

ALISTAIR MACKENZIE

Call 2013

Get in touch

amackenzie@2tg.co.uk

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Practice Overview

Alistair's practice spans a range of commercial litigation, with an emphasis on cross-border disputes, product liability, insurance and property damage.

Alistair has extensive experience of dealing with complex, high-profile cases; he has appeared in the Supreme Court on multiple occasions and is experienced in dealing with group litigation.

He is frequently instructed as sole counsel against significantly more senior opponents. Given the nature of his practice, he is often involved in international litigation and arbitrations in various foreign countries, and has practised in the courts of the Dubai International Financial Centre.

Alistair is recognised in the legal directories as a leading practitioner in cross-border litigation, product liability and group litigation. Chambers 2022 describes him as *"meticulous, excellent on his feet and very technically adept"*, *"pragmatic and a tenacious advocate"* and *"a brilliant junior"*. Legal 500 2023 describes him as *"Very sharp. Gets to grip quickly with the complex issues in hand. Reliable and instils confidence in the work he provides."*

Private International Law

Alistair has a busy conflict of laws practice, regularly appearing in high profile cases in this specialist area. He has acted in leading cases concerning jurisdiction, choice of law and the enforcement of foreign judgments and has an extensive understanding of the legal complexities these areas involve.

Alistair is listed in Chambers UK and Legal 500 for his private international law work, where he is described as *"a brilliant junior who has a good approach to cases with foreign clients and makes things run very smoothly"*, *"pragmatic and a tenacious advocate"*.

...specialist in cross-border litigation, product liability and insurance law, who "always delivers"
(Chambers UK)

Practice areas

Private International Law
Product Liability
Group Litigation
Travel
Insurance & Reinsurance
Property Damage
Commercial Dispute Resolution

Qualifications

MA (Cantab), First Class
BPTC

Education

Gonville and Caius College,
Cambridge University
Kalpan Law School



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Alistair is regularly instructed to deal with claims arising from cross-border product liability and insurance disputes, and authored 2TG's "*Practical Guide to Anti-Suit Injunctions*" with Charles Dougherty KC.

Example cases include:

- A long-running jurisdiction dispute in a claim arising from a fatal accident in Egypt (*Brownlie v Four Seasons*)
- Stay of proceedings on *forum non conveniens* grounds
- Choice of law disputes and the application of the Rome II Article 4(3) exception
- Application of foreign insurance and subrogation law in English proceedings
- Disputes concerning enforcement of foreign judgments in England, on technical and public policy grounds (e.g. *Laserpoint v Prime Minister of Malta*)
- A pre-emptive claim for a negative declaration as to liability in respect of foreign class actions

Product Liability

Alistair regularly acts for claimants, defendants and insurers in product liability disputes. He has significant experience of dealing with group actions and claims concerning product recalls. He has particular expertise in dealing with cross-border product liability actions where products have been manufactured or caused damage in other jurisdictions.

Alistair's practice includes commercial and consumer product liability claims (including under the Consumer Protection Act 1987) and he is listed as a leading individual in both Chambers UK and Legal 500 for product liability, where he is described as "*meticulous, excellent on his feet and very technically adept*", who "*displays excellent attention to detail when reviewing complex pieces of evidence*".

Recent cases include claims arising from:

- Breast implants, knee implants and other medical devices
- Pharmaceuticals
- White goods and other electrical appliances (washing machines, fridges etc.)
- Car components
- Plumbing components
- Bicycles
- Industrial chemicals

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- Food and drink
- Infant safety products

Group Litigation

With experience across business human rights (BHR), product liability and environmental claims, Alistair is a highly sought-after group litigation practitioner. He acts for claimants, defendants and litigation funders.

Alistair's expertise in the private international law issues which often become battlegrounds in this field of litigation, together with his hands on approach, means that he is often involved from an early stage.

Alistair is recognised as a leading individual in for group litigation by Legal 500 where he is described as "An excellent junior" with "a really impressive group litigation practice."

Representative claims include:

- Putumayo Colombia Oil Spill Litigation
- Textured Breast Implant Claims
- Champions League 2022 Final Litigation
- Gemfields Mining Litigation
- Diesel Emissions Litigation
- The Kenya Emergency Group Litigation

Travel

Alistair's private international law and insurance expertise makes him ideally placed to deal with jurisdiction, choice of law and insurance disputes arising from international travel. He deals with complex disputes and regularly appears in the leading travel law cases.

Alistair is recognised in both Chambers and Legal 500 as a leading individual in Travel: International Personal Injury. He is praised as "an excellent junior confidently handling work beyond his level of call" and "a brilliant junior who has a good approach to cases with foreign clients and makes things run very smoothly".

Alistair acts for claimants and defendants in claims for accidents abroad, including under the Montreal and Athens Conventions and the Package Travel Regulations. His experience includes wintersports injuries, injuries on international flights and cruises, defective hotel premises and holiday sickness claims.

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Example cases include:

- A fatal accident claim (*Brownlie v Four Seasons*) arising from an accident in Egypt
- Disputes regarding the ability of foreign social security bodies to bring claims in England
- Accidents on ships at sea
- Skiing accidents in various countries (disputes as to jurisdiction, applicable law, liability and quantum)
- Catastrophic injury claims with quantum assessed under foreign law
- Disputes under travel insurance policies

Insurance and Reinsurance

Alistair has experience of a wide range of insurance matters, regularly advising on questions of recovery, policy coverage, misrepresentations and non-disclosure.

He has particular expertise in dealing with complex coverage questions and cases with an international or cross-border element. Alistair also has extensive experience of dealing with fraudulent and exaggerated claims.

Recent cases include:

- Declaratory proceedings on policy interpretation and claims condition breaches
- Coverage disputes under the Third Party (Rights Against Insurers) Act 2010
- Construction of exemptions in liability insurance policies
- Policy interpretation and assessment of indemnity in business interruption claims
- Refusal of indemnity under a landlord's insurance policy

Property Damage

Alistair's experience of property damage disputes covers a broad range of factual and legal contexts. He acts for claimants and defendants in cases arising from damage caused to property by fires, explosions, floods and subsidence. Alistair also has a speciality in dealing with pollution claims.

Alistair is experienced in analysing, assisting with and challenging the technical expert evidence frequently involved in such claims.

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Recent cases include:

- Numerous cases involving damage allegedly caused by the installation of cavity wall insulation
- Damage caused by trees (falling onto properties and subsidence)
- Disputes as to the application of the *Berni Inns* principle
- Electrical fires caused by domestic and commercial electrical products
- Destruction of commercial air conditioning units by misuse
- Flooding of property by a defective boiler
- Pollution of waterways by spillage of oil
- Claims under the New Roads and Streetworks Act 1991 and the Water Industry Act 1991

Commercial Dispute Resolution

Alistair acts as sole or junior counsel in a wide range of commercial disputes. He deals with a variety of cases, including those arising from breach of contract, fiduciary duties and misuse of information.

Alistair accepts instructions to advise on and to obtain urgent interlocutory relief, including freezing and search orders and anti-suit injunctions. His experience includes obtaining custodial sentences and sequestration orders in cases of contempt of court.

His experience includes working within a leading Middle Eastern law firm's Dubai International Financial Centre litigation team.

Recent cases include:

- Liability for theft of a shipment of goods
- Disputes between pharmaceutical wholesalers regarding industry standard terms
- Claim pursuant to a personal guarantee
- Dispute concerning the application of the Unfair Contract Terms Act 1977
- Enforcement of judgment into assets and the setting aside of sham transactions
- Dispute under a stock purchase agreement
- Bailment dispute regarding destruction of chattels

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Significant Cases

Bravo v Amerisur Resources [2023] EWHC 122 (KB) – Environmental damage claim following oil spill in Colombia (with Richard Lord KC and Alex Layton KC)

Stait v Cosmos Insurance [2022] EWCA Civ 1429 – Jurisdiction dispute regarding domicile of members of the Armed Forces (Court of Appeal)

X v Y (ongoing) – Foreign seated arbitration concerning cross-border insurance obligations (with Marie Louise Kinsler KC)

Various v Allergan (ongoing) – Claims in respect of allegedly defective breast implants (with Alex Antelme KC)

Clarke v Kalecinski [2022] EWHC 488 (QB) – Liability of insurers for clinical negligence under foreign law (QBD)

FS Cairo (Nile Plaza) LLC v Brownlie [2021] UKSC 45 – Leading case on jurisdiction over foreign defendants and approach to foreign law (Supreme Court, with Howard Palmer KC, Marie Louise Kinsler KC and Ben Phelps)

CPAM v Thomson and RSA (2019 to 2021) – Claim by a French social security fund (settled, with Howard Palmer KC)

ES and others v Groupama Méditerranée v Goodyear (2016 to 2019) – Product liability claim pleaded in excess of £190 million concerning French law and duty to recall defective products (settled, with Charles Dougherty KC and Alex Antelme KC)

AAA v Gemfields (2018) – Advising on private international law issues in group action by 112 Mozambican miners (settled 2018, with Marie Louise Kinsler KC)

Committeri v Club Mediterranee SA [2018] EWCA Civ 1889 – Application of Rome I and Rome II Regulations and proper approach to foreign law (Court of Appeal, with Hugh Mercer KC)

Brownlie v Four Seasons Holdings Inc [2017] UKSC 80 – Jurisdiction in respect of foreign defendants (Supreme Court, with Howard Palmer KC and Marie Louise Kinsler KC)

Amlin Corporate Member v Baby Basics Ltd [2017] EWHC 2047 (Comm) – Declaratory proceedings on interpretation of insurance policy and Israeli

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class actions (Commercial Court)

Moreno v Motor Insurers' Bureau [2016] UKSC 52 – Law applicable MIB's obligations under European insurance legislation (Supreme Court, with Hugh Mercer KC and Marie Louise Kinsler)

Ministry of Defence v Iraqi Civilians [2017] UKSC 25 – Application of Iraqi law (Supreme Court, with Richard Hermer KC and Marie Louise Kinsler)

Laserpoint v Prime Minister of Malta [2016] EWHC 1820 (QB) – Successful appeal against enforcement of a Maltese judgment on the grounds of public policy (QBD, with Marie Louise Kinsler)

D (A Child) [2016] UKSC 34 – Acting for the Ministry of Justice as intervener in a case concerning enforcement of foreign judgments (Supreme Court, with Hugh Mercer KC)

Recommendations

"A very impressive litigator with great depth of knowledge"

"He is very strong on jurisdictional issues"

"An incredibly impressive product liability practice"

"He provides clear analysis of cases"

Chambers UK Bar 2023

"Very sharp. Gets to grip quickly with the complex issues in hand. Reliable and instils confidence in the work he provides."

"Extremely bright, with an encyclopaedic knowledge of product liability law."

"An excellent junior, Alistair has a really impressive group litigation practice"

Legal 500 2023

"He's pragmatic and a tenacious advocate."

"Alistair is very easy to deal with and you can speak with him on any issue. He's also very amenable and always willing to assist outside formal instruction."

"A brilliant junior who has a good approach to cases with foreign clients and makes things run very smoothly."

"He is meticulous, excellent on his feet and very technically adept."

Chambers UK Bar 2022

"A potential star of the future: an excellent junior confidently handling work beyond his level of call."

Legal 500 2022

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"phenomenally bright"
Chambers UK Bar 2021

"extremely knowledgeable"
Legal 500 2021

"super clever and provides a really good service"
Chambers UK Bar 2021

"quick, thorough, technical"
Chambers UK Bar 2020

"always delivers"
Chambers UK Bar 2020

"amazingly good at understanding the international elements of a case"
Chambers UK Bar 2020

"gives very good advice"
Chambers UK Bar 2020

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