

## ASHLEY CUKIER

Call: 2013



Ashley is a commercial barrister whose practice encompasses a wide range of commercial litigation and arbitration, civil fraud, company, insolvency and sports law matters. He was called to the Bar in 2013 after graduating top of his year at Cambridge University, where he was awarded a starred first.

Ashley is regularly instructed in commercial disputes in the Commercial Court and Chancery Division, both in his own right and as part of a team – and has been led in the High Court and the Privy Council. Much of his work contains international elements, involving questions of foreign law, jurisdiction and enforcement. He welcomes instructions in all of chambers' core commercial areas of practice, both as sole counsel and led by more senior counsel.

Some of his recent and current work includes:

- ***De Pury v The Rudolf Staechelin Family Trust & Ors*** [2017] – led by Jonathan Cohen QC in an ongoing Chancery Division claim for commission on the private sale of a painting for over \$200 million;
- ***Ali v Petroleum Company of Trinidad and Tobago*** [2017] UKPC 2 - led by Jonathan Cohen QC in the Privy Council in an appeal (from the Court of Appeal of the Republic of Trinidad and Tobago) regarding inter alia the proper construction of the terms of a Loan Agreement;
- ***Mascolo v Riemenschneider*** [2016] Acting – as junior counsel (led by Rupert D'Cruz) – for the Claimant in a successful civil fraud claim in the Commercial Court and the associated successful application for a Worldwide Freezing Order;
- Acting – as junior counsel (led by David Reade QC) – for the Claimant in a substantial ongoing claim for damages arising out of a Share Purchase Agreement;
- Acting – as junior counsel (led by Rupert d'Cruz) – for the successful Claimant in an LCIA Arbitration concerning a Placement Agreement for multi-million dollar investments in European Credit Funds;
- Securing – as sole counsel – a £1.8 million Commercial Court injunction, in the context of a multi-million pound breach of contract claim concerning a high-profile UK leisure development;
- Acting – as sole counsel – for the Liquidator in a complex Companies Court claim against a former company Director for misfeasance, breaches of fiduciary duty, transactions at an undervalue and/or preferences under the Insolvency Act 1986;
- Acting – as sole counsel – for a British Multinational plc in an Adjudication under the Construction Act 1996;
- Advising a National Sporting Body in respect of its selection procedures for Team GB athletes, both in the run-up to, and subsequent to, the Rio Olympics 2016, and (following his recent appointment) sitting on the Table Tennis England Board of Appeal.

Further details of Ashley's experience may be found in the tabs below.

Ashley read Modern Languages at Cambridge, where he received several academic honours and prizes, including the Claude Beddington prize for best overall mark in the Modern Languages Tripos, the Departmental prize for excellence in Italian Literature, as well as several college prizes for his performance in his Cambridge Finals. In 2009, as part of his undergraduate degree, he obtained a Diploma in International Relations and Economics from Sciences Po, Paris. In 2012 he was a Thouron Scholar at the University of Pennsylvania, where he received a distinction for the LLM in Private International Law.

Called to the Bar in 2013, Ashley was awarded the Hardwicke Entrance Award, Lord Bowen and Lord Denning Scholarships by Lincoln's Inn and later completed pupillage at a leading commercial chambers.

## Commercial Litigation & Arbitration

Ashley has acted in a wide range of high-profile and high-value commercial disputes, appeals and advisory work, many of which are ongoing. He is regularly instructed in commercial disputes in the Commercial Court and Chancery Division, both in his own right and as part of a team.

Recent work includes:

- ***De Pury v The Rudolf Staechelin Family Trust & Ors*** – led by Jonathan Cohen QC in an ongoing Chancery Division claim for commission on the private sale of a painting for over \$200 million;
- ***Ali v Petroleum Company of Trinidad and Tobago*** [2017] UKPC 2 - led by Jonathan Cohen QC in the Privy Council in an appeal (from the Court of Appeal of the Republic of Trinidad and Tobago) regarding inter alia the proper construction of the terms of a Loan Agreement;
- Acting – as junior counsel (led by David Reade QC) – for the Claimant in a substantial ongoing claim for damages arising out of a Share Purchase Agreement;
- A multi-million dollar Commercial Court claim over the ownership of two metals trading companies operating out of the United Arab Emirates;
- A jurisdictional challenge in the context of damages claim following the failure of an alleged joint venture agreement for a luxury hotel development in Italy;
- An insurance dispute concerning the Insurer's liability to cover defence costs following the collapse of a multi-million pound art investment fund;
- Securing – as sole counsel – a £1.8 million Commercial Court injunction, in the context of a multi-million pound breach of contract claim concerning a high-profile UK leisure development;
- Regular appearances in High Court applications for strike out, summary judgment, Norwich Pharmacal relief, charging orders and various injunctive relief.

## Civil Fraud

Civil Fraud forms a significant part of Ashley's practice and he is regularly instructed as part of a larger team in high-profile and high-value civil fraud litigation.

Recent and ongoing work includes:

- ***Mascolo v Riemenschneider*** [2016] Acting – as junior counsel (led by Rupert D'Cruz) – for the Claimant in a successful civil fraud claim in the Commercial Court and the associated successful application for a Worldwide Freezing Order;

- A fraudulent misrepresentation claim against an Investment Bank in the context of a shareholder agreement for the operation of a Casino;
- An application for enforcement of a Cypriot Freezing Order in the context of a multi-million dollar claim brought against former Directors of an Investment Bank for various alleged breaches of fiduciary duty, breach of trust, negligence and conspiracy;
- A fraudulent misrepresentation and breach of contract claim against a large-scale national electricity producer;
- A BVI claim in the context of a multi-million dollar oil and gas dispute, involving issues of breach of fiduciary duty, dishonest assistance and breach of trust, as well as questions of jurisdiction and governing law;
- A claim for breach of trust against the trustees of a Guernsey hedge fund.

## Insolvency & Company

Ashley has significant experience of a wide range of insolvency and company law litigation and regularly appears in the Companies Court in insolvency matters, both as junior counsel and in his own right. Recent and ongoing work includes:

- Acting – as junior counsel (led by David Reade QC) – for the Claimant in a substantial ongoing claim for damages arising out of a Share Purchase Agreement and the associated winding up proceedings brought by the Defendant, which were defeated;
- Acting – as sole counsel – for the Liquidator in a complex Companies Court claim against a former company Director for misfeasance, breaches of fiduciary duty, transactions at an undervalue and/or preferences under the Insolvency Act 1986;
- Acting – as junior counsel (led by David Reade QC and Jamie Riley QC) in a substantial unfair prejudice application in the Commercial Court in the context of a substantial and ongoing partnership dispute;
- Acting for the liquidators in their claim against an aerospace company for sums owing under a Business Sale Agreement.

Ashley also regularly appears in, and advises on: winding up petitions, bankruptcy petitions; annulment and rescission applications; company restoration applications; charging order applications; validations order applications; and administration extension applications, both in the Companies Court and in the County Court.

## Arbitration

Ashley's commercial practice includes substantial arbitration experience.

Recent and ongoing work includes:

- Acting for the successful Claimant in an LCIA Arbitration concerning a multi-million pound damages claim arising out of a Placement Agreement for investments in European Credit Funds (led by Rupert d'Cruz);
- Acting for the Republic of Iran in the Iran-US Claims Tribunal in the Hague, an international arbitral tribunal established pursuant to the Algiers Accords of January 19, 1981 to resolve claims arising out of the Iranian Revolution of 1979;
- Assisting in an ad-hoc shipping arbitration concerning a shipowner's redelivery claim;
- Acting – as sole counsel – for a British Multinational plc in an Adjudication under the Construction Act 1996.

Ashley welcomes instructions as a sole counsel or as part of a larger legal team, as well as instructions for the

role of Arbitral Secretary to the Arbitral Tribunal. He is the junior representative of the Littleton Arbitration steering group, a member of the Young International Arbitration Group and has an LLM in Private International Law from the University of Pennsylvania Law School.

## Sport

Sports law work forms an increasingly prominent part of Ashley's practice and he accepts instructions in all areas of sports law, be they contractual, regulatory or governance.

He is currently appointed as sole counsel in two FA Rule K Football Arbitrations, and as sole counsel in proceedings currently before the National Anti-Doping Panel. He recently appeared (led by John Mehrzad) in the Court of Arbitration for Sport in Lausanne, in a CAS case (on appeal from a FIFA Tribunal) on termination for just cause, liquidated damages, mitigation of compensation principles and sporting sanctions.

He regularly advises football clubs and footballers on commercial and insolvency matters, including, recently, litigation arising out of the takeover of Leeds United Football Club in 2014, and a breach of contract claim brought against a La Liga footballer by a former agent.

Last year Ashley (led by Jonathan Cohen QC) represented the successful claimants, De Pury & De Pury LLP, in the case of **ACLBDD v Staechelin & Ors** [2018] EWHC 44 (Ch), a claim for a \$10 million commission arising from the sale of a Gauguin painting, *Nafea faa ipoipo* ("When will you marry"). The sale of the painting – one of the finest pieces of art in the world and also one of the most expensive, having been sold to the Emir of Qatar in September 2014 for \$210 million – was the subject of a 10-day trial in the High Court where issues of agency, fiduciary duty and forfeiture of commission (which inevitably overlap onto his sports law practice) stood at the heart of the parties' dispute.

Ashley is a member of the Table Tennis England Board of Appeal, and previously advised a National Sporting Body in respect of its selection procedures for Team GB athletes, both in the run-up to, and subsequent to, the Rio Olympics 2016.

## Languages

- French
- Spanish
- Italian
- Hebrew (conversational)

## Memberships

- COMBAR
- Chancery Bar Association
- LCIA Young International Arbitration Group