

OUR PEOPLE

Lionel Nichols, FCIArb

CALL 2008 (Australia); 2013 (England & Wales)



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Lionel Nichols specialises in international and cross-border disputes, focusing on commercial litigation, international arbitration, public international law, private international law and human rights.

Prior to joining Chambers, Lionel was a partner in a Band 1 litigation and arbitration team in London.

Lionel has experience advising and acting for sovereign States, corporations, NGOs and individuals before a wide range of international courts and tribunals. He has worked on cases heard by all levels of English courts (including the Supreme Court, the Privy Council, the Court of Appeal and the High Court) and by international tribunals under all of the major institutional arbitral rules, including ICSID, ICC, LCIA, SCC, UNCITRAL and CIArb. He has also acted on matters before the African Commission on Human and Peoples' Rights, the European Court of Human Rights, the International Criminal Tribunal for the former Yugoslavia, the Special Court for Sierra Leone and the United Nations Human Rights Committee.

Lionel also sits as an arbitrator and is a Fellow of the Chartered Institute of Arbitrators.

Expertise

Commercial Law

Prior to joining Chambers, Lionel was a partner in a Band 1 litigation team in London. Lionel's broad commercial practice includes tortious claims (particularly those based in negligence), contractual claims and shareholder disputes. The nature of this work has included jurisdictional challenges (such as on *forum non conveniens* grounds), group claims, freezing injunctions, summary judgment applications, and strike out applications. This has included work in offshore jurisdictions, including the BVI, the Cayman Islands and Cyprus.

He specialises in applications under the Arbitration Act 1996, including challenges under sections 67, 68 and 69, stays of proceedings under section 9, freezing injunctions under section 44 and preliminary determinations of jurisdiction under section 32.

Lionel has also advised clients on cross-border litigation post-Brexit, including on issues such as service, enforcement, Brussels I

Recast and the Lugano Convention. He also advises on sanctions.

Featured Commercial Law Cases

- *GPS GP S.á.r.l v Poland*. Successfully representing the applicant in the first set aside of an investor-State award by an English court.
- *NDK v HUU and KXF*. Successfully resisting challenges under sections 67 and 68 of the Arbitration Act.
- *Reliance Industries v India*. Acting for India in successfully resisting eight challenges (under sections 67, 68 and 69 of the Arbitration Act) to a \$3 billion, 700-page UNCITRAL award.
- *India v Reliance Industries*. Acting for India in commencing five challenges (and resisting a further three challenges) under sections 67, 68 and 69 of the Arbitration Act.
- *Specialty Magnetics v Agilent Technologies*. Successfully resisting a stay application under section 9 of the Arbitration Act.
- *VTB Commodities v Antipinsky Refinery*. Jurisdictional challenge under section 44 of the Arbitration Act and successfully resisting the continuation of a mandatory interlocutory injunction made in support of arbitration.
- *VTB Commodities v Antipinsky Refinery*. Application under section 32 of the Arbitration Act to determine a preliminary issue of jurisdiction.
- *VTB Commodities v Antipinsky Refinery*. Jurisdictional challenge concerning the addition of Part 20 defendants.
- *RBS v Wall*. Acting for the defendants in a £600m claim for alleged interest rate swaps mis-selling and LIBOR manipulation.
- *RBS*. Advising on various matters arising out of RBS's Global Restructuring Group and its treatment of SMEs.
- *Her Majesty's Government*. Advising a government department in an 8-figure claim against a multinational professional services and business consulting corporation for breaches of a master services agreement.
- *Focal Image v Sheikh Mohamed*. Acting for the claimant in a debt claim before the insolvency courts, the Commercial Court and the London Circuit Court.

International Arbitration

Lionel has experience acting under all major institutional rules, including ICSID, ICC, LCIA, UNCITRAL and CI Arb. His practice comprises complex cross-border disputes and disputes with an international dimension. The sectors covered by this practice include banking & financial services, commodities and international trade, and energy & infrastructure, with a focus on Africa, CIS & Russia, as well as offshore jurisdictions. He has also advised both claimants and States in relation to potential claims under bilateral and multilateral investment treaties.

He has particular expertise in applications under the Arbitration Act 1996, including challenges under sections 67, 68 and 69, stays of proceedings under section 9, freezing injunctions under section 44 and determinations of jurisdiction under section 32.

Lionel also sits as an arbitrator and is a Fellow of the Chartered Institute of Arbitrators.

Featured International Arbitrations

- *Confidential client*. Successfully obtaining various orders for specific performance in an arbitration of a complex shareholders' dispute, concerning a Cypriot holding company ultimately owning one of the largest open-cast coal mines in Siberia.
- *Confidential Client*. Acting for the successful claim seeking final anti-suit injunctive relief from an arbitral tribunal, restraining proceedings brought in Cyprus by the respondent, in breach of an arbitration clause in a shareholders' agreement.
- *Confidential Client*. Acting for the claimant in its international arbitral claim to recover an indebtedness of \$1.3 billion, with a related application for an anti-suit injunction and related proceedings in the BVI.
- *Antipinsky Refinery*. Acting for the respondent in a €200m LCIA arbitration in the energy sector, defending a series of contractual and tortious claims commenced by Russian State-owned bank VTB.
- *Future Pipe International v Egypt*. Acting for the claimant, a multinational producer of fibreglass pipes, in an ICSID arbitration under the Egypt-Netherlands BIT.
- *Global investment bank*. Acting for the claimant in an ICC arbitration involving a shareholders' dispute against a Polish real estate company regarding the exercise of put options.
- *Multinational energy company*. Acting for the claimant in an ICC arbitration involving breaches of a suite of supply agreements, including issues of force majeure.

- *Multinational energy company*. Acting in an ICC arbitration concerning the operation and interpretation of a complex series of long-term production-sharing contracts from a substantial gas field in the Far East.
- *Confidential client*. Acting for the claimant in a €3 million Paris-seated ICC arbitration regarding breach of a non-compete clause in the pharmaceuticals industry.
- *Confidential client*. Acting for the claimant in an LCIA arbitration concerning negligent misrepresentations made during negotiations over a share purchase agreement.
- *Global steel producer*. Acting for the respondent in an LCIA arbitration concerning the sale of goods.
- *Leading medical university*. Acting for the claimant in a multimillion-dollar LCIA arbitration following the failure of a joint venture in Malaysia.
- *Belgian nursing home provider*. Acting for the respondent in a CIArb arbitration concerning alleged non-payment of introducer fees.
- *Confidential client*. Acting for a Russian metallurgical plant in an LCIA arbitration defending alleged non-acceptance of iron-ore pellets.
- *Confidential client*. Advising investors on a potential investment treaty claim under a BIT with an Eastern European State.
- *Confidential client*. Advising Turkish investors on a potential ICSID claim under a BIT with a Central Asian State.
- *Confidential client*. Advising on a potential ICSID claim against an African State.
- *Confidential client*. Advising on existing investment protections under Iranian BITs, the OIC agreement and FIPPA.
- *Confidential client*. Advising on existing investment protections under Middle Eastern BITs.
- *Confidential client*. Advising on the prospects of annulling an ICSID award.

International Criminal Law

Prior to joining Chambers, Lionel spent three years working in The Hague, first with the Office of the Prosecutor at the International Criminal Tribunal for the former Yugoslavia, then with Trial Chamber II at the Special Court for Sierra Leone.

His doctoral dissertation analysed the International Criminal Court's strategy of positive complementarity under Article 17 of the Rome Statute and was the first academic consideration of the Office of the Prosecutor's investigations into the Kenyan situation. This was later published as a monograph (*The International Criminal Court and the End of Impunity in Kenya*, Springer, 2015).

Lionel has also acted as a researcher and an advisor for the Global Institute for the Prevention of Aggression, a small private foundation founded in 1996 by Benjamin Ferencz aimed at advancing the goal of criminalising the illegal use of force.

Featured International Criminal Law Cases

- *Prosecutor v Taylor*. The "Blood Diamond" trial of the president of Liberia, convicted of 11 counts of aiding and abetting war crimes and crimes against humanity, and sentenced to 50 years imprisonment by the Special Court for Sierra Leone.
- *Prosecutor v Karadžić*. Trial of the president of the Republika Srpska, convicted by the International Criminal Tribunal for the former Yugoslavia of genocide, war crimes and crimes against humanity, and sentenced to 40 years imprisonment.
- *Prosecutor v Stanišić and Simatović*. Trial of the head and deputy head of the Serbian State Security Service, convicted of war crimes and sentenced by the International Criminal Tribunal for the former Yugoslavia to 12 years imprisonment.
- *Prosecutor v Gotovina*. Trial of three defendants, including the commander of the Croatian army, for nine counts of war crimes and crimes against humanity alleged to have been committed during Operation Storm.
- *Public International Law Policy Group*. Advising on issues of genocide and crimes against humanity arising from the mass displacement and persecution of the Rohingya in Burma.
- *Public International Law Policy Group*. Advising on the legality under international law of the detention of suspected ISIS fighters in Iraq, including under Common Article 3 to the Geneva Conventions.
- *Reprieve*. Advising on international humanitarian law issues arising from the "War on Terrorism".

Human Rights

Lionel has extensive experience acting for individuals, NGOs, corporations, and States in human rights cases, before a range of domestic, regional and international courts and tribunals. He is particularly regarded for his work on core human rights such as the right to life, freedom from torture, freedom from discrimination, the right to a fair trial, the right to liberty and freedom of movement.

He is also known for his expertise in Business & Human Rights. This includes advising corporations on issues relating to supply chains and modern slavery, as well as claimants and third-party funders on potential claims against multinational corporations. Lionel has also served as an expert reviewer in a comparative study conducted by the University of Oxford's Bonavero Institute of Human Rights on civil liability for human rights violations across 18 jurisdictions.

Featured Human Rights Cases

- *Chiragov v Armenia*. Application to the Grand Chamber of the European Court of Human Rights concerning the Nagorno-Karabakh conflict and raising issues of the right to property, the right to private and family life, and freedom from discrimination.
- *Tuweni v Kenya*. The first extraordinary rendition case to be heard by the African Commission on Human and Peoples' Rights, with associated claims relating to torture, fair trial, liberty, discrimination and the right to family life.
- *Buffett v Australia*. Application to the United Nations Human Rights Committee regarding the rights of Norfolk Islanders to self-determination, minority rights and indigenous rights.
- *Marshall v Australia; George v Australia*. Applications to the United Nations Human Rights Committee under Article 12(4) of the International Covenant on Civil and Political Rights on behalf of the "Stranded Aussies" prevented by the government from returning to their home country due to COVID-19.
- *Tsvetnenko v Australia*. A *habeas corpus* application to the United Nations Human Rights Committee regarding Australia's refusal to grant bail to a defendant awaiting extradition.
- *Pham v SSHD*. Application to the United Kingdom Supreme Court concerning statelessness following the Secretary of State's decision to deprive the appellant of British nationality.
- *Litvinenko v SSHD*. Judicial review of the Secretary of State's refusal to set up a statutory inquiry into the death of Russian spy Alexander Litvinenko, with reference to the United Kingdom's positive obligations under Article 2 of the European Convention of Human Rights to protect and promote the right to life.
- *Hutchinson v United Kingdom*. Application under Article 3 of the European Convention on Human Rights (prohibition of torture) concerning the imposition of "whole life" sentences.
- *Kazal v Australia*. Application to the United Nations Human Rights Committee under Article 14 of the International Covenant on Civil and Political Rights (right to a fair trial) following a corruption commission's finding based on a "could have" standard.
- *Ali v United Kingdom*. Application under Article 6 of the European Convention on Human Rights concerning adverse pre-trial publicity in jury trials and its impact on the accused's right to a fair trial.
- *Dallas v United Kingdom*. Juror's application under Article 7 of the European Convention on Human Rights (no punishment without law) following her conviction for contempt of court for conducting independent research into the criminal trial.
- *African Commission on Human & Peoples' Rights*. Advising on amendments to the African Charter and the Rules of Procedure to facilitate the amicable settlement of disputes.
- *Amnesty International*. Advising on a potential application to the African Commission on Human & Peoples' Rights concerning enforced disappearances in Burundi.
- *Ministry of Justice, Lord Avery and Baroness Thornton*. Advising on caste discrimination and the United Kingdom's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination.
- *AJL20 v Australia*. Advising a Syrian refugee on a potential *habeas corpus* application to the United Nations Human Rights Committee concerning Australia's indefinite detention regime.

Public International Law

Lionel has a broad and growing public international law practice in which he advises individuals, NGOs, corporations and States on all aspects of international law. Recent advices have concerned jurisdiction, State responsibility and sovereign immunity.

He holds two master's degrees in international law, a master's degree in international relations, and a doctorate in international law. Prior to joining Chambers, Lionel was the Global Justice Research Fellow at the University of Oxford. He has published widely in the field of public international law and is regularly invited to speak at conferences.

Featured Public International Law Cases

International Court of Justice

- *Confidential State*. Advising on a possible third-party intervention in an ongoing case before the International Court of Justice.
- *Confidential State*. Advising on the possibility of seeking an advisory opinion from the International Court of Justice.

United Nations Human Rights Committee

- *Buffett v Australia*. Application to the United Nations Human Rights Committee regarding the rights of Norfolk Islanders to self-determination, minority rights and indigenous rights.
- *Marshall v Australia; George v Australia*. Applications to the United Nations Human Rights Committee under Article 12(4) of the International Covenant on Civil and Political Rights on behalf of the “Stranded Aussies” prevented by the government from returning to their home country due to COVID-19.
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International Criminal Tribunals

- *Prosecutor v Taylor*. The “Blood Diamond” trial of the president of Liberia, convicted of 11 counts of aiding and abetting war crimes and crimes against humanity, and sentenced to 50 years imprisonment by the Special Court for Sierra Leone.
- *Prosecutor v Karadžić*. Trial of the president of the Republika Srpska, convicted by the International Criminal Tribunal for the former Yugoslavia of genocide, war crimes and crimes against humanity, and sentenced to 40 years imprisonment.
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- *Prosecutor v Gotovina*. Trial of three defendants, including the commander of the Croatian army, for nine counts of war crimes and crimes against humanity alleged to have been committed during Operation Storm.

Investment Arbitration

- *Future Pipe International v Egypt*. Acting for the claimant, a multinational producer of fibreglass pipes, in an ICSID arbitration under the Egypt-Netherlands BIT.
- *Confidential client*. Advising investors on a potential investment treaty claim under a BIT with an Eastern European State.
- *Confidential client*. Advising Turkish investors on a potential ICSID claim under a BIT with a Central Asian State.
- *Confidential client*. Advising on a potential ICSID claim against an African State.
- *Confidential client*. Advising on existing investment protections under Iranian BITs, the OIC agreement and FIPPA.
- *Confidential client*. Advising on existing investment protections under Middle Eastern BITs.

African Commission on Human and Peoples’ Rights

- *Tuweni v Kenya*. The first extraordinary rendition case to be heard by the African Commission on Human and Peoples’ Rights, with associated claims relating to torture, fair trial, liberty, discrimination and the right to family life.
- *African Commission on Human & Peoples’ Rights*. Advising on amendments to the African Charter and the Rules of Procedure to facilitate the amicable settlement of disputes.
- *Amnesty International*. Advising on a potential application to the African Commission on Human & Peoples’ Rights concerning enforced disappearances in Burundi.

European Court of Human Rights

- *Chiragov v Armenia*. Application to the Grand Chamber of the European Court of Human Rights concerning the Nagorno-Karabakh conflict and raising issues of the right to property, the right to private and family life, and freedom from discrimination.
- *Hutchinson v United Kingdom*. Application under Article 3 of the European Convention on Human Rights (prohibition of torture) concerning the imposition of “whole life” sentences.
- *Ali v United Kingdom*. Application under Article 6 of the European Convention on Human Rights concerning adverse pre-trial publicity in jury trials and its impact on the accused’s right to a fair trial.
- *Dallas v United Kingdom*. Juror’s application under Article 7 of the European Convention on Human Rights (no punishment without law) following her conviction for contempt of court for conducting independent research into the criminal trial.

Domestic Courts and Legislation

- *Pham v SSHD*. Application to the United Kingdom Supreme Court concerning statelessness following the Secretary of State's decision to deprive the appellant of British nationality.
- *Litvinenko v SSHD*. Judicial review of the Secretary of State's refusal to set up a statutory inquiry into the death of Russian spy Alexander Litvinenko, with reference to the United Kingdom's positive obligations under Article 2 of the European Convention of Human Rights to protect and promote the right to life.
- *Ministry of Justice, Lord Avery and Baroness Thornton*. Advising on caste discrimination and the United Kingdom's obligations under the Convention to Eliminate Racial Discrimination.
- *GPS GP S.á.r.l v Poland*. Successfully representing the applicant in the first set aside of an investor-State award by an English court, concerning the respondent's jurisdictional challenge. The Court considered the Vienna Convention on the Law of Treaties and the BIT's *travaux préparatoires* in interpreting the BIT's expropriation and fair and equitable treatment provisions.

Qualifications

Fellow of the Chartered Institute of Arbitrators

DPhil in Law (University of Oxford)

MPhil in Law (Dist.) (University of Oxford)

BCL (University of Oxford)

Master of International Politics (University of Tasmania)

Bachelor of Laws (1st) (University of Tasmania)

Bachelor of Arts (1st) (University of Tasmania)

Rhodes Scholarship, Commonwealth Scholarship, Tim Hawkins Memorial Scholarship
