

## Stephen Atherton KC

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

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### Overview

Stephen's practice comprises 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, the Turks and Caicos Islands, St Kitts and Nevis, 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, Samoa, and St Kitts and Nevis 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, South Africa, Hong Kong, New Hampshire, Washington DC 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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For Cayman work, Stephen is definitely one of the top silks that solicitors instruct. He understands how things work on the island - he makes an effort to understand the differences between local and English law. [Chambers UK Bar 2025](#)

Stephen is a real details man. He gets stuck in in a way that not all silks do. [Chambers UK Bar 2025](#)

Stephen is simultaneously mind-blowingly clever and incredibly down to earth. [Chambers UK Bar 2025](#)

Stephen is a very experienced silk in this field, with an affable and personable manner with judges. [Chambers UK Bar 2024](#)

Stephen provides a rare combination of hard work, intellect and commerciality. He is a calm and reassuring presence on a file and works extremely well with instructing solicitors. He is the go-to barrister for complex Cayman commercial litigation. [The Legal 500 UK Bar 2024](#)

Technically excellent and perfectly suited for big-ticket work, Stephen is brilliant at explaining very complicated legal concepts to lawyers and clients. [The Legal 500 UK Bar 2024](#)

Stephen is a real details man who gets stuck in. [Chambers UK Bar 2024](#)

An incredible advocate and a savvy advisor. Stephen is one of the best silks on the market for fraud work. [The Legal 500 UK Bar 2024](#)

Stephen is a pre-eminent barrister in this area. [The Legal 500 UK Bar 2024](#)

Stephen is a captivating advocate. He is also extremely hardworking and great to work with. [The Legal 500 UK Bar 2024](#)

A very good strategist who is great to work with. He builds confidence in clients. He's a consummate professional. [Chambers UK Bar 2023](#)

Able to explain the law in a very straightforward and simple way, both orally and in writing. [The Legal 500 UK Bar 2023](#)

Has a wide-ranging offshore practice that takes in work in Singapore, the Caribbean and the Channel Islands. He is also frequently called upon to advise on insolvency matters in Hong Kong. [Chambers UK Bar 2023](#)

What sets him apart is that he is able to explain the law in a very straightforward and simple way (both orally and in writing) which my clients (who are not familiar with common law insolvency law) can easily understand. [The Legal 500 UK Bar 2023](#)

very straightforward and pragmatic but what sets him apart is that he is so diligent. He is so careful and on top of everything [Chambers UK Bar 2023](#)

Clearly an expert on insolvency. But what sets him apart is that he is able to explain the law in a very straightforward and simple way – both orally and in writing – which lay clients can easily understand. [The Legal 500 UK Bar 2023](#)

He is very good for particular types of cases that require an aggressive strategy and approach [Chambers UK Bar 2023](#)

Stephen really knows insolvency law inside out and is able to provide expert, comprehensive advice on very short notice. Moreover, he is able to provide this advice in a clear and layman friendly manner [The Legal 500 UK Bar 2023](#)

Stephen is clearly an expert on insolvency. [The Legal 500 UK Bar 2023](#)

A formidable opponent and a force to be reckoned with. [Chambers UK Bar 2022](#)

He has a no-nonsense approach and is combative and well-regarded Offshore. [The Legal 500 UK Bar 2022](#)

He is very adaptable and responsive, and a pleasure to work with. [Chambers UK Bar 2022](#)

A very experienced senior fraud and insolvency silk. His advice is very clear and well thought out. An excellent strategist and an extremely fine and strong advocate. [The Legal 500 UK Bar 2022](#)

He has a wealth of experience in fraud matters that he brings to any case and he presents his views in a very clear fashion. [Chambers UK Bar 2022](#)

A heavyweight silk, who is at the top of his game, commanding the respect of the court and opponents alike. [The Legal 500 UK Bar 2022](#)

Stephen is a consummate professional who is commercial and willing to roll his sleeves up. [Chambers UK Bar 2022](#)

A very practical and insightful leader who instils huge amounts of confidence in the team. [Chambers UK Bar 2022](#)

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](#)