



James Cutress KC

Call 2000 | Silk 2018

"An exceptional lawyer, who is extremely bright." "He is incredibly responsive, easy to build a good working relationship with, and someone you can rely on."

Chambers & Partners

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James Cutress KC is an experienced commercial advocate, described in the legal directories as being "immensely effective in court", "brilliant on tactics" and "excellent at cutting to the chase".

He regularly acts both before the courts and in international arbitrations. His cases are typically heavy and complex commercial disputes which are international in nature and often raise jurisdictional and conflict of law issues.

Described as a "Rolls-Royce of a barrister", James' expertise spans a number of fields. He is recommended as a leading silk in the legal directories in no less than six practice areas: Commercial Litigation, International Arbitration, Banking & Finance, Insurance, Aviation and Professional Negligence. He has particular expertise in disputes arising out of financings and financing structures, commercial contracts, aviation, insurance, acquisitions/business sales, energy, fraud, sanctions and professional liability and discipline.

James is co-Author of *Thanki's The Law of Privilege* (3rd edition) and gives specialist and expert advice in relation to privilege issues and disputes. He has also sat on the Bar Standard Board professional complaints committee (now Independent Decision Making Body) for a number of years. In addition, James provides expert evidence on English law to foreign courts.

Recent Highlights

Russian Aircraft Claims

Leading a team in large scale multi-party commercial court litigation involving claims under insurance contracts relating to the alleged loss of billions of dollars' worth of commercial aircraft in Russia.

R (on the application of Manchikalapati) v Financial Services Compensation Scheme [2023] EWCA Civ 1006

Acting for FSCS in a dispute relating to the scope of FSCS' obligations to provide compensation under the Policyholder Protection Rules.

Care Tree Invest 2 Ltd v Bell [2023] EWHC 1151



Acting in a major commercial trial involving fraud and breach of warranty in relation to the sale of a business.

Bitar v Bank of Beirut [2022] EWHC 2163; Bitar v Banque Libano-Francaise SAL [2023] EWHC 17; Kalo v Bankmed [2023] EWHC 2606

Acting in a series of landmark claims under banking contracts governed by Lebanese law arising out of the financial crisis in Lebanon.

ECU Group Plc v HSBC Bank Plc [2021] EWHC 2875

Acting in a high-profile claim involving alleged fraud and 'front running' in relation to the execution of foreign exchange stop loss orders by HSBC.

Expertise

Aviation & Travel

James is a leading silk in aviation and has a wealth of aviation, aviation lease and aviation financing dispute experience. He is described in the directories as "someone who has that understanding of how things work in the aviation industry", whose "knowledge and interest in the aviation sector pervades all that he does"; with an ability to "unravel complex aircraft leasing and finance structures very quickly". He has been instructed as an expert in English aviation law before foreign courts. He has recently instructed in relation to a series of aircraft financing, aircraft lease and aircraft insurance disputes arising out of the problems caused by sanctions and/or the COVID-19 pandemic. He has also acted in matters arising out of each of the Thomas Cook, Monarch and Flybe insolvencies.

Notable Aviation & Travel cases

Russian Aircraft Claims

Leading a team in large scale multi-party commercial court litigation involving claims under insurance contracts relating to the alleged loss of billions of dollars' worth of commercial aircraft in Russia.

Zetta Jet v CAVIC Aviation Leasing (United States Bankruptcy Court, Central District of California, 3 August 2022)

Acting as an expert on English aviation law in bankruptcy proceedings in California in relation to a major dispute concerning aircraft leases governed by English law.

Residual Value Guarantee arbitration

Acting in an AFTAR arbitration concerning a dispute in relation to the amounts payable pursuant to an insurance



contract guaranteeing the residual value of an aircraft at the end of its lease.

Aircraft lease agreements arbitration

Acting a substantial arbitration concerning a series of aircraft leases raising issues of alleged frustration and/or force majeure arising out the COVID-19 pandemic.

Helice v Garuda [2021] 1 Lloyd's Rep. 395

Acting in jurisdiction dispute and subsequent arbitration involving claims under an aircraft lease arising out the strains caused by the COVID-19 pandemic.

Lufthansa v LaudaMotion

Leading a team for Lufthansa in a widely publicised dispute between Lufthansa and LaudaMotion relating to the termination of nine aircraft leases.

Manchester Airport v Archway Aviation

Acting for a lessor in relation to the arrest of a number of aircraft by Manchester Airport in the wake of the Monarch insolvency.

Re: Thomas Cook

Instructed by the special managers of Thomas Cook shortly before it entered into liquidation to advise in relation to aviation-related regulatory and contractual issues and slot allocation.

Westdawn v Export Development Canada

Acting for Export Development Canada in relation to a high-profile dispute concerning the termination of an aircraft lease entered into with an entity related to the Guptas, who were accused of 'state capture' in South Africa.

Alpstream AG & Others v PK Airfinance & GE Capital [2015] EWCA Civ 1381; [2014] 1 All ER (Comm) 441

Acting in a high-profile four-day appeal and seven-week trial of a \$30 million claim arising out of the repossession and subsequent sale of seven airbus aircraft.

Re: Embraer

Instructed in a \$10 million claim by an aircraft purchaser against Embraer for allegedly repudiating an aircraft sale agreement.



Virgin Atlantic v Koito [2014] EWHC 1671

Acting on a £20 million claim arising out of the sale of aircraft seats in relation to which the manufacturer was alleged to have falsified test results.

Aircraft lease arbitration

Acting on a two-week arbitration in relation to an end of lease dispute, involving a claim of over \$10 million.

Subrogated claim dispute

Acting on a \$20 million claim arising out of the total loss of a 747 aircraft in a hanger fire in Thailand.

Regularly advising in relation to lease and aircraft financing disputes, disputes between airlines (including in relation to IATA terms) and aviation related insurance disputes.

Banking & Finance

James is recognised by Chambers & Partners and The Legal 500 as a leading banking & finance silk. He regularly acts in a wide range of financing disputes and recovery proceedings, including in particular in relation to complex financing structures, syndicated loans, guarantees and performance bonds, securitisations, derivatives, in jurisdiction disputes and in relation to regulatory issues.

Notable Banking & Finance cases

Bitar v Bank of Beirut [2022] EWHC 2163; Bitar v Banque Libano-Francaise SAL [2023] EWHC 17; Kalo v Bankmed [2023] EWHC 2606

Acting in a series of landmark trials and jurisdiction disputes under banking contracts governed by Lebanese law arising out of the financial crisis in Lebanon.

International Arbitration

Acting in a major international arbitration arising of the sale of various European banking subsidiaries.

ECU Group Plc v HSBC [2021] EWHC 2875

Acting in a high-profile eight-week commercial court trial involving alleged 'front running' of foreign exchange stop loss orders by HSBC.

London Bridge v RBS



Acting for RBS in a \$423 million claim involving allegations of LIBOR manipulation.

FSCS v Paragon & Others

Acting for FSCS in proceedings against multiple defendants to recover tens of millions paid out in compensation in relation to PPI insurance.

Stuart Wall v RBS (2017)

Acting for RBS in a £663 million claim, which was the largest mis-selling claim of its type then brought against a bank.

Lukoil Mid-East Ltd v Barclays Bank Plc [2016] BLR 166

Acting in a claim for £7 million raising issues of construction of a demand guarantee / performance bond.

Greenclose Ltd v National Westminster Bank Plc [2014] 2 Lloyd's Rep 69

Advising on a claim raising issues of construction of general importance in relation to the notice provisions under the ISDA Master Agreement.

DVB Bank SE v Shere Shipping Co, IRISL & Others [2013] EWHC 2321 (Comm)

Acting as sole counsel in a claim for €42 million against Iranian owned or controlled entities who asserted defences of supervening illegality arising out of the EU sanctions against Iran.

BMA Special Opportunity Hub Fund Limited v African Minerals Finance Ltd [2013] EWCA Civ 416

Acting in a \$17 million dispute in relation to a prepayment fee under a \$500 million syndicated loan agreement.

Kookmin Bank v Rainy Sky & Others [2011] 1 WLR 2900 (SC)

Acting for Kookmin Bank in a landmark \$50 million dispute determined by the Supreme Court relating to the construction of a series of advance payment bonds.

Acting for Deutsche Bank in a \$70 million dispute arising out of the purchase of asset backed CLOs, including a dispute as to the grant of anti-suit injunctions in relation to which the Supreme Court granted permission to appeal.

Acting in numerous LIBOR and/or mis-selling claims relating to the sale of financial derivatives, including IRHPs (including *Wani LLP v Royal Bank of Scotland Plc* [2015] All ER (D) 22 (May)).



Acting in a number of cases involving allegations of misconduct by recoveries teams within banks.

Civil Fraud

James regularly acts in cases involving civil fraud. He has acted in disputes arising from some of the biggest frauds and alleged frauds in recent times, including in relation to Madoff funds, LIBOR, foreign exchange trading and various financings. He is experienced in acting in relation a wide range of interim relief including freezing orders, *Norwich Pharmacal* orders and Bankers Trust orders.

Notable Civil Fraud cases

ECU Group Plc v HSBC [2021] EWHC 2875

Acting in a high-profile eight week commercial court fraud claim involving alleged 'front running' of foreign exchange stop loss orders by HSBC.

Investment fund arbitration

Acting in a \$40 million arbitration involving fraud in relation to the financing of a major project in Africa.

Ashley v Jimenez [2019] EWHC 17

Acting in a high-profile multi-million pound fraud case raising issues of forgery and relating to a substantial property investment abroad.

Major fraud arbitration

Acting in a \$200 million arbitration arising out of a massive fraud in the Middle East.

Kazakhstan Kagazy v Zhunus, Arip & Others [2015] EWHC 996

Advising on claims in relation to an alleged fraud of over \$150 million from various Kazakh companies, raising complex jurisdictional, legal and factual issues.

Virgin Atlantic v Koito [2014] EWHC 1671

Acting on a £20 million claim in deceit arising out of the sale of aircraft seats in relation to which the manufacturer was alleged to have falsified test results.

Re: Madoff Fraud



Acting for a fund manager in a claim in the Cayman Islands for over \$500 million arising out of the Madoff fraud.

Acting for employer in a £4 million employee fraud in which a range of interim relief was obtained, including freezing orders, disclosure orders and Bankers Trust orders.

Acting in a series of claims involving alleged LIBOR and FX misconduct and fraud.

Commercial Disputes

James is recommended by Chambers & Partners as a leading silk in this field and has been described as having “instinctive commercial thinking”. James has acted in numerous high value and complex commercial disputes across a wide range of subject matters.

Notable Commercial Disputes cases

Russian Aircraft Claims

Leading a team in large scale multi-party commercial court litigation involving claims relating to the alleged loss of billions of dollars’ worth of commercial aircraft in Russia.

R (on the application of Manchikalapati) v Financial Services Compensation Scheme [2023] EWCA Civ 1006

Acting for FSCS in a dispute relating to the scope of FSCS’ obligations to provide compensation under the Policyholder Protection Rules.

Care Tree Invest 2 Ltd v Bell [2023] EWHC 1151

Acting in a major commercial trial involving fraud and breach of warranty in relation to the sale of a business.

ECU Group Plc v HSBC [2021] EWHC 2875

Acting in a high-profile eight-week commercial court trial involving alleged ‘front running’ of foreign exchange stop loss orders by HSBC.

Re: Madoff fund

Acting for a fund manager in a claim in the Cayman Islands for over \$500 million arising out of the Madoff fraud.

Stuart Wall v RBS (2017)



Acting for RBS in a £663 million claim, which was the largest mis-selling claim of its type ever brought against a bank.

Alpstream & Others v PK Air Finance [2015] EWCA Civ 1318; [2014] 1 All ER (Comm) 441

Acting in a seven-week trial and subsequent appeal in a claim for breach of equitable duty and conspiracy against PK and GECAS arising out of the repossession and sale of seven airbus aircraft.

Treatt v Barratt [2015] EWCA Civ 116

Acting in trial and appeal raising issues of construction of a share purchase agreement.

Union Marine v Comoros [2015] 2 Lloyd's Rep 59

Acting as sole counsel in an arbitration and then arbitration appeal raising important issues as to the scope of the appeal powers under s.67 of the Arbitration Act.

Multi Veste 226 BV v NI Summer Row Unitholder BV

Acting in a three-week trial of a £30 million dispute relating to a joint venture to construct a £300 million shopping centre.

Commercial Disputes - Jurisdiction and conflicts of law

James has particular expertise in disputes concerning jurisdiction and conflicts of law. He has acted and advised in many such disputes, including disputes in relation to anti-suit injunctions, *forum conveniens*, jurisdiction clauses, choice of law, concurrent proceedings and the enforcement of foreign judgments.

Notable Commercial Disputes - Jurisdiction and conflicts of law cases

Kalo v Bankmed [2023] EWHC 2606

Acting in a jurisdiction dispute in connection with claims under a banking contract governed by Lebanese law arising out of the financial crisis in Lebanon.

Bitar v Banque Libano-Francaise SAL [2021] EWHC 2787

Jurisdiction dispute in connection with a banking contract relating to the 'consumer contract' head of jurisdiction.

Investment Bank v State Entity



Acting in a €200 million dispute between a state entity and an investment bank in relation to the entry into a series of derivatives transactions, raising numerous jurisdiction issues, including as to the relationship between jurisdiction clauses in connected agreements.

Ashley v Jimenez [2019] EWHC 17

Acting in a widely reported dispute raising a series of issues as to jurisdiction, including regarding whether an exclusive jurisdiction clause in favour of a foreign court had been forged and whether service out should be granted in relation to a number of different claims.

IMS SA v Capital Oil and Gas Industries Ltd [2016] 4 WLR 163

Acting in a \$5.8 million dispute raising important issues of principle as to the correct interpretation and application of the procedural rules relating to challenges to English jurisdiction, as well as issues whether a jurisdiction clause had been agreed.

Virgin Atlantic v Koito [2014] EWHC 1671

Acting for an airline in a \$20 million jurisdiction dispute with two manufacturers, raising complex issues as to the scope and applicability of many of the common law heads of jurisdiction.

Acting in a \$70 million dispute between a bank and a hedge fund arising out of repurchase transactions, raising issues of principle relating to the ability to obtain anti-suit injunctions in the context of non-exclusive jurisdiction clauses. The dispute settled shortly before it was to be heard by the Supreme Court.

UBS AG v Kommunale Wasserwerke Leipzig [2010] 2 CLC 499

Acting in a jurisdiction dispute between an investment bank and a German counterparty arising out of a series of CDO and CDS transactions, raising issues including as to the applicability of article 22 of the Judgments Regulation.

Energy & Infrastructure

James has extensive experience of claims in the energy sector, including in relation to disputes under sale and supply contracts, joint ventures, insurance contracts and financings.

Notable Energy & Infrastructure cases

Acting in a major \$40 million arbitration involving allegations of alleged fraud relating to financing of an oil project in Africa.

Acting in a claim arising out of alleged negligence in the repair of an oil pipeline, which resulted in a major oil spillage



in South Wales.

Acting in an arbitration between four major international oil companies relating to a substantial oil storage and pipeline joint venture.

Acting in a series of substantial claims arising out of financings of various energy projects.

Insurance

James is recommended in the directories as a leading silk in insurance. He has acted and advised in numerous cases across the full spectrum of insurance disputes, including acting for (re)insurers and (re)insureds, in claims for and against brokers and in Bermuda form, credit insurance, fidelity insurance, business interruption, political risks, aviation, property and professional indemnity disputes.

Notable Insurance cases

Russian Aircraft Claims

Leading a team in large scale multi-party commercial court litigation under contracts of insurance involving claims relating to the alleged loss of billions of dollars' worth of commercial aircraft in Russia.

Premia v Amtrust

Acting in multi-million pound commercial court trial in relation to disputes under a reinsurance framework agreement.

Acting in a major \$40 million arbitration involving allegations of alleged fraud relating to the placement of (re)insurance policies.

Acting in a number of credit insurance arbitrations and disputes each involving claims of over \$10 million.

Acting in numerous Bermuda Form disputes including a three-week £100 million Bermuda Form arbitration, a three-week \$25 million Bermuda Form arbitration and a \$50 million coverage dispute.

Advising on a \$40 million arbitration under a political risks policy in connection with commodities trading.

Acting on a \$200 million arbitration in relation to a policy of fidelity insurance.



Acting for insurers in a one-week arbitration relating to the payment of profit commission under a coverholder agreement.

All Leisure Holidays v Europäische Reiseversicherung AG & Others [2012] Lloyd's Rep IR 193

Acting for an insured in proceedings raising issues of construction relating to over 400 claims on a passenger protection insurance policy arising out of the insolvency of a tour operator.

Acting in a \$20 million coverage dispute under a war risks insurance relating to alleged corruption in the Egyptian courts.

Acting for BAE in a major LCIA reinsurance arbitration involving \$3 billion worth of cover.

International Arbitration

James has extensive arbitration experience under a range of institutional rules (including LCIA, ICC and LMAA) in a number of commercial contexts, including commercial contracts, oil and gas, insurance/reinsurance disputes, fraud and aviation. His experience includes appeals from arbitration awards and disputes relating to enforcement of arbitration awards.

Notable International Arbitration cases

Acting in a major \$40 million arbitration involving allegations of alleged fraud relating to financing of a project in Africa.

Acting in a heavily contested international arbitration arising out of the sale of various subsidiaries in Eastern Europe.

Residual Value Guarantee arbitration

Acting in an AFTAR arbitration concerning a dispute in relation to the amounts payable pursuant to an insurance contract guaranteeing the residual value of an aircraft at the end of its lease.

Helice v Garuda [2021] 1 Lloyd's Rep. 395

Acting in a scope of arbitration clause dispute and subsequent arbitration involving claims under an aircraft lease.

Acting in an arbitration between four major international oil companies relating to a substantial oil storage and pipeline joint venture.

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Acting in an arbitration between four major international oil companies relating to a substantial oil storage and pipeline joint venture.

Acting in a €13 million international arbitration arising out of a failed joint venture relating to property in Romania.

Union Marine v Comoros [2015] 2 Lloyd's Rep 59

Acting in an arbitration and then arbitration appeal raising important issues as to the scope of the appeal powers under s.67 of the Arbitration Act.

APC v Eltete [2015]

Obtaining the stay of an £8 million claim under s.9 of the Arbitration Act 1996 on the grounds of a Finnish arbitration clause, the applicability of which was disputed.

Acting in a \$200 million three-week arbitration on a policy of fidelity insurance.

Acting in a one-week arbitration in relation to the payment of profit commission under coverholder agreements.

Acting in a \$40 million claim under an insurance policy in connection with commodities trading.

Acting in a two-week aviation arbitration relating to disputes under aircraft lease agreements.

Privilege, Confidentiality & Conflicts of Interest

James is co-Author of *Thanki's The Law of Privilege* (3rd edition) and regularly gives specialist and expert advice in relation to privilege issues and disputes, as well as in relation to cases raising issues of confidentiality and conflicts of interest.

Notable Privilege, Confidentiality & Conflicts of Interest cases

ECU Group Plc v HSBC [2021] EWHC 2875

Acting in a high-profile eight week commercial court trial involving alleged 'front running' of foreign exchange stop loss orders by HSBC, raising issues of breach of confidence.

London Bridge v RBS

Acting for RBS in a \$423 million claim raising a series of privilege issues.

Advising major corporate in relation to privilege issues arising out of investigations.

Advising law firm in relation to issues of joint privilege.

Advising major corporate in relation to issues relating to the scope of legal advice privilege.

Giving specialist privilege advice in connection with a dispute before the Court of Appeal.

Professional Negligence & Professional Discipline

James is recognised in the directories as a leading silk in Professional Negligence. James has acted in very substantial claims in a wide range of disciplines, including in relation to fund managers, financial advisers, auditors, solicitors and valuers. James has particular expertise in complex and substantial professional negligence claims arising out of financial products and/or institutions.

He also sat on the Bar Standard Board professional complaints committee (now Independent Decision Making Body) for a number of years.

Notable Professional Negligence & Professional Discipline cases

Acting for an investment fund in negligence claims relating to a £40 million investment.

Acting for well-known accountants in response to high-profile disciplinary proceedings in which the FRC sought the largest fine ever to be imposed.

Acting for a bank in a £48 million claim against valuers arising out of a series of allegedly negligent valuations of a major development site.

Acting for a fund manager in relation to a claim by a major client for alleged negligence in the management of a substantial investment portfolio during the financial crisis.

Acting for a leading provider of independent financial advice in a series of claims against former independent financial advisers.

Acting for a fund manager in a professional negligence claim for over \$500 million arising out of the high-profile Madoff fraud.

Acting for a law firm in a claim for alleged negligence in connection with the structuring of a \$2 billion collateralised

bond obligation transaction.

Acting in a series of cases involving the alleged mis-sale of financial instruments including derivatives.

Acting in a claim arising out of alleged negligence in the repair of an oil pipeline, which resulted in a major oil spillage in South Wales.

Sanctions

James has significant sanctions experience, having acted and advised in a number of sanctions cases, including in cases raising issues as to the scope of sanctions clauses and the use of sanctions as a defence.

Notable Sanctions cases

Russian Aircraft Claims

Leading a team in large scale multi-party commercial court litigation under contracts of insurance involving claims relating to the alleged loss of billions of dollars' worth of commercial aircraft in Russia following the imposition of sanctions on Russia.

Advising major corporate on sanctions issues arising out of sanctions on Russia.

DVB Bank SE v Shere Shipping Co, IRISL & Others [2013] EWHC 2321 (Comm)

Acting as sole counsel in a claim for €42 million against Iranian owned or controlled entities who asserted defences of supervening illegality arising out of the EU sanctions against Iran.

Directory Quotes

"Straight-talking, incredibly bright, unflappable and utterly focused." "An absolute pleasure to instruct: razor-sharp, accommodating and very easy to work with."

Chambers & Partners

"He is hugely knowledgeable. Calm and measured, while forceful and persuasive. Great with clients, who always feel reassured and confident after a conference."



Legal 500

"He holds the court in the palm of his hand and his cross-examination is excellent." "He always makes himself available when required and is excellent at getting into the detail."

Chambers & Partners

"James Cutress QC is open-minded and a creative thinker." "He combines a brilliantly analytical mind with instinctive commercial thinking, and delivers the goods time and again."

Chambers & Partners, Global

"Hugely clever and someone who has that understanding of how things work in the aviation industry. He can speak plain English to lay clients who don't necessarily understand the law or the procedure involved in a case."

Chambers & Partners

"He has a formidable intellect and can always see creative solutions to the most difficult problems."

Legal 500

"Super-intelligent, excellent on paper and brilliant on tactics."

Legal 500

"He's great to deal with and a great advocate."

Chambers & Partners

"An immense intellect able to get on top of mountains of detail and digest it down to cogent and persuasive submissions which impress both clients and judges."

Legal 500

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Directory Rankings

Chambers & Partners – Global

- Dispute Resolution: Commercial – UK
- Global Market Leaders: International Arbitration – The English Bar

Chambers & Partners – UK

- Aviation
- Banking & Finance
- Commercial Dispute Resolution
- Insurance
- International Arbitration: General Commercial & Insurance
- Professional Negligence

Legal 500 – UK

- Aviation
- Banking & Finance
- Insurance & Reinsurance
- Professional Negligence

Education

- BA Law, Oxford (Top First in the University)
- BCL, Oxford (First Class)
- LLM, Harvard Law School (magna cum laude equivalent)
- Inns of Court School of Law (Second in year)

Appointments, Memberships and Prizes

- Bar Standards Board Complaints Committee (2016-2019) and Independent Decision Making Body (2019-)
- Eldon Scholarship (Oxford University, 2000)
- Denning Scholarship (Lincoln's Inn, 2000)
- Scarman Scholarship (Inns of Court School of Law, 2000)
- Summer Associate, Litigation Department, Simpson Thacher & Bartlett, New York (2000)
- Winner, Robert Wright Mooting Competition, Lincoln's Inn (2000)
- Mansfield Scholarship (Lincoln's Inn, 1999)
- Hardwick Entrance Award (Lincoln's Inn, 1999)

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- Tutor in Law (Part Time) City University (1999)
- Kennedy Scholarship (Kennedy Memorial Trust, 1998)
- British Academy Award for Postgraduate Study (1997)
- Andrew Dixon Scholarship (Worcester College, Oxford, 1995)
- Martin Wronker Prize (Oxford University, 1997)
- Field Fisher Waterhouse Prize (Oxford University, 1997)
- Prize for Best Finals Performance in Trusts (Oxford University, 1997)
- Henry S.Q. Henriques Prize (Worcester College, Oxford, 1997)

Publications

- Co-Author, *The Law of Privilege* (3rd Ed. Thanki, OUP, 2018)

Awards



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