



Simon Atkinson

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Clerks' Details

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Qualifications and Appointments

- BA (History)/BSc (Chemistry) – Melbourne University
- MA (Law) – Trinity College, Cambridge University

“He is very bright and his knowledge of the law is second to none.”

The Legal 500 UK, 2021

Memberships

- Chancery Bar Association
- Property Bar Association
- Association of Pension Lawyers
- ACTAPS
- STEP
- Commercial Bar Association

Publications

- [You raise me up: but for how much longer? CGT and the uplift on death](#) (2021) *Wilberforce Chambers Tax Commentary*
- [International charitable trusts and IHT exemption](#) (2019) *Wilberforce Chambers Tax Commentary*
- [Rules of the DIFC Courts](#) (2018) *Wilberforce Chambers, 5th edition*
- [Approaches to applying a pension increase underpin \(FDR v Dutton\)](#) (2017) *Lexis®PSL*

Practice Overview

Simon is an experienced and in demand practitioner. He has a broad Chancery practice; the core of his work comprises property, trusts and estates, pensions and commercial litigation.

Simon believes that the giving of practical and clear advice, combined with persuasive and fearless Courtroom advocacy and an eye for detail, are qualities which clients rightly demand and which he brings to the cases on which he is instructed.

Simon regularly appears in the higher courts as well as in the country court and in various tribunals. He is frequently instructed in alternative dispute resolution processes such as mediations and expert determinations (in which he has acted variously as both advocate and expert).

Cases with an international element form a significant part of Simon's practice. Recent instructions have concerned matters in Hong Kong, Singapore, the Channel Islands, Bermuda, the British Virgin Islands and Dubai. He has particular experience of disputes concerning assets and/or parties based in the Middle East. He is a co-author of Wilberforce's publication of the Rules of the DIFC Courts.

Notable cases in which Simon has been instructed include:

- *National Stadium Project (Grenada) Corp v NH (Caribbean) Ltd* [2020] UKPC 25: This dispute arose out of the construction of a sports stadium in Grenada in the late 1990s and concerned the entitlement to a multi-million dollar fund which had been frozen when the dispute first arose back in 1999. After 20 years, an arbitration, and multiple court proceedings, the matter was finally resolved by the Privy Council in 2020. It is an important recent authority on the law of Quistclose trusts and equitable assignment.
- *Asturion Foundation v Alibrahim* [2020] 1 WLR 1627: These ongoing proceedings concern a multimillion-pound property on "Billionaire's Row" in North London. The fiercely contested claim raises multiple questions of Liechtenstein, English and Shari'a Law. Simon acts for Ms Alibrahim, a wife of the late King Fahd of Saudi Arabia, in proceedings brought by a Liechtenstein foundation seeking to set aside a conveyance of the property. The Court of Appeal judgment is now the leading authority relating to the striking out of proceedings for abuse of process where a party is alleged to have "warehoused" proceedings.



Publications continued

- [Where different legal systems collide: the decision in *Labrousche v Frey & Ors*](#) (2016) *Trusts & Trustees* 22 (7): 741-752
- [‘Away with words: LPA 1925, s. 62’](#) (2016) *Wilberforce Property Update* (Issue 2) April 2016
- [‘Self-dealing: rigours and risks’](#) (2013) *Trusts and Estates Law & Tax Journal* 149 TEL&TJ 8 – 11
- [‘Talking on sub-tenants: lessons for unwilling landlords’](#) (2013) *Wilberforce News Alert*
- News alert: *Ansa Logistics Ltd v Towerbeg Ltd* (with [Martin Hutchings QC](#))

Practice Overview continued

- *Long v Rodman* [2019] EWHC 753 (Ch), [2019] EWHC 2451 (Ch): Simon was instructed (along with [Andrew Mold QC](#)) on behalf of two of four beneficiaries of a c. USD130m estate who successfully sought the removal of the professional administrator following a bitterly contested dispute, in which the professional administrator was, unusually, held not to be entitled to recover the majority of his costs from the estate as a result of the way the litigation had been conducted.
- *PS Independent Trustees Ltd v China Shipping (UK) Agency Co Ltd* [2019] ICR 1375: Simon acted for the defendants in a claim for the recovery of a multimillion-pound debt allegedly owed by the defendants in respect of the funding of a defined benefit pension scheme. The claim raised novel questions concerning the interpretation of pensions legislation governing the circumstances in which companies who sponsor multi-employer pension schemes may be liable for debts where another sponsoring company enters into insolvency.
- *Catalyst Housing Limited v Martin* [2018] EWCA Civ 1206: Simon appeared as sole counsel for the appellants in both the renewed oral application for permission to appeal and the substantive appeal in proceedings concerning contractual succession to an assured tenancy under the Housing Act 1988.
- *Interactive Technology Corp Ltd v Ferster* [2017] EWHC 1510 (Ch); [2017] EWHC 1799 (Ch): Simon appeared (with [Clare Stanley QC](#)) in litigation concerning the beneficial ownership of an offshore, web-based business, the admissibility of Part 36 offers in split trial proceedings, and the availability of summary judgment in response to a purported defence of causation where equitable compensation for loss is claimed.
- *Dutton v FDR Ltd* [2015] EWHC 2946 (Ch); [2017] EWCA Civ 200: Simon acted (with [Paul Newman QC](#)) for the successful appellant in proceedings concerning how an underpin operated in relation to the increases applicable to pensions in payment. The underpin arose as a result of a defective trust deed executed in 1991 which purported to change the rate at which pensions in payment were increased from 3% to 5%LPI.
- *Pollock v Reed* [2016] Pens LR 129: Simon acted (with [Edward Sawyer](#)) for the trustees of an occupational pension scheme seeking court approval of a proposed bulk transfer of the scheme’s assets and liabilities without individual member consent to a new scheme.
- *Labrousche v Frey; Re Olga Martin-Montis Will Trusts* [2016] EWHC 268 (Ch): Simon acted (with [Emily Campbell](#)) for the professional trustees in a seven-week High Court trial concerning the administration of multi-million pound will trusts created in 1980. The claimant alleged various breaches of trust over decades by the professional trustees and against his own mother, a former lay trustee. The claim raised a number of complex issues of Liechtenstein, Swiss and English trust law.
- *Wood v Waddington* [2014] EWHC 1358 (Ch); [2015] EWCA Civ 538: Simon acted for the successful appellants in a right of way dispute between neighbouring landowners. The claim is now one of the leading authorities concerning the grant of rights of way by operation of law under section 62 of the Law of Property Act 1925.
- *Spencer v Fielder* [2015] 1 WLR 2786: Simon acted for the representative beneficiary in Beddoe proceedings relating to litigation between British Airways and the trustees of the Airways Pension Scheme arising out of the decision of the trustees to grant discretionary benefit increases to members.
- *Cosmetic Warriors Ltd v Amazon.co.uk Ltd* [2014] FSR 31; [2014] EWHC 1316 (Ch): Simon acted for the successful claimant in a trademark dispute between the owner of the ‘Lush’ cosmetics brand and the well-known online retailer.
- *Ansa Logistics Ltd v Towerbeg Ltd* [2012] EWHC 3651 (Ch): A landlord and tenant dispute concerning whether the tenant had breached a covenant against parting with possession and whether the landlord had unreasonably withheld consent to underlet the premises to a third party, Ford Motor Company Ltd.



Property

Property law is a core component of Simon's practice. He is regularly instructed across the gamut of Chambers' areas of work including: boundary disputes and easements (including wayleaves), overage agreements, restrictive covenants, adverse possession claims, landlord and tenant work (both commercial and residential), mortgagor-mortgagee disputes, TOLATA claims, commercial development agreements, lease renewals, rent reviews, land registration issues and possession proceedings.

Simon is ranked as a leading junior in the property litigation section of The Legal 500 2021 edition, which describes him as: **"A star property junior, he is very bright and his knowledge of the law is second to none. His written work is also excellent - it is very clear and he has an ability to draft very complicated issues in a concise manner."**

Notable instructions include:

- Appearing with [James Ayliffe QC](#) in *National Stadium Project (Grenada) Corp v NH International (Caribbean) Ltd* [2020] UKPC 25. This dispute arose out of the construction of a sports stadium in Grenada in the late 1990s and concerned the entitlement to a multi-million dollar fund which had been frozen when the dispute first arose back in 1999. After 20 years, an arbitration, and multiple court proceedings, the matter was finally resolved by the Privy Council in 2020. It is an important recent authority on the law of Quistclose trusts and equitable assignment.
- Appearing as junior counsel in *Asturion Fondation v Alibrahim* [2020] 1 WLR 1627. These ongoing proceedings concern a multimillion-pound property on "Billionaire's Row" in North London. The fiercely contested claim raises multiple questions of Liechtenstein, English and Shari'a Law. Simon acts for Ms Alibrahim, a wife of the late King Fahd of Saudi Arabia, in proceedings brought by a Liechtenstein foundation seeking to set aside a conveyance of the property. The Court of Appeal judgment is now the leading authority relating to the striking out of proceedings for abuse of process where a party is alleged to have "warehoused" proceedings.
- Appearing for the successful applicant in a five-day trial in the First Tier Tribunal (Property Chamber), in which a purported transfer of valuable property was set aside on the basis that the transfer had been procured by the fraud of a respondent.
- Appearing as sole counsel for the appellants in *Catalyst Housing Limited v Martin* [2018] EWCA Civ 1206 both in the renewed oral application for permission to appeal and the substantive appeal in proceedings concerning contractual succession to an assured tenancy under the Housing Act 1988.
- Appearing for the claimants/appellants in *Wood v Waddington* [2014] EWHC 1358 (Ch), [2015] EWCA Civ 538, a case concerning boundary disputes and alleged rights of way.
- Acting (with [James Ayliffe QC](#)) in a claim concerning a purported joint venture development of land. This ongoing litigation concerns two claims, one a derivative action and the other a direct action, brought by the representatives of one of the parties to the alleged joint venture.
- Appearing (with [Julian Greenhill QC](#)) in possession proceedings brought in the High Court seeking expedition of the trial as the site was needed urgently for the manufacture of critical components for a national infrastructure project.
- Appearing for a defendant in a claim for alleged noise nuisance brought by neighbours who complained of the defendant's use of a wooded area on its land to run outdoor lessons.
- Appearing for the mortgagee, in possession proceedings relating to a multi-million pound country estate.
- Acting for the lessees of land in rectification proceedings where the contractual term of the reversionary underleases had been erroneously recorded resulting in increased Stamp Duty Land Tax.
- Acting for the executors of an estate in respect of potential rectification claims arising out of conveyances of land containing mistakes as to the description of the parcels conveyed.



Property continued

- Acting (with [Julian Greenhill QC](#)) for freehold owners in relation to a dispute with their neighbour concerning the extent of rights of way granted by a conveyance of land and alleged nuisances and breaches of restrictive covenants.
- Instructed in a case concerning the purported forfeiture of a business tenancy in the Dubai International Finance Centre for non-payment of rent and relief under the DIFC Real Property Law and DIFC Law of Damages and Remedies.
- Instructed in a landlord and tenant dispute concerning the repairing obligations of high velocity lifts in a newly built tower in London.
- Acting for a residential tenant of a high-value estate in west London in a dispute as to whether qualified covenants had been waived by the landlord's predecessor in title.
- Acting for several heirs under Saudi Arabian law, who sought to have restrictions entered against the titles of UK properties as beneficiaries of an English resulting trust.
- Acting for a freehold owner seeking possession of land against trespassers who claimed adverse possession over part of the freeholder's title.
- Acting for a tenant seeking rectification and variations of a long leasehold estate.
- Advising trustees of a charitable trust as to their powers in relation to the upkeep of a public recreation ground.
- Appearing for the landlord in the First Tier Tribunal, Property Chamber in an application under Part IV of the Landlord and Tenant Act 1987 to vary leases of 32 flats in a holiday park.
- Appearing (with [Martin Hutchings QC](#)) for the third party, Ford Motor Company Ltd, in *Ansa Logistics Ltd v Towerbeg Ltd* [2012] EWHC 3651 (Ch). This was a landlord and tenant dispute concerning an alleged breach by the tenant of the covenant against alienation.
- Acting for the freehold owners of land who had, on legal advice, granted and later extended an option over their land. The principal issues in the case concerned the existence or otherwise of a legal adviser's duty to revisit earlier advice and whether that duty extended to advising on the commercial consequences of extending the option agreement.
- Acting for the vendors of freehold owners of land in relation to a potential professional negligence claim against their conveyancing solicitors. The land had been conveyed subject to certain overage provisions which had not then been fully registered by their legal advisors.
- Acting for the purchasers of an apartment who were in a dispute with their conveyancing solicitors for failing to advise in relation to the increased liability to Stamp Duty Land Tax as a result of a proposed variation to the transaction following exchange of contracts but before completion.
- Acting for the owners of land seeking to redevelop their garden and open land which land was potentially subject to various restrictive covenants contained in a conveyance between their predecessors in title and the neighbouring landowner.
- Acting for the owners of a public house in relation to a dispute over a private road regarding rights of access arising under s. 62 of the Law of Property Act 1925 and/or by prescription.
- Acting for a public body which sought to require statutory undertakers to connect utilities to undeveloped land where the services to be laid had to cross a private road owned by a third party.
- Acting in trespass proceedings for a riparian land owner to whose land various individuals were mooring without permission.
- Appearing (with [Andrew Mold QC](#)) in High Court proceedings for breach of fiduciary duty and dishonest assistance, which claims were brought against the claimants' managing agents and the director of the managing agents.



Property continued

· Acting for the owner of land in relation to a claim for breach of fiduciary duty brought against his former agent retained to negotiate a purchase of the neighbouring land in circumstances where the agent subsequently acquired an option over the neighbouring land for his own benefit.