

## Nathaniel Bird

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Year Of Call: **2012**



Nathaniel is ranked by Chambers and Partners as a leading junior for commercial litigation (Band 4) and banking & finance disputes (*'Up and Coming'*). He was named by The Lawyer in 2018 as one of its *'Hot 100'* lawyers. He has experience of complex and high-value litigation and arbitration, with particular interest in banking, civil fraud, commercial disputes and international arbitration.

Nathaniel is described in the directories as:

- *"An increasingly prominent junior who garners praise for his expertise in commercial banking disputes. He frequently acts in high-profile matters dealing with civil fraud, as well as being skilled in international arbitration."* (Chambers and Partners UK Bar 2021, Banking & Finance)
- *"A terrific junior who is extremely diligent, incredibly bright and very strong on his feet." "He drafts well, is a good legal analyst and is a very helpful member of the team."* (Chambers and Partners UK Bar 2021, Commercial Dispute Resolution)
- *"Nathaniel is fantastic. He's very sensible and massively easy to deal with." "He was incredibly capable, very diligent and exceptional for someone at his level."* (Chambers and Partners UK Bar 2021, Banking & Finance)

Previous praise for Nathaniel has included:

- *"His performance in cross-examination is devastating, and he very much has experience beyond his years." "His drafting skills are superb, and he's a real star of the future."* (Chambers and Partners UK Bar 2020, Commercial Dispute Resolution)
- *"Intellectually very strong and incredibly hard-working, he is a real team player who is in high demand"* (Chambers and Partners UK Bar 2019, Commercial Dispute Resolution)
- *"Not afraid to step up and provide astute strategic input, he has forensic attention to detail and is extremely diligent"* (Chambers and Partners UK Bar 2018, Commercial Dispute Resolution).

Notable examples of matters that Nathaniel has been instructed in include:

- ***PJSC Tatneft v Bogolyubov & Ors*** (2020) - led by Ewan McQuater QC and Matthew Parker, instructed by Enyo Law, in a heavyweight 12-week Commercial Court trial representing Ukrainian billionaire businessman Gennadiy Bogolyubov defending a USD 300m civil fraud claim.
- ***1Malaysia Development Berhad v International Petroleum Investment Company***

(2018-20) - acting in parallel Commercial Court and LCIA arbitration proceedings, and in the Court of Appeal, for Abu Dhabi state owned investment funds IPIC and Aabar in defence of a multi-billion dollar claim arising out of the high-profile 1MDB scandal. Nathaniel was led at various stages by Laurence Rabinowitz QC, Mark Howard QC and Ewan McQuater QC and instructed by Clifford Chance.

- ***The Libyan Investment Authority v Société Générale & Ors*** (2017) - acted as part of a counsel team led by Adrian Beltrami QC and Anthony de Garr Robinson QC, instructed by Herbert Smith Freehills, for Société Générale defending claims by Libya's sovereign wealth fund that high-value investments in structured products were procured by bribery and undue influence in Gaddafi-era Libya.
- ***Terra Firma v Citibank*** (2016) - led by Mark Howard QC, Peter Ratcliffe and Fred Hobson for Citibank, instructed by Clifford Chance, in the successful defence of a £2.3bn claim for fraudulent misrepresentation brought by private equity fund Terra Firma in relation to its acquisition of EMI in 2007. The claim was discontinued, and all allegations were withdrawn, after the first two days of cross-examination in what was due to be a seven-week Commercial Court trial.

## Directory Quotes

'3 Verulam Buildings is 'one of the premier banking sets', with 'superb coverage of all banking and finance matters.'

Legal 500 UK 2014

'3 Verulam Buildings is one of the capital's elite sets for commercial disputes, and houses an impressive array of practitioners at both silk and junior levels.'

Chambers & Partners UK 2015

## Expertise

### Banking & Finance

Nathaniel is ranked by Chamber & Partners as an '*Up and Coming*' junior for Banking & Finance disputes. He has experience of a wide range of banking and financial services matters, including derivatives, leveraged finance, M&A, securitisation, payment services, commercial and consumer lending, guarantees, mortgages and investment advice claims.

Recent instructions and experience in relation to Banking & Finance disputes include:

- ***Awbury Technical Solutions LLC v Karson Management (Bermuda) Ltd*** (2020) - acted, led by David Head QC and instructed by Hogan Lovells, for Connecticut-based investment structuring boutique Awbury in a claim for misuse of Awbury's confidential information relating to complex alternative investment structures.

- **Confidential (2019)** - advised the government of a nation state as to the validity of sovereign bonds with a face value of almost USD 1bn in the light of fraud allegations.
- **Citigroup Global Markets Ltd v Amatra Leveraged Feeder Holdings (2017)** - acted for Citigroup, led by Adrian Beltrami QC and David Allison QC and instructed by Allen & Overy, in the defence of a USD 200m+ claim alleging that two high-value structured derivatives on synthetic leveraged portfolios of hedge funds investments were mis-sold and closed out in a commercially unreasonable manner. The case settled shortly before what was due to be a five-week trial in the Commercial Court.
- **The Libyan Investment Authority v Société Générale & Ors (2017)** - acted for Société Générale in one of The Lawyer's 'Top Cases of 2017' defending claims by Libya's sovereign wealth fund that investments in structured products totalling circa USD 2.1bn were procured by bribery and the exertion of undue influence on its executives in Gaddafi-era Libya. The claim was settled in the first week of an eleven-week trial in the Commercial Court.
- **Terra Firma v Citibank (2016)** - acted for Citibank, led by Mark Howard QC, Peter Ratcliffe and Fred Hobson, in the successful defence of a £2.3bn claim for fraudulent misrepresentation brought by private equity fund Terra Firma relating to its acquisition of EMI in 2007. The dispute was named as one of The Lawyer's 'Top Cases of 2016'. Terra Firma discontinued the claim, and withdrew all allegations, after the first two days of cross-examination in what was due to be a seven-week Commercial Court trial.
- **Grangebrook Ltd & ors v Barclays Bank plc (2015)** - led by Ali Malek QC and Peter de Verneuil Smith, instructed by Enyo Law, in a substantial Commercial Court claim against Barclays Bank for the misselling of complex interest rate hedging products and LIBOR/Euribor manipulation. The claim was settled prior to the first CMC.
- **Secondment to the banking and financial markets litigation team at Dentons UKMEA LLP (2015)** - responsible for handling the defence of a number of interest rate hedging product misselling and LIBOR/Euribor manipulation claims brought against the RBS and for defending claims for judicial review brought against decisions of the Financial Services Compensation Scheme.

## Commercial Litigation & Arbitration

Nathaniel is ranked by Chambers and Partners as a leading commercial junior (Band 4). He has experience of a diverse range of commercial and company law disputes and arbitral proceedings, including contractual and tortious claims, warranty claims, claims against directors and professionals, shareholder disputes (including unfair prejudice proceedings) and injunctive relief.

Examples of recent instructions include:

- **Vannin Capital PCC v RBOS Shareholders Action Group Ltd (2017-2020)** - acted, led by Christopher Harris QC and instructed by RPC, for leading litigation funder Vannin in a claim arising out of the settlement of the RBS Rights Issue Litigation. The case was named as one of The Lawyer's 'Top 20 Cases of 2020' and settled shortly before trial.
- **Total Soft SA v Ferabosco Investment Limited & Ors (2020-)** - acting, led by Rajesh Pillai QC and instructed by Holman Fenwick Willan, for the sellers of a leading Romanian software company in defence of claims for breach of warranty.
- **Triumph Controls UK Ltd & Ors v Primus International Holding Company & Ors (2016-2020)** - acted, led by Rajesh Pillai QC and instructed by RPC, for Triumph Group in a

successful breach of warranty claim, heard over five weeks in the TCC, relating to the acquisition of aerospace engineering companies ([2019] EWHC 565 (TCC)). Successfully defeated an appeal against the Judgment ([2020] EWCA Civ 1228).

- ***Autoridad Del Canal De Panamá v Sacyr SA & Ors*** (2017-18) - acted for the fourth defendant, instructed by RPC, in an appeal against the decision of Blair J ([2017] EWHC 2228 (Comm)) to decline to grant a stay under s. 9 of the Arbitration Act 1996, in favour of an ICC arbitration in Miami, of High Court proceedings to enforce advance payment guarantees given in relation to the widening of the Panama Canal.
- ***TH Holdings Ltd v Destiny Investments (1993) Ltd*** (2015) - acted, led by Peter de Verneuil Smith and instructed by Rosling King, for a hotel group defending an unfair prejudice petition brought by minority investors.
- ***Sports Direct International plc v Rangers International Football Club plc*** (2015) - acted for Sports Direct, led by David Quest QC and instructed by RPC, in obtaining an interim injunction against Rangers Football Club to prevent the disclosure of confidential commercial information and in subsequent committal proceedings.
- Acting unled in a variety of commercial disputes and for debtors, creditors and administrators in various insolvency proceedings.

## Civil Fraud

Nathaniel has experience of heavyweight civil fraud litigation and associated applications, including:

- ***PJSC Tatneft v Bogolyubov & Ors*** (2020) - led by Ewan McQuater QC and Matthew Parker, instructed by Enyo Law, in a heavyweight 12-week Commercial Court trial representing Ukrainian billionaire businessman Gennadiy Bogolyubov defending a USD 300m civil fraud claim.
- ***1Malaysia Development Berhad v International Petroleum Investment Company*** (2018-20) - acting in parallel Commercial Court and LCIA arbitration proceedings, and in the Court of Appeal, for Abu Dhabi state owned investment funds IPIC and Aabar in defence of a multi-billion dollar claim arising out of the high-profile 1MDB scandal. Nathaniel was led at various stages by Laurence Rabinowitz QC, Mark Howard QC and Ewan McQuater QC and instructed by Clifford Chance.
- ***PSJC Bank Privatbank v Kolomoisky & Ors*** (2018) - acted, led by Ali Malek QC and Matthew Parker and instructed by Skadden Arps, for Gennadiy Bogolyubov in the interlocutory stages of PrivatBank's USD 1.9 billion fraud claim against the former owners of Ukraine's largest bank.
- ***The Libyan Investment Authority v Société Générale & Ors*** (2017) - acted for Société Générale in one of The Lawyer's 'Top Cases of 2017' defending claims by Libya's sovereign wealth fund that investments in structured products totalling circa USD 2.1bn were procured by bribery and the exertion of undue influence on its executives in Gaddafi-era Libya. The claim was settled in the first week of an eleven-week trial in the Commercial Court.
- ***Newmafruit Farms Ltd & ors v Pither & Ors*** (2016-19) - successfully obtained worldwide freezing injunctions and asset tracing orders in support of fraud claims against a company finance director and others accused of conspiring to defraud a wealthy businessman. Led by David Head QC and instructed by Peter & Peters.
- ***USD 150m LCIA Arbitration*** (2016-2017) - acted, led by Christopher Harris, in the defence of claims brought by the liquidator of a Cayman Islands hedge fund against its former

technical services provider alleging fraudulent misrepresentation and accounting irregularities.

- ***Terra Firma v Citibank*** (2016) – led by Mark Howard QC, Peter Ratcliffe and Fred Hobson for Citibank, instructed by Clifford Chance, in the successful defence of a £2.3bn claim for fraudulent misrepresentation brought by private equity fund Terra Firma relating to its acquisition of EMI in 2007. The dispute was named as one of The Lawyer’s ‘*Top Cases of 2016*’. The claim was discontinued, and all allegations were withdrawn, after the first two days of cross-examination in what was due to be a seven-week Commercial Court trial.

## Professional Negligence

Nathaniel’s recent experience includes:

- ***Hargreaves v PwC*** (2020) – acted, led by Adrian Beltrami QC and Conrad McDonnell instructed by Travers Smith, for Matalan-founder John Hargreaves in a substantial claim against PwC for negligent tax advice.
- ***Newmafruit Farms Ltd v Green & Peter Ltd*** (2018-19) – acted, led by David Head QC and instructed by Peter & Peters, for the claimant in proceedings against its former auditors for failure to spot a long-running fraud.
- ***APG Cash Drawer Ltd v Hobday & Ors*** (2017-18) – acted, led by Christopher Harris QC and instructed by DLA Piper, for the directors of a manufacturing company in defence of claims of professional negligence and breach of duty relating to foreign exchange hedging transactions adversely affected by the Brexit referendum.

## Insurance & Reinsurance

Nathaniel has an interest in insurance law as a result of his time at the Law Commission prior to coming to the Bar, where he worked on the reform of commercial insurance law leading to the Insurance Act 2015. He was involved in formulating the Commission’s policy on the pre-contractual duties of insureds and brokers, insurers’ remedies for non-disclosure and misrepresentation and in relation to liability and compulsory third-party insurance policies and was responsible for instructing Parliamentary Counsel on the drafting of the 2014 Bill.

Nathaniel’s Insurance & Reinsurance experience includes:

- Acting (led by Tom Weitzman QC) for a listed mining company in a claim arising from flood damage sustained during the construction of a hydroelectric power plant.
- Acting (led by Tom Weitzman QC) for Guernsey closed-end investment schemes in a claim against D&O insurers relating to the conduct of their former directors.
- Acting (led by Catherine Gibaud QC) for the Export Credit Guarantee Corporation of India in defence of claims by Equitas under excess of loss contracts of reinsurance.

## Education and Scholarships

Walter Wigglesworth Scholarship, Lincoln’s Inn (2013)

Lord Denning Scholarship, Lincoln’s Inn (2012)

BCL, Mansfield College, Oxford (2011)

LL.M. (Commercial Law), Hughes Hall, Cambridge (2010)

LL.B., London School of Economics (2009) - First Class Honours

## **Publications**

Contributor to *Paget's Law of Banking* (15<sup>th</sup> ed) - chapters on performance bonds and letters of credit.

Contributor to *Bullen & Leake & Jacob's Precedents of Pleadings* (19<sup>th</sup> ed) - chapters on insurance law.

## **Professional Memberships**

COMBAR

LCIA

Lincoln's Inn