

Stephen Midwinter QC

YEAR OF CALL: 2002 YEAR OF SILK: 2017

"He's excellent: responsive, down-to-earth and makes himself available." "He is very precise when drafting and articulating points for us, and is a real pleasure to work with."

Chambers & Partners 2018

Clerk's Email: TonysClerkingTeam@brickcourt.co.uk



Practice Overview

Stephen Midwinter QC advises on and appears in a broad range of commercial disputes, in litigation and arbitration. He has appeared in commercial cases in the Supreme Court, the House of Lords, the Privy Council, the Court of Appeal, the Commercial Court, the Chancery Division and the European Court of Human Rights. He has been recommended as a leading silk by the directories in eight fields: commercial dispute resolution, insurance and reinsurance, banking, international arbitration, energy and natural resources, civil fraud, offshore and professional negligence.

A significant proportion of Stephen's work takes place in arbitration and he has appeared in and advised on arbitrations under the ICC, LCIA, ARIAS, UNCITRAL, ICSID and Stockholm Chamber of Commerce rules, as well as ad hoc arbitrations pursuant to the Arbitration Act 1996 and under the Bermuda Form. Recent instructions include a \$150million dispute in the oil sector and a US\$25 million LCIA arbitration concerning offshore drilling rigs. Stephen is also experienced in proceedings dealing with the enforcement of arbitral awards in the domestic courts.

Stephen also sits as an arbitrator in arbitrations for the LCIA and ICC.

Stephen is a member of the bar of the British Virgin Islands where he regularly appears in the Commercial Court and Court of Appeal. Recent instructions include jurisdiction disputes, freezing order applications, international fraud claims and insolvency disputes.

Stephen has written several articles on commercial law subjects, and writes and lectures on banking, insurance and European law and on commercial conflict of laws topics including the Brussels Regulation Recast and the Rome I and II Regulations.

Commercial

Stephen has advised on and appeared in commercial disputes covering the full range of Commercial Court work and beyond. Recent instructions include a US\$500 million civil fraud claim, a US\$1bn dispute concerning Ukrainian industrial assets, a €50m oil and gas partners' dispute and a £25m breach of directors' duty claim.

Important Cases

- UBS AG v Fairfield Sentry Ltd [2019] UKPC 20
- Keymed Ltd v Hillman [2019] EWHC 485 (Ch)
- Bostani v Pieper [2019] EWHC 547 (Comm)

- Single Buoy Moorings Inc v Aspen Insurance UK Ltd [2018] EWHC 1763 (Comm)
- Nori Holding Ltd v PJSC Otkritie Bank [2018] EWHC 1343 (Comm)
- Triple 7 Ltd v Azman Air Services Ltd [2018] EWHC 1348 (Comm)
- Taylor v Van Dutch Marine Holding Ltd [2017] EWHC 636 (Ch)
- UBS AG v Kommunale Wasserwerke Leipzig [2017] EWCA Civ 1567
- Goldman Sachs v Novo Banco SA [2016] EWCA Civ 1092
- Hallman Holdings v Webster [2016] UKPC 3
- Anzen Ltd v Hermes One Ltd [2016] UKPC 1
- Blue Tropic v Chkhartishvili [2015] EWHC 3640 (Ch)
- Banque Cantonale de Genève v Polevent [2015] EWHC 1968 (Comm)
- Young v Anglo-American South Africa Ltd [2014] EWCA Civ 1130
- Tokio Marine Europe v Novae Corporate Underwriting [2014] EWHC 2105
- Fairfield Sentry v Migani [2014] UKPC 9
- Edmond de Rothschild v Exillon Energy [2014] EWHC 2165 (Comm)
- Telenor East Holding v Altimo Holdings [2011] EWHC 85 (Comm)
- Alfa Petroleum v BP International Ltd (1 Feb 2011, Commercial Ct)
- Lehman Brothers Special Financing v Belmont (2011, UKSC)
- Satinland Finance v BNP Paribas [2010] EWHC 3062 (Ch)
- Yukos CIS Investments v Yukos Hydrocarbons BVIHC (Comm) No.85 of 2010
- National Transport Co-Operative Society v AG Jamaica [2009] UKPC 48
- Markel International Insurance Co v Higgins [2009] EWCA Civ 790
- Lexington Insurance v AGF Insurance [2009] UKHL 40
- Cavell USA v Seaton Insurance [2009] EWCA Civ 1363
- Equitas v Horace Holman [2008] EWHC 2287 (Comm)
- Yugraneft v Abramovich [2008] EWHC 2613 (Comm)
- Korea National Insurance v Allianz [2007] EWCA Civ 1066
- Markel International Insurance v Surety Guarantee Company [2009] Lloyd's Rep IR 77
- Wasa and AGF v Lexington Insurance [2007] EWHC 896 (Comm)
- EWS v E.ON [2007] EWHC 599 (Comm)
- Sibir Energy v Sibneft (2006) BVI HC 2005/174
- Transworld v Bluzwed (2005) BVI HCV 2003/179

Insurance and reinsurance

Stephen's practice covers the full range of insurance and reinsurance disputes. Recent instructions range from a US\$1.2 billion claim in respect of damage to a North Sea oil rig to a £1m claim under a professional indemnity insurance, with claims under policies covering hurricane damage, business interruption following flood, malicious hacking and patent infringement in between. He also regularly appears in insurance and reinsurance arbitrations under LCIA, ICC, UNCITRAL, ARIAS and Bermuda rules. Recent arbitrations include a \$70m war risks claim, a \$50m construction DSU dispute, a \$50m Cat XL dispute in Bermuda, a \$1m aviation coverage dispute and a £10m PA reinsurance coverage dispute.

Banking and finance

Stephen's banking practice continues to include disputes arising out of the global financial crisis and the Madoff fraud as well as ordinary banking transaction disputes related to syndicated lending, derivative trading, mistaken payments and restitutionary claims. Stephen has advised in numerous cases involving ISDA and similar agreements including market standard form forward freight agreements and commodities trading agreements.

Arbitration

As well as appearing in commercial and insurance and reinsurance disputes that happen to be taking place in arbitration, Stephen regularly advises on technical and procedural aspects of arbitration law. Recent cases include a \$150million dispute in the oil sector, an LCIA arbitration concerning damage to offshore drilling rigs, a dispute as to the applicability of an arbitration clause to a reinsurance dispute, and a claim to set aside a €70m arbitration award on the grounds of fraud. Stephen is also experienced in proceedings dealing with the enforcement of arbitral awards in the domestic courts, and sits as an LCIA and ICC arbitrator.

Stephen also acts and advises on international treaty arbitrations. Recent instructions include ICSID arbitrations against Ukraine, Uzbekistan and the UK involving alleged confiscation of investments.

Professional negligence

Stephen has appeared and advised in numerous professional negligence claims in the Chancery Division and Commercial Court involving allegations of negligence by insurance brokers, solicitors, accountants, auditors and bankers.

EU/Competition

A former teacher of European law, Stephen has advised and acted in a number of European and human rights law disputes including *European Commission v Korea National Insurance Corporation* (concerning the EU's sanctions on North Korea), *Northern Foods v DEFRA* (the Melton Mowbray pork pies case) and *Yukos v Russian Federation*, a \$98bn claim in the ECHR.

Qualifications & Further Information

Qualifications

BA (Hons) Law (2000) (First Class), LLM Law (Commercial) (2001) (First Class), Bar Vocational Course (2002) (Outstanding)

Career

- Queen's Counsel, 2017 –
- Barrister (Middle Temple), July 2002 -
- Sept 2001 - July 2002: Lecturer and examiner in contract and restitution, University of Cambridge; Supervisor in equity, Fitzwilliam and King's Colleges
- Aug 2000- July 2001: Research assistant to Richard Hooley, working chiefly on Modern Banking Law 3rd Ed and Encyclopedia of Banking Law

Further Information

- 'Insurance Junior of the Year' at the Chambers Bar Awards 2011
- Nominated in 2016 by Chambers & Partners as Insurance Law Junior of the Year.
- Selected as one of Legal Week's 'Stars at the Bar' 2010.
- Languages:
French (A-level standard), Italian (conversational), German (GCSE standard)
- Called to the BVI Bar (2005)

Publications

- Competition Litigation (2010) (contributor)
- Butterworths' Banking Law Guide (2006) (contributor),

- The Aggregation of Claims Arising out of One Event (2007) Insurance Law Monthly Bulletin (July),
- After Etridge: The Endgame for Banks and Non-Commercial Sureties? (2002) Cambridge Restitution Online Resource
- Subrogation Finds some Well-Settled Principles [2003] L.M.C.L.Q.
- Causation, Loss and Double Recovery [2003] C.L.J. 23
- The Great Peace and Precedent (2003) 119 L.Q.R. 180,
- Non-disclosure and Material Rumours [2003] L.M.C.L.Q.
- Review of Anson's Law of Contract, 28th Edition [2003], L.M.C.L.Q.
- Cross Border Share Voting Practices ICGN Review (2002)

Directory Quotes

Chambers & Partners

Insurance

- "Assiduous, bright and motivated. He has a very commercial eye for how to win difficult cases." (2019)
- Well-regarded barrister who has recently taken silk and is known for being "extraordinarily quick and decisive." His practice has a strong international element to it, and many of his cases originate abroad. He is particularly strong in the energy and banking spheres, and is experienced in matters involving allegations of fraud. "A class act, who is hard-working, modest, measured and very, very bright." "He is very user-friendly and has an incredible capacity to distil very complex points into very simple language." (2018)
- "A go-to junior with brilliant analytical capacity." "Hugely intelligent and able to cut straight to the key aspects of a matter. He has excellent turnaround times and is able to provide advice which hits the perfect level of detail and formality every time." (2017)
- "He has an extraordinarily rapid mind, and is a very good advocate with remarkable speed and grasp of the issues." (2016)
- "Extremely good and very bright. He is efficient, gets to the point and takes a balanced view of how to apply the law in a commercial setting." (2015)
- "Engages in a vast range of insurance matters, including Bermuda Form arbitrations and major reinsurance cases. He is highly respected by peers for his capabilities." (2014)
- "One of the best. He's headed for great things." "A go-to junior, with brilliant analytical capabilities." (2014)
- "Stephen Midwinter is a "go-to junior with a brilliant analytical capacity." He recently acted in the case of Syndicate 990 v Reliance." (2013)
- "Stephen Midwinter was described as "one of the best juniors ever discovered" by one solicitor. Widely admired for his "spot-on insights, exemplary written work and excellent oral advocacy," he is seen as being "highly responsive and particularly effective in the way he deals with clients." Of late, he has been involved in a range of highly confidential, high-value arbitrations." (2012)
- "Stephen Midwinter is regarded as a "rising star" with "a brain the size of a planet." Commentators appreciate "the energy with which he attacks cases," as well as his analytical skills. His major work highlights include WASA and AGF v Lexington and Cavell v Seaton Insurance" (2011)
- "He takes most of the laurels here along with Stephen Midwinter, "one of the brightest prospects at the Commercial Bar," who has a dazzling future ahead of him. He has been particularly active in reinsurance matters, having played a key role in the Wasa v Lexington case." (2010)

Commercial Dispute Resolution

- "Calm and unflappable, he's softly spoken but has great gravitas." "Stephen Midwinter is extremely efficient and decisive." (2019)
- "He's excellent: responsive, down-to-earth and makes himself available." "He is very precise when drafting and articulating points for us, and is a real pleasure to work with." (2018)
- "He's very cerebral and very commercial. You just know that he's going to turn over every stone." "Extremely impressive and extremely bright." (2017)

- "He is very bright. His drafting and skeleton pleadings are excellent, and he's one of my favourite senior juniors." "A fantastically good technical barrister who is a very good advocate." (2016)
- "Exceptionally bright, efficient and also a very good advocate. He is a first-choice junior counsel, particularly on complex civil fraud matters." "A very, very able advocate, he really did wipe the floor with the opposition." (2015)
- "A first-class junior, who is calm and clear thinking in his advice. Extremely impressive." "A supremely confident and effective advocate, punching well above his call." (2014)
- "Stephen Midwinter also wins praise, with sources identifying him as a "highly intelligent, unflappable" junior who thrives on high-pressure legal conflicts. He is "able to explain complex legal points in a readily understandable way and knows how to persuade the court that he's on the right side of the argument." (2013)
- "The career of Stephen Midwinter continues in the ascendant. Solicitors favour him as an "efficient and proactive" lawyer who is "a pleasure to work with." " (2012)
- "Stephen Midwinter is another up-and-coming member of the set. He has been involved in cases such as Moore Stephens v Stone & Rolls and Perpetual v Bank of New York" (2011)

Energy & Natural Resources

- "He's very thorough and focuses on the good points while dropping the rubbish points." "Impresses with his knowledge, responsiveness and guidance." (2019)
- "He's got a really unusual ability to make complicated things really straightforward." "A man with a formidable mind." (2018)
- "He's one of the quickest juniors around. He has tremendous insurance knowledge and understands the energy business as well. He's an absolute pleasure to work with and his sheer speed of delivery is unsurpassed." (2017)
- "He carries a level of authority and performance that you would be happy with from a junior silk." (2016)
- "He is extremely impressive, and a bit like a thinking machine or a computer. He is an extremely logical and intellectually rigorous character who is destined to go far." (2015)
- "I'm very impressed with his thoroughness and his lateral thinking." "He is a very smart guy who expresses himself very persuasively on a page, and proves realistic about the strengths and weaknesses of a case." (2014)
- "Stablemate Stephen Midwinter is highly regarded for his practice in commercial disputes. Sources say he is "very bright and extremely hard-working." (2013)
- "Stephen Midwinter is "frighteningly bright, confident in his advice and a man of very good judgement." He was recently involved in Sierra Rutile v Reliance Insurance, a case concerning a USD40 million sunken dredger insurance claim." (2012)

International Arbitration: General Commercial and Insurance

- "Impressive knowledge, responsiveness and guidance." (2019)
- "Very precise in his drafting and at articulating points for us. A real pleasure to work with." (2018)
- "Exceptionally strong in both litigation and arbitration." (2017)
- "He was fantastic. He was very, very mature and is clearly used to taking decisions by himself. He is able to identify the real points in an issue and he can draft documents in a convincing way." "He can take on a huge volume of material in a short amount of time and comes back with clear and concise arguments." (2016)
- "He's very flexible, very willing and takes an enormous amount of time and trouble in his preparation. One of the stars of the future." (2015)
- "Impressively experienced junior whose handling of a wide range of commercial arbitrations and enforcement matters sees him singled out as a future star silk." (2014)
- "His advice and pleadings are clear, commercial and thorough." "He certainly has the experience needed for complex cases." (2014)

- "Stephen Midwinter is a "go-to junior" who is considered to be "one of the brightest stars at the Commercial Bar at the moment." He offers particular expertise in insurance arbitration, and is also called to the British Virgin Islands Bar." (2013)

Fraud: Civil

- "His written arguments are a joy to read and his advocacy is fluent, patient and probing." "A real intellect." (2019)
- "Extremely efficient and decisive." "Very hard-working and very proactive." (2018)
- "He's excellent and has a very good manner about him. He picks really good points and really hammers home on them." (2017)
- "No-nonsense and unflappable. He deals with difficult points with confidence." (2016)
- "He's top-drawer, no doubt. He gives silk-quality advice even though he's a junior." "He has great turnaround times and is user-friendly." (2015)
- "Praised for his incisive advocacy. He is well placed to advise on civil fraud issues in the financial sector." (2014)
- "Quick, incisive and efficient." "He has excellent judgement and a beautiful writing style." (2014)
- "Stephen Midwinter is a lawyer with an international practice who is much in demand. He has been handling work both on the Madoff-related cases and for high net worth individuals in the ex-Soviet bloc. He was described by interviewees as "a genuinely brilliant barrister who is loved by solicitors." " (2013)

Banking & Finance

- "Incredibly bright and able to turn his mind to virtually any area of law. He displays excellent judgement, he absorbs new matters at great speed and he's unflappable. He is great value for money." (2019)
- "He is exceptionally bright, efficient and a very good advocate." (2018)
- "He has a high speed of delivery without compromising on quality. He just produces excellent pieces of work in a very short space of time. He's incredibly good value to use as a result." "Midwinter is absolute class as a senior junior. You do not want him on the other side. He is very lean, very strong and very direct, very effective." (2017)
- "Extremely efficient and robust." " He's super-clever and very quick, which you need to handle the volume of paperwork in fast-moving litigation." (2016)
- "He's exceptionally bright, efficient and a very good advocate. A first-class junior counsel, particularly for complex, civil fraud matters." "He is clever, incisive and gets to the point in a very concise way." (2015)
- "He works across a range of practice areas and impresses peers with his practical approach and excellent written work. He has notable experience in insurance and professional negligence claims." (2014)
- "A really good junior. He's very swift, deals with clients well, sees the points and sets them out succinctly and practically." "He produces very lean, focused and strategically astute pleadings, quickly boils down complex issues, and is clear and compelling on his feet." (2014)

Chambers Global

- Ranked in Arbitration (International), Dispute Resolution and Energy and Natural Resources in Chambers Global 2016.

Legal 500

Commercial Litigation

- "A very highly rated junior commercial silk who is clearly going places." (2018-19)
- "A very strong, up-and-coming silk." (2017)
- "One of the outstanding senior juniors at the commercial Bar." (2016)
- "He is decisive and concise, producing clear and commercially aware guidance." (2015)
- "Exceptionally bright, efficient and also a very good advocate." (2014)

- 'first rate' (2008)

Insurance/Reinsurance

- "Should be designated an AONB (Area of Outstanding Natural Brains), which he combines with pithy, practical and commercial advice." (2018-19)
- "A forceful and indomitable advocate, whose star continues to rise." (2017)
- "A top-notch advocate." (2016)
- "A top-class insurance lawyer who is extremely approachable." (2015)
- "Excellent." (2014)
- "the 'very bright' Stephen Midwinter" (2013)
- "'All-round top-notch junior' Stephen Midwinter's advice is 'punchy and practical'" (2012)
- "Calver led Stephen Midwinter, praised for his drafting of pleadings." (2009)
- 'thorough' (2008)

Fraud: Civil

- "Supremely smart, erudite and clear in his views, he is also economical and insightful in his drafting." (2018-19)
- "Exceptionally bright, efficient and also a very good advocate." (2017)
- "He commands a high level of confidence and is a great addition to any team." (2016)
- "A top senior junior." (2015)
- "Exceptionally clever." (2014)
- "The 'commercially aware' Stephen Midwinter" (2013)
- "'Powerful and persuasive advocate' Stephen Midwinter acted in the \$80m Naftrans v Bonde Nielsen case" (2011)

Banking & Finance

- "Unfailingly courteous and very helpful, a star in the making." (2018-19)
- "A first-choice new silk, particularly on complex banking matters." (2017)
- "He is extremely bright and able, and works at incredible speed." (2016)
- "He has a brilliant mind and is a great advocate destined for silk." (2015)
- "A star of the future, who is thorough, persuasive, confident and reliable." (2014)
- "Stephen Midwinter is 'a tremendous junior', and is praised for his 'very lean, focused, and strategically astute pleadings'." (2013)

Energy

- "Fantastic; very user friendly and a strong up-and-comer." (2018-19)
- "A pleasure to work with." (2017)
- "He does not sit on the fence." (2016)
- "A decisive, commercially aware and refreshingly concise junior." (2015)
- "Measured in his delivery." (2014)
- "Fellow junior Stephen Midwinter is also recommended" (2013)

International Arbitration: Counsel

- "A fantastic young silk; very user friendly." (2018-19)
- "High-level intellect combined with pithy, practical and decisive advice." (2017)
- "A truly excellent junior – first-class legal knowledge and analysis, and good on his feet too." (2016)
- "A go-to junior who is straightforward and cerebral." (2015)

Professional Negligence

- "A strong advocate." (2018-19)
- "Thorough and able." (2017)
- "Exceptionally bright." (2016)
- "Highly skilled." (2015)

Aviation

- "Fantastic young silk; he has great intellect." (2018-19)

Offshore

- "A new London silk also called to the BVI Bar." (2018-19)

Who's Who Legal

Banking & Finance

- Stephen Midwinter is "excellent" having been involved in some of the leading cases arising out of the global financial crisis. He is known in the industry as someone who "works phenomenally hard". (2017)

Energy & Natural Resources

- Stephen Midwinter QC is a well-regarded figure among fellow advocates who commend his excellent work handling large energy disputes in the domestic courts. (2019)
- Stephen Midwinter QC is "highly rated" by peers, who commend his impressive advocacy in energy disputes. (2018)
- "Stephen Midwinter QC is frequently called on to handle high-value energy litigation. A source is particularly effusive: "Stephen is a fantastic senior junior who can churn out wonderful work at the drop of a hat". (2017)

Insurance & Reinsurance

- Stephen Midwinter QC is "a very effective advocate" who is well versed in handling insurance-related disputes in both litigation and arbitration proceedings. (2019)
- Stephen Midwinter QC is an "authoritative" and "very impressive" trial lawyer, highly sought after by clients who commend his "cutting-edge advice". (2018)
- "Before recently taking silk, Stephen Midwinter QC was considered "a sensible choice for the best insurance barrister at the junior Bar". He has acted both led and unled in a wide range of big-ticket insurance and reinsurance disputes." (2017)