

## Kyle Lawson

YEAR OF CALL: 2012

*"A star of the future who performs well above the level of his year of call"*

Chambers & Partners 2021

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## Practice Overview

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Kyle Lawson's practice covers all aspects of commercial litigation and international arbitration.

Kyle is identified as a leading junior by Chambers & Partners UK in the fields of Commercial Dispute Resolution and Banking and Finance and by Legal 500 for Professional Negligence. He has been described in the legal directories as:

*"A star of the future who performs well above the level of his year of call".*

*"fantastic, responsive and clearly very bright – a junior to watch".*

*"Excellent with clients and very quick – that means he has a bright future".*

*"super smart and very easy to interact with".*

*"impressive, insightful and really responsive".*

*"He gets to the bottom of issues so quickly, his work is of a very high quality, and he's just a really pleasant person to work with".*

Kyle has extensive experience of acting in high-profile, high-value, heavy-weight commercial disputes, including cases featured in *The Lawyer's* "Top 20 Cases" of 2016, 2017 and 2019. His previous cases include (amongst other things) the first shareholder group action ever to go to trial in England & Wales

and the first civil trial to arise out of the “LIBOR-fixing scandal”.

Examples of notable recent instructions include:

- **The Lloyds/HBOS Group Litigation** – acting for Lloyds and five of its former directors in their successful defence of group litigation brought by about 6000 shareholders arising out of Lloyds’ acquisition of HBOS. The claim was dismissed following a 5 month trial.
- **Fundo Soberano de Angola v dos Santos & Ors** – acting for the Angolan sovereign wealth fund in multi-jurisdictional civil fraud proceedings against the fund’s former financial adviser and investment manager relating to US\$3bn of misappropriated assets.
- **ENRC v Dechert LLP & the SFO** -- acting for Dechert in proceedings arising out of an investigation into alleged fraud, bribery and corruption by ENRC, and a subsequent criminal investigation by the SFO.
- **PT Satria Tirtatama Energindo v East Asia Company Ltd** – a Privy Council appeal relating to the contested sale of a multi-million-dollar geothermal energy project in Bali.
- **Leeds City Council & Ors v Barclays Plc** – acting for several local authorities in claims relating to the sale of so-called ‘lender-option, borrower-option’ (“LOBO”) loans.
- **Harbour Fund III L.P. v Kazakhstan Kagazy Plc & Ors** – a substantial litigation funding dispute arising out of a £300 million civil fraud claim.
- **Caledonian Maritime Assets Ltd v HCC International Insurance Co Plc** – claim for rectification of a settlement agreement arising out of a dispute under refund guarantees issued in connection with a £97 million shipbuilding contract.
- **VIH Hotel Management Ltd v Assas Opco Ltd & Ors** – a high-value dispute before the DIFC Courts relating to the operation and management of a luxury hotel on the Palm Jumeirah, Dubai.
- **The Libyan Investment Authority** – a dispute between parties who each claimed to be entitled to exercise the functions of the LIA following the outbreak of civil war in Libya.

A significant part of Kyle’s commercial disputes work also takes place in international arbitration. Kyle has acted in numerous arbitrations under a wide variety of institutional rules (including LCIA, ICC, DIFC, UNCITRAL and the Swiss Rules of International Arbitration), as well as in ad hoc proceedings. In addition, he is frequently instructed to act in court proceedings in support of arbitrations (whether seated in England or elsewhere), including applications for interim relief under section 44 of the 1996 Act (e.g. injunctive relief); seeking or resisting the enforcement of foreign or domestic awards under s.66 or the New York Convention; and challenging or defending arbitration awards under sections 67, 68 and 69.

Examples of Kyle’s current and recent arbitration work include:

- Acting for a sovereign wealth fund in multi-billion dollar, multi-party, multi-jurisdictional arbitration proceedings arising out of the so-called “Paradise Papers”.

- Proceedings relating to the enforcement of an ICC award against a Middle Eastern State under s.66 of the 1996 Act and resisting attempts to challenge the award under s.69.
- An expedited LCIA arbitration relating to the sale of interests in a major international airport (and involving applications for interim relief to the English courts under s.44).
- A substantial ICC arbitration arising out of the sale of a network of telecommunication companies in the Caribbean.
- Acting for a national flag carrier in an ICC arbitration relating to the operation of a charter airline project in the Middle East.
- Kyle has also acted in several arbitrations relating to the construction and/or operation of overseas energy projects, including projects in the Caribbean, Africa and Pakistan.

Much of Kyle's work (whether before domestic courts or in arbitration) has an international dimension. He is regularly instructed to act in cases involving foreign parties, foreign courts and tribunals and foreign governing laws. He has, for example, acted in cases subject to the laws of New York, Kazakhstan, Barbados, Mauritius, Israel, Dubai, the DIFC and the UAE. In addition, many of Kyle's cases involve issues of both public and private international law (including, in particular, issues of jurisdiction, the conflict of laws, and sovereign immunity).

Prior to coming to the Bar, Kyle read law at Pembroke College, Cambridge, where he obtained a Double First and was ranked first in his year in 2009 and seventh in 2010. He graduated from the Harvard Law School in 2011, where he specialised in private law, public international law and international arbitration.

Kyle is a member of the Sports Resolutions Pro Bono Panel, through which he provides pro bono legal advice and representation to athletes and players in relation to a variety of contractual disputes and disciplinary matters.

## Commercial

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**Caledonian Maritime Assets Ltd v HCC International Insurance Co Plc** – claim for rectification of a settlement agreement arising out of a dispute under refund guarantees issued in connection with a £97 million shipbuilding contract.

**PT Satria Tirtatama Energindo v East Asia Company Ltd** – an appeal to the Privy Council from the Court of Appeal for Bermuda arising out of the contested sale of a multi-million dollar geothermal energy project in Bedugul, Bali (with Mark Howard QC).

**Harbour Fund III L.P. v Kazakhstan Kagazy Plc & Ors** – acting (with Tom Adam QC) in a substantial litigation funding dispute arising out of a £300 million civil fraud claim.

**Fundo Soberano de Angola v dos Santos & Ors** – acting for the Angolan sovereign wealth fund in commercial court proceedings arising out of a civil fraud claim against the fund's former investment

manager and adviser (with Simon Salzedo QC and Tony Singla).

**Slater & Gordon (UK) 1 Ltd v Watchstone Group Plc** – acting (with Simon Salzedo QC and Laura Newton) for Slater & Gordon in its £600 million claim against Watchstone for fraud and breach of warranty (one of The Lawyer’s “Top 20 Cases” of 2019).

**VIH Hotel Management Ltd v Assas Opco Ltd & Ors** – a high-value dispute before the DIFC Courts relating to the development and operations of a luxury hotel on the Palm Jumeirah, Dubai (with Michael Swainston QC).

**The Libyan Investment Authority** – acting for one of the applicants in proceedings intended to deal with the consequences of a dispute about who was entitled to exercise the functions of the LIA following the outbreak of civil war in Libya (with Charles Hollander QC).

**The Ontario Teachers’ Pension Fund v Macquarie Infrastructure and Real Assets Europe Ltd** – proceedings relating to the sale of interests in a major international airport and involving alleged breaches of contractual and equitable duties of confidence (with Graham Dunning QC).

**McLaren Automotive Ltd v GTI Corporation Ltd** – injunction proceedings relating to the supply of parts to the well-known manufacturer of high-end sports cars (with Charles Hollander QC)

**RC Cayman Holdings Limited v Michael Ryan** (Grand Court of the Cayman Islands) – acting for the former owner and developer of the Ritz-Carlton Grand Cayman Hotel in a high value dispute relating to the financing of the hotel and its subsequent sale to a New York private equity fund (with Charles Hollander QC).

**Cosmetic Warriors Ltd & Lush Cosmetics Ltd v Gerrie & Hawksley** – a dispute relating to the valuation and sale of the shares of two minority shareholders in the well-known manufacturer and retailer of cosmetics (with Simon Salzedo QC).

**Perkins Engines Company Ltd v Ilkerler Otomotive** – acting for Perkins Engines in a claim by a former distributor which raised issues as to existence of various alleged oral agreements, wrongful termination and implied duties of good faith and fair dealing (with Charles Hollander QC).

**Caterpillar Motoren GmbH & Co KG v Mutual Benefits Assurance Co** – acting for the German subsidiary of the well-known American corporation in a claim for payments due under various performance bonds and advance payment guarantees (with Jasbir Dhillon QC).

**Stemcor UK Ltd v Global Steel Holdings Limited & Mr Pramod Mittal** – a US \$142 million claim against the guarantors of a Bosnian steel manufacturer (with Jasbir Dhillon QC).

## Arbitration

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A significant part of Kyle's commercial disputes work takes place in international arbitration. Kyle has acted in numerous arbitrations under a wide variety of institutional rules (including LCIA, ICC, DIFC, UNCITRAL and the Swiss Rules of International Arbitration), as well as in ad hoc proceedings. In addition, he is regularly instructed to act in court applications in support of arbitral proceedings (whether seated in England or elsewhere), including applications for interim relief under section 44 of the 1996 Act (e.g. injunctive relief); seeking or resisting the enforcement of foreign or domestic awards under s.66 or the New York Convention; and challenging or defending arbitration awards under sections 67, 68 and 69.

Examples of Kyle's current and recent arbitration work include:

- Acting for a sovereign wealth fund in multi-billion dollar, multi-party, multi-jurisdictional arbitration proceedings arising out of the so-called "Paradise Papers".
- Proceedings relating to the enforcement of an ICC award against a Middle Eastern State under s.66 of the 1996 Act and resisting attempts to challenge the award under s.69.
- An expedited LCIA arbitration relating to the sale of interests in a major international airport (and involving applications for interim relief to the English courts under s.44).
- A substantial ICC arbitration arising out of the sale of a network of telecommunication companies in the Caribbean.
- Acting for a national flag carrier in an ICC arbitration relating to the operation of a charter airline project in the Middle East.
- Kyle has also acted in several arbitrations relating to the construction and/or operation of overseas energy projects, including projects in the Caribbean, Africa and Pakistan.

Kyle is also a contributing author to "SIAC Rules: An Annotation", an annotated guide to the arbitration rules of the Singapore International Arbitration Centre.

## Banking and finance

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Kyle's practice covers the full spectrum of banking and finance related work, from investment banking, investment management, and sovereign wealth, to private and retail banking.

In recent years, Kyle has acted in a number of landmark banking and finance disputes, including (amongst other things) acting for the defendants in the first shareholder group action ever to go to trial in England and Wales (*The Lloyds/HBOS Group Litigation*). The claim was dismissed following a 5 month trial: see [2019] EWHC 3096 (Ch). In addition, Kyle also acted in the first civil trial to arise out of the well-publicised "LIBOR-fixing scandal" (*PAG v RBS*).

Examples of recent work in the banking and finance field include:

**The Lloyds/HBOS Group Litigation** – acting for Lloyds and five of its former directors in defence of

group litigation brought by about 6000 shareholders arising out of Lloyds' acquisition of HBOS.

**Leeds City Council & Ors v Barclays Bank Plc** – acting for several local authorities in claims against Barclays relating to the sale of a large number of so-called 'lender-option, borrower-option' ("LOBO") loans.

**Ebury Partners UK Ltd v Best Buying Service BC**– a claim relating to the close out of various FX trades.

**Fundo Soberano de Angola v dos Santos & Ors** – acting for the Angolan sovereign wealth fund in a high-value dispute between the fund and its former investment manager and adviser.

**PAG v RBS** – acting for the claimant in the first civil claim arising out of the 'LIBOR-fixing scandal' to be tried before the English courts. The case (which was identified by The Lawyer as one of the "Top 20 of 2016") also gave rise to a number of interlocutory judgments, including a series of significant decisions on disclosure and privilege (see e.g. [2015] EWHC 1557 (Ch), [2015] EWHC 3187 (Ch) and [2015] EWHC 3341 (Ch)), as well as the leading judgment on contested transfers to the Financial List (see [2016] EWHC 207 (Ch)).

**Natixis Societe Anonyme & Nedbank Ltd v Famfa Oil Ltd** – acting (as sole counsel) for the claimant banks in a claim relating to the underwriting of a syndicated loan facility which was to be provided in connection with the proposed acquisition of an upstream oil and gas company which held a working interest in a deep-water oil block in the central Niger delta.

**Daniel & Dalton v Merrill Lynch** – acting (as sole counsel) for Merrill Lynch in a claim relating to the alleged mis-selling of AIG Premier Bonds in the period immediately prior to the collapse of Lehman Brothers in September 2008.

**RC Cayman Holdings v Michael Ryan** – acting for the former owner and developer of the Ritz-Carlton Grand Cayman Hotel in a high-value dispute relating to the financing of the hotel and its subsequent sale to a New York-based private equity fund.

Advising in relation to prospective class action/group litigation proceedings under s.90/s.90A of FSMA 2000.

## Professional negligence

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Kyle is regularly instructed to act in professional negligence claims and in professional disciplinary proceedings before a variety of different disciplinary bodies, including the Financial Reporting Council, the Solicitors Disciplinary Tribunal and the Takeover Panel.

In recent years, Kyle has acted in professional negligence and professional disciplinary proceedings on behalf of, amongst others, the former directors of a FTSE 100 company, a 'Big Four' accountancy firm; a

major US law firm; auditors; accountants; and investment banks.

Examples of current and recent notable work in this field include:

Acting for Dechert LLP in defence of a professional negligence claim brought by the Eurasian Natural Resources Corporation (“ENRC”) arising out of the investigation of alleged fraud, bribery and corruption on the part of ENRC and its subsidiaries in Africa and Kazakhstan.

Acting for the claimant in a substantial audit negligence claim before the courts of Cyprus.

Acting for a ‘Big Four’ accountancy firm in two of the largest FRC prosecutions of recent years (**RSM Tenon Plc** and **Connaught Plc**) and acting for an individual respondent in the FRC prosecution relating to the auditing of **Aero Inventory Plc**.

Acting for the SRA (as junior to Timothy Dutton QC) in proceedings before the Solicitors Disciplinary Tribunal arising out of the ‘phone-hacking scandal’ at the News of the World.

Kyle is also a member of the Sports Resolutions Pro Bono Panel, providing advice and representation to athletes and players in relation to contract disputes and disciplinary matters.

## Civil fraud

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**Fundo Soberano de Angola v dos Santos & Ors** – acting for the Angolan sovereign wealth fund in high-value, multi-jurisdictional civil fraud proceedings against the fund’s former investment manager and adviser and its attempts to recover US\$3bn of missing assets.

**Harbour Fund III L.P. v Kazakhstan Kagazy Plc & Ors** – acting (with Tom Adam QC) in a substantial litigation funding dispute arising out of a £300 million civil fraud claim.

**Leeds City Council & Ors v Barclays Bank Plc** – acting for several local authorities in civil fraud claims against Barclays relating to the sale of so-called ‘lender-option, borrower-option’ (“LOBO”) loans.

**Slater & Gordon (UK) 1 Ltd v Watchstone Group Plc** – acting for Slater & Gordon in its £600 million claim against Watchstone for fraud and breach of warranty.

## Energy and natural resources

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**PT Satria Tirtatama Energindo v East Asia Company Ltd** – an appeal to the Privy Council from the Court of Appeal for Bermuda relating to the contested sale of a multi-million dollar geothermal energy project located in Bedugul, Bali.

**Natixis Societe Anonyme & Nedbank Ltd v Famfa Oil Ltd** – acting (as sole counsel) for the claimants in a claim relating to the financing of the abortive acquisition of an upstream oil and gas company with a

working interest in a deep-water oil block in the central Niger delta.

Acting in confidential LCIA/ICC arbitrations relating to the construction and/or operation of overseas energy projects, including substantial projects in the Caribbean, Africa and Pakistan.

Advising a major operator of oilfields in the North Sea in connection with a claim against an oilfield service company arising out of the design, manufacture, supply and installation of defective electric submersible pumps (ESPs).

Acting for a leading provider of energy consultancy and brokerage services in proceedings involving wide-ranging allegations of fraudulent misrepresentation and non-disclosure.

Kyle has acted in a various arbitral claims relating the construction and operation of substantial overseas power-plants.

## **Insurance and reinsurance**

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Advising on substantial business interruption claims arising out of the COVID-19 pandemic.

Acting (as sole counsel) for a firm of insurance brokers in multi-party litigation involving various claims and counter-claims by and against underwriters, sub-brokers and insureds.

Acting in a number of ad hoc reinsurance arbitrations under the Arbitration Act 1996.

## **Shipping and commodities**

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Kyle has experience of a wide variety of shipping and international trade matters, including claims relating to, or arising out of, bills of lading, time and voyage charters, cargo damage, the international sale of goods and the CMR Convention. Kyle also acted as research assistant to Lord Justice Aikens for the latest edition of Aikens, Lord, and Bools on Bills of Lading.

## **Sports**

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Kyle is a member of the Sports Resolutions Pro Bono Panel, through which he provides pro bono legal advice and representation to athletes and players in relation to a variety of contractual disputes and disciplinary matters.

## **Publications**

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"The Remoteness Rules in Contract: Holmes, Hoffmann and Ships that Pass in the Night" – King's Law Journal, April 2012

Contributing author to "SIAC Rules: An Annotation" (edited by Heilbron, Hirst and Reichert)

## **Qualifications and further information**

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## **Education**

Daniel Stewart's and Melville College, Edinburgh (1997-2007)

Pembroke College, University of Cambridge (2007-2010)

Harvard Law School (2010-2011)

BPP Law School (2011-2012)

## **Qualifications**

BA (Hons) Law (2010) (Double First, 1st in year 2009; 7th in year 2010)

LLM (2011) (Private Law, International Commercial Arbitration, Public International Law)

Bar Professional Training Course (BPTC) (2012)

## **Scholarships and Prizes**

LINCOLN'S INN

Lord Mansfield Scholarship

Hardwicke Entrance Award

UNIVERSITY OF CAMBRIDGE

The Clifford Chance David Gottlieb Prize (for the best overall performance in Part IB of the Law Tripos)

The E.C.S. Wade Prize (for the best performance in Administrative law)

James William Squire Scholarship

Harvard Scholarship

PEMBROKE COLLEGE

The Ziegler Prize (for the best overall performance in law)

The Blackburne Daniell Prize (for the best second-year performance in any subject)

Foundress Prize

Foundation Scholar

OTHER

*The Times*

/One Essex Court Law Awards (Runner Up, 2012)

The Royal Historical Society's Beazley Prize

### **Professional Memberships**

COMBAR (Commercial Bar Association)

LCLCBA (London Common Law & Commercial Bar Association)

YFLA (Young Fraud Lawyers Association)

### **Further Interests**

Kyle is a keen sportsman and, prior to coming to the bar, he played golf for the Cambridge University 'Stymies' (2nds) and rugby for Pembroke College and the Harvard Business School.

Kyle is a member of the Sports Resolutions Pro Bono Panel, through which he provides pro bono legal advice and representation to athletes and players in relation to a variety of contractual disputes and disciplinary matters.

## **Directory Quotes**

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"A star of the future who performs well above the level of his year of call." (Chamber & Partners UK Bar 2021 – Banking & Finance)

"He churns out documents, and the quality of his work is very good." (Chambers & Partners 2021 – Commercial Dispute Resolution)

"He provides excellent, reliable advice wrapped up in thorough and carefully drafted documents." (Legal 500 2021)

"He is fantastic, responsive and clearly very bright – a junior to watch" (Chamber & Partners UK Bar 2020 – Banking & Finance)

"Kyle is super smart and very easy to interact with" (Chamber & Partners UK Bar 2020 – Banking & Finance)

"He gets to the bottom of issues so quickly, his work is of a very high quality, and he's just a really pleasant person to work with" (Chambers & Partners UK Bar & Global 2020 – Commercial Dispute Resolution)

"Kyle is impressive, insightful and really responsive" (Chambers & Partners UK Bar 2020 – Commercial Dispute Resolution)

"A star of the future who's capable of performing well above the level of his year of call" (Chambers &

Partners UK Bar 2019 – Commercial Dispute Resolution)

"Excellent with clients and very quick – that means he has a bright future" (Legal 500 2017)