

## Stephen Atherton QC

SILK: 2006 | CALL: 1989 (ENGLAND & WALES); 2009 (BAR OF THE EASTERN CARIBBEAN)

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### Overview

Stephen is joint Head of Chambers. His practice comprises of international and domestic corporate insolvency and restructuring, company law, civil aspects of international and domestic commercial fraud, personal insolvency, banking, general offshore and international commercial litigation, and international and domestic asset tracing.

He has considerable experience in commercial litigation, civil fraud and contentious insolvency proceedings in the UK, Hong Kong, Brunei Darussalam, Malaysia, Singapore, the Cayman Islands, Bermuda, the British Virgin Islands (BVI), Jersey, Guernsey, Samoa and the Isle of Man.

Stephen is admitted to the Bar of the Eastern Caribbean (BVI). He is also called to the Bars of Bermuda, the Cayman Islands, the Isle of Man and Samoa for specific cases. Stephen has rights of audience in Brunei Darussalam for specific cases.

He was named as Insolvency/Corporate Restructuring Silk of the year at the Chambers Bar Awards 2014.

Stephen has also provided expert evidence on English, Bermuda, BVI and Cayman Islands law for use in foreign proceedings, including proceedings in Singapore, Hong Kong, New Hampshire and the Netherlands.

[Download a full version of Stephen's CV.](#)

### Publications

- 'Interpreting schemes of arrangement: A Welcome intervention?' (2015) 8 Butterworth's Journal of International Banking and Financial Law 500.
- 'Re Business Environment Fleet Street Ltd (in Administration) - "The application of paragraph 72 of Schedule B1 to the Insolvency Act 1986: the importance of possession...of the facts, the evidence and the relevant property"' (2015) 36(6) The Company Lawyer
- 'What should administrators consider before seeking relief?' (2014) 14(6) Tolley's Company Law and Insolvency.
- 'More time for claims from the "twilight zone"' *The Lawyer* (19 January 2014).
- 'A review of 2013 - How has the law relating to corporate restructurings and insolvencies developed over the course of the last year?' *LexisPSL Commercial* (11 December 2013).
- Responsible for drafting the Practice Statement on insolvency officeholders' remuneration.
- 'Charges over chattels: issues in the fixed/floating jurisprudence' (2005) 26(1) The Company Lawyer.

## Education

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- University of Cambridge: LLM, First Class
- Lancaster University: LLB (Hons)

## Professional memberships

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- Association of Business Recovery Professionals (R3)
- Chancery Bar Association
- Commercial Bar Association
- Insolvency Lawyers' Association
- Restructuring and Insolvency Specialists Association (Caribbean)

## Lectures / talks

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- 'Company Voluntary Arrangements in a Retail Context: When Landlords Attack...or Have They lost Their Bottle': delivered to the Finance and Restructuring Departments of Clifford Chance.
- 'Governance and Stewardship: Before and After Corporate Failure': delivered to the General Counsel Department of Financial Services Compensation Scheme.
- 'Insolvency and Restructuring Law - Legal Update and Annual Review': delivered at the Pinsent Masons Annual Restructuring and Insolvency Conference 2018 in London.
- Chair of the R3 London Insolvency Litigation Seminar 2018.
- 'Issues of policy and principle in Cayman insolvency clawback claims': delivered in Grand Cayman to the Chancery Bar Association's 2016 Cayman Islands Conference.
- 'Prest for an Answer: piercing the corporate veil under English law': delivered to C5's 29th Forum on "Fraud Asset Tracing & Recovery", 2016 in Geneva.
- 'Directors and insolvency': Chair of 2016 R3 Conference in London.
- 'When to use the "F word"': delivered to C5's 28th Forum on "Fraud Asset Tracing & Recovery", 2015 in Geneva.

## Example cases

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- *Re London Oil and Gas Ltd (In Administration)* [2020] EWHC 35 (Ch): acting for the applicant director seeking an order that the out of court appointment of the administrators in relation to the company was a nullity. The court sought to rectify the position by making a new administration order on the application of one of the company's creditors, but refused to make the order of appointment retrospective.
- *CFL Finance Ltd v Gertner* [2019] BPIR 1327: acting for the successful petitioning creditor on the making of a bankruptcy order opposed by the debtor and another creditor.
- *Lady Moon SPV SRL v Petricca and Co Capital Ltd* [2019] EWHC 439 (Ch): acting for the defendant company in relation to

its successful application for a stay of proceedings based upon the legged insolvency of the defendant company and the Italian real estate fund which it administered.

- *Xie Zhikun v Xio GP Limited* (2018) Cayman Islands Court of Appeal: acting for the appellant private equity firm in an appeal against the granting of a world- wide freezing injunction. The leading case in the jurisdiction concerning the principle of reflective loss.
- *Re Herald Fund SPC* (unreported), 27 August 2018, Grand Court of the Cayman Islands (Kawaley J): instructed on behalf of the official liquidator of the Fund as regards the issue of whether statutory interest was payable on provable subordinated claims.
- *Shulman v Kolomoisky Ch D* (Fancourt J) 19/10/2018: successful appeal against case management order staying an application to challenge jurisdiction. The claim against Mr Kolomoisky was dismissed for want of jurisdiction.
- *Gertner v CFL Finance Ltd* [2018] EWCA Civ 1781: successful challenge to an individual voluntary arrangement proposed by a property tycoon once ranked amongst Britain's richest individuals relating to £600 million debt.
- *Ctrip Investment Ltd v eHi Car Services Ltd* (unreported), 29 June 2018 Grand Court of the Cayman Islands (Kawaley J): successful application to have what was described by the Court as a "cynical" and "abusive" just and equitable winding up petition.
- *Capital Partners Securities Co Ltd v Sturgeon Central Asian Balanced Fund Bermuda Court of Appeal* [2018] CA (Bda) 5, Civ: dispute as to the proper interpretation of the bye-laws of a long-term investment fund and whether it was just and equitable to wind up the fund on the basis of an alleged wrongful amendment to the bye-laws.
- *Dana Gas PJSC v Dana Gas Sukuk Ltd and others* [2018] EWHC 278 (Comm): legal and procedural issues concerning rights and obligations in respect of an Islamic bond.
- *Staray Capital Ltd v Cha* (British Virgin Islands) [2017] UKPC 43: shareholder dispute in relation to a company that held shares in a mining project in Canada involving issues concerning directors' powers and duties, minority shareholders rights and unfair prejudice.
- *Pearson v Primeo Fund* (Cayman Islands) [2017] UKPC 19: issues concerning prioritisation of distribution in a liquidation between feeder hedge funds where the investment medium was redeemable shares.
- *Ronelp Marine Ltd v STX Offshore & Shipbuilding Co Ltd* [2016] EWHC 2228 (Ch): successful application to lift a stay of the Commercial Court action imposed under the Cross-Border Insolvency Regulations following the defendant entering into Korean insolvency proceedings.
- *Lockston Group Inc v Wood* [2016] 1 WLR 2091: issues relating to the date on which debts provable in a deceased's insolvent estate were to be quantified, as well as the date on which debts are to be identified and when debts denominated in foreign currencies had to be converted into sterling for the purposes of proof.

## Recommendations

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An impressive silk, spanning a number of areas of practice, and a persuasive advocate who jumps in and gets to grips with the issues. [The Legal 500 UK Bar 2021](#)

Very pragmatic, no-nonsense and down to earth. He's very effective in court. [Chambers UK Bar 2021](#)

On the go-to list of counsel in the restructuring and insolvency arena. [The Legal 500 UK Bar 2021](#)

He is very commercial and clients like him. [Chambers UK Bar 2021](#)

A safe pair of hands for offshore insolvency work. [Chambers UK Bar 2021](#)

Held in high regard by clients. [The Legal 500 UK Bar 2021](#)

A very straightforward and very effective advocate. [Chambers UK Bar 2021](#)

He's technically good and is able to convey his knowledge in a client-friendly fashion. [Chambers UK Bar 2021](#)

He's very popular with clients and is very easy to deal with. [Chambers UK Bar 2020](#)

Stephen's advocacy is persuasive and rigorous – he combines perception and humour in a very effective way. [Chambers UK Bar 2020](#)

He is great with lawyers, judges and clients – he has the ability to explain the same point to multiple different people, which is a rare skill in a barrister. His technical judgement is superb and he is super commercial, as well as being really easy to

deal with. [Chambers UK Bar 2020](#)

"Sound judgement, user-friendly and a first-rate trial advocate" [The Legal 500 UK Bar 2020](#)

He's no-nonsense but technically very good, and he's quite happy to get stuck in and make points that other people wouldn't. [Chambers UK Bar 2020](#)

A punchy draftsman and an excellent advocate with a light touch that can prove very effective. [The Legal 500 2019](#)

He's brilliant. A sensible man and a safe pair of hands, who is very down-to-earth. [Chambers UK Bar 2018](#)

Sound judgement, user-friendly and a first-rate trial advocate. [The Legal 500 UK Bar 2020](#)

An excellent all-rounder. [Chambers UK Bar 2020](#)

Really nice to work with, he's great in court and really impressive all round. [Chambers UK Bar 2018](#)

He continues to be unafraid to give unequivocal answers to questions posed where other counsel might hedge their bets – he is invaluable when the client wants clear guidance as to what to do. [Chambers UK Bar 2018](#)

He's very thorough and not afraid to give an opinion so you know where you are. [Chambers Global & UK Bar 2018](#)

He is a tremendously robust advocate. [Chambers Global & UK Bar 2018](#)