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Stephen Nathan KC



Year of call:	**1969**
Appointed to silk:	**1993**
Degree:	**MA (Oxon) New College, Oxford**
Languages:	**French (fluent), German (working knowledge), Italian (working knowledge)**

Stephen Nathan KC has a broad practice including many areas of commercial and company law whether it is litigation, advisory or acting as an arbitrator or counsel in domestic and international arbitrations. Civil Fraud and Media & Entertainment are other key areas of his practice. Stephen's extensive knowledge of business practice is brought to bear in his mediation work and he is a qualified CEDR Mediator.

Stephen was named The Lawyer's 'Barrister of the Week' in July 2020. Recently, he has advised the Government extensively in relation to Defamation and Data Protection issues.

Stephen has given evidence as an expert on English commercial law and company in an action in Denver, Colorado, over control of a corporation and claims of fraud against a director/shareholder.

EXPERIENCE

Arbitration

Cases

International Arbitration
Acting currently as Special Counsel for an Arabic State in a series of international arbitrations and WTO claims over investment treaty rights and broadcasting piracy (UK law, US law, French law, Italian law, Sharia law and the laws of more than 10 different Arabic States; PCA arbitration and UNCITRAL rules).

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Broadcasting Arbitration

Acting for the Respondent international TV broadcaster in an arbitration claim in the Commercial Court in London with multi-million US Dollar counterclaim over broadcasting piracy.

ICC Arbitration

Hong Kong law

Acting for the Claimant in an international arbitration concerning a claim of more than US $1 billion in relation to a joint venture in aircraft sales

LMAA Arbitration

Acting as Chairman in an LMAA international arbitration between a shipowner and a Chinese charterer concerning a container vessel stranded in Odessa, Ukraine, and issues of force majeure.

LCIA Arbitration

Acting as LCIA arbitrator in an international arbitration concerning Nigerian oil-contract sharing JV dispute (inter alia concerning late decision by Respondent to participate in the arbitration just before intended publication of Award).

SIAC Arbitration

Singapore law

Acting as SIAC Arbitration Chairman in dispute between Chinese and Singaporean companies over long-term copper sulphate supply agreement.

SIAC Arbitration

Acting as Counsel in a multi-million international arbitration between Russian main contractor and Vietnamese state-owned employer following imposition of sanctions by US Government

ICC Arbitration

Acting as Counsel in a multi-million dollar international arbitration between state-owned electricity company and main contractor over collapse of a dam in Laos in the late course of construction.

Ad Hoc Arbitration

UK law as chosen law

Acting for the Turkish Respondent in a multi-million dispute with a major international entertainment provider over a joint venture in TV stations.

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Ad Hoc Arbitration

Mixture of common law and civil law

Acting as counsel in dispute between Vietnamese and Korean companies over JV in multimillion advertising business.

LCIA Arbitration

Common laws claims

Acting for the Claimant in an international arbitration against the broadcasting authority over the establishment of a TV network in an African state. The claim is for US$290 million.

LCIA arbitration

UK law; UNCITRAL Rules

Acting as Chairman of the arbitration panel in an international shipping arbitration between two major shipping giants.

UNCITRAL Rules

Acting as sole arbitrator in a major claim by a medical supplier against an Arabic State.

Ad Hoc Arbitration

Sitting in London; CIArb Rules

Acting for the Nigerian Claimant in an international arbitration against a major European oil producer over a joint venture agreement.

ICC Arbitration

Singaporean law

Acting in a dispute over agency rights and alleged misuse of manufacturing specifications for products.

LCIA London Arbitration

English and Canadian law

Acting as arbitrator in an arbitration over the sale of aircraft.

ICC Arbitration

English, US and Jordanian law

Acting for the Plaintiff in an international shipping .

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LCIA Arbitration
Indian and English law

Acting for the Respondent in an international arbitration over the determination of electricity pricing and of the costs of constructing a power station in India.

LCIA London Arbitration
English and Kazakh law

Acting as arbitrator in an oil arbitration.

LME London Arbitration
English and Jordanian law

Acting in an LME arbitration over a series of copper supply contracts and shipping contracts

LCIA Arbitration
English law

Acting as arbitrator in an arbitration over the international sale of shiploads of coal.

Hashwani v Jivraj
A challenge to the refusal of the appointment of an arbitrator on religious grounds. Stephen appeared at 1st instance (Steel J), and his arguments were upheld in the Court of Appeal. Other Counsel appeared in the Supreme Court.

Albon v Naza Motor Trading and Tan Sri Dato Amin
Dispute involving import and export of motor cars between Malaysia and the UK.

Whitehead (UK) v Hyundai Motor Co (Korea)
Car manufacturing and import dispute.

UK Arbitration
Acting as sole arbitrator in a domestic UK Arbitration between insurers.

LCIA Arbitration
A claim for several hundred million US dollars over a joint venture for a new commercial TV channel brought by a Dubai-based broadcasting corporation against a governmental broadcaster. Stephen acts as Counsel for the Claimant.

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LCIA Arbitration

LCIA Arbitration between major international TV rights owner and multi-channel Turkish broadcaster over their joint venture and a multi-million dollar claim. Stephen acts as counsel for the Respondent.

Commercial

Stephen has a diverse practice covering many areas of commercial and company litigation, including private and public international law, arbitration work both as counsel and as arbitrator. His clients range from individuals to large multi-national corporations, as well as the UK and foreign governments. He acts as a litigator as well as in an advisory role. The issues covered by his practice also engage a wide range of human rights and EU law.

Stephen was Counsel for the Iraqi Government in the longest-running case in the English Commercial Court (Kuwait Airways v Iraqi Airways).

As an indication of the breadth of Stephen's practice, set out below is some of the litigation in which he has acted:

Cases

Kuwait Airways v Iraqi Airways and Republic of Iraq

This series of 5 Commercial Court actions ran initially between 1991 and 2008. In 2010 it was revived when IAC recommenced flight operations to the UK and, again, in 2011. The actions concerned the seizure of the Kuwaiti civilian airliner fleet and aircraft spares by Saddam Hussein in 1990. The Kuwaiti claims total US $1.3 billion and these actions were the longest-running litigation in the Commercial Court.

Stephen acted for the Iraqi Government. There were 3 appeals to the House of Lords and also three other appeals to the Court of Appeal, with major statements of principle enunciated on issues of state immunity and principles of damages. These actions raised numerous issues of private and public international law as well as issues relating to aircraft leasing, the proper methodology of aircraft valuation and the legal and accountancy treatment of the heads of claim.

The KAC v IAC judgments have been cited in more than 150 English judgments so far.

Rafidain Bank v Arab Bank

Stephen acted successfully for Rafidain Bank in this action (High Court and appeal to the Court of Appeal) against Arab Bank over letters of credit which Arab Bank sought to dishonour.

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Rafidain Bank v Agom Sugar Company

Stephen acted successfully for Rafidain Bank (High Court and Court of Appeal) against a 'front company' set up in England by a Rafidain employee and others in a sophisticated 'scam operation' aimed at illegally siphoning off many millions of dollars from Rafidain's external bank accounts in London by using multiple forged documents and taking advantage of internal political division within Iraq as their cover.

Barclay Watt and Others v Alpha Panareti Public Ltd

Stephen successfully acted for 240+ Claimants in proceedings in the Commercial Court in London and on appeal to Court of Appeal in a set of 4 group actions against a Cypriot property developer over negligent mis-statement and negligent advice for multi-million pound damages.

Whittalls Wines Ltd and European Food Brokers v HMRC

Ongoing appellate litigation over the revocation of wholesaling and warehouse licences by HMRC from one of the UK's leading alcohol wholesalers. Stephen acts for HMRC.

Sheikh Mohamed and Others v Salfiti and Others

Stephen acts for the Claimants in a multi-million fraud action against the former in-house solicitor of MBI group and the lender whom he introduced.

Sheikh Mohamed bin Issa v Sheik Walid al Ibrahim and Sheik Majid Al Inbrahim

Stephen acts for the Claimant in a US30 million claim against the founders of Al Arabiya News in Dubai and Saudi Arabia. Trial due to take place in April 2024.

Abbey Forwarding Limited (In Liquidation) v Hone and others

Stephen acted successfully for HMRC in defending a claim in an Inquiry as to damages on a cross-undertaking for an injunction given by a liquidator. It is, currently, the leading authority on the assessment of damages in this area of law and overthrew a number of 1st instance decisions.

Re Abbey Forwarding Ltd (In Liquidation)

Stephen acted successfully for HMRC in a claim commenced in October 2013 for £6M damages over the appointment of a provisional liquidator.

Perry and Others v National Crime Agency

Stephen acted for the NCA in respect of claims in the Chancery Division for £300M + damages consequent upon the freezing of the Claimants' assets in the context of a civil recovery claim under Part 5 of the Proceeds of Crime Act 2002.

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Kazakhstan Kagazy plc and Others v Zhunus and Others

Stephen acted successfully for the Claimants in a fraud action in the Commercial Court for $100M+ in respect of the alleged siphoning off of assets by of the previous directors of a group of companies trading in Kazakhstan. The action involves inter alia complex jurisdictional issues.

Latin American Trading Ltd v Maroil Trading Inc

Stephen acted successfully for the Defendants in a Commercial Court action concerning disputes (including fraud) in respect of the management and operation of 6 jointly-owned bulk oil-carriers, including the largest two VLCCs in the world. The claims and counterclaims involved more than US $100 million.

Kagalovsky v Gusinski

This action related to a partnership in the ownership of a TV station. The Claimant sought an anti-suit injunction in order to bring an end to major commercial proceedings for fraud in the New York Supreme Court and to oblige the Defendant to bring his claims in England instead. Stephen acted successfully for the Defendant, Mr Vladimir Gusinski and his US media companies.

Maitland Hudson v New Media Holding Co Ltd and Covington & Burling

A much prolonged dispute over the requirement that Mr Maitland Hudson, an English solicitor and French avocat, should give evidence in England in relation to New York civil proceedings in which the central complaint by New Media is his client's fraud and breach of duty and good faith under a partnership agreement. Stephen acted for the defendant in England, New Media, and their lawyers.

Imerman v Tchenguiz

This QB action concerned the Article 8 privacy rights of a businessman and the Article 6 and 10 of his brother-in-laws, the Tchenguiz defendants, who all shared computer facilities. Stephen acted for the Tchenguiz family and the other defendants in this action. Following the Court of Appeal decision in July 2010 and before appeal to the Supreme Court, the action was settled. The CA judgment set out major principles regarding privacy, including the demise of the Hildebrand rules.

Earlcrown Ltd v Leconfield House Ltd

This Chancery Division action concerned inter alia part of the £355 million profit made by Robert Tchenguiz and Vivian Imerman from the sale of Whyte & Mckay and allegations by Mr Tchenguiz that part had been diverted by Mr Imerman to his own company, Earlcrown. Stephen acted for Mr Tchenguiz. The action was settled.

Rayden v Edwardo Ltd and Vincent Tchenguiz

This was a Chancery Division action in respect of a personal guarantee given by Mr Tchenguiz in relation to the purchase of a property business, Stephen acted for the Defendants.

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The Moriarty Public Inquiry

A long running Public Inquiry in the Republic of Ireland into allegations of public corruption against Mr Michael Lowry, the former Minister of Telecommunications, and an Irish multimillionaire businessman, Mr Denis O'Brien. Stephen represented Mr Lowry's English solicitor.

Wearn v HHN Holdings (Naxos Records)

Stephen acted for the Claimant over the commercial/recording agreements for the manufacture and distribution of recordings of memorable classical recordings originally broadcast in the USA in the 1940s. The claim has involved allegations of falsification of evidence by the Defendants.

Tajik Aluminium Plant v Ermatov and Others

A multi-million, multi-national civil fraud action in the Commercial Court involving allegations of corruption and bribery involving the state entity with claims for damages of US$485 million and the delivery up of real estate on an alleged trust basis. The issues concerned English, Tajik and Russian law. Stephen acted for one of the multiple defendants.

JSC BTA Bank v Ablyazov

In this multi-national action in the Commercial Court, the Claimant, a Kazakh bank (now effectively nationalized), claims damages of £175 million for fraud over the disposal of assets by its directors and shareholders. Stephen acted for the 5th to 7th Defendants. The issues engaged Kazakh, Russian and English law and Public International Law.

Albon v Naza Motor Trading

In this long-running Chancery Division litigation challenging jurisdiction, Stephen acted successfully for the Defendants over claims of £20m. He was Leading Counsel in relation to 4 judgments from Lightman J and one appeal to the Court of Appeal over the Court's powers as to service out of the jurisdiction and the grant of an injunction to restrain a foreign arbitration already in place. Central issues concerned the interface between S.9 of the Arbitration Act, the CPR and the principles of 'Kompetenz Kompetenz'. The judgment has been cited so far in more than 50 other English judgments.

United Co-operative Society and Others v Tui Ltd (Thomson Travel)

An action brought in the Commercial Court for £4 million damages over the Defendant's decision to axe travel-agency commission payable to five Co-operative Societies. Stephen acted for the Defendant. The action was settled.

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Mansour v Al Thani and the Government of Qatar

Stephen acted successfully for the Government of Qatar in its challenge to jurisdiction over an alleged contract relating to the purchase of a medieval manuscript Qu'ran for the Qatari National Museum.

Qatar v Saudi Arabia

In Qatar's Complaint against Saudi Arabia over Measures Concerning the Protection of Intellectual Property Rights, the WTO Disputes Panel ruled that Saudi Arabia breached TRIPS over its extensive promotion of, and support for, "beoutQ", by far the largest-ever copyright-piracy operation in the field of sports broadcasting. Stephen is acting as special counsel to beIN Sports.

Newcastle United Football Club v HMRC

(2017)

Stephen acted for HMRC over the attempt by the football club to set aside search warrants in connection with HMRC's investigation into footballer transfer-fee tax fraud.

Sheikh Mohammed Bin Isa Al Jabber v Sheikh Walid Bin Ibrahim Al Ibrahim

(2016-)

Stephen acts for the Claimants in this Commercial Court action over a $30 million loan agreement.

Hone v Abbey Forwarding Limited and HMRC

(2012 to 2016)

Stephen acted for HMRC initially in a complex claim for damages on a cross-undertaking from the liquidator of Abbey (who was being indemnified by HMRC). The Court of Appeal judgment set out the principles on which such damages can now be recovered. There then ensued major litigation in the Chancery Division between the liquidator and HMRC over the former liquidator's conduct (which was covered by the indemnity from HMRC).

Wearn v HHN Holdings (Naxos Records)

(2015)

Stephen acts for the Claimant over the commercial/recording agreements for the manufacture and distribution of recordings of memorable classical recordings originally broadcast in the USA in the 1940s. The claim now involves allegations of falsification of evidence by the Defendants. This Chancery Action is on-going.

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Kuwait Airways v Iraqi Airways and Republic of Iraq

(1991 – 2014)

This series of 5 Commercial Court actions ran initially between 1991 and 2008. In 2010 it was revived when IAC recommenced flight operations to the UK and, again, in 2011. The actions concerned the seizure of the Kuwaiti civilian airliner fleet and aircraft spares by Saddam Hussein in 1990. The Kuwaiti claims total US $1.3 billion and these actions have been the longest-running litigation in the Commercial Court.

Stephen acts for the Iraqi Government. There have been 3 appeals to the House of Lords and also three other appeals to the Court of Appeal, with major statements of principle enunciated on issues of state immunity and principles of damages. These actions raised numerous issues of private and public international law as well as issues relating to aircraft leasing, the proper methodology of aircraft valuation and the legal and accountancy treatment of the heads of claim.

The KAC v IAC judgments have been cited in more than 125 English judgments so far.

Stephen's role on behalf of the Government of Iraq was revived first in 2010; and, again, in 2011 when KAC commenced new proceedings against the Iraqi Government and two Iraqi state banks for the purpose of attempting to execute its judgments on the assets of the Iraqi Government and on the two banks, leading to a major set of hearings in the Commercial Court starting in March 2012.

These new proceedings engage novel issues of public international law and English, French and Iraqi public law and company law.

Harty v Sabre International Security

(2014)

This was a QBD action concerning issues of jurisdiction and the principles to be applied as between trial in Iraq or England in a major personal injuries claim. Stephen acted for the Defendants.

Kagalovsky v Gusinski

(2013)

This is an action relating to a partnership in the ownership of a TV station. The Claimant seeks an anti-suit injunction in order to bring an end to major commercial proceedings for fraud in the New York Supreme Court and to oblige the Defendant to bring his claims in England instead. Stephen acts for the Defendant, Mr Vladimir Gusinski and his US media companies.

JSC BTA Bank v Ablyazov

(2013)

In this multi-national action in the Commercial Court, the Claimant, a Kazakh bank (now effectively nationalized), claims damages of £175 million for fraud over the disposal of assets by its directors and shareholders. Stephen acts for the 5th to 7th Defendants in this ongoing action. The issues engage Kazakh, Russian and English law and P.I.L.

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Latin American Trading Ltd v Maroil Trading Inc

(2012)

This Commercial Court action concerns disputes (including fraud) in respect of the management and operation of 6 jointly-owned bulk oil-carriers, including the largest two VLCCs in the world, since October 2001. Stephen acts for the Defendants Maroil, the corporate vehicle of Mr Wilmer Ruperti, the Venezuelan shipping and oil-transport magnate. The claims and counterclaims involve more than US $100 million. Maroil inter alia counterclaims that it has been the victim of fraud by the Claimant and the jointly-employed manager.

Media & Entertainment

Landmark case: Stephen acted for Imperial Tobacco in the landmark decision in the House of Lords in Imperial Tobacco v Attorney General over the issue as to what constitutes a lawful lottery and competition.

Since then, he has regularly advised in respect of a very large number of lotteries, gaming and promotional schemes Stephen's clients have come from both sides of "the street", i.e. the Lottery Commission (previously the Director of Lotteries) as well as numerous major UK corporations.

Stephen acted as a libel reader for the Observer newspaper for 15 years.

Recently, he has advised the Government extensively in relation to Defamation and Data Protection issues.

Mediation

He understands the process of mediation from both points of view as he has also acted as Counsel assisting/advising one of the parties in various mediations.

Construction Law

Stephen has considerable experience acting in construction law disputes.

Stephen acted as Counsel for the UK Government over several years in respect of a number of claims concerning the design and construction of hospitals.

He has also acted as the defendants' Counsel for a number of UK insurers in various architects' negligence claims and arbitrations.

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Stephen is currently acting as Counsel in relation to two arbitrations concerning major international construction work in South East Asia.

His advisory work has included:

- Advising the owners of a South East Asian power station over their contractual rights under an international coal-supply contract
- Advising a leading UK car dealer over its dealership and service-agency contract with the car manufacturer/distributor.
- Advising a foreign insurance company on the negligence of its solicitors.
- Advising a bank on the terms of its mortgage and guarantee contracts.
- Advising a UK statutory body on a major commercial contract.
- Advising the Organised Crime Division of the CPS on aspects of money-laundering applications.
- Advising HMRC on excise-duty issues arising from the fraudulent diversion of consignments of duty-suspended spirts and beer.
- Advising a foreign government on cross-border insolvency in Europe.
- Advising a firm of solicitors in respect of their rights to membership of UK Mortgage Lenders Solicitors' Panels.
- Advising a hedge fund partnership on its contract terms for its public offering.
- Advising the Royal Library of Denmark on its claims against auction houses and thieves over the theft of £1m-worth of books.
- Stephen has acted for, and advised, a number of Arabic banks over various banking activities and contracts (including Habib Bank, Saudi American Bank, Banque du Caire and HSBC Bank of the Middle East. Trade Bank of Iraq, Rafidain Bank and Al Rasheed Bank).

Cases

Indian power station arbitration

Stephen acted successfully for the Indian State defendants in an international arbitration over the multi-million construction costs of an electricity power station in Southern India.

John Mowlem and Co plc v Eagle Star Assurance

This was a claim by the main contractor against the architect and one of the two shareholders of the employer for allegedly procuring breach of contract; it involved claims and defences concerning the design and construction of the largest private UK housing development. Stephen acted for the defendant architect.

Engineering Projects (India) Ltd v Mitsubishi Corp.

This was a major dispute between main contractors and the principal sub-contractors over the construction of TV studios in the Middle East. Stephen acted for the successful Claimant (common law claim).

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Widnell v Hyde Park Residence

Stephen acted for the claimant quantity surveyors in their claim for fees and their defence to counterclaims of several millions for alleged professional negligence in some 20 construction projects (common law).

Civil Fraud, Asset Recovery & Injunctive Relief

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Cases

Kazakhstan Kagazy plc and Others v Zhunus and Others

Stephen acted for the Claimants in a fraud action in the Commercial Court for $100M+ in respect of the alleged siphoning off of assets by of the previous directors of a group of companies trading in Kazakhstan. The action involves inter alia complex jurisdictional issues.

Kagalovsky v Gusinski

This action concerned a partnership in the ownership of a TV station. The Claimant sought an anti-suit injunction in order to bring an end to major commercial proceedings for fraud in the New York Supreme Court and to oblige the Defendant to bring his claims in England instead. Stephen acts for the Defendant, Mr Vladimir Gusinski.

JSC BTA Bank v Ablyazov

An action in the Commercial Court by a Kazakh bank claiming damages of £175 million for alleged fraud over the disposal of assets by its directors and shareholders. Stephen acts for the 5th to 7th Defendants. The issues engaged Kazakh, Russian and English law and P.I.L.

Tajik Aluminium Plant v Ermatov and Others

A multi-national action in the Commercial Court for $485 million in respect of alleged corruption and bribery of a senior state official in Tajikistan. The action involved multi-jurisdictional and P.I.L issues. Stephen acted for one of the multiple defendants.

Kuwait Airways v Iraqi Airways and Republic of Iraq

The Commercial Court litigation referred to above included two separate Commercial Court trials relating to allegations of fraud and perjury.

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Kana Trading Co Limited (Japan) v Doracana Resources Limited and others

Stephen acted for the successful claimant in this substantial fraud recovery action over the import of motor vehicles from Japan to the UK.

ACHIEVEMENTS

Education

Scholarship

- Astbury Scholarship (Middle Temple)

Publications

- Stephen is one of the co-authors of 'Employee Competition', Oxford University Press (3rd Ed 2016).
- 'Interest on Costs' published by Solicitors' Journal

Appointments

- Bencher of Middle Temple (July 2005 to date).
- Chairman of the London Common Law and Commercial Bar Association 2010 and 2011.
- Council member of the Bar Council of England and Wales 2010 and 2011.
- Formerly a part-time Crown Court Recorder for 15 years.

Memberships

- International Council for Commercial Arbitration
- London Court of International Arbitration
- Inter Pacific Bar Association
- Chartered Institute of Arbitrators
- London Common Law and Commercial Law Bar Association
- Bar Council of England and Wales
- COMBAR
- Bar European Group
- CEDR Exchange

Other Professional Experience

- Stephen is a qualified CEDR Mediator

Other Commercial cases include:

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- Al Rajhi Banking and Investment Corporation v Wall Street Journal (Europe)
- Castlecare Group Ltd v MacKenzie and Others
- Daura v HMRC
- Tri-Q Group v Learoyd Group and API Group
- Iraqi Mine Action Services & Humanitarian Consultancy Co. Limited (Jordan) v Bactec International Limited
- Al Hashemite Corp. (Iraq) v NMS Sec-Com Limited
- Oxus Gold plc v Templeton Insurance Ltd and Knox D'Arcy Investment Management Ltd
- Al Fayed v Emanouel Antiques
- Mohammed v Bank of Kuwait and the Middle East
- HS Weavers Ltd v Drivers and others
- Trendtex Trading Corporation v Credit Suisse

Other Civil Fraud cases include:

- Anselm v Anselm
- HS Weavers v Drivers and others
- Cross v Wordplex
- Brennan v Alpert
- Littlewoods Organisation v Virage Ltd and Leese
- Iraq v Al-Shawi

Mediation and ADR

Stephen has been able to bring his extensive knowledge of business practices in the commercial sphere to the disputes in which he has mediated. These have involved banking and commodity contracts, professional services, shipping and partnership disputes and resolution of media disputes.

He understands the process of mediation from both points of view as he has also acted as Counsel assisting/advising one of the parties in various mediations.

Other relevant experience

Publications:

- Stephen is one of the co-authors of 'Employee Competition', Oxford University Press (3rd Ed 2016).

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