

OUR PEOPLE

Stephen Ryan

CALL 2016

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Stephen Ryan has a broad commercial practice specialising in high-value commercial litigation and arbitration, commercial chancery, banking and finance, civil fraud, insurance and professional negligence.

Many of Stephen's cases are international in nature, involving proceedings in foreign jurisdictions and in 2021, Stephen was admitted to practice as a Barrister of the Eastern Caribbean Supreme Court in the Territory of the British Virgin Islands. Stephen has appeared as sole counsel in the BVI Commercial Court, as well as the Eastern Caribbean Court of Appeal.

Stephen has experience in an array of disputes, both in English courts, BVI courts and in international arbitrations, involving issues of commercial law and commercial chancery, civil fraud, banking and finance, company law, trusts, insurance and insolvency as well as issues of jurisdiction and procedure in the obtaining of freezing orders and other kinds of commercial injunctions. Stephen also has recent experience in cases dealing with crypto-assets, and in group litigation. Stephen has advocacy experience in applications, trials and appeals, acting as both sole and junior counsel.

Prior to being called to the bar, Stephen completed his articles at ENSafrica, Cape Town, from 2011-2013, where he gained experience in commercial litigation, company and trusts law, and public law. After qualifying as an Attorney of the High Court of South Africa in 2013, Stephen practiced as an attorney in the litigation department at ENSafrica, before working as a research assistant to Professor Reinhard Zimmermann at the Max Plank Institute for Comparative and International Private Law in 2014. Stephen also worked as a stipendiary lecturer in Private Law at St Anne's College, Oxford, from 2015-2016.

Featured Cases:

- *Harrington & Charles Trading Company Limited v Mehta & Ors (ChD)*: Junior counsel for the Mehta Defendants in a civil fraud claim for over £1bn concerning alleged international money laundering in the gold and diamond trade.
- *Morjaria v Mirza (ChD)*: Junior counsel (led by Alex Cook KC) for the Mirza Defendants in ongoing proceedings in the Chancery Division relating to a joint venture for the purchase and development of London commercial property. The claim raises issues of fraud, misrepresentation and breach of fiduciary duty.
- *Re Tensigma Ltd, Oyekenov v Svirsky & Donin (BVI)*: Sole counsel in ongoing proceedings in the British Virgin Islands and Eastern Caribbean Court of Appeal concerning dissipation of cryptocurrency (Bitcoin and Ethereum). The proceedings have included applications for freezing injunctions, unless orders, receivership orders and strike out.
- *Al-Rawi v Sidawi [2023] 1415 (ChD)*: Junior Counsel (led by Peter Knox KC) in successfully defending a claim to a share of

- profits (alternatively by way of quantum meruit) arising out of multimillion pound London prime real estate developments
- *Hotel Portfolio II UK Ltd (in Liquidation) v Ruhan* [2020] EWHC 383 (Comm); [2023] EWCA Civ 1120: Junior counsel for the Second Defendant in a claim worth over £150 million, involving issues of civil fraud, breaches of fiduciary duty, unlawful means conspiracy, knowing receipt, dishonest assistance, the operation of s.32 of the Limitation Act 1980 and the equitable doctrine of laches. Stephen appeared as junior counsel, together with Sebastian Kokelaar and Anthony de Garr Robinson KC (One Essex Court) in the Second Defendant's successful appeal to the Court of Appeal, heard over three days in July 2023 on the questions of assessing loss and causation in respect of equitable compensation for dishonest assistance, and the jurisdiction to award compound interest. The Court of Appeal allowed the appeal. The Supreme Court has recently granted permission to appeal, and will hear the appeal in early 2025. Stephen also appeared in various interlocutory applications in this dispute, including in [2020] EWHC 233 (Comm), [2020] Costs LR 205, successfully obtaining a multi-million pound order for security for costs issues of stifling and whether an After-The-Event Insurance policy provided sufficient protection.
 - *Tonstate Group Ltd v Wokakovski* [2021] EWHC 1826 (Ch), [2021] Costs LR 907, [2021] EWHC 1122 (Ch) [2021] Costs LR 555 (Appeal to the Court of Appeal heard in May 2022, judgment outstanding). Appeared as junior counsel (with Ben Williams KC) in proceedings concerning the construction and validity of a Damages Based Agreement, and whether Candey Ltd were secured creditors with a first ranking charge in the client's insolvency on the basis of a solicitors' equitable lien.
 - *Candey Ltd v Crumpler* [2020] EWCA Civ 26, [2020] Costs LR 131 (appeal to the Supreme Court heard in March 2022, judgment outstanding): Junior counsel (with Dan Saoul KC and David Lord KC) for Candey Ltd in various proceedings in the High Court and in respect of an appeal to the Court of Appeal and the Supreme Court (judgment outstanding), concerning a dispute between a firm of solicitors and the Liquidators of a BVI company acting under the Cross Border Insolvency Regulations, raising various issues relating to a solicitor's equitable lien over a fund, the recovery of success fees, and the valuation of services given in consideration for floating charges under s.245 of the Insolvency Act 1986. The appeal to the Supreme Court concerned whether Candey had waived its equitable lien by taking additional security or by lodging a proof of debt without reference to the lien.
 - *Ali Parsadoust v Hanging Gardens Ltd* [2021] EWHC 1594 (Comm): Junior counsel (with David Lord KC) for the Defendant in a claim based on an option to purchase shares in the holding company of Babylon Health. The claim raised issues of the variation of the option agreement and the principles relevant to whether a binding agreement was reached as opposed to an agreement "subject to contract".
 - *Moorgate Industries UK Ltd v Mittal* [2020] EWHC 1550 (Ch). Sole counsel for Mr Mittal in bankruptcy proceedings for a petition debt of over £100 million, raising issues of defects in the petition, defects in service, and whether the petitioner was entitled to a set-off. Stephen also acted as Junior Counsel (led by Ian Mayes KC) in respect of a challenge to Mr Mittal's IVA [2022] EWHC 3009 (Ch), raising issues as to the burden of proof on creditors and the need for cross examination in respect of allegations of fraud and forgery.
 - *Rosendale BC v Hurstwood Properties (A) Ltd* [2021] UKSC 16; [2019] EWCA Civ 364: Junior counsel for Rosendale BC and Wigan Council (as test cases in a number of similar proceedings pending in the High Court) in a dispute between the Councils and property development companies concerning a scheme which by the use of leases granted to SPV companies sought to avoid the incidence of National Non-Domestic Rates. The dispute raises issues of the modern application of the doctrine of piercing the corporate veil following *Prest v Petrodel Resources Ltd* [2013] UKSC 34 and the 'Ramsay' principle of statutory construction (*WT Ramsay Ltd v Inland Revenue Commissioners* [1982] AC 300). The Councils were successful in their appeal to the Supreme Court, heard in October 2020. The matter has been remitted to the High Court for trial, which will be heard in 2025.
 - *365 Business Finance Ltd v Bellagio Hospitality WB Ltd; Court Enforcement Services Ltd v Marston Legal Services Limited (formerly Burlington Credit Limited)* [2020] EWCA Civ 588: Sole counsel for Marston, who succeeded in the High Court and subsequently in the Court of Appeal against Court Enforcement Services in a dispute concerning competing writs of control (formerly writs of *fieri facias*) in favour of different creditors in respect of the assets of the same debtor. The central issue was whether priority was to be afforded to the creditor whose writ was first received by a High Court Enforcement Officer (HCEO), as Burlington contended, or the creditor whose HCEO was first to receive the fruits. The Court of Appeal upheld the High Court's finding that Schedule 12 of the Tribunals, Courts and Enforcement Act 2007 preserves the long established principle that a debtor's goods became bound by the writ from a particular point in time, and that although the same goods could be bound by multiple writs, it was only once the first writ was satisfied out of proceeds that the surplus (if any) could be applied to the second writ, and so on, in accordance with writ priority. Although this 'principle of priority' was established in cases going back to the 1700s, there was, prior to this decision, no authority on whether the principle continued to apply under the present legislative framework. Lord Leggatt's judgement in the Court of Appeal deals with a number of other issues arising in the case, including the application of the principle in *Ex Parte James* concerning the Court's jurisdiction over officers of the court, and the tort of conversion.
 - Junior counsel in an International Arbitration concerning a multi-million dollar 'Bermuda Form' insurance dispute
 - Sole counsel in High Court bankruptcy proceedings concerning a petition debt of over £100 million
 - Junior counsel in ongoing High Court proceedings concerning joint ventures and commercial trusts
 - Junior counsel in anonymised proceedings in England and Wales and the British Virgin Islands concerning freezing orders,

orders sealing the record of proceedings and the validity of a settlement agreement relating to foreign exchange investment derivatives

Education

- Bachelor of Arts, Bachelor of Laws (Distinction): University of the Witwatersrand, South Africa
 - Bachelor of Civil Law (Distinction), Master of Philosophy (Distinction): University of Oxford
 - Skye Foundation Scholarship
 - Commonwealth Scholarship
 - Bowman Gilfillan Prize in Insurance Law
 - DLA Cliff Dekker Hofmeyr Prize in the Law of Business Entities
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Publications

- 'The balance between certainty and flexibility in horizontal and vertical stare decisis: *Bosch v Commissioner for the South African Revenue Service*: notes South African Law Journal 132 (2015), 230.
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