1890] LR 25 QBD 399.

## PRACTICE AREAS

### Commercial

Simon is ranked as a leading junior by Chambers (band 5) and Legal 500 (band 5). Chambers describes him as “*a brain and a half...an excellent advocate...*” and “*seeing him on his feet and firing on all cylinders is a pure pleasure.*” Legal 500 says that “*He is very thorough, incredibly bright and a pleasure to work with. He is a very strong advocate and quick on his feet with incisive contributions. He is on top of the law and is also commercial and imaginative.*”

Simon advises clients on a wide range of business disputes including the interpretation, performance and termination of contracts, remedies for breach of contract including specific performance and account of profits, restitution, breach of confidence and claims against IFAs and financial institutions. He has particular expertise in cross-border cases involving foreign jurisdictions and issues of foreign law. He has extensive experience of obtaining, policing and challenging freezing orders. For 12 years Simon has represented large groups of UK citizens suing IFAs, property developers, banks and lawyers in connection with the purchase of

investment properties. He also represents defendants in such cases, most recently in *4VVV v Spence*.

### Recent cases include:

- *4VVV Ltd & Ors v. Spence & Ors* [2023] EWHC 1 (Comm): Leading counsel for defendants to a £50 million fraudulent misrepresentation and conspiracy claim brought by 430 individuals concerning buy to let holiday properties and student accommodation.
- *Millbrook Healthcare Bidco Ltd v. Croll* [2023] EWHC 290 (Comm): Counsel for the defendants in a multi-million pound claim for breach of warranty arising from the sale of shares in a healthcare business. The judgment praises the “*skill and dedication*” with which Simon advanced his clients’ case.
- *A v. B*: Leading counsel for 90 claimants in a £14 million damages claim against negligent solicitors. Having obtained judgment against the solicitors, Simon overturned an adverse arbitration award and represented the claimants in a fresh arbitration against the solicitors’ PI insurers.
- *Cormack & Ors v. AIG (UK) Ltd*: Counsel for 40 claimants in a £12 million damages claim against PI insurers. The principal issue was aggregation.
- *Various claimants v. Giambrone Law & Ors* [2017] EWCA Civ 1193, [2018] PNLR 2: Defeated an appeal on the proper measure of compensation and damages for solicitors’ negligence and breach of trust. Led by Zia Bhaloo KC. Successfully resisted the defendants’ application for permission to appeal to the Supreme Court.
- *Barclay-Watt & Ors v. Alpha Panareti Public Limited & Ors* [2021] EWHC 1327 (Comm), [2021] 3 All ER 804; [2021] EWHC 1591 (Comm), [2021] Costs LR 659: Represented the successful claimants in a 7 week Commercial Court trial regarding misrepresentations in the sale of holiday properties in Cyprus with unaffordable loan packages (led by Stephen Nathan KC). Simon represented the claimants over 10 years.
- *Argos Ltd. & Homebase Ltd. v. Interserve (Facilities Management) Ltd*: Counsel for the claimants in a dispute concerning alleged overcharging under two service agreements.
- Counsel for the claimant company in a Commercial Court claim for damages and injunctive relief arising from the breach of a Tomlin order.

## Company

Simon is a leading junior in company disputes (Legal 500, band 2) praised as “*...outstanding...his ability to get to the core issues and present them concisely and persuasively is commendable*”. He advises company boards, individual directors and shareholders on their rights and obligations arising from companies’ constitutional documents, the Companies Act 2006 and the common law. Simon regularly advises on acrimonious company and board meetings, the exercise of pre-emption rights in relation to the sale of shares, and allegations of unfair prejudice and the breach of fiduciary and other duties. He has advised and represented vendors and purchasers on breach of warranty and other claims arising from business acquisitions. Simon has pursued and defended directors and senior employees in multi-million pound claims for breach of duty and breach of confidence. He has prepared constitutional documents for companies and trusts and chaired company meetings.

### Recent cases include:

- *Millbrook Healthcare Bidco Ltd v. Croll* [2023] EWHC 290 (Comm): Counsel for the defendants in a multi-million pound claim for breach of warranty arising from the sale of shares in a healthcare business. The judgment praises the “*skill and dedication*” with which Simon advanced his clients’ case.
- *Multi Service JG & Anor v. Maybrook Properties Germany Ltd & Anor*: Counsel for the claimants in a multi-million claim for breach of contract and fiduciary and good faith obligations arising from a joint venture in respect of tenanted properties in Germany.
- Advising a joint venture partner on the dissolution and winding up of a partnership operating extensive

commercial properties together with allegations of fraudulent withdrawals of partnership funds.

- *Re Arthur Court*: Counsel for the freehold and management companies of a block of flats in London in a bitter dispute with leaseholders who purported to withdraw the directors' authority and claimed orders requiring Simon's clients to convene company meetings to dismiss the directors in circumstances which indicated that the claim was vexatious.
- Advising shareholders in a pay day loan company on their standing to object to a novel scheme of arrangement.
- Advising a transferee of shares on its entitlement to rectification of the company register to record its title to shares and whether the transfer was a transaction at an undervalue.
- Advising an LLP on reporting obligations and causes of action against a senior member of the LLP for breaches of the LLP agreement and misfeasance.
- Advising a financial institution on its entitlement to convert amounts outstanding under loan notes into shares.
- Advising shareholders and directors on the proposed sale of an internet business and the impact of restrictive covenants and good faith obligations in a shareholders' agreement.

## Insolvency & Restructuring

Simon is a leading junior in insolvency disputes ranked by Chambers (band 5) and Legal 500 (band 4). He is described as *"a really measured and delightful advocate. He never gets flustered and puts his arguments across well"*, while *"his ability to assimilate complex details is incredible"*. He is praised as having *"a smooth, understated manner, he is intelligent, hardworking and user-friendly"*. He is *"an excellent insolvency junior, with an encyclopaedic grasp of the law and a calm and assured advocacy style"*.

Simon advises and represents officeholders, debtors and creditors in all manner of corporate and personal insolvency cases. He has particular expertise in clawback claims against directors and regularly defends officeholders in challenges to their appointments and claims for misfeasance. Simon has conducted or defended numerous applications under the Cross-Border Insolvency Regulations. He has many years' experience of cross-border insolvencies of extreme complexity and high value, starting with T&N/ Federal-Mogul, where he was junior counsel to the administrators, and extending to cases in the US and Gibraltar. Simon edited the restructuring chapter of Gore-Browne on Companies and has advised debtors and creditors on proposed schemes of arrangement and CVAs.

### Recent cases include:

- Junior counsel to landlords in £multi-million forfeiture claims concerning breaches of guarantor insolvency covenants and notification requirements. The claims raise the question whether the Rule in Gibbs prevents the English court recognising the alleged effect of a corporate reorganisation in the US (a plan of division or "the Texas two-step") and associated Chapter 11 bankruptcies.
- Advising shareholders in a pay day loan company on their standing to object to a novel scheme of arrangement.
- *Kerkar v. Investment Opportunities IV Pte Ltd* [2021] EWHC 3255 (Ch), [2022] BPIR 408: Represented the debtor in an application to set aside a statutory demand for £52 million on the basis of the creditor's alleged bad faith.
- *Ahmed v. Habib Bank Zurich Plc*: Represented the creditor bank in an application to set aside a statutory demand for £1 million served by Simon's client on a company director. The case raised numerous questions including the propriety of placing the company in administration, due process, alleged bad faith and undue influence.
- Advising a joint venture partner on the dissolution and winding up of a partnership operating extensive commercial properties together with allegations of fraudulent withdrawals of partnership funds.
- *Re Granton Retail Park Ltd*: Represented administrators in a multi-million pound misfeasance claim brought

by a former director and shareholder in connection with the sale of a high profile mixed-use development in Edinburgh.

- Advising administrators on challenges to their appointment arising from an alleged conflict of interest and an alleged improper purpose to a paragraph 14 appointment.
- Advising an industrial company on insolvency issues arising from potential liabilities for personal injury caused by exposure to asbestos.
- Advising an Australian trustee in bankruptcy on the enforcement of orders of the Australian court against an English domiciliary.

## Banking and Finance

Simon undertakes a wide range of banking work, including recovery proceedings under facility agreements, guarantees, mortgages and other securities. He has extensive experience of disputes concerning LPA receivers appointed by banks, including claims for injunctive relief. Simon advises on compliance matters and Sharia-compliant products. Simon is familiar with FSMA 2000 and has appeared for the proponents of Part 7 banking business transfer schemes. Simon has pursued appointed representatives of regulated financial advisory businesses in litigation concerning overseas property and via the Financial Services Compensation Scheme and the Financial Ombudsman Service.

### Recent cases include:

- Representing banks in recovery proceedings against company directors pursuant to personal guarantees including resisting applications for injunctions to restrain the sale of charged property by LPA receivers.
- Representing guarantors and borrowers opposing such recovery proceedings.
- Acting for claimants against appointed representatives in the context of cashing in regulated investments to purchase off-plan property sold by the “Harlequin” companies in the Caribbean.
- Advising a company on the enforceability of rights under loan notes issued by the company and held by a commercial lender.

## Professional Negligence and Disciplinary

Many of Simon’s cases concern allegations of breach of duty against professionals including solicitors, accountants, surveyors, IFAs, banks and insolvency officeholders. He represented the successful claimants in the Court of Appeal in the Giambrone litigation. The case raised important questions about the measure of compensation for solicitors’ breach of trust and negligence (SAAMCO). Simon has advised and represented numerous individuals in claims against IFAs and foreign lawyers in similar contexts. He has appeared for accountants in the disciplinary tribunal of the ICAEW.

### Recent cases include:

- *A v. B*: Leading counsel for 90 claimants in a £14 million damages claim against negligent solicitors. Having obtained judgment against the solicitors, Simon overturned an adverse arbitration award and conducted a fresh arbitration against the solicitors’ PI insurers.
- *Various claimants v. Giambrone Law & Ors* [2017] EWCA Civ 1193, [2018] PNL R 2: Defeated an appeal on the proper measure of compensation and damages for solicitors’ negligence and breach of trust. Led by Zia Bhaloo KC. Successfully resisted the defendants’ application for permission to appeal to the Supreme Court.

- Advising a high net worth individual on claims by former professional advisers and potential counterclaims for professional negligence.

## Property

Property assets are central to many of Simon's cases, particularly insolvency matters and his commercial group actions. He is junior counsel for the claimants who seek possession of multi-million pound serviced offices in central London for breach of guarantor insolvency and other covenants. The cases raise the operation of the Rule in Gibbs in the real estate context. Simon represented the claimant in a landmark claim for specific performance of a "heads of terms" contract to grant a lease over a strategic freight site in central London, worth tens of millions of pounds. This case, which settled on the eve of trial, raised questions concerning enforceability, uncertainty, section 2 LPMFA 1995 and estoppel by convention. Simon has extensive experience of proprietary tracing claims and claims under TLATA 1996 concerning beneficial interests in property arising from all manner of trusts in both commercial and family contexts.

### Recent cases include:

- Multi-million forfeiture actions seeking possession of serviced offices in central London raising questions of private international law and waiver. Led by Zia Bhaloo KC.
- *L. Lynch (Plant Hire & Haulage) Ltd v. Devon & Cornwall Railways Ltd*. Represented the claimant in a multi-million pound claim for specific performance of a "heads of terms" contract for the grant of a lease of a strategic freight site in central London. Led by Zia Bhaloo KC.
- *Bokhari v. Shah*: Counsel for the claimants in a claim against an agent for breach of fiduciary duty arising from property investments in central London. Simon obtained a proprietary injunction and worldwide freezing injunction against the defendant, with challenges to those orders dismissed.
- *Barclay-Watt & Ors v. Alpha Panareti Public Limited & Ors* [2021] EWHC 1327 (Comm), [2021] 3 All ER 804; [2021] EWHC 1591 (Comm), [2021] Costs LR 659: Counsel for the successful claimants in a 7 week Commercial Court trial regarding misrepresentations in the sale of holiday properties in Cyprus with unaffordable loan packages (led by Stephen Nathan KC). Simon represented the claimants over 10 years of hard-fought litigation.
- Advising numerous property owners on the powers of LPA receivers in relation to prime residential London property and buy to let portfolios.

## SIGNIFICANT CASES

### Morris & Ors v. Williams & Co (Solicitors) [2024] EWCA Civ 376

Success in the Court of Appeal on the meaning of CPR 7.3 and 19.1. The court dismissed the respondent's appeal from the order of HHJ Jarman KC and permitted Simon's 134 clients to use a single claim form to advance their claims for negligence against their former solicitors.

### 4VVV Ltd & Ors -v- Spence & Ors [2023]

## **EWHC 1 (Comm)**

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Represented the third defendant in a £50 million fraudulent misrepresentation and conspiracy claim brought by 430 individuals

## **Millbrook Healthcare Bidco Ltd -v- Croll [2023]**

EWHC 290 (Comm)

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Represented the defendants in a multi-million pound claim for breach of warranty. The judgment praises the “skill and dedication” with which Simon advanced his clients’ case.

## **Re A Company**

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Advised shareholders in a pay day loan company on their standing to object to a novel scheme of arrangement.

## **A -v- B**

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Represented 90 claimants in a £14 million damages claim against professional indemnity insurers arising from failed property investments.

## **Cormack & Ors -v- AIG (UK) Ltd**

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Represented 40 claimants in a £12 million damages claim against professional indemnity insurers.

## **Various Claimants -v- Giambrone Law & Ors [2017]**

EWCA Civ 1193, [2018] PNLR 2

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Defeated an appeal on the proper measure of compensation and damages for solicitors’ negligence and breach of trust. Led by Zia Bhaloo KC. Successfully resisted the defendants’ application for permission to appeal to the Supreme Court.

## **Barclay-Watt & Ors -v- Alpha Panareti Public Limited & Ors [2021]**

EWHC 1327 (Comm), [2021] 3 All ER 804; [2021] EWHC 1591 (Comm), [2021] Costs LR 659

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Represented the successful claimants in a 7 week Commercial Court trial regarding misrepresentations in the sale of holiday properties in Cyprus with unaffordable loan packages (led by Stephen Nathan KC). Simon represented the claimants over 10 years in this complex, multi-faceted litigation which involved jurisdiction disputes and appeals on consumer status and rights in rem in immoveable property together with claims against a Cypriot bank and IFAs. Simon has advised approximately 300 other claimants with similar claims involving other developments and defendants. Alpha Panareti required Simon to go well beyond the extra mile for his clients against well-resourced and aggressive opponents. Previous phases of the litigation are reported at [2018] 6 WLUK 295 and [2012] 11 WLUK 702.

#### **Re A Partnership**

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Advised a joint venture partner on the dissolution and winding up of a partnership operating extensive commercial properties together with allegations of fraudulent withdrawals of partnership funds

#### **Kerkar -v- Investment Opportunities IV Pte Ltd [2021]** EWHC 3255 (Ch), [2022] BPIR 408

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Represented the debtor in an application to set aside a statutory demand for £52 million on the basis of the creditor's alleged bad faith. The claim arose from the collapse of the Cox & Kings travel business in India and raised allegations of a complex fraud involving myriad companies

#### **L. Lynch (Plant Hire & Haulage) Ltd -v- Devon & Cornwall Railways Ltd:**

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Represented the claimant in a multi-million pound claim for specific performance of a "heads of terms" contract for the grant of a lease of a strategic freight site in central London. Led by Zia Bhaloo KC

#### **Ahmed -v- Habib Bank Zurich Plc** (Business & Property Courts, Manchester)

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Represented the creditor bank in an application to set aside a statutory demand for £1 million served by Simon's client on a company director. The case raised numerous questions including the propriety of placing the company in administration, due process, alleged bad faith and undue influence.

#### **Re Granton Retail Park Ltd**

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Represented administrators in a multi-million pound misfeasance claim brought by a former director and shareholder in connection with the sale of a high profile mixed-use development in Edinburgh.



**Re Chesterton International Limited & Ors [2017]**  
EWHC (Ch)

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Represented the liquidators of the Chesterton estate agency companies in applications for Berkeley Appellate relief and directions regarding the proper treatment of company property and trust property worth millions of pounds.

**Escuris SA v. John Lake Shellfish Ltd [2017]**

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Represented the claimant in a claim for damages arising from the termination of a contract for the supply of tinned shellfish; defended a counterclaim of £9.5 million for business interruption damages formulated on the “loss of a chance” basis.

**Wilkinson & Ors v. North & Ors [2016]**  
EWHC 1242 (Ch)

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Represented the claimants at the trial of an equitable tracing claim regarding trust property misapplied in breach of a trust arising in a commercial context.

**Erlam & Ors v. Lutfur Rahman & Anor [2016]**  
EWHC 111 (Ch); [2016] BPIR 856; [2016] P&CR DG5

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Represented the successful claimants at the trial of a claim proving that the disgraced former mayor of Tower Hamlets was the true beneficial owner of a freehold property; a trust deed purporting to show a constructive trust in favour of the wife was a sham.

**Alexander-Theodotou v. Michael Kyprianou & Co LLC [2016]**  
EWHC 1493 (Ch); [2016] BPIR 1114

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Represented the successful applicant in setting aside a statutory demand where the debt arose from the alleged liability of a solicitor to pay the fees of foreign counsel. Led by Andrew Henshaw QC

**Re Lemma Europe Insurance Co Ltd (in liquidation)**

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Represented an alleged de facto or shadow director in claims for misfeasance and breach of duty.

## **Re An Insolvent Gibraltar Company**

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Advised the PI insurers of an LLP on the proposed settlement of a multi-million pound claim issued by the liquidators of a Gibraltar company.

## **Argos Ltd and Homebase Ltd -v- Interserve (Facilities Management) Ltd**

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Represented the claimants in a dispute arising from alleged overcharging under two service agreements. Led by Zia Bhaloo KC.

## **Ryan v. Tiuta International Limited (in CVA) [2015]**

BPIR 123

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Represented the successful applicant in setting aside a multi-million pound statutory demand issued against him on the grounds that the waiver of cross-claims in a deed of surrender was void for economic duress. The consequential claim settled shortly before trial.

## **Smith Medical International Ltd & Anor v. Hansraj Nayyar Medical India [2014]**

EWHC (Comm)

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Represented the applicant in a jurisdiction dispute concerning the scope of jurisdiction agreements in a chain of commercial agreements. Leggatt J described Simon's submissions as "presented with great skill".

## **Elek v Bar-Tur [2013]**

EWHC 207 (Ch); [2013] 2 EGLR 159; [2013] 8 EG 107; and in the Court of Appeal [2013] EWCA Civ 1774:

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Represented the successful defendants who defeated a claim for restitutionary compensation arising from the termination of a joint venture agreement. Ryder LJ described Simon's submissions as "objectively incontrovertible".

## **In re Skycat Group Limited [2007]**

EWHC 3116 (Ch)

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Represented the successful applicant in a contested application for an administration order in the context of a deadlocked company.

**In re Metronet BCV Ltd (PPP Administration) [2007]**  
EWHC 2697 (Ch); [2008] Bus LR 823; [2008] 2 All ER 75

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Rights of veto over a transfer scheme in a special administration. Led by Antony Zacaroli QC.

**In re Rajapakse [2007]**  
BPIR 99; [2008] BPIR 283

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Represented the successful applicant in the first London High Court application under the Cross-Border Insolvency Regulations.

**Burdale Financial Limited v. Agilo Masterfund Limited [2008]**  
EWHC 1103 (Ch)

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Defeated a vulture fund's attempt to accelerate the repayment of mezzanine loans. Led by Antony Zacaroli QC.

**British Gas Trading Limited v. Perenco UK Ltd and Hess Limited [2006]**  
EWHC 233 (Comm) and in the Court of Appeal [2006] EWCA Civ 900, [2006] 2 CLC 57

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Successfully defended the termination of long-term gas supply contracts. Led by Laurence Rabinowitz QC.

**In re T&N [2005]**  
EWHC 2990 (Ch); [2006] 1 WLR 1792

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The governing law of US mass tort claims in one of the most complex insolvencies of the last 25 years. Led by Richard Snowden QC and Peter Arden QC. Junior counsel to the administrators and draftsman of constitutional documents for the T&N UK Asbestos Trust for the compensation of persons afflicted by asbestos-related disease.

**The Solitaire Arbitration**

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The longest running arbitration in English legal history: Represented the owners in their defence of the builder's counterclaims for delay and variations valued at (Sing) \$230 million. Led by Nick Dennys QC and Andrew Goddard QC.

**In re Piacentini [2003]**

Represented the receiver in a successful application concerning the incidence of liability for income tax in a receivership under the Criminal Justice Act 1988.

## CAREER AND ASSOCIATIONS

2021 Appointed a Deputy District Judge

2002 to 2008: Barrister and Senior Associate in the Advocacy Group of leading international law firm, Dentons.

1994 to 1997: BA (Hons) in Modern History, University of Oxford, First Class.

1995 to 1997: Elected as a Scholar of University College, Oxford.

1997: Prize for best First Class degree in Modern History from candidates at University College.

1998 to 2000: Queen Mother's Major Scholarship and Hardwicke Entrance Exhibition, Middle Temple.

Diploma in Law (City University – Commendation); BVC (Inns of Court School of Law – Very Competent).

Member of the Chancery Bar Association

Member of the Insolvency Lawyers Association

Member of the Commercial Bar Association

Simon is fluent in Spanish and literate in French.

Simon provided free legal advice for several years through the Citizens' Advice Bureau at the Royal Courts of Justice and the LawWorks Legal Advice Centre in Poplar. He is a volunteer with the CLIPS scheme operated by the Chancery Bar Association.

Simon has served as the governor of a primary school and a volunteer and fundraiser for a soup run for the homeless in central London. For 5 years he organized a week-long programme of voluntary work in southern France for approximately 30 university students and others. Simon has participated in this programme in most years since 1997.

## PUBLICATIONS

Contributor to 'Gore-Browne on Companies: chapter 46, mergers, restructuring and amalgamation.'

Contributor to 'Gore-Brown Special Release: published annually; a series of articles on piercing the corporate veil.'

Contributor to 'Practical Law: company law and insolvency topics.'

Contributor to 'The Journal of International Finance & Banking: the reform of insolvency law in Saudi Arabia.'

Simon regularly presents seminars and talks on matters of relevance to his practice. Details are available on request.

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