

Kajetan Wandowicz

Call 2018



Kajetan is an in-demand junior who employs his substantial work capacity to maintain a broad litigation and arbitration practice across all areas of commercial law. He specialises in general commercial disputes, civil fraud, injunctive relief, shipping, construction and infrastructure, insurance, banking, and professional negligence.

Apart from working as a junior (with leaders both in and out of Chambers), Kajetan receives a significant volume of instructions on his own, often handling cases beyond his level of call for a growing number of repeat professional clients. He has a substantial sole advocacy practice including a number of unled appearances in the High Court (Commercial Court, Chancery Division, Queen's Bench Division) and in arbitration. He is often instructed to appear in substantive hearings against counsel many years his senior.

Kajetan is often instructed to advise on issues affected by rapidly developing legal landscapes. His first instructions concerning the implications of the COVID-19 pandemic for contractual relations came in the early days of the first lockdown at the end of March 2020. Similarly, he has been advising businesses on compliance with Russia-related sanctions since the start of the 2022 Russo-Ukrainian War.

Before coming to the Bar, Kajetan ran a small consultancy, working on the application of decision-making games such as chess to thinking processes in education, business and rehabilitation of prisoners.

Commercial Disputes

Kajetan regularly advises on and acts in general commercial disputes, both as a junior and as sole counsel. He has worked for a full range of commercial clients: corporations, SMEs, joint ventures, public authorities, company directors, and UHNW individuals.

He has experience of disputes governed by civil law, as well as of disputes straddling multiple actions proceeding in different jurisdictions, onshore (New York, Switzerland, India, California, UAE) and offshore (Channel Islands, BVI, DIFC, ADGM). He frequently advises on strategy and procedure.

During the Hilary term 2021 (January to March), Kajetan worked as a full-time Judicial Assistant in the Commercial Court and the Financial List. In that capacity, he assisted judges on a number of trials and applications, in particular gaining deep understanding of commercial fraud and various economic torts. In particular, he was a judicial assistant to Cockerill J on *Leeds v Barclays* [2021] EWHC 363 (Comm) (a LIBOR-related fraud claim and a significant case in the law of

misrepresentation), to Jacobs J on *GDS v NCR* [2021] EWHC 1119 (Comm) (a claim raising all major economic torts), and to Bryan J on *Lakatamia Shipping Co Ltd v Su & Ors* [2021] EWHC 1907 (Comm) (unlawful means conspiracy).

Kajetan enjoys working in large teams on 9- and 10-figure disputes, and quickly integrates into the team.

Featured Commercial Disputes cases

- Consultant to a leading solicitors' firm on a USD 1bn+ multi-jurisdictional fraud dispute.
- Second junior counsel in a EUR 70m+ Commercial Court dispute between a private equity house and a Lloyds syndicate in respect of warranty & indemnity cover for a share purchase transaction.
- Junior counsel in a Commercial Court dispute between a holder of a demand bond and a bank in respect of delays in payment.
- Sole counsel in a dispute between a fulfilment company and a large online retailer in respect of freight forwarding services.
- *Barclays Bank Plc v Shetty* [2022] EWHC 19 (Comm): a contested summary judgment and cross-application to adjourn in a claim to enforce a DIFC judgment in England. The Court adopted Kajetan's analysis of the principles governing an application to adjourn for the purpose of obtaining full legal representation, though it dismissed the adjournment application on the facts.
- Sole counsel for the sellers in a dispute about the sale of a valuable classic car.
- Advised a local authority on clawing back wrongly claimed COVID-19 business support grants.
- Advised a company director on an appeal in respect of a judgment on a personal guarantee.
- Advised a large NHS Trust on defending a claim (alleged to be worth over £600,000) by a company providing television and telephone services to patients at wards.
- In pupillage, assisted with a number of commercial disputes, such as a dispute between 5 HNW Russian businessmen in respect of an alleged USD 6m oral contract, and a rectification claim in respect of aviation fuel supply agreements.

Arbitration and related court applications

A substantial part of Kajetan's practice is in arbitration, particularly concerning general commercial disputes, shipping claims, and heavyweight construction disputes. He has experience of various arbitral rules (including ad-hoc, ICC, LCIA, LMAA), different laws of the seat, and of arbitration-related court applications in English courts.

During the Hilary term 2021 (January to March), Kajetan worked as a full-time Judicial Assistant in the Commercial Court. In that capacity, he assisted judges on a number of arbitration appeals and arbitration-related applications, e.g. for ancillary injunctions, extensions of time, appointment of an arbitrator, and applications related to service and enforcement.

Featured Arbitration and related court applications cases

- Second junior counsel in a US\$ 800m ICC arbitration (Swiss law, Geneva seat) in respect of a major infrastructure project in the Middle East.
- Junior counsel for owners in two LMAA arbitrations (English law, London seat) in respect of discharge of cargo against letters of indemnity.
- Sole counsel in concurrent LMAA arbitrations (English law, London seat) concerning seaworthiness.
- Junior counsel advising a Chinese company on the merits of challenging an arbitral award made under the rules of the Federation of Oils, Seeds and Fats Associations (FOSFA) rising issues under all three main routes of challenge (s.67, s.68, s.69).
- Ad-hoc consultant to a leading solicitors' firm on an LCIA arbitration concerning state corruption and involving issues of special measures in arbitration.
- In pupillage, assisted with a number of arbitrations and arbitration-related Commercial Court proceedings, such as an LCIA arbitration (English law, London seat) and related interim applications and Part 8 proceedings between a major commodity trading house and a large oil refinery in respect of diversion and non-delivery of oil cargoes (including a €225m worldwide freezing order), and Commercial Court proceedings in respect of enforcement of a New York Convention award (Norwegian law, Oslo seat) which was under appeal to the Norwegian Court of Appeal.

Civil fraud and injunctive relief

Civil fraud is one of the principal areas of Kajetan's practice. He has experience of heavyweight multi-jurisdictional fraud disputes as well as related matters such as freezing orders, service out, disclosure applications under the *Norwich Pharmacal* and *Bankers Trust* jurisdictions, contempt of court etc. He has substantial experience for his level of call of injunctive relief as sole counsel.

During the Hilary term 2021 (January to March), Kajetan worked as a full-time Judicial Assistant in the Commercial Court and the Financial List. In that capacity, he assisted judges on a number of trials and applications related to fraud and injunctive relief. In particular, he was a judicial assistant to Cockerill J on *Leeds v Barclays* [2021] EWHC 363 (Comm) (a LIBOR-related fraud claim and a significant case in the law of misrepresentation), to Jacobs J on *GDS v NCR* [2021] EWHC 1119 (Comm) (a claim raising all major economic torts), and to Bryan J on *Lakatamia Shipping Co Ltd v Su & Ors* [2021] EWHC 1907 (Comm) (unlawful means conspiracy).

Kajetan also has experience of advising on and acting in matters where fraud or allegations of fraud affect the process of the court itself rather than being the subject of the dispute. Examples include a claim in which a court order had been obtained by a third party impersonating a barrister, and proceedings between a solicitors' firm and a client concerning the solicitors' handling of litigation where the client purported to give authority to verify his pleadings to a person whose admitted fraud was an issue in that earlier litigation.

Featured Civil fraud and injunctive relief cases

- Advising an UHNW individual on permitted transactions under a number of overlapping freezing orders in several jurisdictions.
 - Consultant to a leading solicitors' firm on a USD 1bn+ fraud dispute across multiple jurisdictions.
 - Acting for a company being subject to an ongoing cyberattack to obtain injunctions restraining the publication of stolen confidential information, including an urgent out of hours application to the night duty Judge.
 - Acted as sole counsel for an individual trying to recover money lost to a cross-border internet fraud perpetrated by unknown defendants, including obtaining a freezing injunction against Persons Unknown in the Chancery Division, and acting in the successful substantive claim.
 - Advised on contempt of court in relation to a defendant's compliance with an order for disclosure of assets.
 - Several complex / novel *Norwich Pharmacal* and *Bankers Trust* applications.
 - Advised a firm of solicitors on an urgent freezing injunction application against a former client.
 - Advised a holiday park operator on applications for interim and final injunctions brought by an owner of a number of holiday homes located on the park.
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Sanctions

Kajetan has a rapidly developing practice in sanctions law, particularly in relation to Russia.

Featured Sanctions cases

- Advising a British engineering firm on the lawfulness of a proposed transaction with a Russian client with links to the state.
 - Advising a company operating in the maritime sector on supplying services to superyachts with opaque ownership structures.
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- Advising a company specialising in hiring out stage equipment who had provided equipment for a Moscow theatre production.

- Advising a producer of industrial machines on the deposits it held which had been paid by its Russian distributor on account of orders for machinery.

- Advising a UK charity on donations received from a Russian charitable fund linked to a prominent oligarch.

High-stakes consumer disputes

In addition to disputes between businesses, Kajetan has built up significant experience of advising and acting for businesses on high-risk disputes with consumers requiring delicate strategy and difficult judgement calls, e.g. disputes giving rise to risk of regulatory action and/or carrying adverse media interest. He regularly advises and acts for clients operating in regulated sectors, such as banks and gambling operators. He also has experience of assisting businesses facing large cumulative exposure to waves of low-value consumer claims in respect of the same subject matter coordinated on social media or similar channels, from early strategic advice, through advising throughout the disputes, drafting pleadings and/or applications, to advocacy.

Since March 2020, Kajetan has had regular involvement in assisting businesses facing consumer claims arising out of the global coronavirus (COVID-19) pandemic. He has acted as advocate in a number of such matters, while his advisory work has included advising on the impact of the pandemic on parties' rights and obligations under their contracts, as well as advice on bringing or defending claims.

Featured High-stakes consumer disputes cases

- Advised a major online betting exchange in respect of hundreds of coordinated claims relating to the same betting market.

- Acted for a holiday park operator in successfully defending multiple claims related to park closures caused by the COVID-19 pandemic.

- Advised an online bookmaker in respect of its exposure to ca. 120 County Court claims totalling over £500,000 in respect of the same subject matter.

- Acting for a bank in proceedings brought by a company director concerning alleged wrongful notifications to a fraud prevention agency.

Construction projects, infrastructure and engineering

Kajetan has substantial experience of document- and expert-heavy disputes concerning engineering projects and infrastructure, both in arbitration and litigation.

Featured Construction projects, infrastructure and engineering cases

- Second junior counsel in a US\$ 800m ICC arbitration between the main contractor and the lead designer in respect of a major infrastructure project in the Middle East.
- Junior counsel for the engineering consultants in TCC litigation against the main contractor in connection with design services and building information modelling (BIM) for a major infrastructure project on an offshore military base.
- Junior counsel in a complex £8m adjudication regarding the construction of one of the largest schools in the country (the issues included the appropriateness of advice on the form of procurement, duties to warn, management of value engineering, experts' conflicts of interest, and the extent to which important facts can be inferred rather than proved by direct evidence).
- In pupillage, assisted with a USD 150m ICC arbitration between the main contractor and a subcontractor concerning defects in Heat Recovery Steam Generators in a combined-cycle thermal plant.

Shipping and international trade

Kajetan has experience of a variety of matters concerning the international trade and transport of goods, including sale of goods disputes, delays, misdelivery, damage to cargo, discharge of cargo against Letters of Indemnity, detention and arrest, and exclusions of liability. He has practised in the area since commencing independent practice in 2019, having spent a significant proportion of pupillage on assisting with shipping matters such as *The "ELIN"* [2019] EWHC [1001] (Comm) (the current authority establishing that the statement on a Bill of Lading that the carrier would not be liable for loss of or damage to deck cargo "howsoever arising" is apt to exclude liability for negligence and/or unseaworthiness) and *The "Arctic"* [2019] EWCA Civ 1161 (an arbitration appeal in which the Court of Appeal determined the status of the obligation to keep a vessel in class), an LMAA arbitration arising out of long-term detention of a vessel in Venezuela, an LMAA arbitration in respect of a failure to redeliver a barge concerning the availability and quantum of restitutionary damages for conversion, and various other matters.

Featured Shipping and international trade cases

- Junior counsel for owners in two LMAA arbitrations in respect of discharge of cargo against letters of indemnity.

- Sole counsel in concurrent LMAA arbitrations concerning a delay caused by repairs to a vessel's ballast water treatment system.
- Acted for a salvage company in defending a cross-border claim in respect of an alleged joint venture.
- A claim in respect of damage to a cargo of steel coils caused by the failure of a vessel's crane whilst unloading.
- Advised a booking agency/freight forwarder about a claim brought by a shipper in respect of an allegedly inaccurate ETA.

Professional Negligence

Kajetan has experience of a broad range of professional negligence claims (both on the claimant and defendant side), including in particular claims against lawyers and financial professionals, but also construction professionals such as architects, engineers, valuers and surveyors.

Featured Professional Negligence cases

- Advised a firm of solicitors in connection with wide-ranging claims of professional negligence and breach of fiduciary duty in respect of conduct of litigation.
- Junior counsel for the engineering consultants in TCC litigation against a client in respect of BIM design of MEP services on a Falkland Islands military base (£1.7m claim for fees, professional negligence counterclaim alleged to be worth over £5m; proceedings ongoing following a successful partial summary judgment application limiting any counterclaim to £500,000).
- Second junior counsel in a nine-figure ICC arbitration concerning a negligent concept design.
- Instructed (as devil) for the claimants in a claim against a firm of solicitors in respect of negligently damaging their clients' credit rating (satisfactory settlement obtained).
- Acted for an architect in a multi-defendant claim alleging (as against the architect) defects in the technical aspects of the design of a residential home.
- In pupillage assisted with a €16m claim against a Gibraltar barrister in respect of alleged professional negligence in the conduct of a claim against a major bank.

Banking and financial services

Kajetan's handles a variety of banking and financial services matters, both contractual and regulatory. He has experience of the Financial Services and Markets Act 2000, the Financial Services Act 2012, and the Regulated Activities Order, in particular of civil enforcement claims by the FCA. He is also regularly instructed by banks, particularly in claims arising out of commercial financing such as business lending, guarantees, sales ledger financing, etc. He regularly publishes articles in the area.

Featured Banking and financial services cases

- Proceedings under ss. 380/382 FSMA in respect of a £200m+ unauthorised collective investment scheme.
- Advising a bank in relation to a claim for alleged breach of the *Quincecare* duty of care.
- Acting for a bank in relation to alleged misreporting of suspicious transactions.
- Acted for a bank in a successful summary judgment application in respect of refinanced debt of a construction company.
- Acted for a bank against directors of a company in a claim on personal guarantees of loans to the company.
- In pupillage, assisted with restitutionary and injunctive proceedings concerning communication of invitations to engage in investment activity through Information Memoranda not approved by an authorised person, as well as misleading financial projections.

Gambling & Betting

Kajetan has a substantial specialist practice in gambling disputes, advising and acting for large gambling operators as well as their customers. He has experience of the whole gamut of such disputes, from contractual (bet outcome disputes, issues of cheating/dishonest bets, withholding of winnings pending completion of integrity investigations) through tortious (problem gambling, self-exclusion) to the interface between findings of regulatory authorities and private law actions between the customer and the bookmaker. He has handled matters ranging from high-value claims about a single bet, through disputes with VIP customers, to disputes about the correct settlement of a market involving hundreds of individual claims (whether coordinated or not). He has also undertaken urgent advisory work in this field in connection with the COVID-19 pandemic.

Kajetan has particular experience in bet outcome disputes in respect of events without an obvious mathematical outcome or official result of a governing body, where the gambling operator has made an evaluative judgement, for example as to the correct result or the appropriate time to close betting.

Featured Gambling & Betting cases

- Advised a major bookmaker on settlement of bets on events cancelled and postponed due to COVID-19 (both one-off events such as matches/tournaments, and long-running events cancelled or postponed mid-way such as leagues).

 - *Longley v PPB Entertainment Ltd* [2022] EWHC 977 (QB): successfully defending a bookmaker in a £286,000 claim in respect of a horseracing bet.

 - Advised an online bookmaker in respect of its exposure to ca. 120 County Court claims totalling over £500,000 in respect of the same subject matter.

 - Acted for a major bookmaker in defence of a claim brought by a high-value customer whose winnings were voided on the basis that he had been at the centre of a horserace-rigging conspiracy (successfully ended with the claimant being forced to abandon the claim at an early stage).

 - Acted for a betting exchange in successful defence of several claims in respect of bets on the date of a party leader's official departure from office, the main issue being a betting exchange operator's implied *Braganza* obligations when resolving bets between customers.

 - Advised a major online betting exchange in respect of hundreds of coordinated claims relating to betting on the outcome of the 2020 US presidential election.

 - Advised a betting exchange on multiple claims in respect of its settlement of a domestic political event market.

 - Drafted the operator's submissions to a betting adjudicator in a successfully defended six-figure adjudication brought by a customer in respect of betting on the date of the UK's withdrawal from the European Union.

 - Acted for a bookmaker in a successful defence of a claim in respect of alleged breach of a self-exclusion agreement.

 - Acted for a bookmaker on a successful strikeout application in a claim in respect of freezing a customer's winnings for 10 months pending an integrity investigation.

 - Advised a number of problem gamblers on recovering their online gambling losses.
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Insurance and Subrogated Claims

Kajetan advises on and acts in insurance matters, for example in respect of coverage disputes, fraud, as well as subrogated claims. In the latter category, he has particular experience of claims for damage to or destruction of property

by fire, but has also dealt with matters arising out of other perils such as flood, building subsidence, and voltage damage to electrical equipment.

Featured Insurance and Subrogated Claims cases

- Second junior counsel in a EUR 70m+ Commercial Court dispute between a private equity house and a Lloyds syndicate in respect of warranty & indemnity cover for a share purchase transaction.
 - Advised on D&O policy coverage for multi-million-dollar claims arising out of credit facilities (as a seconded associate in a leading solicitors' firm).
 - Advised a major Channel Islands insurer on repudiating cover for a fraudulent notification.
 - Advised an insurer on a fraudulent claim for loss of earnings on a personal accident policy.
 - Advised a foreign lawyer on coverage under a professional indemnity policy.
 - A subrogated claim for fire damage caused by a defective electrical distribution board
 - Advised in respect of claims against landlords for fires caused by their tenants which then spread to neighbouring properties causing damage.
 - A subrogated claim in respect of negligent installation of a wood-burning stove which caused a large fire.
 - A subrogated claim against an electric power distribution network in respect of extensive damage to electronics in a "smart home" caused by a surge in voltage.
 - A subrogated claim relating to flood damage to a home caused by negligent works to the adjacent road.
 - In pupillage, assisted with a number a large-scale insurance disputes such as a claim by a major insurer against a coverholder in respect of risks which it was alleged the coverholder should not have written, and an arbitration between two major insurers concerning which of the two insurers is liable to meet a multi-million personal injury damages judgment.
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IT, Technology and Telecoms

Kajetan has experience of IT and telecoms disputes, e.g. concerning hardware, software, and internet projects, including design defects, bugs, delays, fitness for purpose, etc.

Featured IT, Technology and Telecoms cases

- Advised a large NHS Trust on defending a claim (alleged to be worth over £600,000) by a company providing television and telephone services to patients at wards.
 - Drafted a defence in a claim for delays to the development of a bespoke CRM system; issues included variation of timescales and prevention of contractor's performance by the employer.
 - Instructed unled for a web development firm in respect of a claim for fees and a counterclaim for alleged failures in developing a website for a private cosmetic surgery clinic.
 - Advised on a claim in respect of a defective broadband and telephone system.
 - Drafted a defence in a claim under a contract to supply and configure servers for a law firm.
 - Drafted particulars of claim for the subcontractor against the M&E contractor under a JCT contract for the supply and installation of a system of audio-visual equipment in a retirement development of 100+ flats (successfully settled after service of the pleading).
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Appointments

Judicial Assistant, Commercial Court (Hilary term 2021)

Awards

- Lincoln's Inn: Lord Denning Scholarship; Hardwicke Award; Wigglesworth Scholarship; Buchanan Prize
- Academic prizes – law: GDL runner-up, Bar Council Law Reform Committee Essay Competition; Geoff Douglas prize for criminal law (UWE)
- Academic prizes – non-law: Chancellor's prize for the best MA dissertation in Social Sciences (Univ. of Wroclaw); Chancellor's scholarship for research achievements (Univ. of Wroclaw); Mayor of Wroclaw scholarship for city's best students
- Mooting: Individual runner-up, St John's Chambers Mooting Competition; Individual winner, UWE mooting championships

Memberships

- COMBAR

- TECBAR
- LCLCBA
- PNBA
- Young Maritime Professionals
- Society for Computers and Law
- Advocate (Bar Pro Bono Unit)

Education

- BPTC, University of the West of England, outstanding
- GDL, University of the West of England, distinction, top of year in every module
- MA, Philosophy, University of Wroclaw and University Paris 8, distinction-equivalent
- BA, Philosophy, University of Wroclaw, first class-equivalent, graduated in 2 years

Languages

- Polish, bilingual
- Good French and Spanish
- Basic Russian, German and Mandarin