

Jasbir Dhillon QC

YEAR OF CALL: ENGLAND AND WALES: 1996; NEW YORK: 1993 YEAR OF SILK: 2013

"Unrivalled in cross-examination, he can destroy a witness and win a case within 15 minutes of standing up in court."

Chambers & Partners 2019

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Practice Overview

Jasbir is an advocate with over 25 years' experience specialising in complex and high value commercial disputes. After obtaining a 1st class law degree from Oxford University and an LLM from Harvard Law School, Jasbir spent three years at the New York Bar with Cravath, Swaine & Moore. Since 1997 he has been a member of Brick Court Chambers and has been involved in many of the leading English commercial cases. Jasbir is recognised by the legal directories as a leading barrister in Banking and Finance and Commercial Litigation.

Jasbir is regularly instructed to appear as counsel in major international arbitrations under LCIA, ICC, SIAC and CAS rules and ad hoc in London, Paris, Switzerland and Singapore. He has extensive experience of dealing with foreign substantive laws including New York, Indian and Saudi laws. He has appeared in several substantial applications to the English Court in support of international arbitrations. Jasbir has been appointed to act as arbitrator in institutional and ad hoc arbitrations.

Jasbir has extensive experience in a wide variety of areas of commercial law, including banking and finance, conflict of laws, fraud, asset tracing, company law (including shareholders' rights), professional negligence, and public international law. Jasbir is a particularly versatile advocate as his practice extends to many other areas of civil law, including company, insolvency, intellectual property, defamation, regulatory, competition, public and administrative, sports and EU.

Jasbir is a Bencher of the Honourable Society of Gray's Inn and accredited by Gray's Inn as an Advocacy Trainer. Since 2013 Jasbir has been a director of the Bar Mutual Indemnity Fund Ltd and is the Chairman of its Investments Committee. Jasbir was a member of the Standards Committee of the Bar Standards Board between 2006 and 2011.

Jasbir's reported judgments in Silk include:

Perkins Engines Co. Ltd. v. Ghaddar [2018] EWHC 1500 (Comm) (successful claim for interim anti-suit injunction restraining Lebanese proceedings in support of English arbitration proceedings)

Lehman Brothers v National Power Corp. [2018] EWHC 487 (Comm) (successful defence of US\$20 million claim and the leading case on the calculation and determination of the Close-Out Amount in the ISDA Master Agreement, 2002 ed.)

The Software Incubator Ltd. v. Computer Associates Ltd [2018] EWCA Civ 518 (successful appeal in defence of

£6 million claim under Commercial Agents Regulations involving issue whether software constitutes "goods")

Europa Plus SCA SIF v. Anthracite Investments (Ireland) PLC [2016] EWHC 437 (Comm) (successful multi-million Euro claim involving issues of construction of defined terms in agreement terminating total return swaps under Lehman structured note programme)

Caterpillar v Mutual Benefits Assurance Co [2015] 2 Lloyd's Rep 261 (successful US\$5 million claim against a Liberian insurance company under Advance Payment and Performance Bonds)

Enasarco v Lehman Brothers [2015] EWHC 1307 (Ch) (successful US\$60 million claim and the leading case on the calculation and determination of Loss in the ISDA Master Agreement, 1992 ed.)

Boxing Brands v Sports Direct [2015] EWCA Civ 185 (successful claim for stay involving issue whether Court of Appeal has jurisdiction to stay execution of a costs order which is not subject to a pending appeal)

Khouj v Acropolis [2015] EWHC 224 (Comm) (successfully resisting summary judgment on a claim by the administrator of the estate of the former Deputy Foreign Minister of Saudi Arabia for inspection of documents relating to the actions of an alleged agent)

Fern Computer v Intergraph [2015] 1 Lloyd's Rep 1 (successfully setting aside order for service out of the jurisdiction on ground English court did not have jurisdiction to hear claim made under the Commercial Agents Regulations and an agreement governed by Texas law)

Banking and finance

Jasbir has advised and represented UK and global retail banks, investment banks, hedge funds, other financial institutions and the FSA in relation to a wide variety of banking and finance disputes in the High Court, Court of Appeal and arbitral tribunals. He has litigated finance disputes before US federal and state courts during his time at the New York Bar. Jasbir has experience of a broad range of financial instruments and market practices including equity and debt instruments, taking and realising security, financial derivatives (including credit default swaps) governed by ISDA documentation, trading strategies, structured finance products (including securitisation, asset backed securities and CDOs), and Islamic financial products.

Jasbir has extensive experience of banking and financial services regulation. He acted for Lloyds in relation to the Bank Charges investigation and litigation brought by the OFT. He advised Barclays in relation to the FSA's investigation of PPI policies. He advised HM Treasury in relation to the Parliamentary Ombudsman's report on the regulation of Equitable Life.

Jasbir is recognised by the independent directories as a leading barrister in the field of Banking and Finance. He was nominated for Banking & Finance Junior of the Year at the Chambers Bar Awards 2011. He was an assistant editor of *Paget's Law of Banking* and has given talks to City law firms and at major conferences on a wide range of banking issues, including at the 2015 Legal Business Commercial Litigation Summit.

Notable recent cases include:

Lehman Brothers v National Power Corp. [2018] EWHC 487 (Comm) (successful defence of US\$20 million claim and the leading case on the calculation and determination of the Close-Out Amount in the ISDA Master Agreement, 2002 ed.)

Europa Plus SCA SIF v. Anthracite Investments (Ireland) PLC [2016] EWHC 437 (Comm) (successful multi-million Euro claim involving issues of construction of defined terms in agreement terminating total return swaps under Lehman structured note programme)

Caterpillar v Mutual Benefits Assurance [2015] 2 Lloyd's Rep 261 (successful US\$5 million claim against Liberian

insurance company under Advance Payment and Performance Bonds)

Enasarco v Lehman Brothers [2015] EWHC 1307 (Ch) (successful US\$60 million claim and leading case on calculation and determination of Loss under ISDA Master Agreement, 1992 ed)

Enasarco v Lehman Brothers [2014] 2 BCLC 662 (jurisdiction dispute between English and Swiss proceedings concerning \$61 million claim under 1992 ISDA Master Agreement)

Investment Bank v Saudi Co. (2013) (lead counsel on €35 million ICC arbitration concerning compatibility of financial derivatives with Saudi law)

Sir Keith Mills v Coutts (2013) (multi-million pound bank negligence/mis-selling claim)

SNCB v UBS [2012] EWHC 2044 (Comm) (lead counsel on Comm Ct trial of \$9 million dispute relating to a long term structured product)

Enasarco v Lehman Brothers Finance [2011] 2 Lloyd's Rep 538 (meaning of Loss in 1992 ISDA Master Agreement within a €780 million note transaction)

Lehman Brothers Australia Ltd (2011) (cross border insolvency dispute with US Lehman companies related to the \$2 billion Dante note programme)

Perpetual Trustee v BNY Corporate Trustee and Lehman Brothers [2009] 2 BCLC 400 (claim by investors in \$2 billion Dante note programme as to whether English law priority clause could be overridden by Lehman's insolvency)

Deutsche Bank v Sebastian Holdings [2010] CLC 300 (jurisdiction dispute in relation to US\$700 million FX derivative dispute involving ISDA Master Agreement)

Deutsche Bank v Vik [2010] EWHC 551 (Comm) (jurisdiction dispute with respect to multi-million dollar restitution/constructive trust claim by investment bank)

Karafarin Bank v Dara [2010] 1 Lloyd's Rep 236; [2009] 2 Lloyd's Rep 289 (multi-million dollar claim on Iranian cheques; stay sought based upon Iranian proceedings)

Shinhan v Citibank & JP Morgan, (2009) (US\$300 million dispute involving securitised loan notes, threatened acceleration and duties of security trustee)

Citibank v MBIA & QVT Financial LP [2008] 1 BCLC 376 (Eurotunnel debt restructuring dispute; first securitisation & negative pledge to reach CA)

Commercial

Jasbir has wide experience of commercial disputes involving contractual issues (including breach of warranty claims) international fraud, asset tracing, shareholders' rights, economic torts, quantum of damages, conflict of laws, public international law (including state immunity), obtaining interim relief, including freezing injunctions, pre-action and non-party disclosure and Norwich Pharmacal relief, and obtaining post-judgment relief. Jasbir also gives talks to City law firms and at major conferences on commercial litigation, including the C5 Transatlantic Litigation Conference (2014) and the Lawyer Managing Risk and Mitigating Litigation Conference (2015).

Notable recent cases include the following:

Perkins Engines Co. Ltd. v. Ghaddar [2018] EWHC 1500 (Comm) (successful claim for interim anti-suit injunction)

restraining Lebanese proceedings in support of English arbitration proceedings)

The Software Incubator Ltd. v. Computer Associates Ltd [2018] EWCA Civ 518 (successful appeal in defence of £6 million claim under Commercial Agents Regulations involving issue whether software constitutes "goods")

Boxing Brands v Sports Direct [2015] EWCA Civ 185 (jurisdiction of Court of Appeal to stay execution of costs order which is not subject to a pending appeal)

Khouj v Acropolis [2015] EWHC 224 (Comm) (claim by the estate of the former Deputy Foreign Minister of Saudi Arabia for inspection of documents relating to the actions of an alleged agent)

Fern Computer v Intergraph [2015] 1 Lloyd's Rep 1 (jurisdiction of English court to hear claim under Commercial Agents Regulation and agreement governed by Texas law)

Caterpillar (NI) Ltd v John Holt & Co [2014] 1 WLR 2365 (US\$13 million Comm Ct dispute as to whether retention of title clause excludes claim for the price)

Global 5000 Ltd v. Wadhawan [2012] 1 Lloyd's Rep 239 (jurisdiction dispute in relation to multi-million dollar claim for damages under aircraft sale contract)

Olafsson v Gissurarson (No 1) [2007] 2 All ER 88, *(No 2)* [2008] 1 WLR 2016, CA (public international law/conflict of laws/civil procedure)

Cinar Corp v Panju [2007] 1 All ER (Comm) 373, QB (worldwide freezing order in aid of multi-million dollar fraud claim; disclosure in absence of proprietary claim)

Philips v Avena, *The Times*, 11 November 2005 (pre-emptive declaration of recognition of foreign judgment pending appeal)

Company and Insolvency

Jasbir has experience of a wide variety of company and corporate insolvency disputes, including (1) advising on security issues arising in company administration proceedings; (2) advising creditors in relation to the Eurotunnel debt restructuring, including issues under the EU Insolvency Regulation; (3) acting for creditors in relation to proceedings seeking to set-aside fraudulent transactions under section 423 of the Insolvency Act and to set-aside fraudulent Individual Voluntary Arrangements.

Notable cases include:

Lehman Brothers Australia Ltd (2011) (cross border insolvency dispute with US Lehman companies related to the \$2 billion Dante note programme)

In re Club La Bourse [2008] EWHC 1866 (petition for winding up in the public interest of international holiday club scheme)

Projector SA v Brocklesby (2008) (injunction to restrain winding up petition and setting aside statutory demand arising from international company takeover)

In re Anderson Clarke Publications Ltd, (2005) (appointment of provisional liquidator and public interest winding up order in respect of a cold-calling business: see *Daily Mirror*, 7 April 2005: "£1.5m con shelved at last")

Popely v Popely [2004] BPIR 778, CA (setting aside statutory demand based on counterclaim in same

proceedings)

Alipour v Ary [2003] EWHC 530 (insolvency/company/unfair prejudice petition to wind up BVI company)

Secretary of State for Trade and Industry v Baker (No 5) [1999] 1 BCLC 433 (directors' disqualification proceedings arising out of demise of Barings)

Defamation

Jasbir has experience of advising and acting in proceedings for defamation.

Arbitration

Jasbir is regularly instructed by UK and international clients, as well as States, to appear as counsel in major international arbitrations under LCIA, ICC, SIAC and CAS rules and ad hoc in London, Paris, Switzerland and Singapore. He has extensive experience of dealing with foreign substantive laws including New York, Saudi and Indian laws.

Jasbir's international arbitration experience as counsel includes: (1) a SIAC arbitration claim heard in Singapore concerning a minority shareholders' dispute relating to a major Indian hospital governed by Indian law; (2) an ad hoc arbitration claim heard in London concerning an IT contract raising complex issues of quantification of damages on a claim valued at £1.4 billion; (3) an ICC arbitration claim concerning a dispute with respect to an Indian food group arising out of a shareholders' agreement governed by Indian law; (4) a €35 million ICC arbitration claim heard on London brought by a global investment bank involving the issue of the compatibility of financial derivatives with Saudi law; (5) an ad hoc arbitration claim for £120 million heard in London in which he represented the UK Transport Secretary in a dispute concerning a rail franchise agreement; and (6) an ad hoc arbitration claim for £40 million concerning an agreement to provide classified defence technology.

Jasbir has also been appointed to act as arbitrator in institutional and ad hoc arbitrations. Since 2014 Jasbir has been a member of the panel of arbitrators for the KLRCA. Jasbir is a contributor to "SIAC Rules: An Annotation" (Lexis, 2014).

Jasbir has appeared in several substantial applications to the English Court in support of international arbitrations and notable reported judgments include:

Perkins Engines Co. Ltd. v. Ghaddar [2018] EWHC 1500 (Comm) (successful claim for interim anti-suit injunction restraining Lebanese proceedings in support of English arbitration proceedings)

Secretary of State for Transport v. Stagecoach South Western Trains Ltd. [2010] 1 Lloyd's Rep 175 (section 72 of Arbitration Act 1996).

Professional negligence

Jasbir has acted in a wide variety of professional negligence disputes including claims against barristers, solicitors, accountants/auditors, tax advisers, bankers and financial professionals. He has lectured extensively on the limitation of auditors' liability under the Companies Act 2006.

Recent cases include:

Sir Keith Mills v Coutts (2013) (multi-million pound bank negligence/mis-selling claim)

Heritable Trust v Deloitte (2013) (defence of Deloitte against substantial negligence claim arising out of tax advice)

on company share purchase)

Aaxico v Badiani [2007] (defence of accountants against multi-million dollar claim for fraud and negligence)

Collins v Deloitte (2008) (defence of Deloitte against substantial negligence claim arising out of tax advice on sale of business)

Insurance and reinsurance

Jasbir has extensive experience of insurance and reinsurance disputes.

Notable cases include:

AIG Europe (UK) Ltd v CNA Reinsurance Ltd, 2007 (reinsurance claim in respect of Ladbroke Grove rail crash involving scope of claims co-operation and follow the settlement clauses)

Goshawk Ltd v Bank of Scotland [2006] 2 All ER 610 (£150 million claim under legal expenses insurance policies issued under the TAG claims management scheme)

BP plc. v GE Francona [2003] 1 Lloyd's Rep 537 (interpretation of construction all risks open cover facility)

Sports

Jasbir has experience of sports disciplinary proceedings concerning drugs. Jasbir has advised a foreign sports tribunal in relation to a dispute concerning the selection of a national team to enter the 2004 Olympics. He has also advised sports bodies on re-drafting their disciplinary rules.

Notable cases include:

Russian Badminton Federation v World Badminton Federation, 30 January 2007, Court of Arbitration for Sport (acted for World Badminton Federation in defending challenge by former Russian member of federation)

Flaherty v. National Greyhound Racing Club, The Times, 5 October 2005, CA (challenge to sports regulator's decision on drug doping; procedurally fairness/apparent bias)

Acted for football betting trader defending a multi-million pound claim for breach of confidence

Intellectual property

Jasbir has represented clients in a number of intellectual property disputes involving trademarks, copyright, patents and breach of confidence.

Notable cases include:

Trade Mark Licensing Co Ltd v Leofelis; Leofelis v Lonsdale, (€55 million dispute concerning the rights to the Lonsdale trade mark lasting over 6 years; numerous reported judgments of the Ch D and CA involving exhaustion of trade mark rights, termination of trade mark licence and damages for breach of trademark licence)

BSkyB Group Plc v Sky Home Services Ltd [2007] FSR 14 (passing off)

Kalsep Ltd v X-Flow BV, The Times, 3 May 2001, Patent Court (noted in [2002] CLJ 272)

EU/Competition

Jasbir advises and appears for clients in matters involving EU law, including anti-trust/competition and commercial agents. Jasbir has been instructed in many of the leading English cases concerning the Commercial Agents Regulations. Jasbir has experience of litigating ant-trust disputes concerning the following markets: US tobacco, US airlines, European pay tv/films, Mauritian telecoms and the UK beer/pubs.

Notable reported cases include:

The Software Incubator Ltd. v. Computer Associates Ltd [2018] EWCA Civ 518 (successful appeal in defence of £6 million claim under Commercial Agents Regulations involving issue whether software constitutes "goods")

Fern Computer v Intergraph [2015] 1 Lloyd's Rep 1 (jurisdiction of English court to hear claim under Commercial Agents Regulations and agreement governed by Texas law)

Crane v Sky In-Home Service Ltd [2007] 1 CLC 389, [2008] EWCA Civ, 66 (commercial agents' claim concerning installers of Sky set top boxes; leading case on secondary activities)

Cooper v Pure Fishing [2004] 2 Lloyd's Rep 518, CA (Commercial Agents Regulations)

Light v Ty Europe Ltd [2004] 1 Lloyd's Rep 693, CA (Commercial Agents Regulations)

Tigana Ltd v Decoro Ltd [2003] EuLR 189 (Commercial Agents Regulations)

Public Law

Jasbir advises and acts for commercial clients, the Government and other public authorities in relation to judicial review and human rights issues. Jasbir was instructed to act for the Electoral Commission in the first claim for forfeiture of an impermissible donation to a political party.

Notable reported cases include:

R (Electoral Commission) v City of Westminster Magistrates Court [2011] 1 AC 496, Sup Ct (regulation of political donations)

R (JS) v Secretary of State for the Home Department [2011] 1 AC 194, Sup Ct (asylum/war crimes/crimes against humanity)

Crane v Sky In-Home Service Ltd [2007] 1 CLC 389 (validity of Commercial Agents Regulations under European Communities Act 1972)

Flaherty v. National Greyhound Racing Club, The Times, 5 October 2005, CA (sports disciplinary proceedings/procedural fairness)

Secretary of State for Trade and Industry v. Baker (No.2), [1999] 1 WLR 1985, CA, (principle against double jeopardy)

Publications

Paget's Law of Banking, Assistant Editor

SIAC Rules: An Annotation, Contributor

Competition Litigation, UK Practice and Procedure, Contributor

Qualifications

Keble College, Oxford, MA Jurisprudence, 1st Class Honours

Harvard Law School, LLM

Queen's Counsel, 2013

Called to English Bar, 1996

Admitted to US Supreme Court Bar, 1998

Admitted to New York State Bar, 1993

Admitted to New York Federal Bar, 1993

Directory Quotes

- "Unrivalled in cross-examination, he can destroy a witness and win a case within 15 minutes of standing up in court. Highly impressive in ISDA disputes, he has a great gift for simplifying disputes for the benefit of the court." "He is excellent on the detail and will never let a point slip away." (Chambers & Partners 2019)
- "Jasbir is a very effective advocate, particularly in relation to complex areas of law." "Impresses with his attention to detail, his responsiveness and his ability to spot commercial solutions." (Chambers & Partners 2019)
- "One of the most experienced advocates in ISDA Master Agreements in the UK." (Legal 500 2018-19)
- "Jasbir is a truly impressive QC who wins clients' trust and confidence very quickly. He gets straight to the point and never sits on the fence." (Chambers & Partners 2018)
- "He inspires tremendous confidence in clients with his direct, forceful and decisive style." "He's a very measured and thoughtful lawyer who considers all the angles." (Chambers & Partners 2018)
- "Meticulous; he will not leave a stone unturned in pursuing an argument." (Legal 500 2017)
- "Commercially minded and user-friendly." "He thinks around a subject very well." (Chambers & Partners 2017)
- "He is very good on the technical details of banking disputes." "First-rate commercial counsel who is impressive in the more complex disputes." (Chambers & Partners 2017)
- "He is always thoroughly prepared. He provides high-quality written submissions and is good on his feet." (Chambers & Partners 2016)
- "Very clear thinker. He is able to distil complex law into client-friendly language and works well as part of a team." (Chambers & Partners 2016)
- "Versatile and experienced silk with a varied commercial practice. He regularly handles key banking and finance cases, and has a strong international practice." (Chambers & Partners 2016)
- "He is a rising star in banking work." (Chambers & Partners 2016)
- "Continues to be a go-to name for cross-border banking and finance litigation due to his previous experience as an advocate at the New York Bar. Peers praise him for his skills in complex derivatives matters." (Chambers & Partners 2016)
- "A deeply experienced silk and former advocate at the New York Bar who was once with a top-quality Wall Street firm. He is highly regarded, particularly for his expertise in cases concerning complex financial products and derivatives." (Chambers & Partners 2015)
- "He's a safe pair of hands, who is commercial in his thinking and very friendly." "He's really confident and well-versed in ISDA documentation." (Chambers & Partners 2015)
- "A silk with a strong reputation in the commercial market, particularly for complex banking and finance disputes." (Chambers & Partners 2015)

- "He is very good with the client, and will do all he can to work with the material he is given." "Impressive in the more complex disputes, particularly banking and company law matters." (Chambers & Partners 2015)
- "A well-regarded new silk with significant experience of handling a broad range of complex commercial matters." (Chambers & Partners 2014)
- "Sharp and excellent, on derivatives and finance issues in particular." (Chambers & Partners 2014)
- "A new silk in 2013, Dhillon has been receiving strong reviews for his commercial dispute resolution practice for some time." (Chambers & Partners 2014)
- "He is fiercely bright and really a very impressive guy." "An intelligent, sound lawyer who is good on detail and the law." (Chambers & Partners 2014)
- "Jasbir Dhillon QC 'prepares meticulously, and challenges both solicitors and clients in a charming but effective manner. He is an impressive advocate before arbitral tribunals, adapting his style where necessary'." (Legal 500 2013)
- "New silk Jasbir Dhillon QC 'leaves no stone unturned in his preparation', and is 'particularly excellent on derivatives and finance issues'." (Legal 500 2013)
- "The 'excellent' Jasbir Dhillon QC also took silk in 2013." (Legal 500 2013)
- "Jasbir Dhillon is a "hugely diligent barrister," whose services are frequently called upon for complicated banking transaction litigations. As an advocate he is "measured in his delivery," and "delivers on time and produces a great work product." " (Chambers & Partners 2013)
- "'adds tremendous value' and 'quickly grasps the intricacies of complex documentation'." (Legal 500 2012)
- "Possessed of "considerable intellect," Jasbir Dhillon is "an extremely commercial and gifted advocate." He maintains a broad practice acting both for and against investment banks on disputes arising from the financial crisis." (Chambers UK 2012)
- "Jasbir Dhillon is 'tenacious and industrious'." (Legal 500 2011)

Languages

Punjabi (fluent), Hindi, Urdu