

# Alistair Mackenzie

Call 2013



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Alistair's practice spans a range of commercial disputes, with specialisms in private international law, group litigation, insurance and product liability.

Alistair also has a busy practice in "ESG litigation". He acts in litigation concerning allegations of environmental damage and business human rights abuses, bringing to bear his expertise in private international law and group litigation.

He is recognised by both legal directories as "a very talented barrister" who "provides mature and helpful insight in a legal team". He has "very strong advocacy skills and legal awareness" and a "clear and tactical mind".

Alistair's recent work includes:

- Acting in a number of high profile group claims arising from environmental damage in numerous countries, human rights abuses, product liability and sporting events.
- Advising a major medical technologies manufacturer on alleged liabilities arising from a high-profile line of products.
- Appearing as junior counsel for the successful claimants in the trial of preliminary issues under foreign law concerning liability for an oil spill in Colombia in **Bravo v Amerisur Resources** [2023] EWHC 122 (KB).
- Appearing as sole counsel in the Court of Appeal for the defendant in a successful challenge to the Court's jurisdiction in **Stait v Cosmos Insurance** [2022] EWCA Civ 1429.

He accepts instructions in applications for urgent injunctive relief, including anti-suit injunctions, freezing orders, search and imaging orders, doorstep delivery up orders and *Norwich Pharmacal* orders. He has experience of contempt proceedings and of obtaining custodial sentences and sequestration orders.

# Expertise

## Commercial Dispute Resolution & Arbitration

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Alistair regularly acts in a range of commercial disputes, including cases concerning allegations of breach of contract, civil fraud, professional negligence and misuse of confidential information. His practice covers a range of industry sectors, including manufacturing, logistics, construction, financial services, energy and the extractive industries.

Many of Alistair's cases concern an international or cross-border dispute, and he is recognised as an expert in matters of jurisdiction and applicable law.

He accepts instructions in applications for urgent injunctive relief, including anti-suit injunctions, freezing orders, search and imaging orders, doorstep delivery up orders and *Norwich Pharmacal* orders.

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

## Notable Commercial Dispute Resolution & Arbitration cases

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### R Ltd v C Ltd

Contractual dispute concerning fitness for purpose of a custom-made product, leading to the failure of an enterprise.

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### H Ltd v C

Dispute regarding misuse of confidential information.

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### X v Y Inc

Duties of a company following disclosure of alleged complicity in corruption.

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### V v A Firm

Dispute as to the enforceability of a foreign retainer agreement.

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### M Ltd v B Bv

Contractual dispute regarding the quality of goods delivered under industry standard terms.

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### B Ltd v A Ltd and I Ltd

Contractual dispute regarding the shutdown of a human products processing plant.

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J Ltd v A Ltd v O Srl

Contractual dispute following the theft of a consignment of goods.

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N Ltd v S v H

Bailment dispute following destruction of a high value chattel.

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C Ltd v V

Setting aside of a sham transaction entered into for the purposes of evading enforcement.

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Z v L Ltd

Dispute under a share purchase agreement.

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## Environmental, Social and Corporate Governance

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Alistair regularly acts in claims where companies are alleged to have caused environmental damage or to have engaged in human rights abuses. He is frequently engaged from an early stage to advise on issues of strategy and forum disputes. With his experience of acting for claimants and defendants, and expertise in dealing with high-profile strategic litigation, clients benefit from Alistair's ability to integrate quickly into large legal teams.

Although most of Alistair's cases concern allegations of environmental damage and human rights abuses occurring in other countries, he also accepts instructions to act in cases concerning allegations of domestic harm.

Many of Alistair's cases in this area are large group claims, for which he is recommended by Legal 500, noting that his "*particular strengths are his breadth of experience and his super-sharp brain.*"

### Notable Environmental, Social and Corporate Governance cases

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The Bille and Ogale Group Litigation

Environmental damage claims arising from oil spills in Nigeria (with Richard Hermer KC and others, ongoing).

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AAA and others v Brazil Iron Limited

Environmental damage claim arising from mining operations in Brazil (ongoing).

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### The Bomu-Bonny Oil Pipeline Litigation

Environmental damage claim arising from oil spill in Nigeria (with Richard Hermer KC and others, ongoing).

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### X v Y Inc

Claim by a whistleblower for losses suffered after disclosing alleged complicity in corruption (settled).

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### Bravo v Amerisur Resources Ltd [2023] EWHC 122 (KB)

Environmental damage claim following oil spill in Colombia (with Richard Lord KC and Alex Layton KC, settled after preliminary issues).

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### Emissions Litigation

Advising various claimant groups/funders in claims involving emissions from diesel engines (ongoing).

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### AAA and others v Gemfields

Human rights violations concerning a mine in Mozambique (with Marie Louise Kinsler KC, claim settled).

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### The Kenya Emergency Group Litigation

Historic human rights claim against the Foreign and Commonwealth Office (claim concluded following lead claims).

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## 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 group litigation by Legal 500 which notes that his "*particular strengths are his breadth of experience and his super-sharp brain.*"

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## Notable Group Litigation cases

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### The Bille and Ogale Group Litigation

Environmental damage claims arising from oil spills in Nigeria (with Richard Hermer KC and others, ongoing).

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AAA and others v Brazil Iron Limited

Environmental damage claim arising from mining operations in Brazil (ongoing).

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The Bomu-Bonny Oil Pipeline Litigation

Environmental damage claim arising from oil spill in Nigeria (with Richard Hermer KC and others, ongoing).

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Re: A Medical Product

Advising a medical technologies manufacturer on allegations that a medical product was defective and had caused serious illnesses to a cohort of patients (ongoing).

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Re: The Champions League Final 2022

Injuries sustained at a sporting event in Paris (with Matthew Chapman KC, ongoing).

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Bravo v Amerisur Resources Ltd [2023] EWHC 122 (KB)

Environmental damage claim following oil spill in Colombia (with Richard Lord KC and Alex Layton KC, settled after trial of preliminary issues).

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Emissions Litigation

Advising various claimant groups/funders in claims involving emissions from diesel engines (ongoing).

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Re: A Manufacturer

Advising a manufacturer on potential liabilities and recall arising from a product discovered to contain a toxic substance (concluded).

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AAA and others v Gemfields

Human rights violations concerning a mine in Mozambique (with Marie Louise Kinsler KC, claim settled).

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The Kenya Emergency Group Litigation

Historic human rights claim against the Foreign and Commonwealth Office (claim concluded following lead claims).

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## Insurance and Reinsurance

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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.

### Notable Insurance and Reinsurance cases

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Re: H Plc

Advising on forum and applicable law disputes concerning claims under a series of connected policies following a fire in a European country.

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Re: A Ltd

Advising on declinature following breach of warranty.

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Re: F Ltd

Coverage disputes in a series of claims under the Third Party (Rights Against Insurers) Act 2010.

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C v T and RSA

Insurer's liability for foreign social security payments (with Howard Palmer KC).

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Re: T Ltd

Fraud under a business interruption policy.

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Clarke v Kalecinski [2022] EWHC 488 (QB)

Limits to insurers' liability for clinical negligence committed abroad.

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Amlin Corporate Member v Baby Basics Ltd [2017] EWHC 2047 (Comm)

Declaratory proceedings on interpretation of insurance policy and Israeli class actions.

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## Private International Law

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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.

He is listed in Chambers UK and Legal 500 for his private international law work, where he is described as having “*excellent knowledge*”, “*very strong advocacy skills*” and “*a superb legal mind*”.

Alistair’s instructions frequently concern claims arising from cross-border commercial, insurance, environmental and product liability disputes.

Alistair is often asked to provide training on cross-border litigation, and authored 2TG’s “*Practical Guide to Anti-Suit Injunctions*” with Charles Dougherty KC.

### Notable Private International Law cases

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BAA v Commissioner of the British Indian Ocean Territory Administration [2023] EWHC 767 (KB)

Jurisdiction to grant an injunction against the administrator of an overseas territory (with Richard Hermer KC)

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Bravo v Amerisur Resources Ltd [2023] EWHC 122 (KB)

Limitation and parent company liability under Colombian law (with Richard Lord KC and Alex Layton KC).

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Clarke v Kalecinski [2022] EWHC 488 (QB)

Liability of insurers for clinical negligence under foreign law.

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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).

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Comitteri 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)

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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)

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Ministry of Defence v Iraqi Civilians [2017] UKSC 25

Application of Iraqi law (Supreme Court, with Richard Hermer KC and Marie Louise Kinsler)

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Laserpoint v Prime Minister of Malta [2016] EWHC 1820 (QB)

Successful appeal against enforcement of a Maltese judgment on the grounds of public policy (with Marie Louise Kinsler)

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D (A Child) [2016] UKSC 34

Acting for the Ministry of Justice as intervener in an appeal concerning enforcement of foreign judgments (Supreme Court, with Hugh Mercer KC)

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## Product Liability

In product liability, Alistair is instructed by claimants, manufacturers and insurers in complex disputes, often arising out of medical or safety-critical products. He is particularly sought after in cases where issues of jurisdiction or choice of law arise, or where large-scale group litigation is contemplated.

Alistair's practice includes both commercial and consumer product liability claims. In addition to claims under the Consumer Protection Act 1987, he acts in litigation arising out of alleged failures to adequately recall dangerous products and in complex supply chain litigation.

He is listed as a leading individual in both Chambers UK and Legal 500 for product liability, noting that he is *"really switched on"* *"has a clear and tactical mind"* and *"provides mature and helpful insight in a legal team and is likely to be an ever-increasing presence in the product liability world"*.

Alistair was a co-author of the chapter on Product Liability in 2TG's *The Law of Property Damage*, published by Bloomsbury in 2023.

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### Notable Product Liability cases

Re: A Medical Product

Advising a medical technologies manufacturer on allegations that a medical product was defective and had caused serious illnesses to a cohort of patients.

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Re: Pharmaceuticals

Advising on a wholesaler's rights and obligations on discovering that medicines had been the subject of regulatory action by the MHRA.

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Re: Cladding

Advising a developer in contemplated proceedings regarding an unsafe cladding product.



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## Emissions Litigation

Advising various claimant groups/funders in claims involving emissions from diesel engines (ongoing).

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## Re: A Bicycle

Claim arising from a defective bicycle causing severe spinal cord injuries.

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## Re: Electrical Products

Numerous claims arising from electrical products causing fires in domestic and commercial premises.

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## Re: A Manufacturer

Advising a manufacturer on potential liabilities and recall arising from a product discovered to contain a toxic substance.

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## Re: An Automobile

Allegation of self-acceleration causing serious injuries.

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## ES and others v Groupama Méditerranée v Goodyear [2018] EWHC 2594 (QB)

Product liability claim pleaded in excess of £190 million concerning duty to recall defective products (with Charles Dougherty KC and Alex Antelme KC).

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# 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 and environmental damage claims.

Alistair is experienced in analysing, assisting with and challenging the technical expert evidence frequently involved in such claims, and is frequently instructed in cases giving rise to complex insurance disputes.

Alistair was a contributor to 2TG's *The Law of Property Damage*, published by Bloomsbury in 2023.

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## Notable Property Damage cases

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### B v A Ltd

Pollution of waterways by spillage of oil.

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O Ltd v M AB

Fire at a gas processing plant.

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Various v QBE

Numerous cases involving damage allegedly caused by the installation of cavity wall insulation.

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Re: Electrical Products

Numerous claims arising from electrical products causing fires in domestic and commercial premises.

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G Ltd v B Ltd

Catastrophic failure of an air cooling system.

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R Ltd v R

Damage caused by flooding from plumbing components.

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V Ltd v O Ltd

Application of the Berni Inns principle.

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## 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.

He is listed in Chambers UK and Legal 500 for travel litigation, where he is described as having "*excellent knowledge*", "*very strong advocacy skills*" and "*a superb legal mind*".

## Notable Travel cases

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Stait v Cosmos Insurance [2022] EWCA Civ 1429

Jurisdiction dispute regarding domicile of members of the Armed Forces (Court of Appeal)

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Clarke v Kalecinski [2022] EWHC 488 (QB)

Liability of insurers for clinical negligence under foreign law

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FS Cairo (Nile Plaza) LLC v Brownlie [2021] UKSC 45

Leading case in the Supreme Court on jurisdiction over foreign defendants and approach to foreign law (Supreme Court, with Howard Palmer KC, Marie Louise Kinsler KC and Ben Phelps)

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C v T and RSA (2019 to 2021)

Claim in French law concerning liability for foreign social security payments (with Howard Palmer KC)

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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)

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## Significant Cases

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**BAA v Commissioner of the British Indian Ocean Territory Administration [2023] EWHC 767 (KB)**

Availability of injunctive relief against administrators of British Overseas Territories (with Richard Hermer KC)

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**Bravo v Amerisur Resources [2023] EWHC 122 (KB)**

Environmental damage claim following oil spill in Colombia (with Richard Lord KC and Alex Layton KC)

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**Stait v Cosmos Insurance [2022] EWCA Civ 1429**

Jurisdiction dispute in the Court of Appeal regarding domicile of members of the Armed Forces

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**Clarke v Kalecinski [2022] EWHC 488 (QB)**

Liability of insurers for clinical negligence under foreign law

## **FS Cairo (Nile Plaza) LLC v Brownlie [2021] UKSC 45**

Leading case in the Supreme Court on jurisdiction over foreign defendants and approach to foreign law (with Howard Palmer KC, Marie Louise Kinsler KC and Ben Phelps)

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## **CPAM v Thomson and RSA (2019 to 2021)**

Claim in French law concerning liability for foreign social security payments (with Howard Palmer KC)

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## **ES and others v Groupama Méditerranée v Goodyear [2018] EWHC 2594 (QB)**

Product liability claim pleaded in excess of £190 million concerning duty to recall defective products (with Charles Dougherty KC and Alex Antelme KC)

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## **AAA v Gemfields (2018)**

Advising on private international law issues in group action by Mozambican miners (with Marie Louise Kinsler KC)

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## **Committeri v Club Mediterranee SA [2018] EWCA Civ 1889**

Application of Rome I and Rome II Regulations and proper approach to foreign law in the Court of Appeal (with Hugh Mercer KC)

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## **Brownlie v Four Seasons Holdings Inc [2017] UKSC 80**

Supreme Court appeal on jurisdiction in respect of foreign defendants (with Howard Palmer KC and Marie Louise Kinsler KC)

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## **Amlin Corporate Member v Baby Basics Ltd [2017] EWHC 2047 (Comm)**

Declaratory proceedings on interpretation of insurance policy and Israeli class actions

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## Moreno v Motor Insurers' Bureau [2016] UKSC 52

Supreme Court decision on law applicable MIB's obligations under European insurance legislation (with Hugh Mercer KC and Marie Louise Kinsler)

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## Ministry of Defence v Iraqi Civilians [2017] UKSC 25

Application of Iraqi law in the Supreme Court (with Richard Hermer KC and Marie Louise Kinsler)

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## Laserpoint v Prime Minister of Malta [2016] EWHC 1820 (QB)

Successful appeal against enforcement of a Maltese judgment on the grounds of public policy (with Marie Louise Kinsler)

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## D (A Child) [2016] UKSC 34

Acting for the Ministry of Justice as intervener in a Supreme Court appeal concerning enforcement of foreign judgments (with Hugh Mercer KC)

## Awards

- Cynthia Terry Award, Gray's Inn
- Frere-Smith Prize for Law Finals
- Sir William McNair Prize for Law
- Tapp Scholarship for Postgraduate Legal Study
- Sir William McNair Mooting Prize
- Senior Exhibition & Honorary Senior Scholarship, Gonville & Caius

## Education

- BPTC, Kaplan Law School
- MA (First Class), Gonville & Caius College, University of Cambridge

# Recommendations

*“Alistair is really switched on. He has a clear and tactical mind, which is amazingly helpful.”*

*“Alistair has strong knowledge and amazing research skills.”*

*“He has excellent knowledge of the applicable principles and regulations and has very strong advocacy skills and commercial awareness.”*

**Chambers UK 2024**

*“Alistair’s particular strengths are his breadth of experience and his super-sharp brain.”*

*“A superb legal mind. Very intelligent and tactically aware – a very talented barrister.”*

*“Alistair provides mature and helpful insight in a legal team and is likely to be an ever-increasing presence in the product liability world.”*

**Legal 500 2024**

*“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**

*“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**