

Stephen Nathan QC

Year of call: **1969**
Appointed to silk: **1993**
Degree: **MA (Oxon) New College, Oxford**
Languages: **French (fluent), German (working knowledge), Italian (working knowledge)**



Stephen Nathan QC has a broad practice including many areas of commercial and company law whether it is litigation, advisory or acting as an arbitrator or counsel in domestic and international arbitrations. Civil Fraud and Media & Entertainment are other key areas of his practice. Stephen's extensive knowledge of business practice is brought to bear in his mediation work and he is a qualified CEDR Mediator.

Stephen was named The Lawyer's 'Barrister of the Week' in July 2020.

EXPERIENCE

Arbitration

Stephen has acted as Counsel or arbitrator in ad hoc and institutional commercial arbitrations (domestic and international), under (inter alia) ICC, LCIA, LMAA and LME rules and has been involved in English High Court litigation under the Arbitration Act 1996.

In 2009, he was a guest speaker at the Inaugural Brunei International Arbitration Conference; in 2012 he was a guest speaker at the RAIF Conference on International Arbitration, Bali; in April 2017 he was a guest speaker at the IPBA Conference, Auckland.

Recent arbitrations have include ones in respect of shipping charter parties, oil trading in Africa, an oil exploitation joint venture, electricity power supply to a state, the construction of an electricity power station, a telecommunications joint venture in SE Asia, a joint venture for TV stations in a state in Africa, a master agreement for international aircraft sales/ leasing and film studio scenery-making.

Cases

LCIA Arbitration

A claim for several hundred million US dollars over a joint venture for a new commercial TV channel brought by a Dubai-based broadcasting corporation against a governmental broadcaster. Stephen acts as Counsel for the Claimant.

LCIA Arbitration

LCIA Arbitration between major international TV rights owner and multi-channel Turkish broadcaster over their joint venture and a multi-million dollar claim. Stephen acts as counsel for the Respondent.

Commercial

Stephen has a diverse practice covering many areas of commercial law, oil-trading, shipping and company litigation, including private and public international law and arbitration work both as counsel and as arbitrator. His clients range from large multi-national corporations to small businesses and individuals, as well as the UK and several foreign governments. He acts as a litigator as well as in an advisory role. He also acts for HMRC in relation to its regulatory powers over those engaged in duty-free alcohol trading and warehousing.

Cases

Qatar v Saudi Arabia

In Qatar's Complaint against Saudi Arabia over Measures Concerning the Protection of Intellectual Property Rights, the WTO Disputes Panel ruled that Saudi Arabia breached TRIPS over its extensive promotion of, and support for, "beoutQ", by far the largest-ever copyright-piracy operation in the field of sports broadcasting. Stephen is acting as special counsel to beIN Sports.

Newcastle United Football Club v HMRC

(2017)

Stephen acted for HMRC over the attempt by the football club to set aside search warrants in connection with HMRC's investigation into footballer transfer-fee tax fraud.

Sheikh Mohammed Bin Isa Al Jabber v Sheikh Walid Bin Ibrahim Al Ibrahim

(2016-)

Stephen acts for the Claimants in this Commercial Court action over a \$30 million loan agreement.

Hone v Abbey Forwarding Limited and HMRC

(2012 to 2016)

Stephen acted for HMRC initially in a complex claim for damages on a cross-undertaking from the liquidator of Abbey (who was being indemnified by HMRC). The Court of Appeal judgment set out the principles on which such damages can now be recovered. There then ensued major litigation in the Chancery Division between the liquidator and HMRC over the former liquidator's conduct (which was covered by the indemnity from HMRC).

Wearn v HHN Holdings (Naxos Records)

(2015)

Stephen acts for the Claimant over the commercial/recording agreements for the manufacture and distribution of recordings of memorable classical recordings originally broadcast in the USA in the 1940s. The claim now involves allegations of falsification of evidence by the Defendants. This Chancery Action is on-going.

Kuwait Airways v Iraqi Airways and Republic of Iraq

(1991 - 2014)

This series of 5 Commercial Court actions ran initially between 1991 and 2008. In 2010 it was revived when IAC recommenced flight operations to the UK and, again, in 2011. The actions concerned the seizure of the Kuwaiti civilian airliner fleet and aircraft spares by Saddam Hussein in 1990. The Kuwaiti claims total US \$1.3 billion and these actions have been the longest-running litigation in the Commercial Court.

Stephen acts for the Iraqi Government. There have been 3 appeals to the House of Lords and also three other appeals to the Court of Appeal, with major statements of principle enunciated on issues of state immunity and principles of damages. These actions raised numerous issues of private and public international law as well as issues relating to aircraft leasing, the proper methodology of aircraft valuation and the legal and accountancy treatment of the heads of claim.

The KAC v IAC judgments have been cited in more than 125 English judgments so far.

Stephen's role on behalf of the Government of Iraq was revived first in 2010; and, again, in 2011 when KAC commenced new proceedings against the Iraqi Government and two Iraqi state banks for the purpose of attempting to execute its judgments on the assets of the Iraqi Government and on the two banks, leading to a major set of hearings in the Commercial Court starting in March 2012.

These new proceedings engage novel issues of public international law and English, French and Iraqi public law and company law.

Harty v Sabre International Security

(2014)

This was a QBD action concerning issues of jurisdiction and the principles to be applied as between trial in Iraq or England in a major personal injuries claim. Stephen acted for the Defendants.

Kagalovsky v Gusinski

(2013)

This is an action relating to a partnership in the ownership of a TV station. The Claimant seeks an anti-suit injunction in order to bring an end to major commercial proceedings for fraud in the New York Supreme Court and to oblige the Defendant to bring his claims in England instead. Stephen acts for the Defendant, Mr Vladimir Gusinski and his US media companies.

JSC BTA Bank v Ablyazov

(2013)

In this multi-national action in the Commercial Court, the Claimant, a Kazakh bank (now effectively nationalized), claims damages of £175 million for fraud over the disposal of assets by its directors and shareholders. Stephen acts for the 5th to 7th Defendants in this ongoing action. The issues engage Kazakh, Russian and English law and P.I.L.

Latin American Trading Ltd v Maroil Trading Inc

(2012)

This Commercial Court action concerns disputes (including fraud) in respect of the management and operation of 6 jointly-owned bulk oil-carriers, including the largest two VLCCs in the world, since October 2001. Stephen acts for the Defendants Maroil, the corporate vehicle of Mr Wilmer Ruperti, the Venezuelan shipping and oil-transport magnate. The claims and counterclaims involve more than US \$100 million. Maroil inter alia counterclaims that it has been the victim of fraud by the Claimant and the jointly-employed manager.

Media & Entertainment

Landmark case: Stephen acted for Imperial Tobacco in the landmark decision in the House of Lords in *Imperial Tobacco v Attorney General* over the issue as to what constitutes a lawful lottery and competition.

Since then, he has regularly advised in respect of a very large number of lotteries, gaming and promotional schemes. Stephen's clients have come from both sides of "the street", i.e. the Lottery Commission (previously the Director of Lotteries) as well as numerous major UK corporations.

Stephen acted as a libel reader for the Observer newspaper for 15 years.

Mediation

Stephen has been able to bring his extensive knowledge of business practices in the commercial sphere to the disputes in which he has mediated. These have involved banking and commodity contracts, professional services, shipping and partnership disputes and resolution of media disputes.

He understands the process of mediation from both points of view as he has also acted as Counsel assisting/advising parties in various mediations, e.g. in relation to the extensive Tchenguiz litigation.

ACHIEVEMENTS

Education

Scholarship

- Astbury Scholarship (Middle Temple)

Publications

- Stephen is one of the co-authors of 'Employee Competition', Oxford University Press (3rd Ed 2016).
- 'Interest on Costs' published by Solicitors' Journal

Appointments

- Elected Bencher of Middle Temple (July 2005).
- Chairman of the London Common Law and Commercial Bar Association 2010 and 2011.
- Council member of the Bar Council of England and Wales 2010 and 2011.
- Recorder (2001-17).

Memberships

- International Council for Commercial Arbitration
- London Common Law and Commercial Law Bar Association
- Bar Council of England and Wales
- London Court of International Arbitration, European Users' Council
- COMBAR
- Bar European Group
- CEDR Exchange

Selected Earlier Reported Cases

Arbitration

- (R) Technologies v (N) Limited (commercial arbitration following Chancery Division proceedings)
- Hashwani v Jivraj
- Albon v Naza Motor Trading and Tan Sri Dato Amin
- Whitehead (UK) v Hyundai Motor Co (Korea)
- Rutland County Council v Paul Bancroft

Commercial

- The Moriarty Public Inquiry (2011)
- R v Bhojwani (2010 – 2011)
- Maitland Hudson v New Media Holding Co Ltd and Covington & Burling
- Imerman v Tchenguiz (2010)
- Earlcrown Ltd v Leconfield House Ltd (2010)
- Richards and Whiston-Dew v HMRC (2010)
- John and Welden Turnbull v HMRC (2010)
- Rayden v Edwardo Ltd and Vincent Tchenguiz (2009)
- Tajik Aluminium Plant v Ermatov and Others
- Albon v Naza Motor Trading (2009)
- Humana Europe Ltd v SB Developments
- Miller v Bayliss
- Thunder Air v Hilmarsson
- United Co-operative Society and Others v Tui Ltd (Thomson Travel)
- Mansour v Al Thani and the Government of Qatar
- Al Rajhi Banking and Investment Corporation v Wall Street Journal (Europe)
- Castlecare Group Ltd v MacKenzie and Others
- Daura v HMRC
- Tri-Q Group v Learoyd Group and API Group
- Iraqi Mine Action Services & Humanitarian Consultancy Co. Limited (Jordan) v Bactec International Limited
- Al Hashemite Corp. (Iraq) v NMS Sec-Com Limited
- Rafidain Bank v Arab Bank
- Oxus Gold plc v Templeton Insurance Ltd and Knox D’Arcy Investment Management Ltd
- Al Fayed v Emanouel Antiques
- Mohammed v Bank of Kuwait and the Middle East
- HS Weavers Ltd v Drivers and others
- Trendtex Trading Corporation v Credit Suisse

Civil Fraud, Asset Recovery & Injunctive Relief

- Kagalovsky v Gusinski
- JSC BTA Bank v Ablyazov
- Tajik Aluminium Plant v Ermatov and Others
- Kuwait Airways v Iraqi Airways and Republic of Iraq
- Kana Trading Co Limited (Japan) v Doracana Resources Limited and others
- John Mowlem and Co plc v Eagle Star Assurance
- Engineering Projects (India) Ltd v Mitsubishi Corp.
- Widnell v Hyde Park Residence
- Anselm v Anselm
- HS Weavers v Drivers and others
- Cross v Wordplex
- Brennan v Alpert

- Littlewoods Organisation v Virage Ltd and Leese
- Iraq v Al-Shawi

Professional Negligence

- Virgin Group Ltd v Finers and de Morgan
- Airbreak Leisure Group plc
- Darville v Ernest Notcutt and Co
- Idealgrange Ltd v Austin Smith Lord
- Widnell v Hyde Park Residence
- Zaheri and others v Lawrence Graham
- Places Trading Ltd v Kinsale Taverns Lt

Media & Entertainment

- Imerman v Tchenguiz and Others (2010)
- Attorney-General v The Observer ('Spycatcher')
- Meacher v The Observer
- Charles Taylor v Times Newspapers
- Whitehead (UK) v Hyundai Motor Co (Korea)
- Quinton v Peirce
- Porter and another v Davies
- RSPCA v British Assoc. of Sheep Exporters
- Coff v Bedfordshire County Council
- Nixon v Channel 4 Television
- Halpin v Oxford Brooks University
- Aspel v Daily Express

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