

# NEW SQUARE CHAMBERS

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## Simon Adamyk

Call: 1991



Simon Adamyk was called to the Bar in 1991. He read law at Downing College, Cambridge, where he was awarded the highest mark in the University of Cambridge in each of the three years of his law degree, and also a distinction (a "starred first") in his first year. He then went on to obtain a Master's degree from Harvard Law School in the United States. Since then he has acquired extensive experience of a broad range of chancery and commercial litigation and advisory work, including insolvency, company law, professional negligence, property, civil fraud, landlord and tenant, partnership and a large number of business and commercial disputes. He has acted for the liquidators in aspects of the Maxwell litigation and has also acted for the Treasury Solicitor. He was instructed on behalf of more than one of the former directors of The Equitable Life Assurance Society in the multi-billion pound claim brought by the Society against its former directors.

Simon has also been called to the Bar of the Eastern Caribbean Supreme Court in the territory of the British Virgin Islands, and he has appeared before the High Court of the British Virgin Islands and the Court of Appeal of the Eastern Caribbean. He has also attended the Supreme Court and the Court of Appeal in The Bahamas, the High Court and Appeal Division in the Isle of Man, and has appeared before the Privy Council. He has appeared in high value international commercial arbitrations in Paris and London. Many of his cases involve international issues, and he is used to dealing with questions of jurisdiction and foreign law both within Europe and further afield.

Simon has also recently addressed the Conference of the New York State Bar Association International Law and Practice Section in Stockholm, Sweden on "Multi-Jurisdictional Litigation and Arbitration of Russian Shareholder Disputes".

### **Areas of practice**

Commercial Chancery

Company and Insolvency

Property

Offshore work & other areas

### **Languages**

Good working knowledge of French

### **Education and Qualifications**

Called to the Bar of England and Wales - 1991

Called to the Bar of the Eastern Caribbean Supreme Court in the territory of the British Virgin Islands - 2006

## **Education**

M.A. (Hons.), Downing College, University of Cambridge, England

Obtained the highest First in the University in each of the three years of the Law Tripos, in the first year being awarded a Distinction (a "starred first"), an accolade very rarely awarded. Awarded the Sweet & Maxwell Prize, the George Long Prize for Roman Law in Part 1A, the George Long Prize for Roman Law in Part 1B, the Clive Parry Prize for International Law, the David Gottlieb Prize, and the Slaughter & May Prize. Elected to a Squire Scholarship, a Senior Harris Scholarship and to three College Scholarships. Awarded the College Association Prize, Law Prize (Part 1A), Law Prize (Part 1B), Law Prize (Part II), and three Prizes for Especial Distinction.

LL.M., Harvard Law School, Cambridge, Massachusetts, U.S.A.

Obtained an A+ (a mark rarely awarded) in one of the four courses taken. For another course, the Professor who had taken the class specifically requested permission to place Simon's paper on record in the Harvard Law School Library as its standard was so high. Awarded a Kennedy Scholarship.

Awarded Hardwicke, Mansfield and Denning scholarships by Lincoln's Inn.

## **Directories and Acknowledgments**

Leader at the Bar - Chancery: Commercial - Chambers UK 2011

Leader at the Bar - Commercial Dispute Resolution - Chambers UK 2011

Leader at the Bar - Fraud: Civil - Chambers UK 2011

*"extremely clever"*

Chambers UK 2010 - Commercial Dispute Resolution

*"'The meticulous approach' adopted by Simon Adamyk plays particularly well with solicitors"*

Chambers UK 2010 - Commercial Dispute Resolution

*"has a strong international element to his chancery commercial practice"*

Chambers UK 2010 - Chancery: Commercial

*"noted for his eye for detail"*

Chambers UK 2010 - Fraud: Civil

Leading Junior - Chancery: Commercial - Chambers UK 2010

Leading Junior - Commercial Dispute Resolution - Chambers UK 2010

Leading Junior - Fraud: Civil - Chambers UK 2010

Leader at the Bar - Dispute Resolution: Commercial Chancery (London) - Chambers Global 2010

Leading Junior - Commercial Litigation - Legal 500, 2009 Edition

Leading Junior - Company - Legal 500, 2009 Edition

Leading Junior - Fraud: Civil - Legal 500, 2009 Edition

*"exceptionally careful and fiercely analytical"*

Chambers UK 2009 - Commercial Dispute Resolution

*"A major boost to any legal team"*

Chambers UK 2009 - Commercial Dispute Resolution

*"'Diligent and thorough' Simon Adamyk wins praise"*

Chambers UK 2009 - Chancery: Commercial

Leading Junior - Chancery: Commercial - Chambers UK 2009

Leading Junior - Commercial Dispute Resolution - Chambers UK 2009

Leading Junior - Dispute Resolution: Commercial Chancery (London) - Chambers Global 2009

*"Long-running and closely fought cases... propel... Simon Adamyk into the rankings."*

Legal 500, 2008 Edition - Commercial Litigation

*"tough, thorough, and approachable"*

Legal 500, 2008 Edition - Fraud: Civil

Leading Junior - Commercial Litigation - Legal 500, 2008 Edition

Leading Junior - Fraud: Civil - Legal 500, 2008 Edition

*"seriously bright"*

Chambers UK 2008 and Chambers Global 2008 - Commercial Dispute Resolution

*"covers all the angles"*

Chambers UK 2008 and Chambers Global 2008 - Commercial Dispute Resolution

*"Incredibly diligent, he 'leaves no stone unturned' and is 'of the calibre to become a huge name in the commercial chancery arena'"*

Chambers UK 2008 and Chambers Global 2008 - Chancery: Commercial

*"wonderfully charming"*

Chambers UK 2008 and Chambers Global 2008 - Chancery: Commercial

*"Clients appreciate [his] user-friendly and thorough approach"*

Chambers UK 2008 - Chancery: Commercial

*"Appointment to the Bar of the Eastern Caribbean Supreme Court in the British Virgin Islands further enhances his market value"*

Chambers UK 2008 and Chambers Global 2008 - Chancery: Commercial

Leading Junior - Chancery: Commercial - Chambers UK 2008

Leading Junior - Commercial Litigation - Chambers UK 2008

Leading Junior - Dispute Resolution: Commercial (London) - Chambers Global 2008

Leading Junior - Dispute Resolution: Commercial Chancery (London) - Chambers Global 2008

*"very good junior"*

Legal 500, 2007 Edition

*"strong endorsement from peers and clients as 'extremely intelligent, diligent and a real Chancery junior'"*

Chambers UK 2007 - Chancery: Commercial

Leading Junior - Chancery: Commercial - Chambers UK 2007

*"highly recommended"*

Legal Week, November 2004

## Memberships

Member of the Chancery Bar Association.

Former Treasurer and committee member of the Chancery Bar Association.

Former committee member of the Chancery Division Court Users' Committee.

One of the Chancery Bar Association's representatives in relation to H.M. Court Service's proposed "E-Working Project" to introduce into the Chancery Division a system for the electronic filing and management of cases and the provision of computerised facilities in court.

Former member of the working party formed by the Chancellor to consider and advise on e-mail communications with Judges, Masters and Registrars of the Chancery Division.

Committee member of Clarity, an international association promoting plain legal language.

Panel member of the Bar Pro Bono Unit, and a Chambers representative for the Unit.

## Other

He is highly proficient in a number of areas of I.T.

## Cases

### Commercial Chancery

Name: Bitel LLC v Kyrgyz Mobil Tel Limited

Reference: Isle of Man, Appeal Division, Case No 2DS 2007/24

Comment: Challenge to jurisdiction of High Court of Justice of the Isle of Man -alleged systemic corruption in the executive and judiciary of the Kyrgyz Republic - possibility of obtaining justice in the Kyrgyz Republic - whether Isle of Man was the most appropriate forum for the determination of the issues raised.

Court: Isle of Man, Appeal Division

Name: Bitel LLC v Kyrgyz Mobil Tel Limited

Reference: High Court of Justice of the Isle of Man, Case No. CA 2006/07

Comment: Challenge to jurisdiction of High Court of Justice of the Isle of Man -alleged systemic corruption in the executive and judiciary of the Kyrgyz Republic - possibility of obtaining justice in the Kyrgyz Republic - whether Isle of Man was the most appropriate forum for the determination of the issues raised.

Court: Isle of Man, High Court

Name: FFSB Ltd (formerly known as Fortis Fund Services (Bahamas) Limited) v Seward & Kissel LLP

Reference: [2007] UKPC 16, [2007] All ER (D) 218 (Mar), (2007) 5 LRC 224, (2007) 70 WIR 20

Comment: Privy Council - Bahamas - part of the Oracle Fund litigation - challenge to jurisdiction of Supreme Court of Bahamas - Tortfeasors Act 1995 - applicability to complex allegations of professional negligence - whether good arguable case shown - whether serious issue to be tried - whether full and frank disclosure given.

Court: Privy Council

Name: Stax Claimants v Bank of Nova Scotia Channel Islands Ltd & Others

Reference: [2007] EWHC 143 (Ch), [2006] EWHC 3043 (Ch)

Comment: Multi-million pound claim relating to a complex failed pension scheme - acting for several independent financial advisers - group litigation - the case has been reported even in respect of case management decisions, as the litigation has raised complex issues of the management of group litigation and third party claims.

Court: High Court

Name: Finecroft Ltd and Winfair Ltd v Lamane Trading Corporation

Reference: Appeal No. BVI HAP 2006/0001

Comment: Anti-suit injunction - discretion - international comity - whether Court should grant anti-suit injunction in respect of proceedings elsewhere where little or no real connection with the jurisdiction

Court: Court of Appeal of the Eastern Caribbean

Name: Finecroft Ltd and Winfair Ltd v Lamane Trading Corporation

Reference: Claims Nos. BVI HCV 2005/0264/0265 (Hariprashad-Charles J, 27 April 2006)

Comment: Mandatory injunction - enforcement - jurisdiction of Court to appoint receiver to carry out terms of mandatory injunction - provisions of CPR - nature of receiver

Court: High Court of the British Virgin Islands

Name: FFSB Ltd (formerly known as Fortis Fund Services (Bahamas) Limited) v Seward & Kissel LLP

Comment: Privy Council - Bahamas - part of the Oracle Fund litigation - challenge to jurisdiction of Supreme Court of Bahamas - Tortfeasors Act 1995 - applicability to complex allegations of professional negligence - whether good arguable case shown - whether serious issue to be tried - whether full and frank disclosure given.

Court: Supreme Court of The Bahamas

Name: The Equitable Life Assurance Society v Roger Bowley & Others

Reference: Widely reported in the national and international press 2002-2006

Comment: Instructed on behalf of one or more of the former Directors of The Equitable Life Assurance Society in the multi-billion pound claim brought by the Society against its former Directors for alleged negligence and breach of fiduciary duty. The case attracted huge media interest from 2001 to 2006, and during the course of the six month trial in 2005 received even more intense media coverage. The case settled shortly before judgment was due to be given. This was one of the most contentious and highly-reported cases of the decade, and it has left a lasting legacy in terms of extremely large and complex commercial litigation.

Court: High Court

Name: British Sugar plc v Fratelli Babbini di Lionello Babbini & CSAS

Reference: [2005] 1 Lloyd's Rep 332, [2005] 1 All ER (Comm) 55, 100 Con LR 122, [2004] All ER (D) 219 (Nov), [2004] EWHC 2560 (TCC)

Comment: Conflict of laws - jurisdiction - exclusive jurisdiction clause - application of Community law - requirement for international element to dispute - Council Regulation (EC) 44/2001, art 23

Court: High Court

Name: Infomedia Ltd v Clifford Thames Ltd  
Reference: [2004] All ER (D) 142 (Jul)  
Comment: Contracts - contractual term - covenant in restraint of trade - injunction - application for interim relief.  
Court: High Court

Name: FFSB Ltd (formerly known as Fortis Fund Services (Bahamas) Limited) v Seward & Kissel LLP  
Comment: Privy Council - Bahamas - part of the Oracle Fund litigation - challenge to jurisdiction of Supreme Court of Bahamas - Tortfeasors Act 1995 - applicability to complex allegations of professional negligence - whether good arguable case shown - whether serious issue to be tried - whether full and frank disclosure given.  
Court: Court of Appeal of The Bahamas

Name: Berg v IML London Ltd  
Reference: [2002] 1 WLR 3271, [2002] 4 All ER 87  
Comment: Fair trial - privileged documents - Judge inadvertently seeing without prejudice correspondence after submissions but before judgment - whether Judge should recuse himself  
Court: High Court

## **Company and Insolvency**

Name: Fiorentino Comm Giuseppe Srl v Farnesi and another  
Reference: [2005] EWHC 160 (Ch), [2005] 1 WLR 3718, [2005] 2 All ER 737, [2005] 1 All ER (Comm) 575, [2005] All ER (D) 176 (Feb), [2005] BCC 771, Times Law Reports, 3 March 2005  
Comment: Bill of exchange - cheque - liability of signatory - company directors who signed cheques that omitted the word "Limited" from the name of the company were personally liable for payment whether or not the cheques were presented for payment where the drawer had no reason to believe that the cheque would be paid if presented.  
Court: High Court

Name: The Equitable Life Assurance Society v Roger Bowley & Others  
Reference: Widely reported in the national and international press 2002-2006  
Comment: Instructed on behalf of one or more of the former Directors of The Equitable Life Assurance Society in the multi-billion pound claim brought by the Society against its former Directors for alleged negligence and breach of fiduciary duty. The case attracted huge media interest from 2001 to 2006, and during the course of the six month trial in 2005 received even more intense media coverage. The case settled shortly before judgment was due to be given. This was one of the most contentious and highly-reported cases of the decade, and it has left a lasting legacy in terms of extremely large and complex commercial litigation.  
Court: High Court

Name: PD Packaging Ltd v Demaglass Holdings Ltd, Sub Nom In The Matter of Demaglass Holdings Ltd  
Reference: [2001] 2 BCLC 633, [2001] All ER (D) 382 (Jul)  
Comment: Winding-up petition adjourned because the majority of unsecured creditors and preferred creditors supported an adjournment and there were substantial grounds in support.

Court: High Court

Name: Sullivan v Samuel Montagu and Company Ltd

Reference: [1999] BPIR 316

Comment: Banking and finance - appeal against decision of Registrar - application to set aside a statutory demand of debt payable immediately - whether Registrar entitled to dismiss application and give leave to respondent to present bankruptcy petition - whether statutory demand was served before Appellant had reasonable opportunity to make arrangements for payment - Insolvency Rules 1986, 6.4 and 6.5.

Court: High Court

## Property

Name: Strata Land and Development Ltd v Jones

Reference: Chancery Division (Leeds) (Judge Behrens), 6 August 2004, Lawtel AC0106799

Comment: Developer had property exercised an option to purchase land and was entitled to specific performance - an extension period under the option agreement was to be calculated by reference to the formal grant of planning permission and not the prior local authority resolution for outline conditional consent.

Court: High Court

Name: Long Acre Securities Ltd v Karet

Reference: [2005] 4 All ER 413, [2005] Ch. 61, [2004] EWHC 442 (Ch), [2004] 3 WLR 866, [2004] All ER (D) 66 (Mar), [2004] 2 EGLR 121, [2004] 11 EG 138 (CS), Times Law Reports, 24 March 2004

Comment: Landlord and tenant - leasehold enfranchisement - tenant's right to acquire reversion - the word "building" in the Landlord and Tenant Act 1987 Part 1 meant either a single building or one or more buildings where the occupants of qualifying flats in each of those buildings shared the use of the same appurtenant premises.

Court: High Court

Name: Smith v Harvey

Reference: [1998] EWCA Civ 1660

Comment: Permission to appeal to Court of Appeal out of time.

Court: Court of Appeal

## Recent Work

### Other

- *X Limited v Y Limited*

Simon is representing the Claimant, a European pharmaceutical company, in a multi-million dollar dispute with an Asian pharmaceutical company in relation to the distribution rights for a lucrative pharmaceutical product in the USA, Canada, European Union, South Africa, Australia, New Zealand and Japan. The dispute is proceeding as an international commercial arbitration. Simon appeared for the Claimant at a contested arbitration hearing in Paris.

- Simon was instructed on behalf of the Defendants in a substantial claim for alleged breaches of warranties on the sale of shares worth several millions of pounds in a media company. The claim progressed to the issue of proceedings. The parties then submitted the dispute to mediation and achieved a mutually-satisfactory resolution of their differences.

- Simon was instructed on behalf of the Claimant in a substantial claim for alleged breaches of warranties on the sale of shares worth several hundred thousand pounds in a transport company. The claim progressed to the issue of proceedings. The parties then submitted the dispute to mediation, in which the mediator was Lord Slynn of Hadley. Simon represented the Claimant at the mediation. The parties succeeded in reaching a mutually-satisfactory resolution of their dispute, which involved the payment of a significant sum to the Claimant.
- Simon was instructed by both opposing sides jointly in a substantial claim relating to alleged breaches of warranties on the sale of shares worth several millions of pounds in an international retail company. The opposing parties, both represented by leading City firms, agreed that Simon's Opinion as independent Counsel was to be binding as to the payment or retention of a substantial sum which was being held provisionally in an escrow account. Simon was appointed in preference to a number of well-known commercial silks who were also being considered for the appointment.
- *GML Limited v Carina Nominees Limited* - Claim for breach of confidence in relation to a confidential share valuation report relating to (among others) a high value household name company - purchase of a company's own shares - validity of expert valuations - four different systems of law involved - allegations of unlawful actions, corruption and torture by the authorities of the Russian Federation - trial held partially in private for reasons of confidentiality - settled before judgment.
- *Safe Solutions Accounting Ltd v Kevin Goddard and others* - multi-million pound claim alleging conspiracy to defraud the Revenue and breach of directors' duties - tracing of assets - settled before trial
- Simon has acted as a volunteer barrister assisting a team of students in a local secondary school with its preparations for the Bar National Mock Trial Competition, which is run by the Citizenship Foundation and sponsored by the Bar Council.

## Articles and Publications

| Date          | Title  | Contributors |
|---------------|--|--------------|
| November 2006 | Plain Legal Language in the English Courts<br><i>Clarity Journal - Issue 56</i>        | Simon Adamyk |
| 2004          | Case note on Delaware Mansions Ltd v Westminster CC<br><i>Rights of Way Law Review</i> | Simon Adamyk |