

Rabin Kok

Called to the Bar 2021

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Rabin is a versatile barrister who is equally comfortable working as part of a team or unled. He enjoys specialist insolvency and bankruptcy work, but is equally happy acting in and has substantial experience of disputes with no insolvency element. Rabin practices both in England & Wales and internationally: he is called to the Bar of the Eastern Caribbean Supreme Court (British Virgin Islands) and has experience of work in the ADGM, DIFC, Cayman Islands, Bermuda and Jersey.

Highlights of Rabin's contentious insolvency experience include:

- *Re Avanti Communications Ltd* [2023] EWHC 940 (Ch) - Rabin successfully acted for the Lead Secured Creditors in this landmark case, which changed the law on proper characterisation of fixed and floating charges for the first time in 20 years (led by David Allison KC)
- *Terrae Nominees et al v Pretlove* - acting for the directors of various BVI companies in a BVI High Court application, challenging a liquidator's decision to move the companies from voluntary to insolvent liquidation. The companies are defendants to a Russian bank's US\$2bn lawsuit against various commodity houses and individuals (led by Sue Prevezer KC)

Highlights of Rabin's civil fraud and commercial experience include:

- *Sayacorp BSC v NMC Healthcare Ltd* - defending a Bahraini bank against US\$850m+ claims in conspiracy and fraudulent trading, in a 4-week trial before the Courts of the Abu Dhabi Global Market (led by Richard Gillis KC and William Willson).
- *IS Prime v TF Global Markets (UK) Ltd* - defending a prime brokerage in a highly technical 4-week Commercial Court trial of deceit and conspiracy claims relating to forex and index swap trade platforms and execution, and acting in a complex specific disclosure application reported at [2023] 4 WLUK 357. The case settled favourably on the first day of trial. (led throughout by Adam Al-Attar KC)

Highlights of Rabin's unled work as sole advocate include:

- *Re Time GB (Royale Group)* - Rabin successfully obtained (for a creditor owed £57m) the appointment of "conflict" administrators over a company whose financial affairs required urgent investigation, despite opposition from secured creditors and a majority of unsecureds. Rabin also acted in related bankruptcy proceedings against the billionaire Robert Bull.
- *Re CargoLogicAir Ltd* - As sole counsel, Rabin appeared in a rare High Court administration extension application, securing the first known extension for a company subject to UK asset-freezing sanctions. The extension was granted for a period of 2 years despite serious obstacles posed by the sanctions to the achievement of the statutory purposes.

Rabin has a busy unled High Court practice beyond this, which has seen him: (successfully) resist applications for urgent proprietary freezing orders, secure and resist orders restraining winding up petitions, act in applications to set aside statutory demands in bankruptcy, and act for bankruptcy trustees in private examinations. He often acts unled against counsel many years senior to him.

Rabin is Public Access qualified, though he usually only accepts instructions through solicitors. He can however be instructed directly by foreign lawyers, insolvency practitioners, and in other appropriate cases.

Before coming to the Bar, Rabin topped his year at Cambridge University and subsequently graduated with a First Class degree in Law and as a Senior Scholar of Peterhouse. He also served as an air defence officer during mandatory military service.

Civil Fraud

Time GB Group Ltd / Royale Group - As sole counsel, Rabin successfully represented an unsecured creditor (owed £57m) of a company whose financial affairs required urgent investigation. The Court accepted his client's position that a fresh set of administrators different from those nominated by the applicant and secured creditors should be appointed, in order to ensure an independent investigation of the Company's affairs. Rabin appeared against two counsel many years his senior, both from specialist chancery chambers.

Three Arrows Capital v Su Zhu and Kyle Davies - Rabin is led by Richard Fisher KC, Marcus Haywood and Henry Phillips. As part of the counsel team advising Three Arrows' liquidators. Three Arrows was one of the largest insolvencies to follow the 2022 LUNA/Terra crash and the 'crypto winter' that followed. Aspects of the case include **(i)** a US\$1.3bn+ wrongful trading claim against the Founders of Three Arrows in the BVI High Court and **(ii)** an application to the BVI court to sanction the decision of TAFL's liquidators to commence Chapter 11 proceedings in the USA and **(iii)** a US\$1bn+ unfair preference claims governed by BVI law but brought in the US Bankruptcy Courts.

Sayacorp BSC v NMC Healthcare Ltd - Led by Richard Gills KC and William Willson. Rabin is instructed as junior counsel to prosecute a US\$55m claim and resist a US\$800m+ counterclaim issued in the Abu Dhabi Global Market courts by NMC's administrators against a Bahraini investment bank. The counterclaim is based on claims in conspiracy, fraudulent trading, and under the UAE Civil Code. The case produced interim judgments including: [2023] ADGMCFI 0002.

IS Prime v TF Global Markets - Led by Adam Al-Attar KC. Instructed in this complex dispute involving deceit and conspiracy claims in the context of forex and index swap pricing and trade execution, the meaning of 'matched principal broker' and 'A-book' and 'B-book' trading. The case settled favourably on day one of trial but produced several notable judgments, including [2023] 4 WLUK 357, concerning the relationship between pleadings and issues for disclosure under PD 57AD.

Instructed as junior counsel in a high-stakes mediation on behalf of the directors of two groups of insolvent companies in parallel Jersey / Cayman Islands fraudulent trading, breach of fiduciary duty, and negligence claims worth in excess of US\$150m (led by William Willson)

Insolvency & Restructuring

Corporate Insolvency

Time GB Group Ltd / Royale Group - As sole counsel, Rabin successfully represented an unsecured creditor (owed £57m) of a company whose financial affairs required urgent investigation. His client argued that a fresh set of administrators different from those nominated by the applicant and secured creditors should be appointed to ensure an independent investigation. Rabin appeared against two counsel many years his senior, both from specialist chancery chambers.

Re CargoLogicAir Ltd - As sole counsel, Rabin appeared in the High Court to secure the first known administration extension of a company subject to UK asset-freezing sanctions, for a period of 2 years rather than one. Rabin also acted in the original administration application, reported at [2022] EWHC 3316 (Ch), where he was led by Adam Al Attar KC.

Made.com Ltd - Acting unled, giving an English law opinion in French *exequatur* proceedings to recognise the English administration of an insolvent 'unicorn' in France.

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Re Avanti Communications Ltd [2023] EWHC 940 (Ch) - Proper characterisation of a charge over a satellite and orbital slots. The court was asked to consider, in depth, the effect of the House of Lords' landmark decision in *Re Spectrum Plus* in the context of fixed assets and market-standard forms. The case is likely to have wide-reaching ramifications for structured and asset finance, in particular where debt documents modelled on LMA forms are used (led by David Allison KC).

Re Everest - acting in an extremely urgent High Court application relating to the administration of one of the UK's biggest window suppliers and installers (led by Oliver Hyams)

Croxen & Ors v GEMA [2022] EWHC 2826 (Ch) - 'test case' application by energy suppliers of last resort, seeking directions on novel personal and proprietary restitution claims in failed suppliers' insolvencies with broad implications for all UK energy industry. The case tested the outer limits of the law of constructive trusts and the principles governing the discharge of debts (assisting Matthew Abraham)

Opposing an injunction to restrain a £150m winding up petition brought by one of the largest Indian

banks, involving issues relating to asymmetric jurisdiction clauses, abuse of process, and foreign law evidence on the Indian Contract Act 1872 (assisting Richard Fisher KC, William Willson and Matthew Abraham)

Bankruptcy

Re Robert Lee Jack Bull - as sole counsel, successfully resisting an application to set aside a statutory demand for £57m against a UK billionaire. The set-aside application was dismissed by consent the day before the hearing with costs on the indemnity basis, and the debtor was ultimately made bankrupt on a different creditor's petition upon which Rabin also appeared.

Confidential (ongoing) - as sole counsel, Rabin acts for a major bank in its pursuit of a bankruptcy petition against a high-net worth individual who resides outside the jurisdiction.

Contentious restructuring

Confidential - As sole counsel, instructed to advise a creditor on challenging a scheme of arrangement linked to the Madoff fraud and its fallout.

Confidential - Instructed to advise a creditor on challenging a very unusual and highly contentious BVI scheme of arrangement, implemented to compromise the claims of (among others) various well-regarded litigation funders (led by Felicity Toubes KC)

Confidential - Instructed to advise an Asia-headquartered group with interests in a Bermudian holding company, to challenge certain decisions made by the restructuring JPLs (led by Mark Phillips KC)

Re People's Energy (Supply) Ltd - Instructed to appear at the convening hearing of the People's Energy scheme, involving questions relating to the treatment of hundreds of thousands of historic data breach claims against the company (led by Daniel Bayfield KC)

The *China Aoyuan* restructuring - Instructed to advise on the parallel Cayman and BVI schemes of arrangement proposed by the China Aoyuan group, a large Chinese property development group, as well as its subsidiary, Add Hero (led by Tom Smith KC)

Arbitration

Rabin is able to act in ICC, LCIA, SIAC, HKIAC, BVIAC, ICDR, and other international arbitrations (and particularly in arbitrations relating to investment funds, companies, loans, security, and the sale of shares and businesses). He is comfortable acting unled, or alongside local counsel or as part of a team.

Instructed in connection with a substantial ICDR arbitration over a joint venture between two multinational conglomerates (led by Tom Smith KC)

Resisting an LCIA arbitration brought by a bond trustee on behalf of bondholders, to enforce payment of over US\$500m (assisting Adam Al-Attar KC)

Advising on the scope of termination rights under a US\$370m+ share sale and purchase deed governed by English law, subject to SIAC arbitration seated in Singapore (assisting Matthew Abraham)

As sole counsel, advising on the recognition under English law of two competing foreign bankruptcy trustees, and the effect of such recognition on any subsequent arbitral award, in the context of an ICC arbitration seated in England.

Commercial Litigation & Arbitration

Ruprah v Gurram - as sole counsel in the High Court, successfully resisting an interim proprietary injunction, and obtaining an order for payment of indemnity costs.

As sole counsel, advising on *Chase Manhattan* constructive trust claims against an insolvent brokerage, arising out of a repo governed by the GMRA 2000.

IS Prime v TF Global Markets - Led by Adam Al-Attar KC. Instructed in this complex dispute involving deceit and conspiracy claims in the context of forex and index swap pricing and trade execution, the meaning of 'matched principal broker' and 'A-book' and 'B-book' trading. The case settled favourably on day one of trial but produced several notable judgments, including [2023] 4 WLUK 357, concerning the relationship between pleadings and issues for disclosure under PD 57AD.

BNP Paribas Trust Corporation UK Ltd v URO Property Holdings SA [2022] EWHC 3251 (Comm) - defending an unusual summary judgment application relating to the construction of a 'Make-Whole' call provision in a bond issued by a Spanish property company (led by David Allison KC and Ryan Perkins)

Banking & Finance

As sole counsel, advising on *Chase Manhattan* constructive trust claims against a brokerage firm, arising out of a repo governed by the GMRA 2000.

As sole counsel, acting in a substantial claim against a consumer lender in the High Court in negligence and under FSMA 2000.

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Resisting an LCIA arbitration brought by a bond trustee on behalf of bondholders, to enforce payment of over US\$500m (assisting Adam Al-Attar KC)

Re Clavis Securities / Mansard Mortgages - a summary judgment/strike out application and an appeal to the Court of Appeal to secure orders to prevent fraudulent attempts to seize control of a securitisation structure (assisting Charlotte Cooke)

Offshore

Rabin is called to the Bar of the Eastern Caribbean Supreme Court (British Virgin Islands). He also has experience of cases involving the laws of Bermuda, the Cayman Islands, Jersey and the ADGM. Some of the cases he is or has been instructed in are listed below.

Three Arrows Capital v Su Zhu and Kyle Davies - Rabin is led by Richard Fisher KC, Marcus Haywood and Henry Phillips. as part of the counsel team advising Three Arrows' liquidators. Three Arrows was one of the largest insolvencies to follow the 2022 LUNA/Terra crash and the 'crypto winter' that followed. Aspects of the case include **(i)** a US\$1.3bn+ wrongful trading claim against the Founders of Three Arrows in the BVI High Court and **(ii)** an application to the BVI court to sanction the decision of TAFL's liquidators to commence Chapter 11 proceedings in the USA and **(iii)** a US\$1bn+ unfair preference claims governed by BVI law but brought in the US Bankruptcy Courts

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Confidential - Instructed to advise an Asia-headquartered natural resources group with interests in a Bermudian holding company undergoing a restructuring provisional liquidation, to challenge certain decisions made by the JPLs (led by Mark Phillips KC)

Confidential - Instructed to advise a creditor on challenging a very unusual and highly contentious BVI scheme of arrangement, implemented to compromise the claims of (among others) various well-regarded litigation funders (led by Felicity Toube KC)

The *China Aoyuan* restructuring - Instructed to advise on the parallel Cayman and BVI schemes of arrangement proposed by the China Aoyuan group, a large Chinese property development group, as well as its subsidiary, Add Hero (led by Tom Smith KC)

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Representation of HWA 555 Owners plc [2022] JRC 181 (Royal Court of Jersey) - one of the first applications for a creditor's winding up under Article 157A of the Companies (Jersey) Law, in exceptional circumstances where the Jersey company was already in liquidation in its COMI (assisting Marcus Haywood)

Company Law

Instructed as junior counsel in a high-stakes mediation on behalf of the directors of two groups of insolvent companies in parallel Jersey / Cayman Islands fraudulent trading, breach of fiduciary duty, and negligence claims worth in excess of US\$150m (led by William Willson)

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Trusts and Property

Ruprah v Gurram - as sole counsel in the High Court, successfully resisting an interim proprietary injunction to restrain sale and registration of a property, and obtaining an order for payment of indemnity costs.

As sole counsel, advising on *Chase Manhattan* constructive trust claims against a brokerage firm, arising out of a repo governed by the GMRA 2000.

As sole counsel, acting in a High Court claim for a trust interest over land in France

Career

2023 - Admitted to the Bar of the Eastern Caribbean Supreme Court (Virgin Islands Circuit)

2022 - Rights of Audience, Astana International Financial Centre

2021 - Called to the Bar of England and Wales

2016 - Lieutenant, Singapore Armed Forces

Professional Associations

Chancery Bar Association

COMBAR

Insolvency Lawyers Association

Contentious Trusts Association

Publications

Rabin Kok, Third Party Rights and the LMA Suite of Debt Documents (2024) 39 Journal of Intl Banking & Financial Law 8

Charlotte Cooke and Rabin Kok, Fixed or Floating? *Re Avanti Communications* Revisits the Characterisation of Charges (2023) 20 International Corporate Rescue 1

Rabin Kok, Placing Sanctioned Entities into Judicial Management [2023] Singapore Academy of Law Practitioner 8

William Willson and Rabin Kok, Cryptocurrency and the Claim in Debt (2023) Journal of International Banking and Financial Law 25

Rabin Kok, Cross-Border Real Estate Investment Trust Insolvencies and Recognising Foreign Insolvency Judgments: *Re Tantleff, Alan* [2022] Singapore Academy of Law Journal

Education & Qualifications

2020-2021 - Bar Vocational Studies, City University of London (Distinction)

2019-2020 - Oxford University, BCL (Distinction)

2016-2021 - Cambridge University, BA Law (First Class Hons)

Scholarships & Prizes

- Thomson Reuters Prize - top in year at Cambridge University
 - De Montmorency Prize in Law
 - Senior Scholar of Peterhouse and formerly Scholar
 - Des Voeux Chambers-Cambridge Junior Scholarship
 - Kenneth Thomas Law Essay Prize
 - Rebecca Flower Squire Scholarship
 - City Law School Scholarship for Academic Excellence
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Languages

Rabin is able to read and write Bahasa Indonesia and Bahasa Malaysia (including legal documents) and is happy to be instructed in cases involving this type of material.