



John Wardell QC

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Clerks' Details

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Qualifications and Appointments

- LLB (Hons) Exon
- M. Phil (Cantab)
- Called to the Bar of the British Virgin Islands
- Called (ad hoc) to the Bar of the Turks and Caicos Islands
- Called (ad hoc) to the Bar of the Cayman Islands
- Called (ad hoc) to the Bar of Singapore

“His advocacy is impeccably well prepared and his cross-examinations are stellar.”

Chambers & Partners, 2020

Memberships

- Chancery Bar Association
- Commercial Bar Association
- Professional Negligence Bar Association

Practice Overview

John is ranked as a 'leading silk' in the Commercial, Chancery Commercial, Civil Fraud, Commercial Dispute Resolution and Professional Negligence categories in Chambers & Partners UK 2020, and in the Commercial Litigation, Company, Civil Fraud, Offshore and Professional Negligence categories in The Legal 500 UK 2020. John was shortlisted by Chambers & Partners for commercial silk of the year in 2019.

The Chambers & Partners 2020 edition describes John as *"a very strong, forensic advocate who gets on well with clients and speaks a language they understand"*. *"John is very responsive, incredibly thorough and an extremely commanding advocate."* He is *"very, very hard working"*, *"his advocacy is impeccably well prepared and his cross-examinations are stellar"*.

In The Legal 500 2020 edition John is described as *"sharp, relentless and fierce, John has a frightening ability to recall incredible levels of detail"*. He is *"unflappable, impressive and with the ability to really engage with senior judges on their level"*. *"He has a very lucid mind and is extremely good on his feet"*, he is *"an excellent advocate"*.

John has an extremely broad and varied commercial disputes practice. Most of his cases are heard in the High Court and International Arbitral Tribunals. John also regularly appears in offshore jurisdictions (including BVI, Grand Cayman, Turks and Caicos, Singapore, Hong Kong and many European countries).

In the last five years, he has spent an increasing amount of time on complex fraud claims, many of which involve company law issues. The highlight of his practice during the last year was his comprehensive victory before the Supreme Court in *Takhar v Gracefield Developments Limited* where a panel of 7 judges overturned received wisdom that a litigant wishing to overturn a judgment obtained by fraud needed to show that he could not have discovered the fraud by reasonable diligence.

Many of John's commercial cases involve claims for breach of trust and breach of fiduciary duty.

John also undertakes professional negligence and indemnity work for both claimants and defendants. He has acted for and against a wide range of professionals, including solicitors, barristers, surveyors, financial advisers, accountants and actuaries.

John immerses himself in all aspects of his cases. He easily assumes the role of a leader prepared to back his own judgment, but is also a collaborative team player. John is an extremely good advocate, adept at modifying his tone and approach to the tribunal



Practice Overview continued

and at sensing how a Judge is seeing the case. He consistently impresses with thorough preparation and focussed and effective cross-examination. He is rock solid on the law, reliable on paperwork and is described by solicitors as a joy to work with. What most impresses is his unwavering commitment to his cases, and to his clients.

Commercial

John is ranked as a 'leading silk' in the Commercial and Chancery Commercial categories in Chambers Global, in Chancery Commercial, Civil Fraud, Commercial Dispute Resolution in Chambers & Partners' UK edition, and in Commercial Litigation, Company and Civil Fraud in The Legal 500 UK.

"He is one of an increasingly rare breed of advocates who do not just turn up to deliver a prepared speech but can and do react to developments fully and have an instinct about when and when not to go in for the kill. There have been times during Wardell's cross-examination which have contained moments of sublime drama which have been better than anything I have seen at the Royal Shakespeare Company and in those moments I wouldn't have wanted to be anywhere else but in that courtroom." (Chambers & Partners, 2020)

His commercial practice is very broad and embraces disputes involving companies, joint venture agreements and partnerships. Many of his cases have an international dimension and involve allegations of fraud.

Many of John's commercial cases involve claims for breach of trust and breach of fiduciary duty.

Recent cases include:

- *Takhar v Gracefield Developments Ltd* [2020] AC 450. The Supreme Court decided that John was correct in his contention that a litigant who seeks to set aside a judgment obtained by fraud did not need to show that he could not have discovered the fraud by reasonable diligence. The Supreme Court's video recording of this case can be viewed [here](#).
- *Bilta v RBS* [2020] EWHC 546. John acts for RBS in the defence of an £80 million claim brought by liquidators of a number of companies caught up in an MTIC fraud involving carbon credits. The allegation against RBS was that its traders dishonestly assisted breaches of fiduciary duty committed by the directors of those companies and/or that they were knowing parties to fraudulent trading. Despite these allegations being strongly denied by the Bank, the case succeeded at first instance. The decision is likely to be appealed.
- *Algosaibi v Saad* (2019). This was a claim for over US\$4 billion brought in the Cayman Islands. It is by far the biggest fraud claim ever heard there arising out of one of the biggest frauds in any jurisdiction. The claim was dismissed after a trial lasting a year. John was brought in to try and rectify the position. The Cayman Islands Court of Appeal heard the appeal over 20 days in the summer of 2019. Judgment is awaited.
- *N v Royal Bank of Scotland Plc* [2019] EWHC 1770. John successfully defended the bank from a claim brought by a payment institution arising out of the without notice termination of its relationship because it was considered that its client accounts were being used for fraud and money laundering.
- *Grupo Mexico v Garcia* [2019] EWCA Civ 1673. John appeared for the Claimant and successfully argued that a limited partnership that was being used by a fraudster to pursue a claim worth many hundreds of millions in Mexico should be struck off the register. This is now under appeal. The judgment at first instance was upheld by the Court of Appeal. The case is now going to the Supreme Court.
- *Sabbagh v Khoury* [2019] EWCA Civ 1219. John obtained an anti-arbitration injunction preventing the defendants from pursuing a foreign arbitration in circumstances where to allow it to continue would be vexatious and oppressive because of ongoing proceedings in England.
- *Staeckelin v ACLBDD Holdings Limited* [2019] EWCA 817. Claim for commission arising out of the sale of Gauguin's Nafea faa ipoipo for \$210 million.



Commercial continued

- *Ieremeiva v Lagur and Ivakhiv*. Acting for wife of deceased oligarch seeking to show that her inheritance had been defeated by a forged trust deed.
- *In the Matter of the Torchlight Fund LP* (2018). John was brought in as replacement counsel to defend a bitterly contested just and equitable winding up petition brought by activist investors against the General Partner of a private equity fund in the Grand Court of the Cayman Islands. The principal allegation was that the General Partner was a crook who could not be trusted with his clients funds. At that time, the advice being given was that the case was likely to lose, in which event John's clients would have lost in excess of AUS\$300 million as well as having their reputations destroyed. The case settled before judgment after a 43 day trial but the Judge was so incensed by the conduct of the Petitioners (including representatives of two New Zealand Government agencies) that he insisted on giving judgment exonerating the General Partner.
- *PCP-LLP v Barclays Bank* (2018). John spent three years acting for the Claimant (a company controlled by Amanda Staveley) in this high-profile multi-million fraud claim for deceit against Barclays arising out of the rescue of Barclays at the time of the financial crash.
- *Sabbagh v Khoury* [2017] EWCA Civ 1120. This is a multi-million dollar claim in conspiracy brought by Ms Sabbagh against her brothers and the Khourys who now control the business founded by her father. The Court of Appeal held that the claimant had a real prospect of establishing a claim of conspiracy to deprive her of her entitlement to shares in the eighth defendant company. The Court of Appeal also refused a mandatory stay of the proceedings under an arbitration clause.
- *Ackerman v Thornhill* [2017] EWHC 99. John acted for the Second to Fourth Defendants who successfully applied to have the claim set aside on grounds of res judicata/abuse of process.
- *Excalibur Ventures LLC v Texas Keystone* [2016] EWCA Civ 1144. Acting for one of the funders who advanced £13.5 million to support the disastrous claim brought by Excalibur against Texas Keystone and who were ordered to pay costs on an indemnity basis even though no personal criticism could be levelled at him.
- *Actial Farmaceutica Lda v De Simone* [2016] EWCA 1311. The Court of Appeal held that Regulation 44/2001 art.5(3) did not apply to give the English court jurisdiction to hear claims of unlawful means conspiracy and unlawful interference with contracts against defendants domiciled in Italy or Switzerland which had prevented the appellant from distributing goods in the UK. It considered that the harmful event was the non-delivery of the goods to its packaging agents in Italy and the Netherlands.
- Acting on claims against a solicitors firm and a trust company for substantial compensation for professional negligence and breaches of trust arising out of the wrongful diversion of trust monies to a new trust structure set up by them for the claimant's brother in law.
- *Zarbafi v Zarbafi* [2014] EWCA 1267. Acting on a family dispute where properties and other assets have allegedly been utilised contrary to the terms of the trusts on which they were said to be held.
- *Salford Capital Partners v Kenneth Kryz* [2014]. Acting on a claim against the liquidators of a limited partnership in the BVI concerning their failure to comply with the terms of the partnership agreement relating to the valuation of the partnership's assets (which are worth over US \$1bn).
- *R P Explorer Master Fund v Malhotra* [2014]. Acting in the defence of a US \$70m claim for damages for conspiracy arising out of a scheme to build an oil refinery in India.
- Acting for the Claimant in a \$60m claim arising out of the failure to honour the terms of a share sale agreement relating to the sale of shares in a company which was the ultimate owner of two Russian banks.
- *Matchtrack v Kirschel* [2013]. Acting for the Claimant in respect of an unsuccessful joint venture agreement concerning a substantial commercial property in Central London.
- *Apex Global Management Limited v FiCall Limited and Others* [2013]. Acting for the Defendants in relation to a multi-million pound shareholders' dispute between the shareholders of FiCall.



Commercial continued

- *Logue v PGGL and the Candy Brothers* [2013]. Acting for the Claimant in a claim for damages sustained as a result of a conspiracy whereby the Defendants sought to forfeit deposits that had been paid by the Claimant for an apartment at One Hyde Park, retain the increase in value on that apartment and share in any recovery made in proceedings brought against him in the United States.
- *Stone v National Westminster Bank* [2013] EWHC 208. Acting for the Defendant bank in successfully defending a £20 million claim arising out of a Ponzi scheme operated by one of the Bank's customers.
- *Fortress Value Recovery Fund LLC v Blue Skye Special Opportunities Fund LP* [2012]. Acting for one of the Defendants accused of being involved in a complex fraud which involved the diversion of substantial assets in an investment portfolio to a new structure in breach of trust.
- *Tsang v Tsang* [2011]. Acting for the former wife of a dollar billionaire, who was being sued by her ex father-in-law for fraud. After objecting to the High Court exercising jurisdiction, John successfully appeared for the wife in parallel proceedings in Singapore.
- *Jenington International v Assaubayev* [2010]. Acting for the Defendants who were accused of masterminding a substantial fraud arising out of the sale of gold mines in Kazakhstan.

International Arbitration

John has conducted arbitrations under the ICC, LCIA and UNCITRAL Rules in Geneva, London, Paris, Singapore, Vienna and Warsaw. Most of his cases are document heavy and involve analysis of complex contracts.

Recent and ongoing cases include:

- Acting on a billion dollar inter-state arbitration involving long-term gas supply contracts.
- Acting on a claim for breach of a performance guarantee relating to multiple contracts for the supply of natural gas and mazut (a heavy low quality fuel oil). This involves consideration of multiple contracts between numerous parties dating back 20 years.
- Acting for an oil company seeking to recover substantial compensation for the fraudulent supply of cargoes of oil to Romania.
- Acting for the applicant in an international arbitration in Vienna who successfully sought substantial compensation for breach of a share purchase agreement relating to the acquisition of a controlling interest in a steel plant in Macedonia. This required an in-depth analysis of the Macedonian privatisation laws and the contracts that were generated following their enactment.
- Acting in an international arbitration in Paris where the claimant sought multi-million pound compensation for breach of a joint venture relating to the provision of mining services for a bauxite mine in Saudi Arabia.
- Acting in an international arbitration in Warsaw arising out of a joint venture for the construction of the A4 motorway in Poland.
- Acting for the former head of an investment bank who was seeking approximately £30m by way of reasonable remuneration for his services.

In addition, as part of his commercial litigation practice, John has been involved in heavy contractual disputes relating to oil interests in Kazakhstan, gold mines in Azerbaijan and an oil and gas conglomerate in Ukraine.

Professional Liability

John is recommended in Chambers & Partners and The Legal 500 as a leading silk in the field of professional negligence. He acts for and against a wide range of professionals, including barristers, solicitors, surveyors, financial advisers, accountants, patent attorneys and actuaries.



Professional Liability continued

Recent cases include:

- *Financial Services Compensation Scheme v Eстера Corporate Trustees*. Acting for a corporate trustee in the defence of a number of claims for breach of trust/breach of a duty of care relating to a failed hotel development in St Lucia (2019)
- *N v RBS* [2019] EWHC 1770. John successfully defended the bank against a claim that it acted in breach of its duty of care/mandate in freezing its accounts and then terminating the banking relationship with immediate effect.
- *Keymed (Industrial & Medical Equipment) Ltd v Hillman* [2019] EWHC 485. John acted for Keymed in proceedings brought against two former directors for breach of fiduciary duty and/or breach of duty of care in relation to payments they authorised for the executive pension scheme of which they were the only members.
- *Richard Ward Couture Styling v HGF Limited*. John acted for the defendant in defence of a claim arising out of the alleged failure to issue applications worldwide to protect the design rights of a de-tangling hairbrush (2018).
- *Orientfield Holdings v Bird & Bird LLP* [2017] EWCA 348. John acted for the claimant who succeeded in its claims for professional negligence against its former solicitors, who had failed to explain the results of a Plansearch Plus report but had instead formed their own view that the report contained nothing adverse.
- *Lyons v Fox Williams* [2017] EWHC 532. John acted for the claimant who was seeking to obtain compensation for a failure to advise him of his rights under a long-term disability insurance policy which was held not to be covered by the retainer.
- *PB Limited v Watson Burton* - acting for a leading silk and junior in the defence of a multi-million pound claim arising from the joint opinion that they gave as to the construction of an asset sale agreement.
- *Dualglo v Bromhead Johnson* [2014] EWHC 2149 - successfully defending a claim against a patent attorney who was sued for failing to advise that broad patent protection could not be obtained for a new glow-in-the-dark product called Dual Glo. It was claimed that this had resulted in very substantial losses sustained by the company and its backers. Amongst other matters the case involved complex issues concerning science and intellectual property law and procedure
- Acting successfully for a barrister who had been threatened with a multi-million pound claim arising out of the alleged failure to warn of the risks involved in extending the validity of a claim form [2013].
- *Wilson & Go Plant Ltd v Grant Thornton UK LLP* [2013] Acting on claims of negligence against Grant Thornton both in respect of its auditing of a UK company and its corporate finance advice on the acquisition of that company for over £16m.
- Acting on claims against a solicitors firm and a trust company for substantial compensation for professional negligence and breaches of trust arising out of the wrongful diversion of trust monies to a new trust structure set up by them for the claimant's brother in law.
- *Langsam v. Beachcroft LLP* [2011] EWHC 1451 (Ch; [2011] 3 Costs LO 380; [2012] EWCA 1230; [2013] 1 Costs LO 112) Acting on a lengthy trial and subsequent appeal on claims by the owner of Britannia Hotels against his former solicitors with regard to the advice they gave as to the value of his earlier claim against a firm of accountants and as to the merits of a settlement.