

# Tony Beswetherick

CALL: 2003 (ENGLAND AND WALES); 2019 (BRITISH VIRGIN ISLANDS)

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## Overview

Tony specialises in the fields of insolvency and restructuring, civil fraud, commercial litigation and company law. His work has a strong international element, and he has substantial experience of cross-border issues arising in connection with foreign insolvencies, pre-emptive relief, receiverships and other asset recovery tools.

Tony is ranked in the leading directories for civil fraud, company law, restructuring/insolvency, chancery commercial and offshore work, and was shortlisted for Insolvency/Company Junior Barrister of the Year at the Chambers UK Bar Awards 2017. He is identified as (one of two) “most highly regarded” junior barristers for Restructuring and Insolvency in both the 2019 and 2020 editions of Who’s Who Legal.

Recent directories describe him as “A brilliant advocate who can find a pathway through very complex cases and can steer the judge to his way of thinking” (Chambers UK Bar 2020) and have said “Nothing gets past him: insofar as advocacy is concerned, he anticipates every possible argument and leaves nothing to chance” (The Legal 500 UK Bar 2020).

Tony is admitted to the Bar of the Eastern Caribbean Supreme Court, British Virgin Islands, and has been admitted to the bar (*pro hac vice*) in the Turks and Caicos Islands.

Tony’s recent cases include:

- *Deutsche Bank v Sebastian Holdings Ltd and Alexander Vik*: acting for Alexander Vik (led by Duncan Matthews QC) in the English Commercial Court and in the TCI Supreme Court and Court of Appeal in long-running multi-jurisdictional

## Publications

- ‘Reconsidering reflective loss: are creditors barred from recovery?’ *Comp Law* 2016, 37(6), 178-183 (co-author).
- ‘Interpreting schemes of arrangement: a welcome intervention?’, *Butterworths Journal of International Banking and Financial Law*, September 2015 (co-author with Stephen Atherton QC).
- ‘Reconstruction and Amalgamation’ in *Gore-Browne on Companies* (co-author).

## Professional memberships

- Chancery Bar Association
- Commercial Bar Association
- Fraud Lawyers Association
- Insolvency Lawyers’ Association
- Personal Insolvency Legal Advice and Representation Scheme
- R3

## Education

- Oxford University: Modern History, First Class

litigation in connection with the attempted enforcement by Deutsche Bank of a US\$250 million judgment.

- *Tyndaris v VWM Ltd*: acting for the claimant (led by Sonia Tolaney QC) in a £20m dispute in the Commercial Court relating to the performance of an artificial intelligence investment fund, which was identified by the Lawyer of one of the Top 20 cases of 2020, and described as “*The first major UK case to involve machine learning. It is expected to be a landmark case on how AI systems are used in business and how associated risks are managed*”.
- *Alfa-Bank v Emmerson and ors*: acting for a Russian bank (led by Paul Lowenstein QC) in proceedings in the British Virgin Islands in connection with steps to identify and preserve assets in support of a high-value, international fraud claim.
- *Guriev v Gorbachev*: acting for the claimant (led by Paul Lowenstein QC) in an action against a former Russian politician in connection with the ownership a major Russian industrial chemicals conglomerate.
- *Re Gerald Smith*: acting as sole counsel for enforcement receivers appointed under the Criminal Justice Act 1988 in heavy, multi-party, and multi-jurisdictional litigation connected with the enforcement of the largest ever UK confiscation order obtained by the Serious Fraud Office.
- *Walsh v Greystone Financial Services Ltd*: acting as lead counsel in a three-week trial in the Chancery Division relating to allegations of deceit and breach of duty against a former financial adviser following investments into fraudulent “film partnership schemes”
- *Re Deep Black Drilling LLP*: acting for officeholders appointed by the Brazilian court in applications for recognition under the Cross-Border Insolvency Regulations 2006 in respect of a group of 37 insolvent entities that were involved in infrastructure projects and oil prospecting, and whose former controllers were convicted of acts of embezzlement and bribery of public officials.

Tony is used to working as part of a larger team and has gained experience of both sides of the profession, having previously worked as an employed barrister in the Advocacy Group of Dentons, a major international law firm.

## Example cases

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- *Guriev v Gorbachev* [2019] EWHC 2684 (Comm) (led by Paul Lowenstein QC): deciding that the claimant had effected good service of the proceedings by effecting personal service of the defendant in the street in London notwithstanding the defendant’s deployment of security personnel.
- *Kirker (Liquidator of SMU Investments Ltd) v Holyoak Investments Inc & Ors* [2020] EWHC 875 (Ch): successful application on behalf of a Panamanian company to set aside permission obtained by a liquidator to serve proceedings out of the jurisdiction challenging payments as preferences on the grounds of absence of merit and breach of the duty of disclosure.
- *Tyndaris v MMWVWM Ltd* [2020] EWHC 778 (Comm) (led by Sonia Tolaney QC): application to vary order for security for costs shortly before trial following default.
- *Re Deep Black Drilling LLP; Mendonca v KPMG Corporate Finance Sao Paulo, Brazil* [2020] EWHC 351 (Ch): successful application by Brazilian officeholder for the recognition of Brazilian insolvency proceedings relating to 37 entities, including a dissolved UK LLP.
- *Walsh v Greystone Financial Services Ltd* [2019] EWHC 1719 (Ch) (with Sam Goodman): 3-week trial of claim by former equities trader to recover losses resulting from failed investments into film partnership schemes.

- *In the matter of Gerald Martin Smith* [2017] EWHC 3332 (Comm); [2017] EWHC 3333 (Comm); [2017] EWHC 3334 (Comm); [2017] EWHC 3335 (Comm): the appointment of receivers to enforce confiscation orders.
- *LB Holdings Intermediate 2 Ltd and others* [2017] EWHC 2032 (Ch): acting for the joint administrators of one of the Lehman Brothers companies in an application for the approval by the court of the settlement of the multi-billion pound "Waterfall" litigation.
- *Leman Brothers Europe Ltd and another* [2017] EWHC 2031 (Ch): acting for the joint administrators of one of the Lehman Brothers companies in an application for directions as to whether an administrator can make a distribution to shareholders.
- *Leeds & Anor v Lemos* [2017] EWHC 1825 (Ch): acting for trustees in bankruptcy (led by Felicity Toube QC) in an application clarifying the interrelationship between legal professional privilege and the powers of trustees in bankruptcy.
- *Information Management Consultancy Ltd (in liquidation) v B&Q Plc and Richard Cullen* (LTL 12/7/2017): successful application to strike out a claim in conspiracy on the basis that the proceedings constituted an abuse of process.
- *Phoenix Group Foundation v Cochrane, Stewarts LLP and Harbour Fund II LP* [2017] EWHC 418 (Comm): acting for enforcement receivers in relation to complex multi-party fraud proceedings.
- *CFC 26 Ltd and SHG-SH20 Ltd v Brown Shipley and Co Ltd, KPL European Private Bankers Ltd, Concord W1 204 GPS Ltd, Concord 204 GPS Ltd and Westminster City Council* [2016] EWHC 3048 (Ch): successful application for summary judgment in respect of a claim in excess of £65 million for alleged unlawful conspiracy.
- *Linvale Investments Ltd v Walker* [2016] EWHC B15 (Ch): successfully represented fixed charge receivers at a trial to establish the extent of the property secured by a legal charge.

## Insolvency and company

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- Acting (with Stephen Atherton QC) for the secured lenders in relation to African Minerals Limited.
- Acting for the trustees in bankruptcy of a Greek shipping magnate in proceedings to recover assets held in offshore vehicles.
- Advising the shareholders in two joint venture companies upon petitions to wind up the companies on the grounds of unfair prejudice.
- Advising a major bunkers supply company upon claims arising in connection with the insolvency of OW Bunkers.
- Acting for the provisional liquidators of a company incorporated in the Isle of Man in relation to recognition and subsequent proceedings under the Cross-Border Insolvency Regulations 2006.
- Acting for the administrators of a plc and various group companies in relation to claims arising from improper treatment of client monies and the misapplication of company funds.
- Acting for the liquidator of a company pursuing claims to recover significant unlawful directors' loans.
- Acting for a former director of a building contractor in disqualification proceedings brought by the Secretary of State.
- Representing an Irish bank in a trial over the COMI of a former Irish financier.
- Representing the administrators of a technology company in an urgent application for permission to dispense with statutory requirements in order to close the administration and achieve successful a restructuring.
- Advising the trustees in bankruptcy of an Irish national upon the law applicable to claims to assert ownership to properties located in Ireland and in relation to claims to challenge transactions at an undervalue.
- Representing the defendants to claims of fraudulent trading brought in the Chancery Division arising out of alleged VAT 'carousel' fraud.
- Acting for the joint liquidators of a debt collection company in a Berkeley Applegate Application relating to the distribution of trust monies.

## Banking and finance

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- Acting for enforcement receivers in relation to complex multi-party fraud proceedings.
- Acting for the claimant in ongoing proceedings in the High Court to recover substantial consequential damages from a retail bank arising from the sale of an interest-rate swap.
- Acting for the claimant in a complex claim against a foreign bank arising from the novation of a mis-sold interest rate hedging product.
- Acting for an authorised representative in proceedings brought by its principal in connection with alleged breaches of

duty in connection with the sale of pension products.

- Acting for a bank in proceedings in the QBD to enforce guarantees in reliance upon estoppel by convention.
- Representing the receivers appointed by a mortgagee in opposition to the borrower's application for injunctive relief to restrain the sale of secured properties and for their removal.
- Acting for two Indian banks in proceedings in the Commercial Court for rectification of bank guarantees (guaranteeing £40 million each).
- Acting for an equipment finance company in proceedings by a guarantor challenging the guarantee on the basis that it was procured by misrepresentation.

## **Commercial and arbitration**

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- Representing the defendant in consolidated LCIA arbitrations relating to enforceability of agreements alleged to have been procured by bribery of a company director.
- Acting for the claimants in arbitration proceedings claiming relief in relation to the termination of a vessel pool agreement following the insolvency of a party.
- Successfully acting for the corporate respondents to a freezing injunction obtained in the High Court in relation to claims alleging conspiracy and fraud.
- Acting for the successful defendants in a 2-day trial of a claim alleging that the defendants were franchisees of the claimant and had acted in breach of the franchise agreement.
- Acting for the licensee of oil well sites in the Republic of Georgia in its claim for substantial damages against the site operator.
- Acted as sole counsel in an ad hoc arbitration relating to the interpretation of contractual obligations in interlinking leases.
- Advising an event promoter upon the application of a force majeure clause in an engagement contract in light of the forced cancellation of a concert due to be held in Turkey following an explosion in a mine.
- Successfully representing the defendants to a claim commenced in the High Court in their application to contest jurisdiction under the EC Council Regulation No. 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.
- Acting for a defendant in proceedings in the London Mercantile Court relating to the identity of parties to an agreement for the hire of equipment used in the exploitation of an oil well site.
- Appeared as sole counsel in a LCIA arbitration applying Russian law between two companies in a dispute over the provision of agency services relating to the possible acquisition of a Russian bank.
- Acting for an insurance brokerage company in proceedings in the Commercial Court relating to obligations under a business transfer agreement.
- Acting for the defendant in proceedings in the Queen's Bench Division for damages for short-delivery of cement following an event of force majeure.
- Acting for a manufacturer of glass bottles for medical use in defending a substantial claim for damages in the High Court over the alleged supply of defective goods.
- Acting for a specialist in the manufacture of prisoner transportation vehicles in its claim in the Queen's Bench Division for consequential losses arising from the late supply of vehicle chassis.
- Acting for two Indian banks in proceedings in the Commercial Court for rectification of two bank guarantees (guaranteeing £40 million each).
- Advising a ship charterer in connection with arbitration proceeding following the respondent's entry into Chapter 11 proceedings in the US.
- One of the team of counsel acting for the respondents to claims worth (Sing) \$230 million in a long-running arbitration relating to the construction of an offshore pipelay vessel.

## **Professional negligence**

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- Advising a bank in relation to a claim for £4m against its former solicitors for negligence in relation to forged security documentation.
- Advising the directors of a plc in a claim against the company's former auditors for negligence in connection with the

declaration of unlawful dividends.

- Acting for the liquidator of a company in a claim against its former solicitors for negligent advice in relation to the validity of security obtained in respect of a loan to a third party.
- Acting for the shareholders of a company in a substantial claim in professional negligence against a firm of solicitors relating to advice given to the company which subsequently entered liquidation due to the misfeasance of a director.
- Advising an investor in relation to a claim against a financial advisor for advice in relation to an investment in a carbon offsetting scheme.
- Representing the proprietor of a nursing home business in a claim for substantial damages for negligence against solicitors who drafted leases and services agreements (led by Zia Bhaloo QC).

## Recommendations

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A go-to barrister, who is sharp-witted and a real pleasure to work with. He is good to talk through ideas with. [Chambers UK Bar 2022](#)

A great senior junior – leading silks fight to have him as their junior – very capable in handling matters in his own right. [The Legal 500 UK Bar 2022](#)

An outstanding barrister who is extremely popular, very approachable and extremely hard-working. [Chambers UK Bar 2022](#)

Clearly someone to watch for the future, shows clarity of thought and a commercial focus. [The Legal 500 UK Bar 2022](#)

He marries a lot of brainpower into practicality and focus - he's a very clear, calm and careful advocate. [Chambers UK Bar 2022](#)

He quickly got to grips with the myriad of complicated issues and provided an invaluable new perspective on some of the issues engaged. A real star to watch. [The Legal 500 UK Bar 2022](#)

A very intelligent and persuasive advocate, who has good litigation judgement. [Chambers UK Bar 2022](#)

He has a first-class mind, is easy to work with and always thinks of new ways to argue a point. [Chambers UK Bar 2022](#)

He is a true expert and is always available, provides spot-on written work and is impressive in court. [Chambers UK Bar 2021](#)

Brilliant on paper and in court. [The Legal 500 UK Bar 2021](#)

Tony is a go-to junior - he knows the insolvency legal requirements inside out. [Chambers UK Bar 2021](#)

He is a great tactician, anticipates every argument and is fully prepared to counter it. [The Legal 500 UK Bar 2021](#)

A measured and very clever advocate. [Chambers UK Bar 2021](#)

He's hard-working and technically very, very good but at the same time pragmatic, sensible and very commercial. [Chambers UK Bar 2021](#)

He's very, very good indeed. He's efficient and very calm under pressure, and has a very good rapport with the judiciary. [Chambers UK Bar 2021](#)

He's incredibly thorough and doesn't miss a thing. [Chambers UK Bar 2020](#)

Nothing gets past him; insofar as advocacy is concerned, he anticipates every possible argument and leaves nothing to chance. [The Legal 500 UK Bar 2020](#)

He is a master at analysing all of the facts and the law to find a clear path through, which will lead the judge to the conclusion he seeks. He's absolutely brilliant both on paper and in his advocacy and leaves no stone unturned. [Chambers UK Bar 2020](#)

A brilliant advocate who can find a pathway through very complex cases and can steer the judge to his way of thinking. [Chambers UK Bar 2020](#)

He is entirely in command of the technical aspects of his cases, and has a very keen eye for strategy and tactical opportunities. He is wonderfully personable and a real pleasure to work with. [Chambers UK Bar 2019](#)

Tony is an excellent, very hard-working, bright and capable barrister. [Chambers UK Bar 2020](#)

He has a very sharp brain so he doesn't miss anything and he is so incredibly thorough. He's brilliant both as an advocate

and on paper. In a complex case he can easily find a path through and can steer the judge to his way of thinking. [Chambers UK Bar 2020](#)

Very bright, perceptive and thorough. He is also personable and a real team player. [Chambers UK Bar 2019](#)

He is on a different level – a silk in junior's clothing. He is really assured and he's the person that the judge listens to. He gets the points across well and is user-friendly and easy to deal with. [Chambers UK Bar 2020](#)

Remarkably intelligent, strategically and technically. He is extremely approachable and friendly, and excellent with clients. [Chambers UK Bar 2018](#)

He's very practical and excellent on his feet, he's very calm and persuasive and clients like him a lot. He assimilates information quickly and he's very happy to get his head down and do whatever digging needs to be done in order to get the right answer. [Chambers UK Bar 2018](#)

He leaves no stone unturned and is brilliant on paper and as an advocate. [Chambers UK Bar 2018](#)