

# Ashley Cukier

Call: 2013

## Barrister

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Ashley is a commercial barrister whose practice encompasses a wide range of commercial and civil fraud litigation, company, insolvency and sports law matters. He is ranked by Legal 500 as one of the 'Top 10 Under Eight Years' Call' for Commercial Litigation, where he is described as a **"Rising Star"**; and he was this year named by Chambers & Partners as an 'Up & Coming' junior in Sports Law, where he is described as **"very responsive and his advice is practical"**. Ashley is also recommended as a 'Leading Junior' for Sports Law by Legal 500. Ashley 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 led and as sole counsel. He has appeared in the Court of Appeal and the Privy Council and regularly appears in FA Rule K Arbitrations and before other sports arbitral panels. He speaks several languages and is often sought out to assist on cases containing international elements and/or involving questions of foreign law, jurisdiction and enforcement.

Some of his recent and current work includes:

- **Allergy Therapeutics Ltd v Inflamm Research Inc** [2019] EWHC 2526 (Comm) – led by Charles Samek QC in Commercial Court Proceedings concerning an alleged fraud in the conduct of a multimillion dollar clinical study;
- **Stachelin & Ors v ACLBDD Holdings Limited & Ors** [2019] EWCA Civ 817 – led by Jonathan Cohen QC representing the Claimants, De Pury & De Pury LLP, in their successful claim for commission on the sale of a Gauguin masterpiece to the Qatari Royal Family for \$210 million (upheld subsequently by the Court of Appeal).
- **C v D** [2019] Acting – as junior counsel (led by Charles Samek QC) – for the respondents to a Worldwide Freezing Injunction, obtained in support of a multi-million dollar claim in conspiracy, deceit and joint tortfeasorship;
- **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;
- **Troisi v Al-Ittihad** CAS2017/A/5056 & 5059 – led by John Mehrzad in proceedings before the Court of Arbitration for Sport ("CAS") in Lausanne (on appeal from the FIFA Dispute Resolution Chamber) representing the successful claimant, an international footballer, in his claim for non-payment against his former club.

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

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.

## RECOMMENDATIONS

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"He is very responsive and his advice is practical."

### Chambers & Partners

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"An extremely bright barrister, committed to achieving the right result for the client."

### Legal 500

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"He knows the football regulatory landscape well, which is invaluable when considering insolvency issues in that context given the extent of football-specific provisions in the area."

### Legal 500

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"He is technically outstanding." "He is very calm and assured and is extremely good with clients."

### Chambers & Partners

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"Assured and skilful, an eloquent orator on his feet, and trusted by our team".

### Legal 500

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## AREAS OF LAW

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### Commercial Litigation & Arbitration

Ashley's practice has seen him act in a range of high-profile and high-value commercial cases, some of which are ongoing. He is regularly instructed in commercial disputes, including in a wide variety of interim applications and procedural hearings, in the Commercial Court and Chancery Division – both in his own right and as part of a team. He was recently ranked by Legal 500 as one of the *'Top 10 Under Eight Years' Call' for Commercial Litigation*, where he is described as **"Assured and skilful, an eloquent orator on his feet, and trusted by our team"**. Examples of some of the commercial law disputes in which Ashley has acted include:

- **Allergy Therapeutics Ltd v Inflamax Research Inc** [2019] EWHC 2526 (Comm) – led by Charles Samek QC in Commercial Court Proceedings arising from a multimillion dollar clinical study, involving claims for breach of contract, misrepresentation, conspiracy and procurement of the tort of deceit, and a counterclaim for unpaid fees. The case involved complex factual and scientific evidence relating to the clinical drug trial process, methodologies for allergy testing, and the statistical analysis of allergen exposure data.
- **Stachelin & Ors v ACLBDD Holdings Limited & Ors** [2019] EWCA Civ 817 – led by Jonathan Cohen QC representing the Claimants, De Pury & De Pury LLP, in their successful claim for commission on the sale of a Gauguin masterpiece, *Nafea faa ipoipo*, to the Qatari Royal Family for \$210 million (upheld subsequently by the Court of Appeal). For more detail see [here](#).
- **A v B** [2018] – acting as junior counsel (led by Jonathan Cohen QC) on behalf of the Part 20 Defendant to a claim by an art dealer loss of earnings, alternatively a reasonable sum by way of quantum meruit, for the alleged curation of an art collection. For more detail, see Ashley's *Art Law CV*, below.
- **C v D** [2019] Acting – as junior counsel (led by Charles Samek QC) – for the respondents to a Worldwide Freezing Injunction, obtained in support of a multi-million dollar claim in conspiracy, deceit and joint tortfeasorship;
- **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.

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### Civil Fraud

Cases involving civil fraud now form a significant part of Ashley's practice. He is regularly instructed as sole counsel in applications for freezing and other injunctive relief, and is also frequently instructed as part of a larger team in high-profile and high-value civil fraud litigation.

Some of his recent and ongoing work in this area includes:

- **Allergy Therapeutics Ltd v Inflamax Research Inc** [2019] EWHC 2526 (Comm) – led by Charles Samek QC in Commercial Court Proceedings arising from a multimillion dollar clinical study, involving claims for breach of contract, misrepresentation, conspiracy and procurement of the tort of deceit, and a counterclaim for unpaid fees.
- **Staechelín & Ors v ACLBDD Holdings Limited & Ors** [2019] EWCA Civ 817 – led by Jonathan Cohen QC representing the Claimants, De Pury & De Pury LLP, in their successful claim for commission on the sale of a Gauguin masterpiece, Nafea faa ipoipo, to the Qatari Royal Family for \$210 million (upheld subsequently by the Court of Appeal). The claim was defended on the basis of alleged dishonesty, for which the Defendants argued for a breach of fiduciary duty and the forfeiture of commission for the sale: arguments which were rejected by the Court. For more detail see [here](#).
- **A v B** [2018] – acting as junior counsel (led by Jonathan Cohen QC) on behalf of the Part 20 Defendant to a claim by an art dealer loss of earnings, alternatively a reasonable sum by way of quantum meruit, for the alleged curation of an art collection. The claim was ultimately settled on extremely favourable terms mid-trial when various discrepancies undermining the alleged claim were revealed during cross-examination. For more detail, see Ashley’s Art Law CV, below.
- **C v D** [2019] Acting – as junior counsel (led by Charles Samek QC) – for the respondents to a Worldwide Freezing Injunction, obtained in support of a multi-million dollar claim in conspiracy, deceit and joint tortfeasorship.
- **Mascolo v Riemenschneider** [2016] – led by Rupert D’Cruz in Commercial Court proceedings arising from a large-scale fraud perpetrated by a well-known chef on his former partner. The Claimant obtained judgment and an associated Worldwide Freezing Order. For press coverage of the case, see [here](#).

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## Sport

Ashley is a member of Littleton’s Sports Law group, which both Chambers & Partners and Legal 500 rank as a leading Sports Law group in its field. Sports Law work forms an increasingly prominent part of Ashley’s practice. His current and recent sports law work includes:

- Acting as sole counsel in three (ongoing) FA Rule K Football Arbitrations;
- **Troisi v Al-Ittihad** CAS2017/A/5056 & 5059 – (led by John Mehrzad) Successfully representing the former Australia football team captain, James Troisi, in the Court of Arbitration for Sport in Lausanne in a claim (on appeal from a FIFA Tribunal) for non-payment by the player’s Saudi former club, Al-Ittihad;
- Acting for the successful claimant (a prominent FA Registered Intermediary) in a Rule K claim against a former client (an international footballer) for unpaid commission;
- Acting for the respondent to a National Anti-Doping charge, brought by the Rugby Football Union;
- Acting for the respondent to a Misconduct charge brought by a National Sporting Body (ongoing);
- Advising a La Liga footballer in respect of a breach of contract claim brought against him by a former agent, involving complex issues of jurisdiction and governing law.
- 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

Ashley is a member of the Table Tennis England Board of Appeal, and was recently appointed to the Sports Resolutions Panel of Arbitrators and Mediators. He writes and talks regularly on Sports Law matters, examples of which can be found [here](#), [here](#) and [here](#).

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## Art & Cultural Property

Ashley’s practice increasingly includes cases involving art and cultural property, and the (often) associated issues of agency, commission payments, fiduciary duties, oral agreements and multiple jurisdictions that regularly arise in his commercial litigation and civil fraud work.

Last year he was led by [Jonathan Cohen QC](#) in the largest and most high-profile art law case of 2018 to reach the High Court. In **ACLBDD Holdings Limited & Ors v Staechelín & Ors** [2018] EWHC 44 (Ch), Jonathan and Ashley represented the successful Claimants, de Pury & de Pury LLP, in respect of its claim for a \$10 million commission arising from the sale of a Gauguin painting, Nafea faa ipoipo (“When will you marry”), 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. The Claimants argued that the commission was earned and became payable in respect of the services that Mr & Mrs de Pury provided to the Defendant trustees in procuring the sale of the painting. The claim was defended, not only on the basis that there was no contract for

commission, but also because Mr and Mrs de Pury were alleged to have engaged in a serious breach of fiduciary duty, thereby forfeiting their commission. Each of those defences failed. The judgment was subsequently upheld by a unanimous Court of Appeal (LJJ Lewison, Lindblom, Rose) in May 2019. See summary article [here](#).

Ashley was also led by Jonathan Cohen QC in another art law case to reach the High Court last year. In **A v B** [2018] (names anonymised due to settlement), Jonathan and Ashley represented the Part 20 Defendant to a claim by an art dealer who alleged non-payment for services allegedly rendered for commissioning and curating the Part 20 Defendant's art collection. He claimed damages for loss of earnings, alternatively claiming a reasonable sum by way of quantum meruit. The Part 20 claim was defended on the basis that, whereas it was accepted that a contract had been agreed for such services, the project itself never proceeded to completion: a risk that was shouldered (and had always been intended to be shouldered) by the art dealer. The case ultimately settled on extremely favourable terms for the Part 20 Defendant, the Part 20 Claimant having discontinued his claim on day 2 of trial.

Ashley is currently instructed as sole counsel by the buyer of an artwork in respect of a claim for delivery-up and/or damages involving an artwork, a valuable sculpture specially commissioned for the buyer, that was not delivered. The case concerns multiple jurisdictions and parties and contains issues of both jurisdiction and governing law, in addition to the parties' dispute over the terms of the contract, made orally out of the jurisdiction.

Previously, Ashley acted as sole counsel for an artist in a dispute (now settled) with the claimant art dealership, arising from a contentious agreement concluded for the purposes inter alia of exhibiting the artist's works at the Frieze London Art Fair.

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## **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.

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## **Languages**

- French
- Spanish
- Italian
- Hebrew (conversational)

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## **Memberships**

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