

## Adam Smith

Call 2001

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Adam has a wide practice in all areas of modern commercial chancery law, and, in addition to his property litigation work, he has substantial experience in:

- Commercial and chancery litigation
- Banking, finance and financial services
- Civil fraud
- Partnerships, LLPs, companies and insolvency
- Professional liability
- Trusts and estates

Adam has been recommended for his work in the established directories of leading barristers for many years, including in the current editions of Chambers UK Bar, Legal 500 UK Bar, and Who's Who Legal: UK Bar. Recent published comments of instructing solicitors in respect of Adam's work include: *"A fantastic barrister"*, *"A thoroughly recommended advocate"*, *"His advice is always spot-on"*, *"Judges like him and he has had some great results"*, *"Exceptionally intelligent but also a team player and a pleasure to work with"*, *"Very thorough"*, *"very responsive"*, *"great to have in your camp"*, *"incredibly clever and very knowledgeable"*, *"Exceptionally clever and very good with clients"*.

Adam has very substantial advocacy and advisory experience. In addition to frequently appearing in trials and at final arbitration hearings (often unled), he regularly appears in substantial applications for interim relief, both in the context of civil fraud and otherwise. He has substantial appellate experience at all levels, and has good experience of lengthy trials.

Adam's practice spans both domestic and overseas matters. In relation to overseas matters, he has, for example, been instructed in relation to disputes in the BVI, the DIFC, Gibraltar, Hong Kong, the Isle of Man and Jamaica.

Adam frequently acts in arbitrations, both ad hoc and institutional. His arbitration experience ranges, for example, from an LCIA arbitration concerning the beneficial ownership of a shareholding worth over US\$1 billion in a Russian Federation metals corporation, to an ad hoc arbitration to enforce the obligations of a major international waste disposal entity under a lease of a substantial landfill site.

The clerks are happy to discuss the basis on which Adam will act in any given matter. In the absence of express written agreement otherwise, the terms under which Adam accepts instructions are The Standard Contractual Terms for the Supply of Legal Services By Barristers to Authorised Persons 2012 (as updated from time to time) referred to in the BSB Handbook.

Adam's recent work includes, for example:

- *Folgender Holdings Ltd v. Letraz Properties Ltd*: claim to enforce an obligation to grant a charge over a major Mayfair development site, and other obligations of a borrower under a multi-million pound loan agreement (instructed by Dechert)
- *Ashbourne Beech Property Ltd v. Asda Stores Ltd*: claim to uphold a development agreement in respect of the £1 billion redevelopment of the Asda site on the Isle of Dogs (instructed by Forsters)
- *Overton v. Sammons*: claim in respect of misdealings with various consigned works of art (including a Picasso, a Chagall and a Moore) (instructed by Farrer & Co)
- *Sycamore Bidco v. Breslin & Ors*: multi-million pound claim for breach of accounting warranty and misrepresentation, in relation to the sale of an employee benefits consultancy (instructed by Addleshaw Goddard)
- *Tossetti Investing Corp v. Bellway Homes Ltd*: defence of million pound claim for alleged breach of a conditional sale and purchase agreement in respect of a substantial development site (instructed by Gateley)
- *Douglas Trustees v. Costain*: claim in breach of trust and fiduciary duty against former director of trustee company, in relation to missing sums totalling over £17 million (instructed by Pinsent Masons)
- *HMRC v. Begum*: defence of claims in conspiracy and under s. 423 Insolvency Act 1986, based on an alleged £100m MTIC fraud (instructed by BCL)

Further examples of the scope of Adam's work are given below.

### **Property litigation**

- Ad hoc arbitration to fix the terms of a new 10-year lease of a major central London car park
- *Monarca Investments Ltd v. Burkey*: defence of multi-million pound claim for profit share from the development of a prime Chelsea house
- *Tuscola (110) Ltd v. The Y2K Company*: defence of claim for the release of charges over a substantial ground-rent portfolio, given as security for a multi-million pound sub-prime loan facility
- *Amin v. Amin*: dispute concerning accounting, management, and sale in respect of a large residential and commercial portfolio
- *R Square Properties Ltd v. Shiv Saaj Investments Ltd*: defence of claim concerning the passing of the right to rent on a severance of a freehold reversion in a business park
- *HS2*: advising in relation to claims against a local authority joint-venturer in a substantial development, arising out of the HS2 proposal
- *Re Middlesex University*: urgent removal of illegal protestors from main university campus
- *Licht v. Bekova*: defence of a multi-million pound claim, following a failure to complete the purchase of Elizabeth Taylor's former home in Hampstead
- *Earl Cadogan v. 26 Cadogan Square Limited*: leading House of Lords enfranchisement appeal, concerning the Leasehold Reform, Housing and Urban Development Act 1993
- *KPMG v. Network Rail Infrastructure Limited*: leading Court of Appeal construction and rectification claim concerning the lease of the KPMG offices at 1 Puddle Dock, EC4
- Numerous disputes concerning matters ranging, for example, from the right of first refusal, dilapidations, commercial and residential service charges, rights in relation to student accommodation blocks, the transfer and termination of leases, adverse possession, easements, land registration, overage, restrictive covenants and reverter, to nuisance and trespass

### **Banking, Finance and Financial Services**

- Advising the FSA in relation to the effective regulation of certain real estate investment products
- *FSA v. Elite Land Developments Ltd*: claim alleging breach of ss. 19 and 21 FSMA 2000 by virtue of land-banking activities
- *IIG Capital LLC v. Van Der Merwe*: defence of claim for over US\$30 million, in enforcement of a guarantee of a loan facility (a leading case on the characterisation of bonds and guarantees)

- *Bank of Scotland v. Waugh*: personal claim against trustees for repayment of multi-million pound loan made to the trust
- Advising in respect of the threatened withdrawal of facilities totalling over £50 million
- Advising a private bank in relation to the enforcement of security provided in support of a £20 million facility, including over an art collection
- Advising a guarantor of a £200 million facility
- Advising a major bank, following the *Landsbanki* collapse, on the correct interpretation of a trust deed and issues of set off, concerning deposits totalling over £30 million
- Assisting the General Counsel to Equitable Life in relation to various regulatory and other challenges facing the company

### Civil fraud

- *Gandesha v. Gandesha*: defence of claim to set aside judgment for alleged fraud
- *Law Society v. Cassam*: claims against solicitor in respect of alleged misappropriation of substantial monies from the client account
- *Douglas Trustees v. Costain*: claim for breach of trust and fiduciary duty against former director of trustee company, in relation to missing sums totalling over £17 million
- *POWA (Jersey) Ltd v. Chater*: claim alleging multi-million pound misappropriations by an employee
- *Dunedin Buyout Fund II LP v. Brooks*: claim for over £16 million against a former finance director, alleging fraudulent misrepresentation and breach of fiduciary duty
- *HMRC v. Dayal*: defence of claims in conspiracy alleging a £40m MTIC fraud
- *Pratt v. Couch*: claim alleging undue influence in the obtaining of transfers of the shareholding in a private property investment company
- Numerous other disputes raising allegations of deceit, dishonest assistance, knowing receipt, constructive trust, breach of trust and fiduciary duty, and based on claims in the economic torts

### Commercial disputes

- *Entanet International Ltd v. Tpad Ltd*: defence of claim in relation to wholesale broadband provision
- *Sycamore Bidco v. Breslin & Ors*: multi-million pound claim for breach of accounting warranty and misrepresentation, in relation to the sale of an employee benefits consultancy
- *Pioneer Freight Futures Co Ltd v. Navios International Inc*: multi-million pound claim under various freight future agreements, governed by the 1992 ISDA Master Agreement
- *Graham v. Star Energy Group plc*: multi-million pound claim for breach of obligations relating to the triggering of a right to additional purchase consideration under an agreement for the sale of an energy company
- Acting for investors in a collapsed BVI hedge fund
- *Sintonia SA v. Sinatra S.AR.L*: multi-million pound dispute concerning complex financing agreements
- LCIA arbitration concerning the beneficial ownership of a shareholding worth over US\$1 billion in a Russian Federation metals corporation
- Various jurisdiction challenges

### Partnership, Company, Insolvency and Restructuring

- *Bankruptcy of Joao Azevedo*: obtaining the discharge from bankruptcy, after 11 years, of Mr Azevedo, the former president of Benfica football club
- Multi-million pound LCIA arbitration against former LLP partners for indemnity to the former managing partner in respect of a rent guarantee, following the collapse of a leading national solicitors' firm

- *Closegate Hotel Development (Durham) Ltd v. McLean*: summary dismissal of claim challenging the appointment of administrators
- Challenge to the appointment of receivers of a major hotel and apartment development in Jamaica
- *Hobbs v. Gibson*: defence of multi-million pound claim alleging misfeasance by administrators
- Advising in relation to an alleged US\$13 million preference, in relation to a dispute proceeding in the DIFC
- *Cytos Ltd v. Criss*: claim for unfair prejudice in relation to a property development company
- Numerous partnership disputes, including in relation to misconduct, financial entitlements, and rights and remedies in relation to and flowing from dissolution

### **Professional Liability**

- *Lisle-Mainwaring v. Charles Russell Speechlys*: claim in relation to retention of client papers and copies of client papers
- *Bellway Homes Ltd v. Foreman Laws*: claim alleging solicitor's negligence in relation to the purchase of a development site
- *Air Charter Service plc v. Infields*: claim alleging solicitor's negligence in relation to the grant of a lease of office premises
- *Acorn Country Capital Ltd v. Hockleys Professional Ltd*: claim alleging surveyor's negligence in relation to a property valuation provided to a lender
- *Pringle and Hayim v. Rosenblatt*: claim alleging solicitors' negligence in the administration of an estate
- Acting for the Law Society in the pursuit of claims following interventions into various solicitors' practices
- Enforcement of solicitors' undertakings
- Numerous other professional negligence claims, in respect of solicitors, surveyors, accountants, and SIPP administrators

### **Trusts, Administration of Estates**

- *Remkis Investments Ltd v. Warnes*: claim for breach of trust by trustees of valuable residential property
- *Rivers v. Hill*: claim alleging existence of joint and mutual will
- *Fenelon v. Fenelon*: claim in relation to misadministration of an estate
- *Galley v. Galley*: defence of claim alleging wrongful distributions from an estate
- *Evans v. Allison*: claim by personal representatives to collect in assets of the estate
- Numerous other matters, including advising as to the correct construction of trusts and wills, conflict of law issues, appropriate action in the administration of estates, and claims against and by estates and trusts

### **Publications**

Snell's Equity (31st Edition), contributor (chapters on administration of estates)

*Commonhold: Law and Practice*, contributor (chapters on members and directors of commonhold association)

### **Notable Cases**

Folgender Holdings Ltd v. Letraz Properties Ltd (2019)

Tuscola Ltd v Y2K Co Ltd (2016)

Law Society v Beller (2014)

Closegate Hotel Development (Durham) Ltd & Ors v Joseph McLean (2013)

Igloo Regeneration (General Partner) Ltd & Ors v Powell Williams Partnership (2013)

Sycamore Bidco Ltd v Sean Breslin (No 4) (2013)

Sycamore Bidco Ltd v Sean Breslin (No 3) (2013)

Sycamore Bidco v Breslin & Dawson No. 1 (2012)

Revenue & Customs Commissioners v Noorasa Begum (Rep. Of The Estate Of Mohammed Uddin) (No 2) (2010)

Vernon v Spoudeas & Anor (2010)

Revenue & Customs Commissioners v Noorasa Begum (Rep. Of The Estate Of Mohammed Uddin) (No 1) (2010)

Issac Bruce Hayim, Ian James Pringle, Jill Mary Ross v Jeanne Regina Couch (2009)

Earl Cadogan & Ors v 26 Cadogan Square Ltd : Howard De Walden Estates Ltd v Aggio & Ors (2008)

Knowles v Knowles (2008)

IIG Capital LLC v Van der Merwe (2008)

Van Der Merwe v IIG Capital LLC (2007)

KPMG v Network Rail Infrastructure Ltd (2007)

Centrica Langage Ltd v Langage Energy Park Ltd (2007)

TSP Group Ltd v Globemark (UK) Ltd & Undersheriff of Cheshire (2005)

Burford (Fareham) Ltd v Christian Vision (2005)

## Memberships

Chancery Bar Association (former committee member)

COMBAR

Financial Services Lawyers Association

Property Bar Association

## Qualifications

BA(Hons) (Oxon) (scholar and prize winner of University College, Oxford)



## Recommendations

### Chambers UK 2021

"Very knowledgeable. Thrives on providing creative and practical solution to complex legal problems."

## **Who's Who Legal 2020**

## **UK Bar National Leader**

## **Chambers UK 2020**

"He is always thorough and reflects the commercial realities of the client's needs." "Super technical and great to have in your camp." "A fantastic barrister – incredibly clever and very knowledgeable of law and procedure."

## **Chambers UK 2019**

"Very responsive and persuasive." "Very thorough; clients like his consistency and he never fails to impress."

## **Chambers UK 2018**

"He's very good on paper and always offers commercial views." "Adam has a very good manner and his knowledge of the law is extremely impressive."

## **Chambers UK**

"His advice is always spot-on and he has pulled a couple of rabbits out of the hat this year... Judges like him and he has had some great results."

"He is an excellent barrister who thrives on providing creative and practical solutions to complex legal problems." "He is particularly sought out for his innovative and technical advice, and for his excellent client service."

"He has an eye for detail and the ability to find clear answers to knotty technical questions." (2016)

"He is very capable and is very detailed in his advice." (2015)

"The quality of his work is always first-class and he is an extremely easy individual to work with. He is also willing to meet with the clients and explain matters to them in a concise but understandable manner." (2014)

"Very thorough and very effective when handling complex issues." (2013)

"Bright, approachable and helpful - a good barrister coming up through the ranks." (2012)

"He is a solid advocate with really good drafting abilities." (2010)

"A steadfast junior" (2009)

## **Legal 500 UK**

"Highly recommended, a fierce opponent." (2021)

"A thoroughly recommended advocate." (2020)

"Very intellectual and can be trusted to come up with the right answer." (2018/19)

"Exceptionally intelligent but also a team player and a pleasure to work with." (2017)

"He is very approachable and provides sensible advice." (2016)

"Exceptionally clever, and very good with clients." (2015)

"He picks up matters quickly and has a good legal knowledge." (2014)

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"Attention to detail is incredible" (2010)