



Lexa Hilliard QC

Call: 1987

QC: 2009

lhilliard@wilberforce.co.uk

Clerks' Details

+44 (0)20 7306 0102

practicemanagers@wilberforce.co.uk

Publications

- Contributor to *Company Directors Duties, Liabilities and Remedies* (Ed. Mortimore OUP).
- She is also currently involved in the new edition of *Shareholders' Agreements* (Thomson Reuters).

“Extremely impressive advocate” “a pleasure to work with – a class act”

Chambers & Partners, 2018

Practice Overview

Lexa Hilliard QC is a popular and well-respected silk who is recommended by the legal directories as a leading silk for commercial dispute resolution, commercial chancery, company, insolvency and professional negligence. Her expertise also covers arbitration, banking and finance as well as fraud. She regularly advises in connection with off-shore disputes in the Channel Islands, the Caribbean and the Isle of Man.

Clients note that she is: *"keenly commercial, incredibly passionate and works seamlessly with the team"* and that she has: *"hugely impressive advocacy skills and strategic input."* She regularly handles high value, legally complex cases in both the domestic and international market, acting both as advocate and expert. She has particular experience of cross-border litigation, often involving an insolvency or civil fraud angle. Her ability to be *"highly inventive and always think of new ways to approach a case"* allied to her: *"no-nonsense approach"* ensure her success with judges and tribunals as well as clients.

Recent directory quotes include:

"Really distinguishes herself with her paperwork and seems to have a real knack for anticipating points that judges are going to raise. She is a good person to go to if you want to avoid court or know how best to maximise your position." Chambers & Partners 2019

"Very proactive and goes the extra yard to come up with suggestions that we haven't thought about. She offers incredible value and insight." Chambers & Partners 2019

"She wins a case before you've set foot in the court room." Legal 500 2019

"Incredibly impressive; very clear and concise and extremely quick to grasp the issues." Legal 500 2019

"Handles complex matters with great skill". "She has that ability to think about points that others wouldn't and has special skill in making new law." Chambers & Partners 2018

"Exceptional lawyer and a pleasure to work with." Chambers & Partners 2018

"Singled out for praise by Judges." Legal 500 2018

"She has excellent attention to detail." Legal 500 2018



Practice Overview continued

Between 1990 and 2011, she practised from South Square. Prior to that she lectured in law at Durham University.

She regularly provides talks, podcasts and webinars and is on the Commercial Litigation Editorial Board of Lexis PSL.

Commercial

"Really distinguishes herself with her paperwork and seems to have a real knack for anticipating points that judges are going to raise. She is a good person to go to if you want to avoid court or know how best to maximise your position." Chambers & Partners 2019

"Incredibly impressive; very clear and concise and extremely quick to grasp the issues." Legal 500 2019

"She has that ability to think about points that others wouldn't." Chambers & Partners 2018

"Experienced shoulders and very good with clients." Legal 500 2018

"An exceptional advocate with great skill at cross examination."

Her practice covers a wide range of commercial and company litigation. Her company work includes shareholders' rights, directors' duties and the construction of corporate instruments.

A seasoned trial advocate, she has extensive experience of pre-trial interim applications including freezing orders and other injunctions. She has particular expertise in relation to disputes with an insolvency dimension, many of which are international and involve complex cross-border issues.

Representative cases include:

- *Re Safeguard Management Corp* FSD 104 of 2017: appearing before the Grand Court, Cayman Islands on an application under s.4 of the Confidential Information Disclosure Law made pursuant to a disclosure order made by an LCIA arbitral tribunal.
- *Re Enforcement of Judgment* (2017) advising on the enforcement of a substantial judgment in the Cayman Islands.
- *Phoenix Group v Cochrane* [2017] EWHC 418 (Comm) whether freezing injunction over client accounts should be continued.
- *A v B* [2017] EWHC 596 (Comm) application pursuant to s.68 Arbitration Act 1996 to challenge a partial award on grounds of serious irregularity.
- *McTear v Engelhard & Ors* [2016] EWCA Civ 487 acting for successful appellants overturning judgment below as a mistrial.
- *Lime Petroleum Plc* ORD 16/001 Isle of Man, acting for the successful company and targeted directors in the first reported case under s.175 of the Isle of Man Companies Act 2006 in a hard-fought application by a minority shareholder to bring a derivative action against the directors.
- *Re Guernsey Cell Company*: (2016) advising on the construction of various investment advisory and management agreements in a dispute between a Guernsey fund and its managers and advisors.
- *Fennell v Halliwells LLP* [2014] EWHC 2744 (Ch): instructed on behalf of the LLP in connection with a claim concerning the construction of a retirement deed and drawings on account of profits.
- *Blue Monkey Gaming Ltd v Hudson* [2014] EWHC (Ch) 166: instructed on behalf of successful administrators in a trial involving the extent of an administrator's duties to suppliers of goods on retention of title terms and involving issues of restitutionary damages.
- *Bannai v Erez* [2013] EWHC 3204 (Comm): instructed on behalf of Israeli trustee in bankruptcy in connection with an application for an anti-suit injunction against the trustee who was pursuing claims in Israel in breach of arbitration agreement.



Commercial continued

- *Ondhia v Ondhia* [2011] EWHC 3040 (Ch); [2012] EWCA Civ 1927: instructed on behalf of defendant in claim concerning the construction of a settlement agreement of a substantial dispute involving a number of pharmacy businesses.
- *Re Emergent Capital Limited* (2011): instructed on behalf of an Australian shareholder in connection with a complex shareholder dispute in a Cayman Islands company owning a substantial waste disposal business in Australia and assets in the Gulf.

Banking & Finance

Lexa's expertise in commercial and company litigation has increasingly led her into advising on banking and financial disputes. In particular, she receives instructions to advise in connection with complex banking and debt instruments.

Representative cases include:

- *Re LB Holdings Intermediate 2 Ltd* [2018] EWHC 2017 (Ch) application for joinder of parties in conjoined application for directions as to the proper construction of various subordination agreements between various Lehman entities.
- *Crouchland Biogas Limited* (2018) advising on various finance agreements between Crouchland and its lenders and deeds of assignment.
- *Re Petroplus Marketing AG* (2017) advising on construction of subordination deed in a dispute between Petroplus Marketing AG, Deutsche Bank Trust Company and Petroplus Refining Teeside Limited (settled).
- *Solo Capital Partners LLP* [2016] EWHC 3654 (Ch) application to place investment bank into administration pursuant to Investment Bank Special Administration Regulations 2011, issues concerning proceeds of crime and authority where no directors acting.
- *PDHL Limited* (2016): acting for PDHL's financier in connection with the consequences of the withdrawal by the FCA of PDHL's FSMA 2000 authorisation.
- *Banco BTG Pactual SA* (2015): instructed on behalf of the Bank to advise on the construction of a subordination clause in a bridging facility.
- *Glitnir Bank* (2012-2014): instructed on behalf of the Winding up Board of Glitnir Bank to provide expert opinions and advice on English law in connection with a number of different claims by creditors. Issues have included the construction of an ISDA agreements, a claim under a guarantee and the construction of loan notes.
- *Co-op Bank* (2012): instructed in relation to the drafting of a bank savings scheme which would survive insolvency.
- *Commerzbank v. Kaupthing Bank HF* (2011): instructed on behalf of Kaupthing Bank HF (in liquidation in Iceland) in connection with a claim arising out of an ISDA Master Agreement and rights of set-off.

Company

Lexa is recommended by both Chambers UK and Legal 500 in this practice area.

Her practice extends to all aspects of company law including directors' duties, technical company law points and shareholder disputes.

She is a contributor to "Company Directors, Duties, Liabilities and Remedies" (OUP 3rd Ed Mortimore).

"Very proactive and goes the extra yard to come up with suggestions that we haven't thought about. She offers incredible value and insight." Chambers & Partners 2019

"She wins a case before you've set foot in the court room." Legal 500 2019

"Exceptional layer and a pleasure to work with – a class act." Chambers & Partners 2018

"Singled out for praise by judges." Legal 500 2018



Company continued

Representative cases include:

- *Re SEL Limited* (2018): advising a large privately owned company re: dividends and other matters.
- *SS Agri Power Ltd* [2017] EWHC 241 (Ch) & [2017] EWHC 3563 (Ch): resisting application for to restrain appointment of receiver over company and subsequently resisting objection to appointment of administrators on grounds of perceived bias.
- *In re LBGP No 1 Ltd* [2017] EWHC 864 (Ch) applications to resolve various issues in relation to the general partner of various limited partnerships in Lehman Group.
- *Guralp Holdings & Ors v Guralp & Ors* (2017) – claim for fraud and breach of fiduciary duty against directors arising out of alleged bribery of overseas agent.
- *Lime Petroleum Plc* ORD 16/001 Isle of Man, acting for the successful company and targeted directors in the first reported case under s.175 of the Isle of Man Companies Act 2006 in a hard fought application by a minority shareholder to bring a derivative action against the directors.
- *Re B Limited*: (2016) acting for the Company in action against the director for breach of fiduciary duty and conspiracy.
- *Re Burry & Knight Ltd* [2014] 1 WLR 4046 instructed on behalf of a shareholder in the Court of Appeal on the construction of new provisions of the Companies Act 2006, access to information and right to inspect and take copies of the register of members.

Civil Fraud

Lexa's practice encompasses all aspects of civil fraud including pre-emptive relief such as freezing orders, search and seizure and preservation orders. She acts for both claimants and defendants in claims for deceit, knowing receipt, knowing assistance, breach of fiduciary duty and conspiracy.

Representative cases include:

- *Phoenix Group v. Cochrane & Ors* [2017] EWHC 418 (Comm) claims to determine ownership of multi-million £ settlement known as the Arena Settlement, freezing orders.
- *Guralp Holdings & Ors v Guralp & Ors* (2017) – claim for fraud and breach of fiduciary duty arising out of alleged bribery of overseas agent.
- *Hunter v Lawless* [2016]: acting for claimant in substantial action for recovery of monies alleged to have been misappropriated by the claimant's former accountant.
- *NGM Sustainable Developments v Wallis & Ors* [2014] EWHC 2375 (Ch): instructed on behalf of successful claimant defending an application to strike out multi-million pound fraudulent misrepresentation/conspiracy claim.
- *E-Clear (UK) Plc v Elia* [2013] EWCA Civ 1114; [2014] 1 P&CR DG4: successfully overturned summary judgment in the Court of Appeal in connection with a claim against the director for breach of fiduciary duty and misfeasance.
- *Halliwells LLP v Austin* [2012] EWHC 1194: instructed in an action concerning the scope of the fraud exception in a retirement deed. Case subsequently settled in the Court of Appeal.



Insolvency

Lexa has been recommended for many years for insolvency in Chambers & Partners and Legal 500.

Her insolvency practice covers all aspects of corporate restructuring and insolvency, both domestic and cross-border.

"She's a superb barrister who is very proactive and really goes the extra mile. Lexa will roll her sleeves up, get embedded in the team and show incredible commitment to the case." "She is very bright but also very practical, and clients really love her because she is very clear in her advice and doesn't beat around the bush or dress things up in technical terms. She is switched on, very user-friendly and very good at managing expectations."
Chambers & Partners 2019

"Really bright, hardworking and user friendly." Legal 500 2019

"Extremely impressive advocate"; "handles complex matters with great skill"; has a fantastic ability to distil complex arguments into simple language." Chambers & Partners 2018

"She has excellent attention to detail." Legal 500 2018

Representative cases include:

- *Re Carillion Canada* (2018) advising on various issues arising in connection with the Canadian arm of Carillion.
- *Re New Look Retailers Limited* (2018) advising landlords on rights in relation to CVA.
- *Re Biokenetic Europe Limited* (2018): representing AstraZeneca UK Limited in the High Court, Northern Ireland on application by administrators for directions re: data protection and medical research records.
- *In re LBGP No 1 Ltd* [2017] EWHC 864 (Ch) applications to resolve various issues in relation to the general partner of various limited partnerships in Lehman Group.
- *In the matter of Platinum Partners Value Arbitrage Fund (International) Limited (in liquidation)* FSD 118 of 2016 in the Grand Court of the Cayman Islands, representing joint liquidators in connection with the liquidation of hedge fund in Cayman Islands.
- *Baha Mar Ltd*: (2016) advising in connection with a large number of issues arising out of the receivership and provisional liquidation of a US\$5 billion development in the Bahamas.
- *Re Barrowfen Properties Limited*: (2016) acting for the majority shareholder in an application to terminate an administration and return the company to its shareholders.
- *Re China Fisheries Group Limited*: (2016) acting for opposing creditor, China CITIC Bank International, in the Grand Court of the Cayman Islands resisting a winding up order being made against China Fisheries Group Limited.
- *Re Daiichi Chuo Kisen Kaisha*: acting for China National Chartering Co Ltd in connection with Daiichi's application for recognition of its Japanese rehabilitation proceedings as a foreign main proceeding under the Cross Border Insolvency Regulations 2006.
- *O W Bunker in Bankruptcy* (2015): instructed on behalf of an English creditor in this large Danish insolvency.
- *A u. B* (July 2015) instructed to appear in the Supreme Court of Ireland (Ireland's final Court of Appeal) on behalf of Sean Dunne (an erstwhile substantial Irish property developer who has been made bankrupt in the Republic of Ireland and the US) in an application concerning the interaction of US and Irish insolvency law.
- *Alard Properties Limited*: (July 2015) instructed on behalf of Deutsche Pfandbriefbank AG in relation to a substantial application pursuant to s.426 Insolvency Act 1986 to put a Jersey company into administration in England.
- *Re Stanford International Bank* (2015) instructed on behalf of the former joint liquidators in relation to their claim for fees in Antigua.



Insolvency continued

- *O'Connell v Rollings* [2014] EWCA Civ 639 instructed on behalf of the successful administrators in the Court of Appeal concerning administrators' powers to dispose of property subject to a fixed charge.
- *Re Southern Pacific Personal Loans* [2013] 2 BCLC 465: instructed on behalf of the liquidators in an application concerning the Data Protection Act 1998; whether officeholders were data controllers.
- *Re Miss Sixty S.p.A* (2013): instructed on the behalf of the liquidators of Miss Sixty (UK) Ltd to provide expert evidence on English law for the purpose of proceedings in Italy.
- *Re Hellas Telecommunications* (Luxembourg) II SCA [2013] 1 BCLC 426: instructed on behalf of subordinated bondholders in a case concerning powers of administrators, trust funds, compulsory liquidation.
- *Re Travelodge Hotels Limited* (2012- 2017): instructed in connection with a claim by a Tunisian hotel creditor seeking to pursue its claim in a foreign arbitration and thereby circumvent Travelodge's company voluntary arrangement.
- *Glennrines Farms Ltd v ACAL Underwriting Ltd* [2012] EWHC 4336 (Ch): instructed on behalf of Mitsui & Co Ltd in a case concerned with Lloyd's managing agents and purpose trusts.
- *Farepak Food & Gifts Ltd* [2007] 2 BCLC 1 [2009] EWHC 2580 (Ch) [2010] 1 BCLC 444: instructed on behalf of the administrators and liquidators in relation to a variety of issues arising out of the collapse of a savings scheme.
- *Re Alitalia Linee Aeree Spa* [2011] 1 WLR 2049: instructed on behalf of the Italian liquidator in a claim to assets subject to the liquidation of Alitalia in England.
- *D/S Norden A/S v. Samsun Logix Corporation* [2009] BPIR 1367: instructed on behalf of South Korean receiver of Samsun Logix, which was subject to insolvency proceedings in South Korea, re application to commence legal proceedings in England.
- *Re Madoff Securities International Limited* [2009] 2 BCLC 78: instructed on behalf of the liquidators of Madoff Securities International Limited in relation to an application concerning the Data Protection Act 1998 and the transfer of data from the UK to the US. Instructed periodically up to 2014 on discrete issues arising in the liquidation.

Professional Liability

Lexa advises on and litigates claims for negligence against professionals including directors, auditors, solicitors, insolvency practitioners (IPs) and investment advisers.

'Very able.' Legal 500 2019

"Very bright and thorough." Legal 500 2018

"Excellent client skills, a pleasure to work with and is an extremely good advocate." Chambers & Partners 2017

Representative cases include:

- *Re a firm of solicitors* (2017) (confidential) acting in a claim against a firm of solicitors for loss caused by acting without authority.
- *Lime Petroleum Plc* (2016): acting on behalf of the directors of oil and gas joint venture company incorporated in the Isle of Man to defend negligence and breach of fiduciary duty claims against them.
- *Stanford Bank v Nigel Hamilton Smith, Peter Wastel & Anr* (2015): instructed on behalf of the firm of the former joint liquidators of Stanford Bank, Antigua, in connection with a negligence claim that has been issued against the firm in Antigua by Stanford Bank, acting by the current joint liquidators.



Professional Liability continued

- *McCausland v Drenagh Farms Limited* (2014): instructed to appear in the High Court, Northern Ireland on behalf of the administrator of a large estate in Northern Ireland in connection with a claim that the administrator had negligently disposed of the estate at an undervalue and failed to rescue the company as a going concern.
- *P(UK) Realisations Limited* (2014 and ongoing): instructed on behalf of the liquidators of an English company in connection with allegations by a Chinese corporate creditor of negligence and misfeasance by the liquidators.
- *Perpetual PMLC v Marlborough & Others* (2013): instructed by Guernsey Advocates on behalf of professional directors in a negligence claim against them in Guernsey.
- *Freddy Kalatschi v. Shay Bannon & Michael Simons* (2012): instructed on behalf of the defendants in a claim for professional negligence and misfeasance against the former administrators (case settled).
- *X v. Deloitte LLP* (2011): instructed on behalf of an insolvent company in relation to negligence claim against former auditors (settled after mediation).