



Simon Kerr

Call: 1997

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"He is exceptionally talented"

Legal 500 2020

Practice Profile

Simon is a barrister specialising in commercial law and all aspects of commercial litigation and arbitration. He advises and acts in commercial disputes in a broad range of areas, with particular expertise in insurance and reinsurance, shipping, energy and natural resources, and professional negligence, as well as general commercial disputes. Simon is listed in Legal 500 and Chambers & Partners as a leading junior in insurance and reinsurance and in energy.

Described in the legal directories as an *"exceptionally talented"* and *"user-friendly"* barrister, who is *"impressive and very alive to the needs of both the client and the instructing solicitor"*, *"very effective and good on his feet"* and *"produces work of the highest quality"*, Simon has been involved in a large number of high profile commercial cases in the Commercial Court, in the appellate courts and in arbitration. His work is split evenly between cases in the High Court and those involving arbitration, whether English arbitration, international arbitration (under rules such as ICC, UNCITRAL or LCIA) or "Bermuda Form" arbitration.

Notable recent cases:

- In 2020, Simon acted in a confidential arbitration involving a multi-million dollar insurance claim for operational property damage and business interruption.
- In 2019, Simon acted for a local authority in a dispute (in adjudication) concerning the insurance of a construction/operation project (valued at several hundred million pounds).
- In 2018/2019, Simon represented an international oil services and production company in its long-running drilling and completion services dispute (worth several hundred million US dollars) with a South American national oil company, in UNCITRAL arbitration in London.

- In 2017 and 2018, Simon acted for the insurer (in London arbitration) in a property damage and business interruption claim for several hundred million dollars regarding “upheaval buckling” damage to a North Sea oil pipeline project.
- Simon acted for the insurance brokers, Marsh, in a £10m claim (in the Commercial Court) for professional negligence which concerned Bankers’ Blanket Bond insurance cover: ***Bank of London and the Middle East Plc v ACE European Group*** (2016).
- In 2016, Simon also appeared for the claimant (in arbitration) in a high value commercial dispute concerning a long-term transshipment contract.
- From 2014 to 2016, Simon acted for insurers (in LCIA arbitration) in an energy and construction insurance claim for several hundred million dollars concerning a high-profile construction project in Latin America.
- In 2014, Simon acted for an overseas government in its claims for compensation (in ICC arbitration) against an oil company under a long-term Petroleum Sharing Agreement (PSA).
- ***Rolls-Royce Plc v Marsh UK Ltd***: In 2013/2014, Simon acted for the insurance brokers, Marsh, in a claim for £70m which was brought against them by Rolls-Royce in the Commercial Court for alleged professional negligence. Simon also acted for Marsh and their solicitors, Slaughter & May, in the related injunction proceedings (commenced in the Chancery Division) concerning confidentiality and legal professional privilege.
- Simon acted for insurers, in the Commercial Court, in ***Société Générale v. Württembergische Versicherung AG & Ors*** [2012] EWHC 3112 (Comm), which concerned the insurance claim for US\$487m in respect of the alleged misappropriation of approximately 15 metric tonnes of gold bullion.
- Simon acted for Equitas in the leading reinsurance case, ***Equitas Ltd v R & Q Reinsurance Co (UK) Ltd*** [2010] Lloyd’s Rep. IR 600, which concerned claims for indemnity from reinsurers under contracts written within the “LMX spiral”. This landmark decision on ‘follow the settlements’ provisions represented the first attempt to deal with the consequences of the decisions of the Court of Appeal in *Commercial Union v NRG Victory*, *Scott v Copenhagen Re* and *King v Brandywine* and endorsed the use of actuarial modelling in the making of claims for indemnity.
- Simon acted for the insured in ***Al Habtoor Motors v Dubai National Insurance & Reinsurance Co*** in its insurance claim for damage to over 6,000 vehicles, which was caused by a freak hail-storm in Dubai.
- ***AIG Europe (UK) Ltd v Winterthur & Ors***: Simon acted for AIG in its highly complex liability reinsurance claim in the Commercial Court relating to the construction of the world’s largest nitrogen production plant (in Mexico). The claim concerned the underlying liabilities of sub-contractors to their head contractor and issues regarding the proof of damage (or defects).

Simon is the author of the three chapters in ***Carver on Charterparties*** (now in its 2nd edition, 2020, Sweet & Maxwell)

on damages and other remedies for breach of charterparty. He is also the co-author of a book on liability insurance which is due to be published in 2022.

Insurance & Reinsurance

In the areas of insurance and reinsurance, Simon acts for a broad range of clients, in litigation and in arbitration (including arbitration on the “Bermuda Form”). Over the past 20 years, he has been instructed in many of the major disputes which have concerned the London market and in most classes of business (at an insurance and reinsurance level), including: third party liability, aviation, business interruption, construction, crime, D&O, DSU, energy, film finance, financial contingency, marine, political risks, professional indemnity, specie, accident & health, legal expenses, sport and property.

Simon is recommended in Legal 500 and Chambers & Partners as a leading junior in insurance and reinsurance, where he is described as an “exceptionally talented”, “very effective” and “user-friendly” barrister and “Experienced hand at high-value insurance disputes across the board”.

Selected cases:

- In 2020, Simon acted in a confidential arbitration involving a multi-million dollar insurance claim for operational property damage and business interruption.
- In 2019, Simon acted for a local authority in a dispute (in adjudication) concerning the insurance of a construction/operation project (valued at several hundred million pounds).
- In 2017 and 2018, Simon acted for the insurer (in London arbitration) in a property damage and business interruption claim for several hundred million dollars regarding “upheaval buckling” damage to a North Sea oil pipeline project.
- From 2014 to 2016, Simon acted for insurers in a high profile energy and construction insurance dispute (in LCIA arbitration) concerning a major construction project in Latin America. The claim which was made under the insurance was for several hundred million dollars (in respect of alleged property damage and delay in start-up).
- ***Société Générale v Württembergische Versicherung AG & Ors*** [2012] EWHC 3112 (Comm): Simon acted for insurers in an insurance claim for US\$500m which was made by Société Générale in the Commercial Court. The claim concerned the alleged misappropriation of 15 metric tonnes of gold bullion in Turkey and Dubai.
- Simon acted in 2012 for the US insured in substantial claims which were brought in London Arbitration for indemnity under liability policies written on the “Bermuda Form”. The claims concerned environmental pollution.
- Simon acted in 2011 for a leading European insurer (in London arbitration) in claims (in excess of US\$100m) brought by a pharmaceutical company under its liability insurance.
- ***Al Habtoor Motors Co LLC v Dubai National Insurance & Reinsurance Co*** (2010): Simon acted for a car dealer

and distributor (operating in the U.A.E.) in its insurance claim for US\$40m. The claim, which was brought in the Commercial Court in London, was for the physical damage to over 6,000 new vehicles which was caused by a freak hail-storm in Dubai in 2009.

- Simon acted in 2010 for a Lloyd's Syndicate in its claims in London Arbitration for indemnity from its Japanese excess of loss reinsurers and 'RPP' insurers for losses arising out of the events of 9/11. The case concerned issues of loss settlement (for the purposes of 'follow the fortunes' and 'follow the settlements' provisions) and aggregation.
- ***Equitas v R&Q Reinsurance Co (UK) Ltd*** [2010] Lloyd's Rep. IR 600: Simon acted for the successful claimant, Equitas, in the Commercial Court trial of its claims for indemnity under reinsurance contracts written within the now notorious LMX spiral. In this landmark decision on 'follow the settlements' provisions, the central issues related to indemnity sums sought in respect of (a) the loss of aircraft by Kuwait Airways and British Airways in the first Gulf War and (b) the costs of cleaning up oil pollution caused by the grounding of the "Exxon Valdez" (in 1989). The case represented the first attempt to deal with the consequences of the decisions of the Court of Appeal in *Commercial Union v NRG Victory*, *Scott v Copenhagen Re* and *King v Brandywine* and endorsed the use of actuarial modelling in the making of claims for indemnity.
- Simon acted for the English arm of a large North American insurer seeking to recover (in London arbitration) an indemnity for losses on its accident & health book from its whole account quota share reinsurers.
- ***AIG Europe (UK) Ltd v Winterthur & Ors***: Simon acted for AIG in its highly complex liability reinsurance claim in the Commercial Court relating to the construction of the world's largest nitrogen production plant (in Mexico). The claim (which settled in 2008) concerned the underlying liabilities of sub-contractors to their head contractor for alleged negligence in the design, construction and commissioning of the production plant, and issues regarding the proof of damage (or defects).
- Simon acted for the North American whole account reinsurer in a London arbitration against the Lloyd's Syndicate seeking indemnity for losses sustained on its accident & health book.
- ***Capri Marine Ltd v Cigna Insurance Co & Ors***: Simon acted for numerous London market and overseas marine insurers in litigation in the Commercial Court brought by an assured seeking to recover under its Hull & Machinery policies in respect of damage alleged to have been caused to its vessel by sulphate reducing bacteria.
- ***Enterprise Oil Ltd v Strand Insurance Co Ltd*** [2006] 1 Lloyd's Rep. 500: Simon acted for the successful insurers in a substantial liability insurance claim which was brought in the Commercial Court concerning the termination of a drilling rig contract. The case raised important issues of principle regarding the proof of liability (under foreign law) and quantum in a claim for indemnity under a liability insurance and the threshold difficulties posed by the decision in ***Lumberman's Mutual Casualty Co v Bovis Lend Lease Ltd*** [2005] 1 Lloyd's Rep. 494.

- ***CGU v Scottsdale & Ors***: Simon acted for the reinsurer in claims brought against it in the Commercial Court under an energy “builders’ risk” reinsurance contract concerning numerous power plant construction projects in North America. The case settled before trial.
- ***Bonner & Ors v Cox & Ors (“The Aon 77 Energy Cover” litigation)*** [2005] Lloyd’s IR 569: Simon acted for the successful Claimants in the Commercial Court in this lengthy, multi-party reinsurance trial. The case resolved important issues of principle regarding the obligations of a reinsured towards its excess of loss reinsurer; in particular, the nature and extent of any obligation (i) to exercise reasonable care in the conduct of underwriting, and (ii) not to “write against” the reinsurer.
- Simon was instructed by insured aviation companies in their claim (in London arbitration) against all risks, war risks and contingency insurers in respect of the armed seizure of an aircraft in Libya.
- Simon acted for contingency insurers in an arbitration concerning the postponement of a major international sporting event following the terrorist attacks of 9/11.
- ***Feasey v Sun Life; Steamship Mutual v Feasey*** [2002] Lloyd’s Rep. IR 807; [2003] Lloyd’s IR 637 (CA): Simon acted (at first instance and in the Court of Appeal) for the reinsurer, Sun Life. The case, which involved insurance/reinsurance claims worth approximately US\$100m, raised fundamental issues concerning the requirement at common law and under the Life Assurance Act 1774 for insurable interest. Simon also acted for Sun Life in its Petition for Leave to Appeal to the House of Lords and (before the case settled) in the drafting of its Case for the appeal to the House of Lords.
- Simon acted for the insureds, Société Générale and the Royal Bank of Canada, in various cases, in the film finance (insurance) litigation.
- ***Markel Capital Ltd v Rhine Reinsurance Co Ltd & Ors***: Simon acted, in late 2002, for three overseas reinsurers in a substantial trial in the Commercial Court (which settled). The case concerned claims for approximately US\$200m under quota share reinsurances covering a Lloyd’s Syndicate in respect of energy business placed under an open cover. In 2004, Simon acted for an excess of loss reinsurer in the Commercial Court in a related dispute.
- ***Jan de Nul (UK) Ltd v NV Royale Belge*** [2000] 2 Lloyd’s Rep. 700; [2002] Lloyd’s Rep. 583 (CA): Simon acted for the successful Claimant, both at first instance and in the Court of Appeal. The case concerned claims under a liability insurance policy in respect of the Claimant’s liabilities (in various torts) to third parties arising out of dredging operations.
- Simon acted for a North American reinsurer in two landmark reinsurance arbitrations in 1999 involving the “Personal Accident LMX Spiral”.

Commercial Litigation

Simon has acted in numerous cases of a general commercial nature, involving issues of general contract or tort law, sale of goods, agency, trusts and restitution.

Selected cases:

- In 2016, Simon appeared for the claimant (in London arbitration) in a high-value commercial dispute concerning a long-term transshipment contract.
- ***Société Générale v Württembergische Versicherung AG & Ors*** [2012] EWHC 3112 (Comm): Simon acted for insurers in a claim for US\$500m which was made by Société Générale in the Commercial Court. The claim concerned the alleged misappropriation of 15 metric tonnes of gold bullion in Turkey and Dubai. The claim involved issues of (amongst other things) the proper interpretation of consignment agreements and the retention of title to property.
- ***STX Offshore & Shipbuilding Co Ltd v Interglobal Marine Agencies S.A./Dilek Transport Inc***: Simon acted for the Claimant shipyard in its claims in the Commercial Court for US\$44m under performance guarantees.
- Simon acted for a major international oil trading company in relation to its claim in arbitration for a substantial amount of commission on the sale of crude oil in the Middle East. The claim involved issues of agency law, including actual and apparent authority, the effective cause of sales and the obligation of a principal not to prevent the earning of remuneration by its agent.
- ***Walker International Holdings v République Populaire du Congo & Ors*** [2005] EWHC 2813 (Comm): Simon acted for the Respondents to charging orders (obtained by a so-called “vulture fund”) over property in London at the trial in the Commercial Court of issues concerning the beneficial ownership of the property (including section 423 of the Insolvency Act 1986).
- Simon acted for the successful claimant, MAN, in the commercial fraud litigation in ***MAN AG v Freightliner Ltd and Ernst & Young*** [2005] EWHC 2347, in relation to Freightliner’s appeal, MAN’s successful application for the interim payment of £250m, and the damages proceedings in the Commercial Court.
- Simon acted for a former French international footballer in connection with disputes concerning his advertising contracts. The case involved issues of agency, contract formation and contractual interpretation.
- ***The Nigerian Insurance Consortium v Aon Group Ltd, Nigerian National Petroleum Corporation & Ors***: Simon acted for the Nigerian National Petroleum Corporation and its brokers in complex litigation (which eventually settled) concerning the substantial sum paid in connection with the “Comprehensive Insurance Programme” protecting its onshore and offshore assets, loss of profits and third party liability risks. The case involved issues of agency, trusts, the duty to account and inducement of breach of contract.
- Simon acted for the Claimant at trial in ***Frank Shipbroking Limitada v Gammon Shipping Ltd (The Lucky Ocean)***

in its claim in the Admiralty Court for commission arising out of a ship sale/purchase.

Energy & Natural Resources

Simon has been involved in numerous energy and natural resources cases over the past 10 years. Many have been claims involving power generation or gas production, but more recently, Simon has been involved in high value cases concerning oil and gas exploration, development and production.

Simon is recommended in Legal 500 as a leading junior in energy, where he is described as “*Experienced in a wide range of oil, gas and power cases*” (Legal 500 2020).

Selected cases:

- In 2018/2019, Simon acted for contractor, PetroSaudi, in UNCITRAL arbitration against Venezuelan state-owned oil company, PDVSA, in a dispute concerning drilling rig operations in South America. In his judgment in subsequent proceedings in the Chancery Division [2020] EWHC 2819 (Ch), Norris J describes the award, stating that PDVSA claimed just under a billion dollars, that PetroSaudi counterclaimed several hundred million dollars and that PetroSaudi was victorious, with the arbitrators making a net award in its favour of US\$380 million, with the result that PDVSA was “*faced with a unanimous and comprehensive rejection of its claim and with the overwhelming success of the [PetroSaudi] counterclaim*”.
- In 2017 and 2018, Simon acted for the insurer (in London arbitration) in a claim for several hundred million dollars regarding “upheaval buckling” damage to a North Sea oil pipeline project.
- From 2014 to 2016, Simon acted for insurers in an energy and construction insurance dispute (in LCIA arbitration) concerning a major energy construction project in Latin America. The claim which was made under the insurance was for several hundred million dollars.
- In 2014, Simon acted for an overseas government in its claims for compensation (in ICC arbitration) against an oil company under a long-term Petroleum Sharing Agreement (PSA).
- ***AIG Europe (UK) Ltd v Winterthur & Ors***: Simon acted for AIG in its highly complex liability reinsurance claim in the Commercial Court relating to the construction of the world’s largest nitrogen production plant (in Mexico). The claim (which settled in 2008) concerned the underlying liabilities of sub-contractors to their head contractor for alleged negligence in the design, construction and commissioning of the production plant.
- Simon acted for a major international oil trading company in relation to its claim in arbitration for a substantial amount of commission on the sale of crude oil in the Middle East. The claim involved issues of agency law, including actual and apparent authority, the effective cause of sales and the obligations of principals not to prevent the earning of remuneration by the agent.

- ***Enterprise Oil Ltd v Strand Insurance Co Ltd*** [2006] 1 Lloyd’s Rep. 500: Simon acted for the successful insurers in a substantial liability insurance claim which was brought in the Commercial Court concerning the termination of a drilling rig contract (which was the subject-matter of the decision in ***Amoco (UK) Exploration Co v British American Offshore Ltd*** [2001] EWHC 485 (Comm)).
- ***CGU v Scottsdale & Ors***: Simon acted for the reinsurer in claims brought against it in the Commercial Court under an energy “builders’ risk” reinsurance contract concerning numerous power plant construction projects in North America. The case settled before trial.
- ***Markel Capital Ltd v Rhine Reinsurance Co Ltd & Ors***: Simon acted, in late 2002, for three overseas reinsurers in a substantial trial in the Commercial Court (which settled). The case concerned claims for approximately US\$200m under quota share reinsurances covering a Lloyd’s Syndicate in respect of energy business placed under an open cover. In 2004, Simon acted for an excess of loss reinsurer in the Commercial Court in a related dispute.
- ***Nigerian Insurance Consortium v Aon Group Ltd, Nigerian National Petroleum Corporation (NNPC) & Ors***: Simon acted for the Nigerian National Petroleum Corporation and its brokers in complex litigation (which eventually settled) concerning the substantial sum paid in connection with the “Comprehensive Insurance Programme” protecting its onshore and offshore assets, loss of profits and third party liability risks. The case involved issues of agency, trusts, the duty to account and inducement of breach of contract.

Professional Negligence

Simon has been involved in numerous cases which have concerned claims against professionals for negligence, particularly insurance brokers, but also solicitors and accountants.

Selected cases:

- Simon acted for the insurance brokers, Marsh, in a £10m claim (in the Commercial Court) for professional negligence which concerned Bankers’ Blanket Bond insurance cover: ***Bank of London and the Middle East Plc v ACE European Group*** (2016).
- ***Rolls-Royce Plc v Marsh UK Ltd***: Simon acted for the insurance brokers, Marsh, in the claim brought against them by Rolls-Royce in the Commercial Court in 2013. Rolls-Royce claimed some £70m for alleged professional negligence in connection with liability insurance claims that Rolls-Royce had pursued against its insurers. The insurance claims concerned marine propulsion units for cruise liners, called “Mermaid Pods”. Simon also acted for Marsh and their solicitors, Slaughter & May, in the related injunction proceedings (commenced in the Chancery Division) concerning alleged confidentiality and legal professional privilege.
- Simon acted for a firm of London solicitors in its dispute with its insurance brokers in the Commercial Court regarding the placement of its professional indemnity insurance and the aggregation of claims in tort made against the firm

concerning tax avoidance schemes.

- Simon acted for a leading group of global technology companies in their dispute (in the Chancery Division) with a firm of London solicitors concerning alleged negligence in respect of the reorganisation of their portfolio of commercial property.
- ***Bonner & Ors v Cox & Ors (“The Aon 77 Energy Cover” litigation)*** [2005] Lloyd’s IR 569: Simon acted for the successful claimant Lloyd’s Syndicates in their claims in the Commercial Court against their reinsurers and (for professional negligence) against their insurance brokers.

Shipping & Transport

Simon has been involved in numerous arbitrations and in litigation concerning a wide range of charterparty, bill of lading and longer-term contract of affreightment issues, as well as large and complex ship-building disputes.

Simon is the author of the three chapters in **Carver on Charterparties** (now in its 2nd edition, 2020, Sweet & Maxwell) on damages and other remedies for breach of charterparty.

Selected cases:

- In 2016, Simon appeared for the claimant (in London arbitration) in a high-value commercial dispute concerning a long-term transshipment contract.
- Simon acted for the charterers in a substantial unsafe port claim (in London Arbitration) which settled in 2010.
- Simon acted for the successful shipyard in the dispute with its buyers (in London Arbitration) in 2010 concerning the design, specification and construction of four Crude/Product Oil Tankers with a value of approximately US\$260m.
- ***The Eurasian Dream*** [2002] 1 Lloyd’s Rep. 719: Simon acted for the successful cargo claimants in this large Commercial Court trial, which concerned a dramatic fire on a car carrier and involved the comprehensive treatment of issues of unseaworthiness.
- Simon acted for the shipper/sub-charterer in a large London arbitration concerning the shipment of a dangerous cargo which caused an explosion on board the carrying vessel.
- ***The Tychy (No.2)*** [2001] 1 Lloyd’s Rep. 10; [2001] 2 Lloyd’s Rep. 403 (CA): Simon acted for the Claimant, MSC, in its claims for freights (in excess of US\$3.6m) due under a slot charter party. The case raised important procedural issues as to whether a slot charterer is liable to be sued in rem and have its vessel arrested and substantive issues regarding the novation of contracts.

Construction

Simon has acted in a number of cases involving construction contracts and disputes.

Selected cases:

- In 2019, Simon acted for a local authority in a dispute (in adjudication) concerning the insurance of a construction/operation project (valued at several hundred million pounds).
- From 2014 to 2016, Simon acted for insurers in an energy and construction insurance dispute (in LCIA arbitration) concerning alleged property damage and delay in start-up to a major construction project in Latin America. The claim which was made under the insurance was for several hundred million dollars.
- ***AIG Europe (UK) Ltd v Winterthur & Ors***: Simon acted for AIG in its highly complex liability reinsurance claim in the Commercial Court relating to the construction of the world's largest nitrogen production plant (in Mexico). The claim (which settled in 2008) concerned the underlying liabilities of sub-contractors to their head contractor for alleged negligence in the design, construction and commissioning of the production plant.
- ***CGU v Scottsdale & Ors***: Simon acted for the reinsurer in claims brought against it in the Commercial Court under an energy "builders' risk" reinsurance contract concerning numerous power plant construction projects in North America. The case settled before trial.

International Arbitration

Many of Simon's cases involve domestic or international arbitration.

Selected cases:

- In 2018/2019, Simon represented an international oil services and production company in its long-running drilling and completion services dispute (worth several hundred million US dollars) with a South American national oil company, in UNCITRAL arbitration in London.
- In 2017 and 2018, Simon acted for the insurer (in London arbitration) in a property damage and business interruption claim for several hundred million dollars regarding "upheaval buckling" damage to a North Sea oil pipeline project.
- From 2014 to 2016, Simon acted for insurers in an energy and construction insurance dispute (in LCIA arbitration) concerning a major construction project in Latin America. The claim which was made under the insurance was for several hundred million dollars.
- Simon has also been acting for an overseas government in its claims for compensation (in ICC arbitration) against an oil company under a long-term Petroleum Sharing Agreement (PSA).
- Simon acted for the US insured in substantial claims which were brought in London Arbitration for indemnity under

liability policies written on the “Bermuda Form”. The claims concerned environmental pollution.

- Simon acted for a leading European insurer (in London arbitration) in claims (in excess of US\$100m) brought by a pharmaceutical company under its liability insurance.
- Simon acted for a Lloyd’s Syndicate in its claims in London Arbitration for indemnity from its Japanese excess of loss reinsurers for losses arising out of the events of 9/11. The case concerned issues of aggregation.
- Simon acted for the English arm of a large North American insurer seeking to recover (in London arbitration) an indemnity for losses on its accident & health book from its whole account quota share reinsurers.
- Simon acted for a shipyard in disputes concerning the construction of four crude/product oil tankers worth over US\$250m.
- Simon acted for the North American whole account reinsurer in a London arbitration against the Lloyd’s Syndicate seeking indemnity for losses sustained on its accident & health book.
- Simon acted for a major international oil trading company in relation to its claim in arbitration for a substantial amount of commission on the sale of crude oil in the Middle East.
- Simon acted for contingency insurers in an arbitration concerning the postponement of an international sporting event following the terrorist attacks of 9/11.
- Simon acted for the shipper/sub-charterer in a large London arbitration concerning the shipment of a dangerous cargo which caused an explosion on board the carrying vessel.
- Simon acted for a North American reinsurer in two landmark reinsurance arbitrations in 1999 involving the Personal Accident LMX Spiral.

Jurisdiction/Conflict of Laws

Simon regularly deals with disputes involving complex jurisdictional and conflict of laws issues.

Selected cases:

- ***Equitas v Allstate*** [2009] Lloyd’s Rep. IR 227: Simon acted for Equitas in successfully resisting Allstate’s application for a stay of the proceedings. One of the principal questions raised was whether the controversial principles of EC law laid down in *Owusu v. Jackson* could be side-stepped by invoking the English Court’s case management discretion. That question was answered (in Equitas’ favour) in the negative.
- ***Mediterranean Shipping Company SA v Atlantic Container Line & Ors***: Simon acted for MSC, both at first instance and in the Court of Appeal, on its application for anti-suit injunctions. The case involved important consideration in the

Court of Appeal of the principles laid down in *The Angelic Grace*.

Civil Fraud

Simon has acted in a number of cases which have concerned large-scale civil fraud.

Selected cases:

- ***Société Générale v Württembergische Versicherung AG & Ors*** [2012] EWHC 3112 (Comm): Simon acted for insurers in an insurance claim for US\$500m which concerned the alleged misappropriation of 15 metric tonnes of gold bullion by the consignee of the gold in Istanbul and Dubai.
- ***MAN AG v Freightliner Limited and Ernst & Young*** [2005] EWHC 2347: Simon acted for the claimant, MAN, in relation to Freightliner's appeal on issues of vicarious liability for deceit, in the successful application by MAN for the interim payment of £250m on account of damages for commercial fraud, and the damages proceedings in the Commercial Court.

Other

- ***Hanson Quarry Products Ltd (formerly ARC Ltd) v Walsh Western Holdings*** (2000, QBD, Tugendhat J): Simon acted for the Defendant at trial in the Queen's Bench Division in this negligence claim concerning damage to the roadway of a motorway on which the Claimant was undertaking contractual works. The case involved issues of title to sue in tort, breach of duty/*res ipsa loquitur*, causation, remoteness and quantum.

Education

Merchant Taylors' School, Middlesex (1985-1990)

University of Oxford (Keble College) (1990-1994):

B.A. (Oxon) (First Class Honours) (1994)

M.A. (Oxon) (1998)

Modern Languages Scholar

College Collections Prizes

Lincoln's Inn:

Hardwicke Entrance Scholarship (1994)

Full CPE Award (1995)

Sunley Scholarship (1996)

City University, London:

Diploma in Law (1996)

Inns of Court School of Law, London:

Bar Vocational Course (1997)

7 King's Bench Walk:

Pupillage at 7 King's Bench Walk (1997-1998)

Languages: French (fluent)

In practice as a commercial barrister, Simon has been "further noted for his French language skills" (Chambers & Partners UK, 2014). Two notable cases in this context are: *Société Générale v Württembergische Versicherung AG & Ors* [2012] EWHC 3112 (Comm), which involved a very large volume of electronic and printed documentation in French, as well as audio recordings, on precious and non-precious metals trading, specie insurance and French legal matters. *Walker International Holdings Ltd v République Populaire Du Congo & Ors* [2005] EWHC 2813 (Comm), which involved a substantial amount of documentation in French on accounting, legal and geopolitical matters.

Memberships

Member of the British Insurance Law Association and of the London Shipping Law Centre.

Directories

Simon is recommended by Legal 500 as a leading junior for insurance and reinsurance and for energy, and by Chambers & Partners for insurance.

Chambers & Partners

- “Thorough, good to work with, client-friendly and a good advocate.” (Chambers UK 2021)
- “Smart, diligent and has very good judgement.” (Chambers UK 2020)
- “Bright and user-friendly.” “Brilliant and very likeable.” (Chambers UK 2019)
- Ranked as a leading junior in insurance (Chambers UK 2018)
- “He’s great, very personable, very easy to get along with, very effective and good on his feet.” (Chambers UK 2017)
- “He really gets stuck in and produces work of the highest quality.” (Chamber UK 2016)
- He is “active in high-profile and commercial cases, and frequently instructed by very large insurers”. (Chambers UK 2015)
- “He really gets stuck into the detail of a case.” (Chambers UK 2015)
- He is “impressive and very alive to the needs of both the client and the instructing solicitor” (Chambers UK 2014)
- He is “identified by peers as a skilled junior and is further noted for his French language skills” (Chambers UK 2014)
- He has “recently appeared in a number of high-profile insurance and reinsurance cases” (Chambers UK 2014)
- He is “bright, hard-working and responsive” (Chambers UK 2013)
- Simon Kerr is “well-respected” and “has considerable arbitration experience” (Chambers UK 2011)

Legal 500

- “An experienced junior for power generation, gas production and high-value oil and gas matters.” “A highly skilled junior.” (Legal 500 2021)
- “Experienced in a wide range of oil, gas and power cases.” (Legal 500 2020)
- “He is exceptionally talented.” (Legal 500 2020)
- “Experienced hand at high-value insurance disputes across the board.” (Legal 200 2018)
- “A truly excellent junior” (Legal 500 2017)
- “A fine intellect” (Legal 500 2016)
- “Very good attention to detail” (Legal 500 2015)
- A leading junior in insurance (Legal 500 2011, 2012, 2013, 2014)