

Kajetan Wandowicz

Call 2018



Kajetan has a broad commercial litigation and arbitration practice, accepting instructions across the entire spectrum of Chambers' work. He has experience of both domestic and international disputes.

He is equally comfortable working as a junior to senior member of Chambers, and accepting instructions on his own. As sole counsel, he has undertaken a variety of advocacy, drafting and advisory work. He has appeared unled in the High Court, and regularly appears in the County Court. In addition to all the main specialisms of Chambers, Kajetan has a rapidly developing practice in the law relating to gambling.

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.

Kajetan's recent experience includes:

Commercial Litigation & Arbitration

A large part of Kajetan's experience has focused on international and domestic commercial dispute resolution, including arbitration (under various institutional rules including LCIA, LMAA, ICC), arbitration appeals, claims in the Commercial Court, the Technology and Construction Court, court claims ancillary to arbitral proceedings, and a variety of interlocutory applications such as world-wide freezing orders, anti-suit injunctions, disclosure applications, claims on cross-undertakings, the *Norwich Pharmacal* jurisdiction, orders under the Bankers' Books Evidence Act 1879, etc. Most of this work is international, and often highly confidential in nature.

Featured Commercial Litigation & Arbitration cases

VTB v Antipinsky litigation: Assisted with the LCIA arbitration (and related interim applications and Part 8 proceedings in the Commercial Court) 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

Assisted with a Commercial Court claim by a major insurer against a coverholder in respect of risks which it was alleged the coverholder should not have written

Assisted with litigation between 5 HNW Russian businessmen in respect of an alleged \$6m oral contract

AML Global Ltd v ExxonMobil Petroleum and Chemical BVBA [2018] EWHC 3321 (TCC): assisted with a rectification claim in respect of aviation fuel supply agreements

Assisted with English enforcement proceedings in respect of a New York Convention award seated in Oslo, and under appeal to the Norwegian Court of Appeal (as pupil to James Purchas).

Assisted with an arbitration between two major insurers concerning which of the two insurers is liable to meet a multi-million personal injury damages claim, one aspect of which resulted in the first appellate decision on the jurisdiction to extend time for the commencement of proceedings under section 12 of the Arbitration Act 1996 in 16 years: Haven Insurance Company Limited v EUI Limited [2019] Lloyd's Rep IR 128

An application for permission to appeal from a grant of permission to serve proceedings out of the jurisdiction (as pupil to James Hatt).

Assisted with a successful application for an anti-suit injunction restraining threatened Russian proceedings in breach a London arbitration clause

Assisted with an application for an unless order in one of the claims in the Tuke v JD Classics litigation

Acted (as sole counsel) for an individual trying to recover money lost to a cross-border internet fraud perpetrated by unknown defendants, including obtaining (and retaining at the return date) an urgent freezing injunction in the High Court (Chancery Division), and acting in the successful substantive claim (in the event, recovering the majority of the claimant's losses)

Shipping

Kajetan has experience (both assisting with high-value matters and being instructed alone) of a variety of shipping matters, including delays, misdelivery, damage to cargo, discharge of cargo against Letters of Indemnity, detention and arrest, and exclusions of liability.

Featured Shipping cases

The "ELIN" [2019] EWHC [1001] (Comm): assisted with 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

Worked on an advice on a potential claim in respect of carrying charges incurred when a vessel chartered on a Norgrain 1973 form missed her laycan

The “CV STEALTH”: assisted with an LMAA arbitration in respect of long-term detention of a vessel in Venezuela

The “Arctic” [2019] EWCA Civ 1161: assisted with the arbitration appeal in which the Court of Appeal determined the status of the obligation to keep a vessel in class

Assisted with an ongoing LMAA arbitration in respect of a failure to redeliver a barge, in which the main issue is the availability and quantum of restitutionary damages for conversion

Assisted with several claims by owners for replacement security and indemnity following the discharge of cargo against a Letter of Indemnity on the International Group A standard form

Assisted with procedural submissions regarding the proper construction of deemed service provisions under cl 29 of the LMAA Terms 2017

Drafted particulars of claim in respect of damage to a cargo of steel coils caused by the failure of a vessel’s crane whilst unloading

Acted (strategy advice and drafting) for a booking agency/freight forwarder in 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 claims against barristers, solicitors, accountants/auditors, architects, engineers, valuers and surveyors. He has assisted on several multi-million pound claims, and is regularly instructed as sole counsel in lower-value matters. Examples of his experience include:

Featured Professional Negligence cases

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

Worked on the defence of a claim brought against a national law firm by a major developer in respect of allegedly negligent conduct of property transaction

Assisted with a claim against valuers and conveyancing solicitors in respect of a residential property

Assisted with a claim for negligent restoration of a classic car

Instructed (as devil) for the claimants in a claim against a firm of solicitors in respect of negligently damaging their clients’ credit rating

Acting unled for the defendant surveyor in an ongoing dispute in respect of an allegedly negligent building survey which was said to have failed to correctly identify the construction of walls

Drafted particulars of claim in a claim against the consultant engineers and the contractors in respect of negligent resurfacing of a road

Drafted a defence in a claim against an architect in respect of technical aspects of a design of a residential home

Construction, Engineering & Energy

Kajetan has experience of various construction matters in arbitration and litigation, both on the basis of standard forms and bespoke contracts.

Examples include:

Featured Construction, Engineering & Energy cases

Assisted with a US\$150m ICC arbitration between the main contractor and a subcontractor concerning defects in Heat Recovery Steam Generators in a combined-cycle thermal plant

A claim in respect of an allegedly defective floor in a newly built property

A claim against the developers in respect of wide-ranging defects in a luxury residential mansion

Defence and counterclaim on behalf of the M&E subcontractor in a claim brought by a plumbing sub-subcontractor under several ad-hoc contracts in respect of public sector projects at multiple sites across London

Instructed unled for the claimant in a claim for defective works to an engine of a crane

Technology & 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. He has been developing his own practice in this area since pupillage. Recent instructions include:

Featured Technology & Telecoms cases

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

Advising 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

Instructed unled for a large NHS Trust to defend a claim by a company providing television and telephone services to patients at wards

Gambling & Betting

Kajetan has a rapidly developing practice in gambling law, advising and acting for large gambling operators. Recent instructions have included bet outcome disputes, issues of cheating/dishonest bets, withholding of winnings pending completion of integrity investigations, self-exclusion, and the interface between findings of regulatory authorities and private law actions between the punter and the bookmaker.

He has also undertaken urgent advisory work in this field in connection with the ongoing Covid-19 pandemic.

Some examples of his recent work in the area include:

Featured Gambling & Betting cases

Acted for a major bookmaker in defence of a claim brought by a punter whose winnings were voided on the basis that he had been at the centre of a horserace-rigging conspiracy

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

Drafted submissions to IBAS in a six-figure adjudication brought by a customer in respect of bets on an international political event

Acted for a bookmaker in 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

Advising a major bookmaker on issues arising out of the 2020 coronavirus (Covid-19) global pandemic

Financial Services

Kajetan has assisted with a variety of work relating to the Financial Services and Markets Act 2000 and the Financial Services Act 2012. Some of this experience includes:

Featured Financial Services cases

Restitutory and injunctive proceedings under ss 380 and 382 FSMA in respect of contraventions of s 21 FSMA and s 89

FSA 2012 concerning communication of invitations to engage in investment activity through Information Memoranda not approved by an authorised person, as well as misleading financial projections.

Upper Tribunal referrals of FCA Decision Notices relating to firms and individuals arising out of pension switch activities.

Property Damage

Kajetan's experience of property damage work includes claims arising out of fire, flood, and voltage damage to electrical equipment.

Recent examples include:

Featured Property Damage cases

Advised and drafted particulars of claim in a claim for fire damage caused by a defective electrical distribution board

A 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 claim relating to flood damage to a home caused by negligent works to the adjacent road

Insurance & Reinsurance

Kajetan has experience of insurance work, including coverage disputes. Recent drafting and advisory instructions have included:

Featured Insurance & Reinsurance cases

Advising a major Channel Islands insurer on the prospects of invoking the fraud clause in a retail premises policy

Advising an insurer on a fraudulent claim for loss of earnings on a personal accident policy

Conflict of Laws / Private International Law

The majority of Kajetan's experience in areas such as commercial litigation and shipping raises issues of applicable laws and jurisdiction, both in cases governed by the EU regulations / the Lugano Convention, and those to which English private international law applies.

Other

Kajetan regularly appears in court at trials as well as other hearings such as applications and CCMCs. Recent instructions have included various contested applications, preliminary and directions hearings, and a variety of common law trials such as road traffic accidents.

Memberships

- COMBAR
- TECBAR
- PNBA
- YMP

Education

- 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 mooted championships
- 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