

ALISTAIR MACKENZIE

Call 2013

Get in touch

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+44 (0)20 7822 1200



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

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 complex, high-profile cases, and has appeared in the Supreme Court on multiple occasions. Chambers UK notes that *"he always delivers what he promises", "is amazingly good at understanding the international elements of a case" and "gives very good advice"*.

Alistair 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.

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 for his private international law work. He is praised as being *"amazingly good at understanding the international elements of a case"* and for the fact that *"he always delivers what he promises"* and *"gives very good advice"*.

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 QC.

Practice areas

Private International Law
Product Liability
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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Recent and ongoing cases include:

- *SG v BWE* (2019) – Stay of proceedings pursuant to the Arbitration Act 1996.
- *K v FMdSG* (2019) – Jurisdiction challenge by a Spanish insurer.
- *ES & Others v Groupama Méditerranée v Goodyear Dunlop Tires* (2016 to present) – Product liability claim pleaded in excess of £90 million concerning the French law of product liability and contribution.
- *Bhatti v CNI Ltd* (2018 to present) – Applicable law dispute in a claim brought by a journalist injured whilst reporting in Israel.
- *AAA v Gemfields* (2018) – Advising on private international law issues in a group action by 112 Mozambican miners.
- *Committeri v Club Méditerranée* [2018] EWCA Civ 1889 – Court of Appeal case concerning application of Rome I and Rome II Regulations and proper approach to foreign law.
- *Brownlie v Four Seasons Holdings Inc* [2017] UKSC 80 – Supreme Court case concerning common law jurisdiction in respect of non-European defendants.
- *Vilca v Xstrata Ltd* (2018) – Group action involving application of Peruvian law.
- *Amlin v Baby Basics and Vital Innovations* [2017] EWHC 2047 (Comm) – Commercial Court claim for declaratory relief as to coverage in respect of Israeli class actions.
- *Moreno v Motor Insurers' Bureau* [2016] UKSC 52 – Supreme Court case concerning the law applicable to MIB's obligations imposed by European motor insurance legislation.
- *In the matter of D (A Child)* [2016] UKSC 34 – Intervening on behalf of Ministry of Justice in Supreme Court case concerning enforcement of foreign judgments.
- *Ministry of Defence v Iraqi Civilians* [2016] UKSC 25 – Supreme Court case concerning application of Iraqi law.
- *Laserpoint Ltd v Prime Minister of Malta* [2016] EWHC 1820 (QB) – Successful appeal against enforcement of Maltese judgment.

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Product Liability

Alistair's practice covers a wide range of product liability issues. He acts for claimants, defendants and insurers in product liability disputes and has significant experience of dealing with group actions and claims concerning product recalls.

His practice includes both consumer and non-consumer product liability claims. Examples of products Alistair has dealt with include: medical devices, white goods and other electrical appliances, automotive and bicycle components, industrial chemicals, plumbing components including boilers and radiators, foodstuffs and infant safety products.

Alistair has particular expertise in dealing with cross-border product liability actions, where products have been manufactured or caused damage in other jurisdictions. Chambers UK notes that "*he always delivers what he promises and is amazingly good at understanding the international elements of a case.*"

Recent cases include:

- *ES & Others v Groupama Méditerranée v Goodyear Dunlop Tires* – Claim under French law, pleaded in excess of £90 million, in respect of sudden air loss in a tyre and negligence in withdrawing products from the market.
- *S v Lina Medical* – Claim against the producer of a defective surgical device, causing intra-operative nerve damage.
- *EWM v CCE v ISA* – Claim against an Italian manufacturer of white goods in respect of fire damage, brought under Electrical Equipment (Safety) Regulations 1994.
- *H v Medacta BV* – Claim against the Swiss manufacturer of a prosthetic knee alleging failure to provide adequate Instructions for Use.
- *CTS v CFK GmbH* – Claim against a German manufacturer in respect of losses arising from use of industrial chemicals.
- *Amlin v Baby Basics and Vital Innovations* [2017] EWHC 2047 (Comm) – Claim for declaratory relief concerning class-action lawsuits brought in Israel in respect of chemical composition of products used by infants.

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- *P v THM GmbH* – Claim against a German manufacturer of a bicycle fork causing serious injury.
- *S v PKB Ltd* – Claim in respect of flooding caused by a defective pipe.
- *Various v KP Ltd* – Claim under CPA 1987 in respect of allegedly contaminated shellfish.
- *J v M Ltd v SRP Ltd* – TCC claim against the importer of a toy manufactured in China, alleged to have been the cause of a fire.
- *X, Y and Z v Whirlpool* – Claim in respect of a defective dishwasher causing property damage and psychiatric injuries.
- *In re X Ltd* – Advising a company regarding a recall following discovery of asbestos in imported products.
- *W v Kinesis* – Claim arising from a defective bicycle component causing death. Secured an order at an inquest for the re-issuing of a recall notice before settlement of the claim.

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.

Alistair is recognised in Chambers UK 2019 as a leading individual in Travel: International Personal Injury. He is praised as "*He always delivers what he promises and is amazingly good at understanding the international elements of a case*", with it being noted that "*He gives very good advice and is very strong on paper. He's very approachable and clients like him.*"

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.

Recent and ongoing cases include:

- *Committeri v Club Méditerranée* [2018] EWCA Civ 1889 – Court of Appeal case concerning application of Rome I and Rome II Regulations and proper approach to foreign law.

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- *L v ERS* (2017 to 2018) – Application of Article 4(3) of Rome II to an action against a motor insurer.
- *B v AXA* (2018) – Dispute concerning material non-disclosure in a travel insurance policy.
- *ES & Others v Groupama Méditerranée* (2016 to present) – French law claim pleaded in excess of £90 million arising from a fatal accident on a French motorway.
- *AB (a protected party, by his litigation friend CD) v Motor Insurers' Bureau* (2018) – Slovakian law claim concerning the scope of compensation recoverable from MIB.
- *Brownlie v Four Seasons Holdings Inc* [2017] UKSC 80 – Supreme Court case concerning jurisdiction over non-European defendants.
- *F v RCI and TIIC Cyprus* (2017 to present) – Traumatic brain injury claim arising from an accident in Cyprus.
- *Moreno v Motor Insurers' Bureau* [2016] UKSC 52 – Supreme Court case concerning law applicable to quantum in Fourth Directive claims against MIB.

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:

- *Amlin v Baby Basics and Vital Innovations* [2017] EWHC 2047 (Comm) – Commercial Court claim for a declaration that no indemnity was owed in respect of two Israeli class-action lawsuits.
- *XL Insurance Company v AXA and AIG* – Commercial Court dispute between insurers concerning entitlement to an equitable contribution.

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- *B v NIG* – Dispute as to coverage of fire risks under policy and effect of co-insurance.
- *G v Zenith* – Dispute concerning the avoidance of a policy of motor insurance.
- *S v MCE* – Dispute as to the scope of coverage against fire under various insurance policies.
- *KGM v D* – Declaratory relief on the ground of material non-disclosure and defence of a counterclaim brought on the basis of the policy.
- *S Ltd v NIGC* – Policy interpretation in a claim for business interruption losses.
- *J v UKGI* – Claim alleging an entitlement to rescission of seven separate home insurance policies.
- *X v Amlin* – Coverage under a medical malpractice policy in respect of misrepresentations made to a private patient.
- *B v AXA* – Fraudulent representations made in the course of negotiation of a consumer 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 is experienced in analysing, assisting with and challenging the technical expert evidence frequently involved in such claims.

Recent cases include:

- *B v LLBC* – Dispute concerning effect of insurance provisions in a lease on the recovery of damages following a fire.
- *H v GVRR Ltd* – Dispute as to the party responsible for starting a fire in a residential property.
- *L v DC Ltd* – Claim concerning allegedly negligent installation of a drainage system.

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- *H v M* – Claim arising from failure by a landlord to comply with repairing covenant in a lease.
- *SW v SGN* – Claim under the New Roads and Streetworks Act 1991.
- *FC YMCA v CS Ltd* – Claim concerning flooding arising from a foul drainage pipe.
- *RHC v MBS Ltd v SWP BV* – Claim arising from an allegedly defective boiler.
- *ES Ltd v SCEE Ltd* – Claim concerning a fire in a restaurant.
- *W v CES Ltd and CD Ltd* – Electrical damage to all appliances within a custom-built house.
- *M v SEW Ltd* – Action under the Water Industry Act 1991.
- *Laserpoint Ltd v Prime Minister of Malta* [2016] EWHC 1820 (QB) – Dispute arising from a fire in a Maltese convention centre, said to have been caused by the use of a laser-lighting display.

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:

- *B Ltd v O Srl* – Claim concerning the theft of a shipment of goods.
- *S Plc v T Ltd* – Dispute between two pharmacies concerning a stock purchase agreement.

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- *TBM Ltd v KFH* – Claim alleging breach of contract and professional negligence by a letting agency.
- *MS Ltd v SRP Ltd* – Dispute concerning application of the Unfair Contract Terms Act 1977 and the reasonableness of a party's standard terms of business.
- *CIH Ltd v V* – Dispute as to enforcement of a judgment, in which a purported divestment of assets was found to be a sham transaction.
- *M&M Ltd v BPC BV* – Arbitral dispute concerning fitness for purpose of imported products.
- *Z v L Ltd* – Dispute arising from a share purchase agreement.
- *R v WB Ltd and S* – Claim pursuant to a personal guarantee in the sum of £1 million.
- *X v LIE Ltd* – Claim by member of a Middle Eastern ruling family seeking recovery of a bailed chattel.

Recommendations

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