



Sebastian Allen

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Clerks' Details

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Qualifications and Appointments

- Law scholar at Christ Church College, Oxford, where he was awarded the Lovell's Prize for his undergraduate degree and the Hugh Pilkington scholarship for his bachelor of civil law degree.
- Awarded the main Lincoln's Inn Scholarship, the Lord Mansfield scholarship, as well as the Hardwicke scholarship and the Buchanan Prize for obtaining a distinction in his bar school exams.

"Shows judgment beyond his years of call"

The Legal 500

Memberships

- Chancery Bar Association
- Bar Pro Bono Panel
- Commercial Bar Association

Publications

- Transaction Avoidance in Insolvencies (2011)
OUP Contributing Editor
- 'The construction of pension scheme documents' (2009)
Practical Law Company

Practice Overview

Sebastian has a broad commercial and chancery practice covering all the main areas of work in Wilberforce Chambers. He has particular experience, both as an advisor and advocate, of large-scale litigation relating to pensions, commercial and company litigation, financial services, trusts, insolvency, professional negligence and property disputes.

Sebastian is frequently instructed on cases with an international element and is used to working with multi-jurisdictional legal teams. He deals with complex multi-party litigation and is regularly led by Queen's Counsel both within and outside Wilberforce Chambers.

Sebastian appears regularly in the High Court and County Courts representing clients in both interlocutory applications and trials.

The recent edition of Chambers & Partners, 2017 describes him as 'a well-regarded junior with experience in the full spectrum of pensions cases who has advised and advocated on some of the most large-scale pensions disputes, including Silentnight and Nortel.' Solicitors describe him as *"always approachable and willing to help."*

Chambers & Partners 2016 describes him as *"technically very able and working with him is a happy experience as he hits deadlines". "He is really good and very diligent."* The previous edition describes him as *"brilliant to work with, he gives clear advice and is prepared to go the extra mile."* Chambers & Partners 2015

Sebastian was ranked as *"highly-commended up-and-coming"* in Legal Week's 2011 "Future Stars of the Bar".



Pensions

Sebastian has a substantial litigious and advisory pensions practice.

He has experience acting on a wide range of pensions matters and his cases have often involved significant insolvency, regulatory, employment and international aspects (including US Chapter 11 and Canadian CCAA proceedings). Sebastian has experience of pensions issues from all angles, acting regularly for trustees, members, sponsoring companies, professional advisers and regulatory bodies.

Sebastian has had particular experience of the regulatory aspects of pensions law, having worked closely with the Pensions Regulator whilst on a four-month secondment and on subsequent cases. He has, since September 2009, provided regular advice to the Pension Protection Fund following time spent with the Pension Protection Fund's in-house legal team.

Notable matters on which Sebastian has been instructed:

- *Re Nortel Networks UK Pension Plan*. Acting for the trustee of the Nortel Networks UK Pension Plan in relation to the largest ever financial support direction case brought by the Pensions Regulator under the Pensions Act 2004, involving a multi-billion pound buy-out deficit. This has also involved advising the trustee on the interaction of its claim to a financial support direction as a result of the successful UK regulatory proceedings with the insolvency proceedings in various jurisdictions, including in the UK, the US and Canada. In the UK, this resulted in the joint application by the UK administrators of Nortel and Lehman Brothers as to the provability of liabilities under a financial support direction in *Bloom v The Pensions Regulator* [2010] EWHC 3010 (Ch) (with [Michael Tennet QC](#)).
- Advising on the construction of terms in the current and historic documentation of a pension scheme relating to the provision of spouses' pensions (with [Paul Newman QC](#)).
- *Re the Derfshaw Limited Retirement Benefits Scheme*. Representing the Pensions Regulator successfully in an oral hearing before the Determinations Panel and before the Tax and Chancery Chamber of the Upper Tribunal in relation to an application by the trustee for the winding-up of the scheme under S 11(1)(c) of the Pensions Act 1995: see www.thepensionsregulator.gov.uk/docs/DN1364577.pdf
- *Medway Community Living Services Ltd -v- Medway Primary Care Trust*. Advising the claimant, an employer participating in a local government pension scheme, on the value of a cessation debt owed to the scheme (with [Michael Tennet QC](#)).
- *Bucks Consultants (Administration and Investment) Ltd -v- Wendy Laycock*. Advising a member of a large pension scheme on the merits of a claim brought by the claimant for repayment of a lump sum pension paid to her by mistake.
- Acting for the Pensions Regulator in prohibition proceedings against a pension scheme trustee (with [Michael Tennet QC](#) and [Jonathan Hilliard QC](#)).
- Advising the Pension Protection Fund on a regular basis in relation to applications for review under S 207 of the Pensions Act 2004 and applications for maladministration under S 206 of the Pensions Act 2004.
- Advising the Pensions Regulator on its moral hazard powers in connection with a number of large pension schemes with respect to issues of conflicts of interest arising out of the investment decisions of the trustees of the schemes and the sharing of a potential surplus between the members and the employer of the schemes.
- Advising the majority shareholders of a sponsoring employer on the risks of a contribution notice being issued by the Pensions Regulator as a result of a proposed change of control of the sponsoring employer.
- Advising a sponsoring employer on whether certain corporate restructuring would amount to events that have to be notified to the Pensions Regulator.
- Advising on claims against professional pension trustees for unauthorised investments.
- Advising a member as to the level of his pensionable salary under the terms of the scheme's governing documentation.
- Advising the Pensions Regulator on the internal delegation of its functions.



Pensions continued

- Advising on the tax implications of the conduct of the trustees of a small self-administered pension scheme and on the restructuring of the scheme.
- Advising on family pension sharing orders.

Professional Liability

Sebastian has particular interest and experience in professional liability litigation.

The breadth of Sebastian's commercial and chancery practice means that he is comfortable with issues of professional liability arising in a wide variety of contexts including in relation to professionals such as trustees of pension schemes, company directors, financial advisers, insurance brokers, executors and legal advisers.

Notable matters on which Sebastian has been instructed include:

- *Madoff litigation.* Acting on several pieces of litigation arising out of the massive international fraud perpetrated by Bernard Madoff through the largest ever Ponzi scheme in which investors lost almost \$65bn. This has included acting on behalf of investment fund managers in a claim brought against them by individual investors for having invested and lost the entirety of the sums in fund in Madoff's Ponzi scheme and on behalf of the private individual, Mrs Sonja Kohn, in defending claims worth US \$19bn that have been brought by the trustee in the US liquidation of Bernard L. Madoff Investment Securities LLC (with [Terence Mowschenson QC](#)).
- *Langstone Leisure Limited -v- Willers.* Acting for a company against its former managing director in a claim based on breaches of fiduciary duty and negligence in relation to the costs incurred by the company in funding litigation brought by the liquidator of a debtor company (with [Terence Mowschenson QC](#)).
- *Maxfield -v- (i) HLB Kidsons and (ii) Baker Tilly.* Acting for an individual pursuing a multi-million pound negligence claim against accountants/tax advisers in relation to deficient tax advice and a failure to disclose "secret commission" (with [James Ayliffe QC](#)).
- Advising in relation to potential proceedings against an insurance broker for negligent insurance advice.
- Advising in relation to a company's claim against a former director based in the Isle of Man for negligence and breaches of fiduciary duty.
- Advising on claims against professional pension trustees for unauthorised investments.
- Advising a beneficiary under a will in relation to potential claims against administrators of an estate for incurring unnecessary (lc) capital gains tax for the estate.
- Advising a beneficial owner of a property in relation to potential claims against his solicitors for negligent advice.

Trusts, Tax, Probate and Estates

Sebastian has significant experience of trust-related matters both offshore and onshore.

He regularly advises on both contentious and non-contentious matters.

He has applied his knowledge of trust law and fiduciary obligations in a variety of contexts, in particular commercial disputes and corporate transactions.

Notable matters that Sebastian has worked on include the following:

Lord Lloyd-Webber and the Andrew Lloyd Webber Art Foundation -v- HMRC. Representing HMRC on a case that concerned the tax positions of the claimants in the context of their entitlement to Gift Aid Relief which involved issues of the valuation of licences for works of art of substantial value.



Trusts, Tax, Probate and Estates continued

- Acting in respect of a high-profile estate and advising in relation to a claim for rectification of a will under S 20 of the Administration of Justice Act 1982 (with Shân Warnock-Smith QC).
- Advising on international aspects of estates, including where property bequeathed under a will is located outside the jurisdiction and where there are competing wills in different jurisdictions.
- Acting and advising in respect of cases under the Inheritance (Provision for Family and Dependents) Act 1975.
- Advising in respect of the beneficial ownership of shares in a company listed on the London Stock Exchange belonging to a Belgium national who died intestate where all the relevant documents were in French.
- Placement with a firm of solicitors in order to assist with the complex administration of a particular high-value estate.
- Advising in relation to the construction of wills, the validity of wills, the potential claims against the administrators of an estate and the appropriate steps to take in the administration of estates.
- Advising a beneficiary under a will in relation to the ability to require the administrators of an estate to make a distribution under the terms of the will and in relation to any potential claims against the administrators for incurring unnecessary (Ic) capital gains tax for the estate.
- Advising in relation to solicitors' conflicts of interest in acting for more than one beneficiary under a will.

Property

Sebastian regularly appears in court and advises in property related cases.

Notable matters that he has worked on include the following:

- *Pierse Developments Limited -v- Liberty Property Investment Limited*. Acting for a property investment company in relation to the construction of contracts for the development and sale of 28 properties (with [Jonathan Seitler QC](#)).
- *Bridle -v- Meekins*. Acting for the claimant in relation to claims for breaches of covenant and nuisance (with [Rupert Reed QC](#)).
- Acting for the claimant purchaser against the developer of a new-build property in relation to breaches of duty by the developer.
- Acting for a Singaporean building developer in relation to the purchase of a multi-million dollar development.
- Acting and advising in relation to claims for breaches of covenants, boundary disputes, and possession proceedings.
- Defending a trespass claim, and counter-claiming a right of way (by prescription and S 62 LPA 1925) over residential property, including an application for an interim injunction.
- Acting for a number of banks and other commercial lenders in respect of complex possession proceedings against mortgagors and, particularly, their tenants.
- Advising on a boundary dispute between neighbours, involving issues of adverse possession in the context of the LRA 1925 and LRA 2002.
- Advising on issues of co-ownership of property, including the construction of a trust deed and considerations of resulting and constructive trusts.
- Advising on rights of way and whether the extent of an existing right of way would extend to a proposed development.



Property continued

- Advising on issues arising under the Party Walls Act 1996.
- Advising on potential claims against executors of an estate for failure to repair a sea wall adjacent to the client's property and considering causes of action for a right of support or under *Rylands -v- Fletcher*.

Commercial

Sebastian has particular experience in commercial litigation and is frequently instructed on high-profile, complex commercial disputes with an international element.

Notable matters on which Sebastian has been instructed include:

- *Withers -v- Langbar International Ltd and Rybak*. Advising on the proprietary interests in monies held in a solicitor's client account in respect of unpaid legal fees and appearing in the High Court before Mr Justice Morgan (with [Joanna Smith QC](#)).
- *Re Nortel Networks UK Pension Plan*. Acting for the trustee of the Nortel Networks UK Pension Plan in relation to the largest ever financial support direction case brought by the Pensions Regulator under the Pensions Act 2004, involving a multi-billion pound buy-out deficit. This also involved advising the trustee on the interaction of its claim to a financial support direction as a result of the successful UK regulatory proceedings with the insolvency proceedings in various jurisdictions, including in the UK, the US and Canada. In the UK, this resulted in the joint application by the UK administrators of Nortel and Lehman Brothers as to the provability of liabilities under a financial support direction in *Bloom v The Pensions Regulator* [2010] EWHC 3010 (Ch) (with [Michael Tennet QC](#)).
- *Lord Lloyd-Webber and the Andrew Lloyd Webber Art Foundation -v- HMRC*. Representing HMRC on a case concerning the tax positions of the claimants in the context of the claimants' entitlement to Gift Aid Relief which involved issues of the valuation of licences for works of art of substantial value (with Jonathan Karas QC).
- *Letsure Limited -v- Moneynotation Limited*. Advising the defendant insurance broker in relation to alleged premiums payable to the claimant insurance provider and in relation to a counterclaim for damages for breach of the terms of an agency agreement.
- *Langbar International Limited -v- Rybak*. Advising on various FCA aspects that applied to the case concerning allegedly forged Certificates of Deposit of over US \$600m.
- *Pierse Developments Limited -v- Liberty Property Investment Limited*. Acting for a property investment company in relation to the construction of contracts for the development and sale of 28 properties (with Jonathan Seitler QC).
- Acting for a Singaporean building developer in relation to the purchase of a multi-million pound development.
- Advising a party to a long-standing trading arrangement as to rights of set-off in relation to its trading debts and as to the effect of the assignment of those debts on the right of set-off.
- Advising on the construction of various debt and other financial instruments.
- Advising lenders in relation to potential liabilities under the consumer credit legislation.
- Advising in professional liability proceedings involving a number of insurance companies potentially liable to cover the insured's breaches of duty.
- Acting for the Pensions Regulator in relation to prohibition proceedings brought against a pensions trustee relating to his involvement in commercial transactions, involving the acquisition by a private equity company of two national corporate groups with potentially valuable pension schemes.



Commercial continued

Hedge/Mutual Funds

Sebastian's broad commercial and chancery background, particularly in the fields of company, trusts, financial services and pensions law puts him in a good position to deal with the legal issues surrounding hedge funds, and other collective investment vehicles.

Financial Services

Sebastian has particular interest and experience in cases involving the financial services industry.

Notable matters that he has worked on include the following:

- *Maxfield -v- Brewin Dolphin Securities Limited*. Acting for an individual pursuing a multi-million pound negligence claim against a firm of financial advisers in relation to deficient tax advice (with [James Ayliffe QC](#)).
- *Letsure Limited -v- Moneynotion Limited*. Advising the defendant insurance broker in relation to alleged premiums payable to the claimant insurance provider and in relation to a counterclaim for damages for breach of the terms of an agency agreement.
- *Langbar International Limited -v- Rybak*. Advising on various FCA aspects that applied to the case concerning allegedly forged Certificates of Deposit of over US \$600m.
- Advising in relation to potential proceedings against an insurance broker for negligent insurance advice.
- Advising on claims against professional pension trustees for unauthorised investments.

Regulatory & Public Law

Sebastian does a significant amount of regulatory work for UK regulatory bodies (particularly in the pensions sphere, where he regularly acts for the Pensions Regulator and the Pension Protection Fund). These cases often involve public law and related issues together with an appreciation of the strategic ways in which regulatory proceedings differ from ordinary commercial litigation.

Notable examples including the following:

- *Lord Lloyd-Webber and the Andrew Lloyd Webber Art Foundation -v- HMRC*. Representing HMRC on a case concerning the tax positions of the claimants in the context of the claimants' entitlement to Gift Aid Relief which involved issues of the valuation of licences for works of art of substantial value (with [Jonathan Karas QC](#)).
- *Re the Derfshaw Limited Retirement Benefits Scheme*. Representing the Pensions Regulator in an oral hearing before the Determinations Panel and before the Tax and Chancery Chamber of the Upper Tribunal in relation to an application by the trustee for the winding-up of the scheme under section 11(1)(c) of the Pensions Act 1995: see www.thepensionsregulator.gov.uk/docs/DN1364577.pdf
- Acting for the Pensions Regulator in prohibition proceedings against a pension scheme trustee (with [Michael Tennet QC](#) and [Jonathan Hilliard QC](#)).
- Advising the Pension Protection Fund on a regular basis in relation to applications for review under S 207 of the Pensions Act 2004 and applications for maladministration under S 206 of the Pensions Act 2004.
- Advising the Pensions Regulator on its moral hazard powers in connection with a number of large pension schemes with respect to issues of conflicts of interest arising out of the investment decisions of the trustees of the schemes and the sharing of potential surplus between the members and the employer of the schemes.
- Advising the Pensions Regulator on the internal delegation of its functions.



Company

Sebastian has extensive experience of company litigation and has worked on a number of high-profile disputes involving both offshore and onshore company and partnership law issues.

He is regularly instructed on cases involving complex corporate structures and has particular experience with shareholder disputes, unfair prejudice claims and claims against directors for breaches of fiduciary duties. The breadth of Sebastian's commercial and chancery practice means that he also frequently advises where company law issues interact with other legal areas such as trust law, commercial law, financial services and pensions law.

Notable matters that Sebastian has worked on include the following:

- *Madoff litigation.* Acting on several pieces of litigation arising out of the massive international fraud perpetrated by Bernard Madoff through the largest ever Ponzi scheme in which investors lost almost \$65bn. This has included acting on behalf of investment fund managers in a claim brought against them by individual investors for having invested and lost the entirety of the sums in fund in Madoff's Ponzi scheme and on behalf of the private individual, Mrs Sonja Kohn, in defending claims worth US \$19bn that have been brought by the trustee in the US liquidation of Bernard L. Madoff Investment Securities LLC (with [Terence Mowschenson QC](#))
- *D.E. Shaw -v- Orient Express Hotels Ltd.* Acting for a high-profile Bermudian company listed on the New York Stock Exchange in multi-million pound litigation brought by the claimant hedge funds concerning the legality of its share ownership structure. Successful in defending the claimant's petition and striking out various allegations made against the directors of the company for breaches of fiduciary duties and unfair prejudice (with [Terence Mowschenson QC](#)).
- *Chapman -v- Vigar.* Acting for the director and majority shareholder of a private company in relation to successful proceedings concerning the ownership of certain shares in the company which had been settled on a workers' trust that had failed (with [Thomas Seymour](#)).
- *Langstone Leisure Limited -v- Willers.* Acting for a company on its ongoing claims against its former managing director based on negligence and breaches of fiduciary duty in relation to the costs incurred by the company in funding litigation brought by the liquidator of a debtor company (with [Terence Mowschenson QC](#)).
- *Re Foxcrest Ltd.* Advising the directors of the company on the appropriate procedure for an application for the reduction of share capital and successfully obtaining an order from the Companies Court.
- *Re IPEC Limited.* Advising on the form and contents of an application to rectify the register of members of a company at Companies House.
- *Re Nortel Networks UK Pension Fund.* Advising the trustee of the Nortel Networks UK Pension Scheme in regulatory proceedings that involved substantial issues of company valuation where a single company in an interdependent group fails to be valued (with [Michael Tennet QC](#)).
- Advising members of a corporate residents' association on a potential derivative action based on the legal validity of actions taken by the company and by certain members of the company including the requisitioning of an Extraordinary General Meeting of the shareholders, the replacement of the directors and the approval by the company of a deed granting rights of way to the members of the company.
- Advising on a number of company law and partnership issues arising in the context of a large international farming partnership dispute. This case involved not only a number of complex legal issues but also the sensitive handling of what was a particularly acrimonious partnership dissolution.
- Advising on and successfully obtaining numerous wind-up petitions on behalf of creditors of companies.
- Advising on changes brought in by the Companies Act 2006, such as in relation to the duties of directors, derivative action and unfair prejudice.



Insolvency

Sebastian has particular interest and experience in insolvency litigation.

The breadth of Sebastian's commercial and chancery practice means that he frequently advises where insolvency law issues interact with other legal areas such as trust law, commercial law, financial services and pensions law.

Notable matters on which Sebastian has been instructed include:

- *Re Nortel Networks UK Pension Fund*. Acting for the trustee of the Nortel Networks UK Pension Plan in relation to the largest ever financial support direction case brought by the Pensions Regulator under the Pensions Act 2004, involving a multi-billion pound buyout deficit. This has also involved advising the trustee on the interaction of its claim to a financial support direction as a result of the successful UK regulatory proceedings with the insolvency proceedings in various jurisdictions, including in the UK, the USA and Canada. In the UK, this resulted in the joint application by the UK administrators of Nortel and Lehman Brothers as to the provability of liabilities under a financial support direction in *Bloom v The Pensions Regulator* [2010] EWHC 3010 (Ch) (with [Michael Tennet QC](#)).
- Advising in relation to questions of priority and entitlement upon the winding up of companies and pension schemes, both under statute and at common law where issues of security are involved.
- Advising as to the liability of directors upon winding up, both under statute (including fraudulent and wrongful trading) and common law.
- Advising in relation to validation orders under S 127 of the Insolvency Act 1986.
- Successfully obtaining and defending numerous winding up petitions in the Companies Court.
- Successfully obtaining and defending bankruptcy petitions.