



Fountain Court

2023: Year in Review



2023: Year in Review

In 2023, members acted in a number of highly publicised and ground-breaking cases including in the UK Supreme Court. This includes Ukraine's successful defence in the Eurobond claim brought by Russia; the *Philipp v Barclays* decision regarding the so-called 'Quincecare duty'; and the landmark ruling on the enforceability of litigation funding agreements.

In addition, we were delighted to once again receive some excellent awards and directory rankings, and for our members to attract some prestigious appointments.

In October, we welcomed our new Head of Chambers, Richard Handyside KC, following the successful five-year term of Bankim Thanki KC, and were pleased to see five new tenants join us following completion of their pupillages, as well as to welcome John Mehrzad KC to Chambers. We were also saddened by the loss of our former member and friend, Sir Nicholas Stadlen.

This review looks at the commentary and thought leadership we produced in 2023, together with some of our news stories and significant cases.

We wish our clients a very happy and healthy festive period and all the best for the New Year. We look forward to working together once again in 2024.



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Major sanctions judgments, New Year accolades and an analysis of corporate criminal liability reform

20 Fountain Court rankings in The Legal 500: Asia Pacific

Fountain Court achieved 17 individual rankings and three set rankings. See [here](#).

The Lawyer's Top 20 Cases and Top 10 Appeals

17 members of Fountain Court appeared in five of the Top 20 Cases (see [here](#)); and nine Fountain Court members appeared in four of the Top 10 Appeals (see [here](#)).

Andrew Mitchell KC appointed Deputy High Court Judge

The Lord Chief Justice made the appointment, for a single fixed six-year term. See [here](#).

INSIGHT: Reforming corporate criminal liability: a missed opportunity to modernise the law

Nicholas Medcroft KC and Leonora Sagan address what they consider to be weaknesses in the Law Commission's approach to the reform of the law of corporate criminal liability, following its presentation of ten options to the government. See [here](#).

Fountain Court joins Thought Leaders 4's Competition Community

Fountain Court becomes a founding Community Partner, demonstrating its increasingly sophisticated expertise in the area of competition law. See [here](#).

Major judgments and outcomes

- *PJSC v Mints* [2023] EWHC 118 (Comm): Commercial Court addresses interaction between Russian sanctions regime and ongoing litigation involving sanctioned persons. See [here](#).
- *Arani & Others v Cordic Group* [2023] EWHC 95 (Comm): Commercial Court decides in multi-million-pound fraudulent breach of warranty claim. See [here](#).
- *Commission Recovery v Merks & Clerk LLP* [2023] EWHC 398 (Comm): Commercial Court allows representative action to proceed in ground-breaking decision on the scope of CPR 19.6 'opt out' class actions and assignment. See [here](#).
- *Celestial Aviation Services Limited v UniCredit Bank AG* [2023] EWHC 663 (Comm): Important judgment on impact of sanctions on payment obligations in letters of credit. See [here](#).

Victory for Ukraine and cab-hailing-app drivers, and Dominic Raab MP report released

'Most Important Decision' award nomination at the 2023 GAR Awards

Dassault Aviation SA's successful challenge of the jurisdiction of an arbitration tribunal, in which it was represented by Nico Leslie and Daniel Carall-Green, was shortlisted for the accolade. See [here](#).

INSIGHT: The Online Safety Bill

Clare Sibson KC provides an overview of Ofcom's enforcement powers and the approach of holding senior managers criminally liable for corporate failures to comply with information notices. See [here](#).

INSIGHT: Recent decisions in the commercial crime field

Jacob Turner and Aaron Taylor consider cases involving the UK sanctions regime, the Economic Crime and Corporate Transparency Bill, the state of crypto crime, and more. See [here](#).

Independent Review of Construction Product Testing Regime published

The Department for Levelling Up, Housing & Communities published the Independent Review of the Construction Product Testing Regime. The Review was led by Paul Morell OBE and Anneliese Day KC. See [here](#).

Major judgments and outcomes

- *Law Debenture Trust Corporation v Ukraine* [2023] UKSC 11: Ukraine wins landmark Supreme Court case against Russia. See [here](#).
- *Cantor Fitzgerald & Co v YES Bank Limited* [2023] EWHC 745 (Comm): Court dismisses claim for financing fee for \$2 billion FPO in India. See [here](#).
- *Al Sadeq v Dechert* [2023] EWHC 795 (KB): The High Court delivers a wide-ranging judgment on legal professional privilege. See [here](#).
- 'Robo-Firing Case': Amsterdam Court of Appeal delivers three judgments upholding the appeal of drivers against Uber and Ola. See [here](#).
- Decision on "Exempted Limited Partnership Law": Grand Court of Cayman Islands hands down judgment in a matter stemming from the collapse of the Abraaj Group. See [here](#).
- *Palladian Partners LP and others v Republic of Argentina* [2023] EHCW 711 (Comm): Commercial Court decides EUR 1.33 billion Argentina Sovereign Debt Claim. See [here](#).
- *Ace Technologies & Others v Communications Components Antenna*: Delhi court delivers landmark decision in patent dispute. See [here](#).
- Complaints regarding conduct of Rt Hon Dominic Raab MP: Report to the Prime Minister published. See [here](#).

Two major Indian judgments for the Southeast Asia ‘Set of the Year’

Fountain Court named ‘Set of the Year’ at The Legal 500 Southeast Asia Awards 2023

Chambers received the accolade at the ceremony in Singapore, after nine years in the region. See [here](#).

Hannah Bernstein interviewed in first edition of Thought Leaders 4’s Competition Magazine

Issue 1 of the magazine featured a ‘60-seconds with’ interview with the Fountain Court junior. See [here](#).

Chloe Carpenter KC and Eleanor Davison appointed as Recorders

Both Chloe and Eleanor will continue to practice as barristers from Fountain Court on a full-time basis. See [here](#).

‘Landmark Cases in Private International Law’ published

Bloomsbury Publishing released the book, edited by Louise Merrett of Fountain Court and William Day of 3VB. See [here](#).

Leonora Sagan appointed Fellow of the International Academy of Financial Crime Litigators

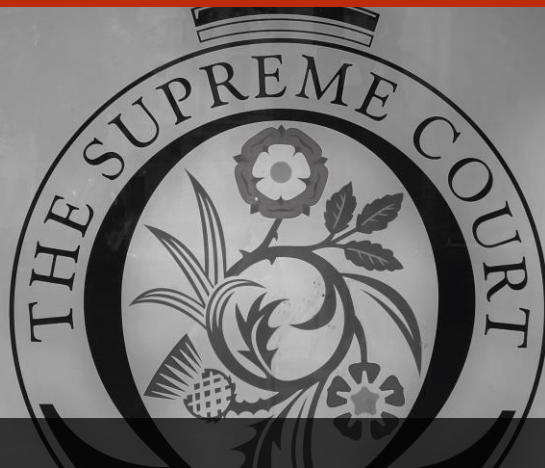
The Academy is a collaboration between public and private sector litigation professionals and the Basel Institute on Governance. See [here](#).

INSIGHT: Analysis of amendments to the Economic Crime and Corporate Transparency Bill

Richard Lissack KC and Robin Lööf write about the proposed “failure to prevent” offence for *Butterworths Journal of International Banking and Financial Law*. See [here](#).

Major judgments and outcomes

- *CNM Estates (Tolworth Tower) Limited v Simon Peter Carvill-Biggs Freddy Khalastchi* [2023] EWCA Civ 480: Court of Appeal clarifies test for “late” amendment. See [here](#).
- *PIFSS v Al Wazzan & others* [2023] EWHC 1065 (Comm): Commercial Court decides on disclosure obligations and analyses Swiss principles of sovereignty. See [here](#).
- *Watchstone Group Plc v Pricewaterhouse Coopers LLP v Slater & Gordon (UK) 1 Limited* [2023] EWHC 1133: Court rejects £63 million breach of confidence claim. See [here](#).
- *Fortenova Grupa DD v LLC Shushary Holding* [2023] EWHC 1165 (Ch): Application of the equitable jurisdiction that protects debtor’s right to redeem mortgaged property. See [here](#).
- *Wilson & Others v Bayer Pharma AG & Others* [2023] EWHC 1282 (KB): Hormone Pregnancy Test Group Litigation struck out. See [here](#).
- *Gameskraft Technologies Private Limited v DGGSTI*: Karnataka High Court quashes tax demand against online gaming companies. See [here](#).
- *CST v Mumbai International Airport Private Ltd*: Supreme Court of India holds no service tax due on development fee. See [here](#).



Major Supreme Court rulings and some key appointments

Aaron Taylor awarded Churchill Fellowship

The Churchill Fellowship was awarded for research on combatting fraud and financial crime in the global art market. See [here](#).

INSIGHT: Could ad hoc arbitrations in India do with a bit of help?

Gaurav Pachnanda SA authors a piece for *Bar & Bench* on the use of *ad hoc* versus institutional arbitrations in countries like India. See [here](#).

Fountain Court shortlisted for 30 awards at The Legal 500 Bar Awards 2023

Nominations include 12 set-level accolades and 18 individual shortlistings. See [here](#).

Samuel Rabinowitz appointed to Football Association Panel

The appointment, to the National Serious Case Panel, relates to the 23-24 and 24-25 seasons and the panel adjudicates on serious disciplinary cases in grassroots football. See [here](#).

Bankim Thanki KC nominated as Barrister of the Year by Legal Business

See [here](#).

Leigh-Ann Mulcahy KC appointed to Governing Council of the Nani Palkhivala Arbitration Centre

See [here](#).

INSIGHT: Damages for breach of anti-assignment clauses

Akhil Shah KC and Daniel Schwennicke write on the topic for *Butterworths Journal of International Banking and Financial Law*. See [here](#).

Major judgments and outcomes

- *Philipp v Barclays Bank UK plc* [2023] UKSC 25: Supreme Court hands down landmark *Quincecare* duty decision. See [here](#).
- *R (on the application of PACCAR Inc and others) v Competition Appeal Tribunal and others* [2023] UKSC 28: Ground-breaking Supreme Court decision handed down relating to the use of litigation funding. See [here](#).
- *Gopee v The Crown Court at Southwark* [2023] EWCA Civ 881: Court of Appeal gives guidance on Civil Restraint Orders. See [here](#).
- *NMC Healthcare LTD and associated companies v Dubai Islamic Bank PJSC & Others* [2023] ADGMCFI 0017: ADGM court rejects creditor's claim to security in NMC litigation. See [here](#).
- *EE Limited v Virgin Mobile Telecoms Limited* [2023] EWHC 1989: High Court dismisses EE's claim against Virgin Mobile. See [here](#).
- *AML Creditor Recovery Vehicle PTC v Madison Pacific Trust Limited & Others* [2023] SC (Bda) 66 Civ: Supreme Court of Bermuda rules on jurisdiction in share enforcement claim. See [here](#).



Four Court of Appeal judgments, directory rankings and essay prizes

INSIGHT: The Law of Rescission 3rd Edition (Review)
Charles Béar KC reviews the book in a piece for *Butterworths Journal of International Banking and Financial Law*. See [here](#).

Fountain Court shortlisted for 10 awards at Chambers Bar Awards 2023

The shortlisting includes three set-level and seven individual nominations. See [here](#).

Fountain Court announces winner of Christopher Bathurst Prize 2023

The prize-giving reception took place in Singapore, following a webinar on the essay topic. See [here](#).

David Wingfield interviewed in Thought Leaders 4's Competition Magazine

Issue 2 of the magazine features a '60-seconds-with' interview with the Fountain Court door tenant. See [here](#).

Fountain Court wins four awards at The Legal 500 Bar Awards 2023

See [here](#).

Fountain Court excels in The Legal 500 2024 results
Chambers is ranked in 12 practice areas and achieve 255 individual rankings. See [here](#).

INSIGHT: Setia Law podcast discussing recovery of stolen crypto assets

Nik Yeo and Laurentia de Bruyn feature in part 1. See [here](#).

Fountain Court excels in Chambers & Partners' 2024 UK Bar Results

See [here](#).

Major judgments and outcomes

- *Manchikalapati & Ors v The Financial Services Compensation Scheme* [2023] EWCA Civ 1006: FSCS succeeds in judicial review in Court of Appeal. See [here](#).
- *Royal and Sun Alliance Insurance Ltd & Ors v Tughans* [2023] EWCA Civ 999: Court of Appeal holds that claim against solicitors in respect of earned fees gives rise to an insured loss. See [here](#).
- *Riley v Natwest* [2023] EWHC 2401 (Ch): Natwest succeeds in c.£100 million claim for fraudulent misrepresentation. See [here](#).
- *Aquapoint L.P v Xiaohu Fan*: Cayman Islands Court of Appeal just and equitable winding up of Cayman Islands Exempted Limited Partnership. See [here](#).
- *Boris Mints & Ors v PJSC National Bank Trust & Anor* [2023] EWCA Civ 1132: Court of Appeal hands down significant sanctions judgment. See [here](#).
- *FRC v KPMG*: FRC imposes highest-ever fine for audit failings. See [here](#).
- *Pinewood Technologies Asia Pacific Limited v Pinewood Technologies Plc* [2023] EWHC 2506: High Court grants reverse summary judgment in \$312 million software dispute. See [here](#).

End of year awards and rankings, and a £1 billion win for EE

Three 'Stars at the Bar' for Fountain Court

Bankim Thanki KC, Richard Lissack KC and Anneliese Day KC are once again named Stars at the Bar by *Chambers & Partners*. See [here](#).

Chambers Bar Award 2023

Fountain Court congratulates Ben Lynch KC on being named Insurance Silk of the Year, and is delighted to be recognised as 'Highly Commended' for Diversity & Inclusion. See [here](#).

INSIGHT: Jacob Turner produces piece on AI for *Law Society Gazette*

The piece, produced together with AI professional Tristan Goodman, is entitled 'To control AI, we should regulate humans'. See [here](#).

INSIGHT: John Mehrzad KC interviewed on The LawInSport Podcast

The episode discusses the growing and increasingly global area of sports law. See [here](#).

INSIGHT: Parallel civil, criminal and regulatory proceedings: Evidential intersection and misdirection

Richard Lissack KC and Simon Paul discuss two areas deemed "evidential intersection". See [here](#).

INSIGHT: Recent cases in commercial crime

Richard Lissack KC and Simon Paul consider recent updates in the commercial crime field. See [here](#).

Eleven barristers recognised in Chambers & Partners' 2024 Asia Pacific guide

See [here](#).

Major judgments and outcomes

- *Loreley Financing (Jersey) No. 30 Limited v Credit Suisse Securities (Europe) Limited & ors* [2023] EWHC 2759 (Comm): Credit Suisse successfully defends \$160 million CDO fraud claim. See [here](#).
- *Bin Issa Al Jaber v Bin Ibrahim Al Ibrahim* [2023] EWHC 2759 (Comm): Commercial Court hands down judgment in Saudi dispute. See [here](#).
- *Phones 4U Ltd (in administration) v EE Ltd & Ors* [2023] EWHC 2826 (Ch): EE successfully defends £1 billion collusion and good faith claim. See [here](#).
- *Elliott Associates L.P. and other and Jane Street Global Trading v The London Metal Exchange and another* [2023] EWHC 2969 (Admin): Claims against London Metal Exchange dismissed. See [here](#).

Chambers news



New Head of Chambers appointed

In October 2023, Fountain Court announced that Richard Handyside KC had been elected Head of Chambers, following the five-year term completed by Bankim Thanki KC. Patrick Goodall KC will remain as Deputy Head of Chambers.

Fountain Court is extremely grateful to Bankim Thanki KC for leading Chambers for the previous five years and congratulates Richard Handyside KC on his appointment. Read more [here](#).



Fountain Court welcomes five new tenants

Following successful completion of their pupillages, Sam Hussaini, Charles Redmond, Tiffany Tang, Leah Gardner and Victoria Green became members of Chambers, with effect from 2 October 2023. They will be clerked by George Hack and Sam Ismail.

More information about each tenant and their backgrounds can be found [here](#).



John Mehrzad KC joins Fountain Court

Fountain Court was delighted to announce that John Mehrzad KC joined Chambers, as of 30 October 2023.

Speaking about his arrival, Richard Handyside KC said: "On behalf of Chambers, I am delighted to welcome John to Fountain Court. His outstanding reputation and experience, particularly in the area of sports law, will further enhance the service that Chambers is able to provide to clients both nationally and internationally." Read more [here](#).

THE



Fountain Court

PODCAST

This year we released series 3 of The Fountain Court Podcast, consisting of 10 episodes of legal news and analysis.

Please click the links on the following page to listen to our episodes and make sure you look out for series 4 next year.

You can also listen now via your usual podcast platform or by visiting [our website](#).

THE
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EPISODE 1

THE ROLE OF A SENIOR CLERK: DOES LIFE IMITATE ART?
WITH ALEX TAYLOR AND NEIL STUKE



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EPISODE 6

AI IN DISPUTE RESOLUTION: BENEFITS, DANGERS AND THE FUTURE OF REGULATION

WITH PATRICIA SHAW, ANDREW DENNY, SANA KHAREGHANI, JACOB TURNER AND THE HONOURABLE MR JUSTICE MARCUS SMITH



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EPISODE 2

INTERNATIONAL WOMEN'S DAY 2023: AN INTERVIEW WITH LADY JUSTICE CARR

WITH THE RIGHT HONOURABLE LADY JUSTICE CARR DBE AND STUART RITCHIE KC



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EPISODE 7

PHILIPP V BARCLAYS BANK: A FIRST-HAND ACCOUNT OF THE SUPREME COURT'S LANDMARK DECISION

WITH PATRICK GOODALL KC, DAVID MURRAY AND IAN BERGSON



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EPISODE 3

LESSONS FROM DEFENDING THE MOST SIGNIFICANT SOLICITORS DISCIPLINARY TRIBUNAL CASES OF RECENT YEARS (PART 1)

WITH MARIANNE BUTLER, TIM DUTTON CBE KC, PATRICIA ROBERTSON KC, RICHARD COLEMAN KC, FERGAL CATHIE, MICHAEL STACEY & IAIN MILLER



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EPISODE 8

ESG RISKS AND DISPUTES

WITH RICHARD LISSACK KC, JACOB TURNER, SUZANNE SPEARS AND PETER WICKHAM



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EPISODE 4

LESSONS FROM DEFENDING THE MOST SIGNIFICANT SOLICITORS DISCIPLINARY TRIBUNAL CASES OF RECENT YEARS (PART 2)

WITH MARIANNE BUTLER, TIM DUTTON CBE KC, PATRICIA ROBERTSON KC, RICHARD COLEMAN KC, FERGAL CATHIE, MICHAEL STACEY & IAIN MILLER



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EPISODE 9

AVIATION LITIGATION: TOPICAL ISSUES AND HORIZON SCANNING

WITH AKHIL SHAH KC, LAURENTIA DE BRUYN, CHARLOTTE WINTER AND HELEN BIGGIN



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EPISODE 5

CONSPIRACY: TALES FROM THE FRONT LINE

WITH JOSEPH FARMER, MARY YOUNG, BECCA HOGAN AND DERRICK DALE KC



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EPISODE 10

PROVIDING LEGAL SERVICES IN INDIA: THE NEW LANDSCAPE

WITH STEPHEN MORIARTY KC, ARVIND DATAR SA, GAURAV PACHNANDA SA AND ZAL ANDHYARUJINA SA



LISTEN NOW

Sir Nicholas Stadlen

1950-2023



Fountain Court was saddened to learn of the death of Sir Nicholas Stadlen, on 5 October 2023, at the age of 73.

Nick was educated at St Paul's School and Trinity College, Cambridge, where he read history and classics and was President of the Union. After passing out at the top of the Bar exams, he joined Chambers as a pupil in 1976 and completed pupillage with Denis Henry (later Lord Justice Henry). Nick developed a highly successful commercial practice, appearing in a number of large-scale cases. He was, above all, a formidable advocate, known for his meticulous preparation and fearlessness in the courtroom.

Nick took Silk in 1991 (at the age of 40), the same year that BCCI collapsed into liquidation. Nick was first instructed to represent the Bank of England in relation to BCCI that summer and, following Gordon Langley QC's elevation to the High Court in 1995, led the Bank's defence of the claim brought by BCCI's liquidators in the so-called Three Rivers case until that mammoth claim was finally discontinued in 2005. Having narrowly failed to persuade the House of Lords to uphold the strike out of the claim before trial, the case gave rise to one of the longest Commercial Court trials of all time, occupying 256 days in court in 2004 and 2005, as well as a series of significant interlocutory decisions on the law of privilege and other issues. Nick's opening speech, which demolished the Liquidators' case, lasted a record-breaking 119 days. As Tomlinson J noted on the day that the case was finally abandoned:

"I also wish to say publicly that in my judgment, a huge contribution to this litigation has been made by you, Mr Stadlen. You addressed me at enormous length on the documents in this case, as a result of which I had a far better understanding than I might otherwise have had, had I had to study those documents on my own. Your address to me was a tour de force, if I may say so, and no doubt it is something for which your clients are deeply grateful, but I am deeply grateful to you for your very great assistance given to me throughout this case."

Nick also brought his very considerable skills as an advocate to bear in other areas of the law, including in the successful defence of The Guardian and BBC in a series of libel cases brought (and, again, ultimately abandoned in the face of Nick's relentless defence) by Keith Schellenberg.

Between 2007 and 2013, Nick served as a High Court Judge in the Queen's Bench Division, assigned (at his request, and as much as anything else, for a change of scene) to the Administrative Court.

In a gap year between Bar and Bench, Nick had conducted incisive in-depth interviews of among others, Shimon Peres, FW de Klerk and Archbishop Desmond Tutu. Upon retirement, Nick embarked on a new career as a filmmaker. He researched, narrated and directed an award-winning documentary about the Rivonia trial of Nelson Mandela in 1963/4 and others. The title of the film, "Life is Wonderful", reflected Goldberg's words to his mother on being spared the death penalty. He also appeared on the BBC Radio 4 programme, Great Lives, nominating anti-apartheid lawyer, Bram Fisher.

Nick was one of the most significant and high-profile members of Chambers during his three decades in practice at the Bar and was an inspiring mentor for several of its members, past and present.

His obituary, published in the Times on 9 October 2023, concluded:

"Asked by the Times in 2005 what his advice to anyone wanting a career in law would be, he replied: '1. If you don't seriously care about justice, do something else. 2. Don't read law at university if you can afford not to.' Stadlen, a former classics student who cared passionately about righting injustices, was the embodiment of his creed."

Nick is survived by his wife, Frances, and their three children, Matthew, William and Tommy.



Fountain Court

We wish our clients a happy and healthy festive period and all the best for the New Year.





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