

# Simon Goldstone

Call 2004



Simon Goldstone is an experienced junior and trial advocate.

He has particular expertise in the following areas:

- Commercial, including Banking
- Company & Insolvency
- Insurance
- Professional Negligence
- Construction & Property Damage
- Technology & Telecoms

Before coming to the Bar, Simon spent 5 years as a management consultant with Accenture. As a result, he has a particular insight into the issues that can arise on large scale IT outsourcing and implementation projects. He also worked as a professional musician, touring with pop group Morcheeba.

Simon obtained a first class degree in Russian from Oxford University and has lived in the Former Soviet Union. His language skills and cultural awareness enable him to deal comfortably with Russian clients and give him and his clients an advantage in cases involving Russian documents and issues.

Simon is qualified to undertake Public Access work.

## Commercial

Simon is regularly instructed in multi-jurisdictional disputes, including anti-suit injunctions. His recent international work includes a complex multi-party fraud dispute arising from the breakdown in commercial relationship between Russian shipping operators, involving proceedings in Russia and other jurisdictions.

Simon has considerable experience of fraud cases and often accepts instructions in urgent applications for search orders

and freezing orders.

Simon was instructed at trial and in the Court of Appeal in *BV Nederlandse Industrie Van Eiprodukten v Rembrandt Enterprises, Inc* [2019] EWCA Civ 596, the leading case concerning causation in the context of fraudulent misrepresentation.

Aside from acting in a range of matters for and against banks, Simon has particular experience in claims arising from receivables financing and other forms of asset-based lending. These include claims involving fresh-air invoicing, other frauds on the lenders, contractual disputes, and claims for breaches of personal guarantees arising from the failure of the borrower.

## Featured Commercial cases

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Manchester v Balfour & Sochin [2019] EWHC 194 (Comm): Freezing Order, unlawful conspiracy, procuring breach of contract, trial in October 2020.

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Freezing Injunction for a Bank against the foreign-domiciled heirs of a deceased guarantor.

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Against guarantors in a claim where the counter-party to the guarantee was alleged to be entitled to the benefit of a clause by which a certificate was to be conclusive evidence of the guarantor's liability.

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For guarantors where the defence was based on a set-off between the lender and the defaulting company.

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For guarantors in a summary judgment application concerning the validity and form of prior demands.

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Two week High Court trial of the legality of a collection fee in a receivables finance agreement. The trial also involved a detailed review of the law concerning the exercise of contractual discretions.

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Successful claim for 'secret commissions' arising from a commercial property development against both the agent and the commission payer.

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Stakeholder action where the debtor sought a ruling as to which of two asset financiers were entitled to payment in respect of a shipment of cargo.

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Acting for claimants in High Court trial for outstanding payment of deferred consideration falling due under a share purchase agreement.

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Acting for defendants in a multi million pound claim for breach of share purchase agreement with a counter-claim for fraudulent misrepresentation inducing the SPA.

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Derivative action (under s262 Companies Act) against the director of a company who had been diverting company assets and opportunities.

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Obtaining urgent injunctive relief including search orders, freezing orders and prohibitory injunctions for applicants in 'springboard' actions where it was alleged that employees had stolen confidential data in order to secure a competitive advantage.

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Appearing at trial and in the Court of Appeal in a claim concerning an estate agent's entitlement to commission following the sale of a golf club.

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Shah v HSBC [2011] EWCA Civ 1154, the leading case on the conflict between a bank's duties towards its customers and its duties under the Proceeds of Crime Act 2002.

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## Company & Insolvency

Simon has significant experience of company and insolvency matters. He appeared in November 2018 for the successful appellant in LDX International LLP v Misra Ventures Ltd. In which the Court of Appeal upheld Simon's argument that the Court below should not have granted an injunction restraining the presentation of a winding up petition. His work in these areas includes: allegations of negligence against insolvency practitioners, applications to restrain presentation/advertisement of petitions; claims under s277 Companies Act 1985; derivative claims by minority shareholders; claims against LPA Receivers; validation orders under s127 Insolvency Act 1986; applications under s1157 Insolvency Act 1986; wrongful trading; COMI; financial assistance for the purpose of the purchase of a company's shares.

### Featured Company & Insolvency cases

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Part 8 trial in Re Oxford House (Wimbledon) Management Company Limited [2019] EWHC 2181, the leading modern authority on ss301-306 Companies Act 2006 and the chair's ability to withdraw resolutions from a company meeting.

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£15m misfeasance claim against administrators.

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Derivative actions (under s262 Companies Act) against the directors of companies who had been diverting company assets and opportunities.

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## Insurance & Reinsurance

Simon has experience of claims involving issues of subrogation, double recovery, policy construction, repudiation and non-disclosure.

He has particular interest in claims featuring allegations of fraud, in which he is instructed by insurers and policy holders alike. His insurance work includes subrogated high value property damage claims.

### Featured Insurance & Reinsurance cases

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Success in a £60m Contractors' All Risks' arbitration claim before Lord Mance, arising from alleged damage to a sea wall.

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\$10m arbitration concerning the collapse of a stacker at an oil refinery in Mozambique.

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£7m Contractors' All Risks' arbitration claim arising from alleged damage to a school's foundations.

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Successfully representing the insured employer at a trial in which the Defendant insurer had denied that the EL policy covered mesothelioma.

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Acting for insurers where the issue was whether assignors of claims under travel insurance had sustained losses which entitled the assignee to sue.

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Acting for claimant insurers in a claim for equitable contribution/reimbursement against a marine policy involving technical legal and scientific issues. Simon's clients were successful at trial, in the Court of Appeal and were awarded indemnity costs.

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## Professional Negligence

Simon is regularly instructed in claims against a range of professionals, including accountants, valuers, architects, solicitors and financial advisors.

### Featured Professional Negligence cases

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Advising auditors in professional regulatory proceedings and a connected claim for £10m+ arising from their allegedly fraudulent failure to qualify financial reports so as to note that the companies were trading whilst insolvent.

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Acting for the defendant accountants in a High Court trial concerning s14A Limitation Act 1980, with particular focus on the date on which a shareholder is deemed to know that the company's accounts showed unlawful dividends.

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High Court trial concerning advice as to corporate restructuring, with special focus on financial assistance and the availability of the statutory 'whitewash' procedure.

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Claims involving investment advice including Collective Investment Schemes.

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Acting for the defendant in a multi-million pound claim concerning the tax treatment of research and development expenses.

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Striking out claim against solicitor where the Court accepted that the claim for breach of fiduciary duty, whilst not expressly covered by Limitation Act 1980, was statute barred.

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Acting for claimant solicitors in a fraud/tracing action following the theft from the client account of the proceeds of sale of a property. Simon obtained worldwide freezing orders, disclosure orders against banks, and the claimant was able to recover a substantial proportion of the stolen sums.

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Acting for solicitors who were accused of negligently advising a client to sell a share of a property at a fraction of its realisable value.

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Acting for solicitors at trial accused of exercising undue influence.

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Instructed by the defendant solicitors in a number of high profile negligence/breach of trust claims brought by the purchasers of holiday homes in Italy.

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Acting for the claimant whose solicitors allowed a client's disputed seven-figure personal injury claim to be struck out.

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Acting for a defendant who was alleged to have disregarded planning conditions when designing a multi-million pound residential development.

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Seven figure claim concerning the design of the foundations of a Tennis Academy.

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TCC trial concerning the defendant's failure to advise that a residential property be demolished.

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Subrogated claim against a valuer accused of multiple fraudulent over-valuations.

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Acting for defendant valuers of residential properties; the defendants argue that an apparent fraud by the vendors' solicitors broke the chain of causation.

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Acting for commercial valuers, where the dispute centres on the correct method of valuing potential rental income.

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A claim concerning the valuation of a new-build property: what is the extent of the duty on the valuer to warn of a likely drop in value from new?

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## Construction & Property Damage

Simon has substantial experience of disputes arising from construction projects and property damage. Adjudications and enforcements make up a significant part of Simon's practice. He is comfortable even with cases of the highest technical complexity.

In addition Simon has experience of disputes concerning:

- Defective damp-coursing
- Tree roots damage
- Party Wall etc Act 1996

## Featured Construction & Property Damage cases

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Acting for defendant insurers in a £12m arbitration claim arising from the expansion of foundation fill

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Acting for claimant beer producer in £2m claim arising from shipment of defective bottles

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Fire claims

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Flooding claims

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Acting for owners of industrial plant which was alleged to have been damaged by bailees

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Acting for building occupiers in a dispute concerning the servicing of air conditioning systems

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Acting for investors/employers in an arbitration arising from the construction of a bowling alley for the use of troops in Iraq

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## Technology & Telecoms

Simon also has an interest in IT work.

### Featured Technology & Telecoms cases

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Advice to a domestic telecoms provider leading to the termination of a multi-million pound contract without litigation.

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Urgent advice to a Japanese domestic broadband provider in a dispute arising from its supplier's refusal to provide Migration Access Codes.

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Instructed by a global web-based florist in a High Court dispute arising from the failure of a supplier to honour order commitments and the subsequent removal of the supplier's products from its website.

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## Education

- Dip Law (BPP)
- BA Modern Languages (French & Russian, First Class) (Oxon)

## Languages

- French (good working knowledge)
- Russian (good working knowledge)

## Recommendations

Simon is ranked as a leading junior in the directories where he is described as “A very skilful advocate and tactician, who is very user-friendly”.