



# THE COMMERCIAL LITIGATION SUMMIT 2019

1 JULY 2019  
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*The Legal 500* will be hosting a series of Commercial Arbitration Summits across the globe, bringing together GCs and senior in-house lawyers, along with leading practitioners and thought leaders, to discuss the key trends in one of the most strategic practice areas in global law.

The series kicks off in Dubai on 1 May before embarking on a tour of the major legal hubs around the world.

## Full Schedule

**Singapore**  
*10 September*

**Turkey**  
Istanbul  
*26 September*

**Hong Kong**  
*November*

**India**  
Delhi  
*November*

**Sweden**  
Stockholm  
*November*

**UK**  
London  
*November*

**Latin America**  
Florida  
*TBC*

**Switzerland**  
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*TBC*

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## FOREWORD

Alex Novarese, editor in chief, *Legal Business*



*Legal Business* is pleased to welcome you to the Commercial Litigation Summit 2019. As the first of our one-day practice summits, the event is now in its fifth year and has become a hugely important part of our expanding events portfolio.

Having been built up year-on-year, we return with the largest number of expected guests and a programme packed with top-quality speakers drawn from the Bench, law firms, the Bar and in-house legal teams.

Our theme this year is focused on turning points for the disputes scene, which has been in ascendency since the banking crisis and the related influx of new entrants galvanised the City's

disputes scene. Whether that momentum can be sustained is another matter entirely.

The questions we look to address are wide-ranging. A recurring issue is the extent to which US tactics and dynamics migrate to London's courts. This can be seen in a number of fields in our programme including debates on attempts to boost group actions in consumer disputes, the growing US influence in global investigations work and pioneering attempts to bring big data to our domestic litigation.

Elsewhere, we look at moves to modernise the litigation process through a review of the role of witnesses in commercial disputes, the continued development of litigation funding, the growth of reputation management and practical strategies for heading off litigation risk. And we still find time to kick off the day in style with a debate on the interplay between London's courts and leading international counterparts. Please enjoy the day and keep your feedback coming.

[alex.novarese@legalease.co.uk](mailto:alex.novarese@legalease.co.uk)

Clive Zietman, head of commercial litigation, *Stewarts*



When it comes to high-value complex (and thus expensive) litigation, there is one subject close to the hearts of clients: how do we avoid it? Unsurprisingly even the most well-heeled businesses do not relish the prospect of a protracted and expensive dispute, however much litigation lawyers might salivate at the prospect of a challenging and lucrative case.

The importance of dispute avoidance is much underestimated, even by sophisticated commercial clients, who one might assume (wrongly) would know better. As a long-in-the-tooth litigator, I have come to realise that countless disputes that end up in court could have been avoided. When one sees a problem after the balloon has gone up, it is often surprising and revealing when one looks at what went wrong and why. In the context of big commercial disputes, what are some of the classic hallmarks of a legal wrangle that should never have happened in the first place?

First and foremost are clients who abandon prudence and common sense in their business. Clients are understandably focused on positive themes such as sales, marketing, profitability and speed of process. In the midst of the hurly-burly, they take risks that no prudent lawyer would take and which, if all goes swimmingly, fade into irrelevance. Clients often make a false economy by either not paying for high-quality (perhaps pricey) commercial advice, or by ignoring it, even though they well know that prevention is invariably better than cure.

Secondly, uncertainty and ambiguity are toxic and often create a breeding ground for strife. A common example is a badly drafted contract that is full of contradictions that would have been ironed out by a legally-qualified draftsman who was worth their salt. When clients save money, perhaps by drafting in-house or by failing to use the right specialist, the avoidable consequences can be catastrophic. I have witnessed this in several deals involving millions of pounds.

Third on my list come clients who sleepwalk into a contractual arrangement without knowing the significance of their actions. The High Court is littered with multi-million pound cases involving oral agreements made on the shake of a hand where the marriage was originally made in heaven and nobody wanted the formality of a carefully drafted contract. Sometimes one comes across contracts that are a mixture of spoken words, email and conduct, all of which need to be construed by a court in the event of irreconcilable disagreement.

Fourth come clients who fail to accept that the large print giveth and the small print taketh away. In all too many situations, clients find themselves bound by terms that they disregarded during long negotiations or worse still, never considered at all. One accepts that people in business do not and cannot behave like litigators otherwise no business would ever get done. The microscopic analysis that takes place at a trial is often a far cry from the commercial realities of everyday life.

Although it may sound counter-intuitive, a good litigator is one who understands the genesis of disputes. One is often approached for advice before war breaks out and sensible clients are receptive to early guidance about minimising risk, avoiding the creation of damaging evidence and the careful construction of a paper trail that will serve the client well if litigation proves unavoidable.

[czietman@stewartslaw.com](mailto:czietman@stewartslaw.com)

## MORNING SESSION

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### 8.15AM REGISTRATION

### 9.00AM OPENING REMARKS

**Fiona Gillett, Stewarts**

### 9.10AM - 9.55AM COURTS ACROSS BORDERS – AN ACTIVE DIALOGUE

A debate focusing on current developments in the commercial courts and the complex interplay between London's courts and leading international fora. The debate will include high-impact changes in procedure such as current disclosure reforms.

Speakers:

- Helen Carty, Clifford Chance
- Andrew Denny, Allen & Overy
- **Sonia Tolaney QC, One Essex (moderator)**
- Mr Justice David Waksman

### 10.00AM - 10.40AM GLOBAL INVESTIGATIONS – THE TRANSATLANTIC RELATIONSHIP

We trace the interplay in global investigations between the US and UK, charting the key tactical differences and the trends established in America that are set to manifest in the English courts. Covers varying approaches to self-reporting, privilege and the impact of follow-on actions.

Speakers:

- **Charles Evans, Milbank (moderator)**
- Tawfiq Rangwala, Milbank
- Antonio Suarez-Martinez, GlaxoSmithKline
- Roy Waligora, KPMG

### 10.40AM - 11.00AM COFFEE

### 11.00AM - 11.40AM THE HARD NUMBERS – HOW DATA ANALYTICS ARE TRANSFORMING DISPUTES

With analytics already common in the US to inform litigation decisions, the dawn of data-driven strategy is already reaching English courts. A debate addressing the rise of analytics as increasingly important tools for litigators and their clients. Who will drive this change? And what skills does the modern lawyer need to possess?

Speakers:

- Julian Chamberlayne, Stewarts
- **Gideon Cohen, Solomonic (moderator)**
- Grant McCaig, Phoenix Group
- Brian Perrott, HFW
- Donny Surtani, Herbert Smith Freehills

### 11.40AM - 12.20PM SHOTS ACROSS THE BOWS – PRELIMINARY SKIRMISHES SWEEP LONDON'S COURTS

Recent years have seen English courts hearing increasing numbers of preliminary battles in commercial disputes, covering early remedies like injunctions, freezing orders and preliminary issues over jurisdiction. With the Supreme Court in April resetting the rules of choice of forum in *Vedanta*, we assess the implications of the courts' willingness to entertain early skirmishes. A debate covering the willingness of the courts to extend pre-emptive remedies, to assert jurisdiction and the upswing of judges pushing back in abuse of early remedy procedures.

Speakers:

- Simon Bushell, Signature Litigation
- Jane Colston, Brown Rudnick
- **Paul Lowenstein QC, Twenty Essex (moderator)**
- Philip Riches, Twenty Essex

### 12.20PM - 1.00PM REPUTATION MANAGEMENT – WINNING OVER THE SCEPTICS?

The days when the all key developments were confined to a court room are drawing to a close. With internet-driven disclosures and the flood of social media, more litigators have widened their tactics to include the wider shaping of reputation, including working with specialist PR advisers. We put the case for the lawyer as all-round reputation manager... and the case against.

Speakers:

- Laura Durrant, White & Case
- **Parham Kouchikali, RPC (moderator)**
- Stuart Leach, Pagefield Global

### 1.00PM - 1.45PM LUNCH

## AFTERNOON SESSION

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### 1.45PM - 2.25PM LAY DOWN YOUR ARMS – PRACTICAL STRATEGIES FOR AVOIDING LITIGATION

For lawyers, litigation is often the highlight of their professional lives – for clients, it is a usually to be avoided at all costs. A lively discussion exploring practical means to de-risk your business, how to de-escalate potential litigation scenarios and how to spot when trouble is brewing.

#### Speakers:

- Rob Doran, Black Dog Crisis Management
- Matthew Hodson, Hardwicke
- Andrew Miller QC, 2 Temple Gardens
- Kate Wilford, Anglo American
- **Clive Zeitman, Stewarts (moderator)**

### 2.25PM - 3.05PM IN OR OUT – THE BATTLE TO PUSH OPT-OUT CLAIMS INTO THE MAINSTREAM

Focusing on recent attempts in competition disputes to deploy collective proceedings orders, the pioneering means to allow default group actions in the UK, this debate assesses the implications for the English courts of high-profile battles like the £14bn Mastercard CAT claim. A discussion assessing what the collective proceedings regime is designed to do, what challenges it throws up and what we can expect in the future from this fast-moving area of antitrust disputes.

#### Speakers:

- Dr Sean Durkin, Charles River Associates
- **Huw Jenkin, Travers Smith (moderator)**
- Daniel Jowell QC, Brick Court Chambers
- David Wingfield, Fountain Court Chambers

### 3.05PM - 3.25PM COFFEE

### 3.25PM - 4.05PM TRAPS FOR THE UNWARY – LEGAL AND REGULATORY PITFALLS IN CROSS-BORDER LITIGATION

An investigation of the main issues affecting litigation involving cross-border teams. The panel will discuss privilege, costs, conduct of litigation rules, the limitations imposed on the direct access barrister and third-party funding.

#### Speakers:

- **Stephen Brown, Hardwicke (moderator)**
- Elizabeth Fisher, Burford Capital
- PJ Kirby QC, Hardwicke
- Nicole Langlois, XXIV Old Buildings
- Susan Rosser, Mayer Brown

### 4.10PM - 4.50PM FIT FOR PURPOSE? – WITNESS STATEMENTS UNDER SCRUTINY

With the Business and Property Courts currently reviewing the rules on witness statements amid mounting fears of abuse of the regime, we assess the role of witnesses in commercial disputes. Are the courts robust enough in challenging witnesses' claims and credibility?

#### Speakers:

- **Matthew Hardwick QC, 3 Verulam Buildings (moderator)**
- Ian Gatt QC, Stewarts
- Simon Hart, RPC

### 4.55PM CLOSING REMARKS

**Ian Gatt QC, Stewarts**

### 5.00PM DRINKS RECEPTION

### 6.00PM EVENT CONCLUDES

## SPEAKERS

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### STEPHEN BROWN HARDWICKE

After 15 years as an international law firm partner, Stephen Brown moved to the Bar five years ago where he focuses on commercial litigation and arbitration both domestically and internationally. Among other things, he represents international corporations in cross-border disputes, often involving questions of private international law. His experience covers a number of sectors including asset management, automotive, aviation, chemicals, hospitality, oil and gas, pharmaceuticals, technology and telecoms.



### SIMON BUSHELL SIGNATURE LITIGATION

Simon Bushell is a partner at Signature Litigation specialising in commercial litigation and arbitration, including civil fraud and asset tracing. His clients include large corporates, private equity houses, banks and ultra-high net worth individuals. Before joining Signature, Simon was the chair of the London litigation practice of Latham & Watkins, and prior to that, a partner at Herbert Smith Freehills.



### HELEN CARTY CLIFFORD CHANCE

Helen Carty is the head of the London litigation and dispute resolution team at Clifford Chance. She is experienced in dealing with multi-jurisdictional matters, defending mis-selling claims and acting for clients in relation to disputes arising under swaps and other industry standard documentation.



### JULIAN CHAMBERLAYNE STEWARTS

Julian Chamberlayne is head of knowledge management and compliance and head of aviation and international injury at Stewarts. He acts for clients who have sustained life-changing or major injuries in an international context and has recovered over £140m for clients injured in the UK and across the globe. Julian also focuses on costs, litigation funding, compliance and knowledge management issues.



### GIDEON COHEN SOLOMONIC

Gideon Cohen is a co-founder of litigation analytics provider Solomonic and a barrister with One Essex Court. As a barrister Gideon undertakes a broad range of commercial work and has particular interest in arbitration. He is currently advising British Airways on a major ongoing matter.



### JANE COLSTON BROWN RUDNICK

Jane Colston is a partner specialising in complex and high-value commercial banking, contract and tort disputes as well as company, shareholders and partnership disputes. She has acted in numerous complex fraud cases and has extensive experience of forensic investigations.



### ANDREW DENNY ALLEN & OVERY

Andrew Denny is partner in Allen & Overy's litigation and investigations practice, with extensive experience in disputes involving syndicated lending and complex structured finance and transactional tort litigation. He has been involved in some of the most significant cross-border cases heard in the English courts.





### ROB DORAN BLACK DOG CRISIS MANAGEMENT

Rob Doran is the director of Black Dog Crisis Management. He supports senior leadership teams around the globe to create the environment to help organisations prepare for and respond to crises of all kinds. Before this Rob spent many years working in central government crisis management in the UK, taking part in many Cabinet Office Briefing Room responses to national emergencies.



### DR SEAN DURKIN JR CHARLES RIVER ASSOCIATES

Sean Durkin is an economist and is vice president in the antitrust and competition economics practice of consulting firm Charles River Associates. He has served as a testifying expert on damages, liability, and class certification in antitrust, patent, and unfair competition cases and has also testified in federal and state court and before the International Trade Commission.



### LAURA DURRANT WHITE & CASE

Laura Durrant is a partner in the global commercial litigation team at the London office of White & Case. She joined firm last year from the Royal Bank of Scotland (RBS), where she was head of litigation regulation and investigations. Before working at RBS she was an associate at Herbert Smith Freehills.



### CHARLES EVANS MILBANK

Charles Evans is a partner in the litigation and arbitration team in London and considered a market leader in investigations and regulatory enforcement proceedings. He previously worked at Norton Rose Fulbright for nearly 16 years, becoming partner in banking and commercial litigation and contentious financial services, and began his career at Slaughter and May.



### ELIZABETH FISHER BURFORD CAPITAL

Elizabeth Fisher is a senior vice president at litigation funder Burford Capital in London. Before joining the company she was vice president, EMEA head of the banking and regulatory practice at legal services provider Axiom. She spent a decade working as a private equity lawyer before working at Hogan Lovells as head of client development.



### IAN GATT QC STEWARTS

Ian Gatt QC is an veteran advocate and commercial litigator with more than 30 years' experience of all forms of dispute resolution. He was called to the Bar in 1985 and appointed QC in 2002 at the age of 38. Ian's expertise spans high-value commercial fraud and employment disputes in the UK, Middle East and Asia. His career spans a lengthy career at the bar before helping to set up a pioneering advocacy unit for Herbert Smith Freehills. He joined Stewarts in 2017.



### FIONA GILLETT STEWARTS

Fiona Gillett advises on high-value domestic and international contracts, commercial fraud and tort disputes, with a particular expertise in financial services claims against banks. She is experienced in co-ordinating proceedings in other jurisdictions, including working with foreign lawyers, investigators and forensic accountants. Fiona co-managed the RBS Rights Issue litigation which settled in December 2016.

## SPEAKERS CONTINUED



### MATTHEW HARDWICK QC 3 VERULAM BUILDINGS

Matthew Hardwick QC of 3 Verulam Buildings is identified as a leading silk in five practice areas (banking and finance, insolvency, commercial dispute resolution, professional negligence and offshore) and noted for his 'extraordinary commitment', 'incredible attention to detail' and 'outstanding work ethic'. He is widely praised for his courtroom skills: a 'fearless advocate' and 'extremely quick on his feet'.



### SIMON HART RPC

Simon Hart is a partner in the commercial disputes practice in London and head of the financial disputes team at RPC. Simon has advised clients through a number of complex banking disputes, often acting against the largest investment banks. He has acted in claims involving derivatives, structured products and hedging and regularly advises on disputes arising out of loan facilities, trade finance and financial restructurings.



### MATTHEW HODSON HARDWICKE

Matthew Hodson has a strong commercial dispute resolution practice covering high-value commercial litigation concerning commercial entities of all types with an emphasis on joint venture, shareholder and partnership disputes, breach of shareholder agreement, misuse of company funds and diversion of business being particular strengths.



### HUW JENKIN TRAVERS SMITH

Huw Jenkin is a partner in the dispute resolution department at Travers Smith. His practice covers high-value, complex commercial disputes, including competition follow-on damages litigation and regulatory investigations, as well as cases involving civil fraud, often with an international dimension. Huw is a member of Travers Smith's diversity and inclusion board and is the joint lead of the firm's gender balance group.



### DANIEL JOWELL QC BRICK COURT CHAMBERS

Daniel Jowell QC is a member of Brick Court Chambers. He is one of the Bar's leading silks practising principally in commercial and competition law. He won the Chambers and Partners 'Silk of the Year' award for 2015/16.



### PJ KIRBY QC HARDWICKE

PJ Kirby QC is joint head of chambers at Hardwicke. His practice covers costs litigation, commercial dispute resolution and professional negligence. PJ is considered an expert in the field of litigation costs and is often instructed on appeals in relation to problems over retainers and conditional fee agreements.



### PARHAM KOUCHIKALI RPC

Parham Kouchikali is a litigation partner dealing with high-profile and complex financial litigation at RPC. He represents continental banks and hedge funds as well as individuals requiring independent legal advice at financial institutions. He has acted for clients in significant enforcement actions by the Financial Conduct Authority.



### STUART LEACH PAGEFIELD GLOBAL

Stuart Leach is co-founder and chief executive of specialist PR consultancy Pagefield Global in London. He has worked on some of the biggest legal cases, including the recovery of \$1bn of assets as part of a multi-jurisdictional fraud claim. A former barrister, he spent eight years at Pump Court Chambers representing clients in the civil, family, criminal courts and the Court of Appeal before moving into disputes PR.

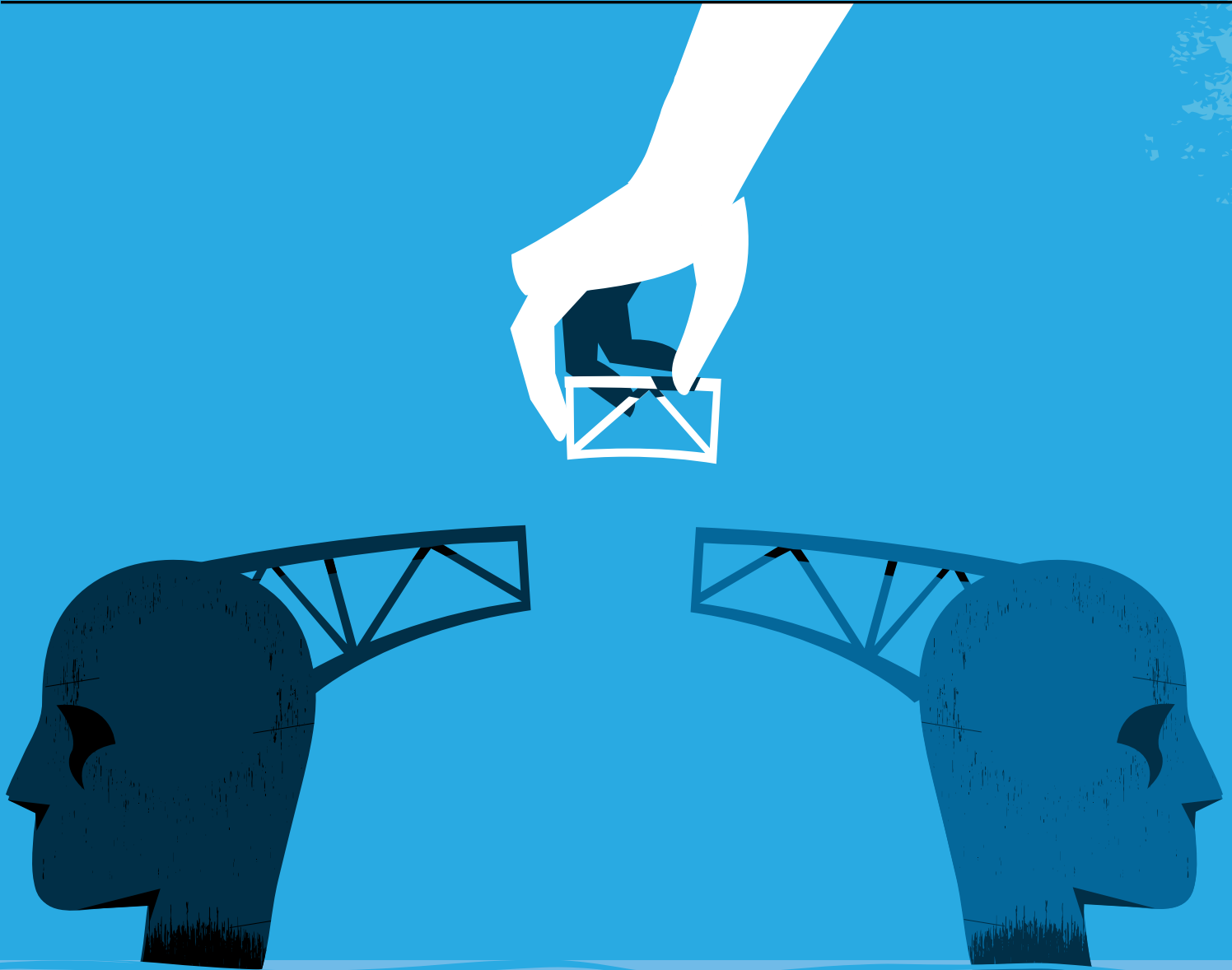
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## SPEAKERS CONTINUED

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### NICOLE LANGLOIS XXIV OLD BUILDINGS

Nicole Langlois is regularly instructed in cases with a multi-jurisdictional dimension and specialises in commercial disputes, trust and company litigation and fraud and asset tracing. Her recent and ongoing cases involve jurisdictions as diverse as Jersey, Guernsey, New York, Hong Kong and Nigeria. She also acts for insurers, trustees and beneficiaries in connection with high-value claims for breach of trust.



### PAUL LOWENSTEIN QC TWENTY ESSEX

Twenty Essex's Paul Lowenstein is a leading commercial silk in domestic and international litigation and arbitration. He is regularly instructed in complex and significant fraud and asset-tracing cases, often involving pre-emptive injunctions, disclosure, and jurisdictional and choice-of-law issues. He is a qualified centre for dispute resolution mediator and an experienced mediation advocate.

### GRANT McCAIG PHOENIX GROUP

Grant McCaig is senior legal counsel at the FTSE 100 insurance provider Phoenix Group with conduct of litigation and dispute resolution across the group. He has been with Phoenix for seven years and splits his time across Phoenix's UK and European offices. Prior to joining the company, he worked in the commercial litigation team at Pinsent Masons.



### ANDREW MILLER QC 2 TEMPLE GARDENS

Andrew Miller QC practises principally as a mediator and arbitrator at 2 Temple Gardens using his specialist expertise in commercial, construction, insurance, property damage and professional negligence disputes. He has been involved in the mediation of disputes since 1996 and has experience of over 150 mediations.



### BRIAN PERROTT HFW

Brian Perrott is a partner in the litigation team with HFW with an emphasis on commodities, derivatives and shipping. He was previously a partner at Hill Dickinson and before that head of litigation in-house at goods producer Cargill.



### TAWFIQ RANGWALA MILBANK

Tawfiq Rangwala is a partner in the New York HQ of Milbank and part of the firm's litigation and arbitration group. His practice focuses on defence of US and international regulatory and criminal enforcement matters, as well as internal investigations across multiple jurisdictions and industries.



### PHILIP RICHES TWENTY ESSEX

Philip Riches' work covers all aspects of commercial litigation in the English courts and in major international arbitration forums. He is regularly instructed on shareholder, joint venture and fraud disputes and many of his cases involve jurisdiction and conflicts of law disputes. His recent work has focused on emerging markets in China, West Africa, Brazil and Venezuela.

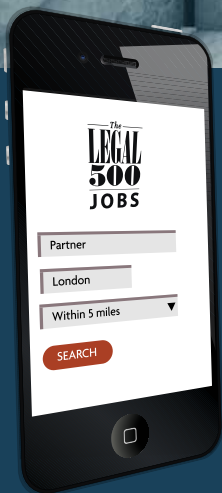
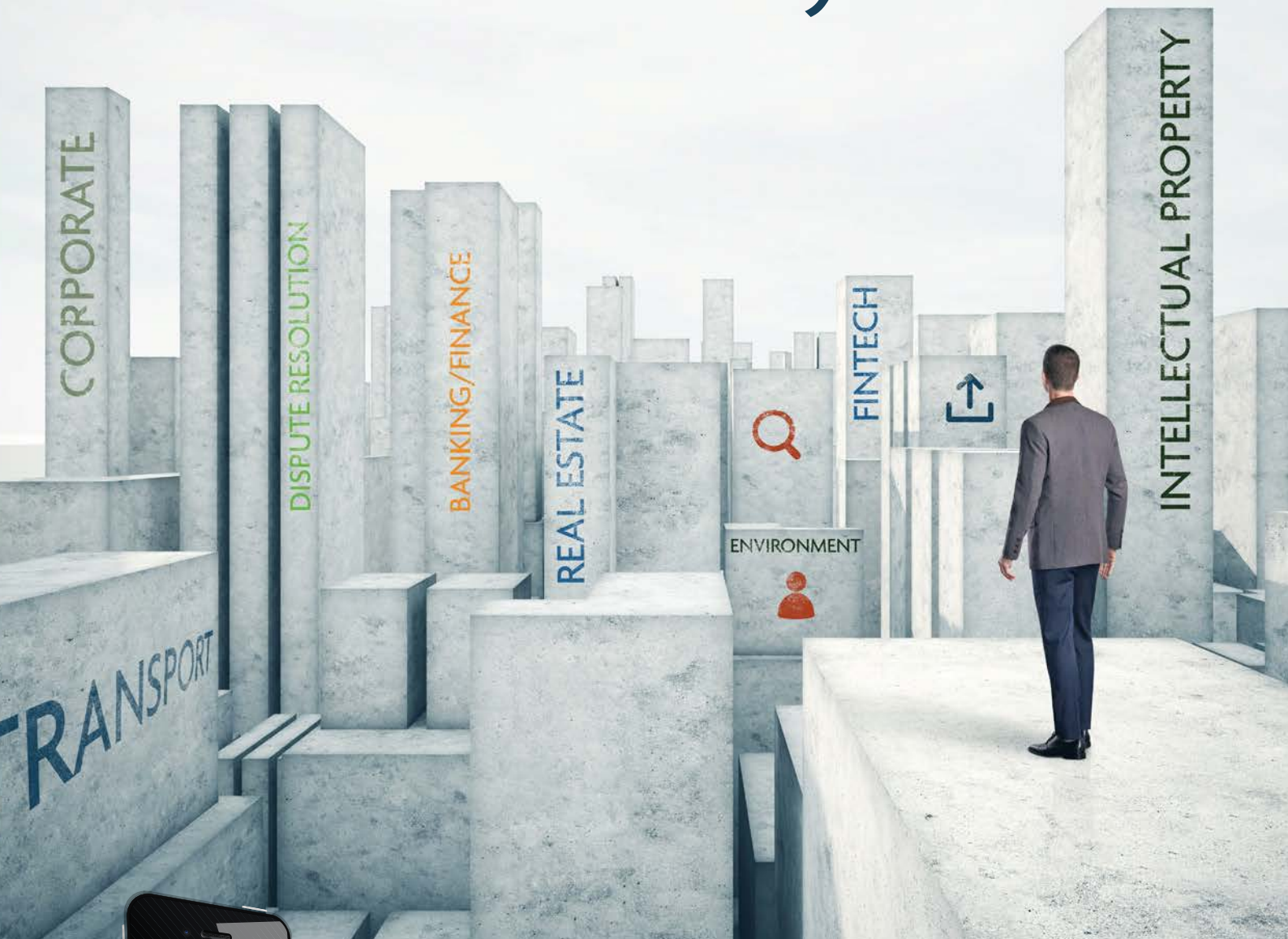


### SUSAN ROSSER MAYER BROWN

Susan Rosser is a partner in the dispute resolution practice in London. Her disputes work focuses on financial institutions, asset managers and investment advisers, complex financial products and regulatory investigations and enforcement. She also has considerable experience of disputes relating to public markets, including takeover panel investigations and enforcement.



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## SPEAKERS CONTINUED

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### ANTONIO SUAREZ-MARTINEZ GLAXOSMITHKLINE

Antonio Suarez-Martinez is assistant general counsel at pharmaceutical company GlaxoSmithKline. He was previously a commercial litigation partner at Edwards Wildman Palmer.



### DONNY SURTANI HERBERT SMITH FREEHILLS

Donny Surtani is a partner in Herbert Smith Freehills' commercial litigation practice in London. He acts for financial institutions and corporates in litigation before the English courts and elsewhere and in arbitration under various institutional rules. He has extensive experience of cross-border and multi-jurisdictional matters and is an active member of the firm's India disputes team.



### SONIA TOLANEY QC ONE ESSEX COURT

One Essex Court silk Sonia Tolaney is a leading commercial advocate, with a particular focus on disputes involving financial institutions. She has appeared in a number of high-profile applications, trials and appeals. She has acted for ABN AMRO, Barclays, Commerzbank, Dexia, Deutsche Bank and JPMorgan in a range of complex disputes concerning FX, ISDA, syndicated credit agreements and other Lehman disputes.



### ROY WALIGORA KPMG

Roy is a partner at KPMG specialising in forensic accounting, fraud risk management and dispute advisory work. He has been at KPMG since 1998 working in a number of different countries and industries and is based in South Africa.



### MR JUSTICE DAVID WAKSMAN

The Honourable Mr Justice Waksman is in charge of the London Mercantile Court. In 2007 he left his chambers at Fountain Court to take up a full-time appointment as a specialist senior circuit judge at the Manchester Mercantile Court, where he remained until his transfer to London in 2015. He sits on the Commercial Court and was heavily involved in the piloting and implementation of the Jackson reforms.



### KATE WILFORD ANGLO AMERICAN

Kate Wilford is legal principal for litigation at mining company Anglo American, where she manages litigation, arbitration and other contentious issues arising from the group's operations worldwide. Before joining Anglo American this year, Kate spent 13 years at Hogan Lovells, where she was a counsel in the international arbitration team, and was seconded to the in-house legal team at Barclays.



### DAVID WINGFIELD FOUNTAIN COURT CHAMBERS

David Wingfield is a competition litigation lawyer and barrister with Fountain Court Chambers, practising in the UK and Canada with a deep knowledge of antitrust economics and a comprehensive understanding of UK/EU, American, and Canadian competition laws. He headed the competition law section of the Canadian Department of Justice between 2011 and 2014.



### CLIVE ZIETMAN STEWARTS

Clive Zietman is a partner and head of commercial litigation at disputes specialist Stewarts. He is a well-known commercial litigator who has been involved in a number of complex and high-value claims, including high-profile frauds, professional negligence claims and banking disputes. His work regularly involves an international dimension.

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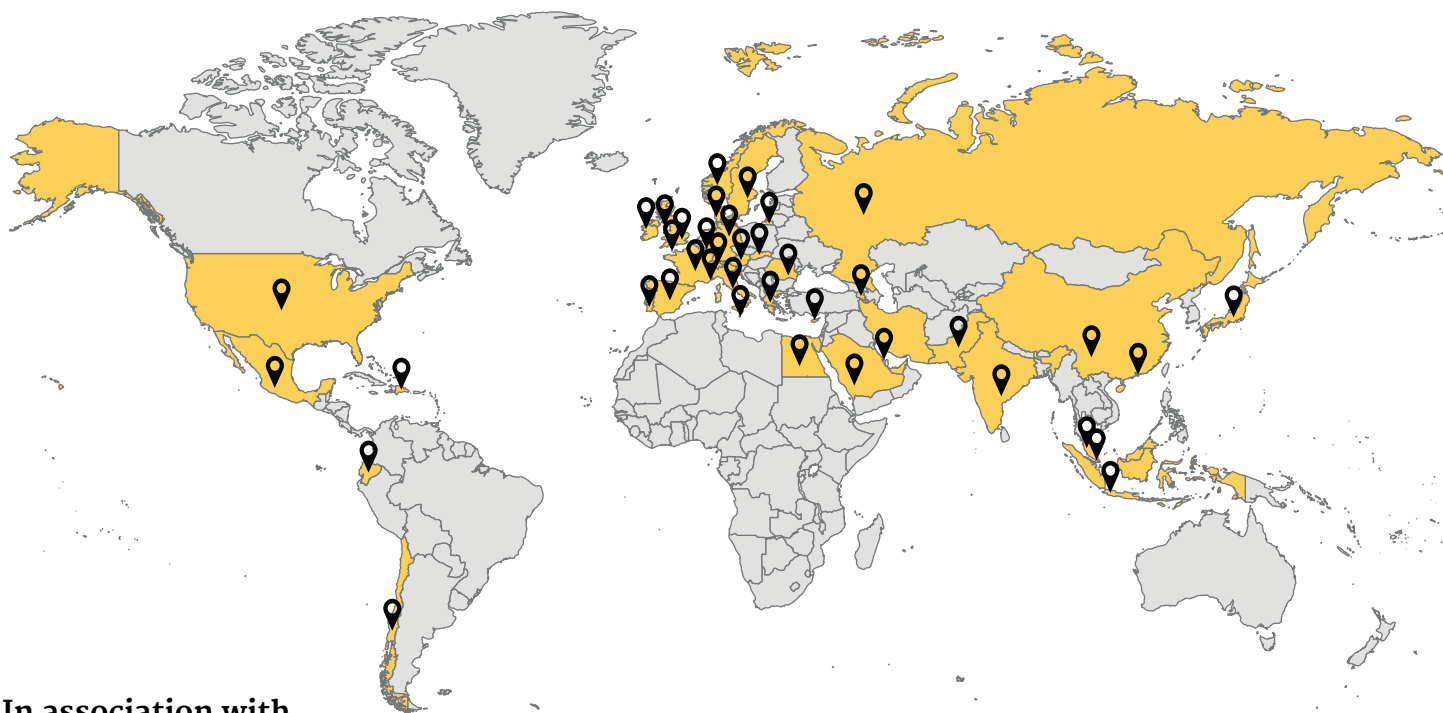
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2019

# The Legal 500: Litigation – 2nd Edition Country Comparative Guide



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The Legal 500's series of Country Comparative Guides give the in-house community insight and opinions on the laws and regulations of unfamiliar jurisdictions in specific practice areas.

The second edition of the Litigation Guide, covering over 35 jurisdictions, provides information about the current issues affecting litigation and dispute resolution in a particular country and addresses topics such as **the methods of resolving disputes, details of the process and the proceedings, the court and their jurisdiction, costs and appeals**, as well as insights and opinions on the litigation process and any upcoming legal changes planned for each respective country.

The Q&A template for each chapter has been kindly provided by Damian Taylor of Slaughter and May.



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