

# ESSEX COURT CHAMBERS

## BARRISTERS



### RODERICK CORDARA

#### QC

Silk: 1994

Silk: 2002 (Australia)

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#### **New Chambers**

Associate Member of New Chambers, Sydney

#### **Maxwell Chambers**

32 Maxwell Road #02-12, Singapore 069115

## PROFESSIONAL PRACTICE

Roderick Cordara is a law graduate of Cambridge University (Trinity Hall, first class degree). He is a Leading Counsel ('Silk') in the UK and Australia. He is admitted to practice in the Courts of the UK, Australia, Singapore (SICC), and the European Court of Justice.

He has been described as – *“razor sharp and hungry to win”, “he wins seemingly unwinnable cases through deceptively simple and attractive propositions”, “a free thinking advocate who can see arguments and solutions where others don’t” and “he is an outstanding advocate”.*

*“He’s a very able advocate, he’s formidably intelligent”, “an outstanding adviser and advocate” and “he has an incredibly sharp intellect and a deep understanding of the case law.”*

He is particularly noted for his *“fantastic strategic skill”, “he is technically excellent, fantastic at developing a case strategy from the outset ”, “an excellent case strategist who is quick on his feet”* and for his *“ability to understand enormously complex factual situations and cut through to what’s important.” “He rapidly understands the issues before him and has an encyclopaedic knowledge..”*

*“He is very good at conveying complex or difficult messages tactfully but clearly, and he brings insightful analysis to complex problems. He gets to the point and he delivers added-value advice.”*

*‘The [Appellant’s] case, [was] presented with dexterity by Mr Roderick Cordara QC..’* (Supreme Court 2020).

His approach has been described as – *“Very analytical and commercial”, “his advice is directed, he takes the commercial position into account at all times” and “Roderick’s wealth of experience and clear, unambiguous advice is highly valued by clients.”*

Instructing solicitors appreciate his client relationship skills – *“amazing with clients”, “brilliant with clients.”, “very, very good with clients”, “well-liked by clients”, “excellent with clients” and “highly valued by clients”.*

He is well-used to co-counsel roles, which he enjoys – *“he has the human touch and can blend in well with a team”* and is *“incredibly easy to work with”.*

He also has an unusually wide range of specialisations within his overall international commercial practice: ranging from *“Counsel and arbitrator in shipbuilding matters”* to *“perhaps the most knowledgeable indirect tax lawyer at the Bar.”*

He is unique at the Bar in being a Leader in both commercial and tax fields, which combine both private and public law issues. He has an international practice, both in commercial and investor state arbitration, as well as appearing before supra-national judicial bodies in treaty related issues (usually tax). As a leading tax practitioner, he has amassed extensive public law experience (both domestic and international) in litigation and arbitration on tax issues involving governments and parastatal entities.

His arbitration practice focusses in particular on disputes – both private law and treaty based – relating to the oil & gas, power generation, and renewables, sectors, principally in Asia, UK Offshore, and East and West Africa. In this context, he has acted in energy-related disputes (eg production sharing, or insurance-related) in relation to fields in Central Asia, India, Africa, the Far East, and UK Offshore.

He has also great experience in shipping and ship construction disputes, involving shipyards from Asia to Europe, and vessels from super luxury yachts and warships, to bulk carriers.

He has also acted for many years in connection with disputes involving the sale of goods, in particular in connection with aviation and the arms trade (the latter for Government clients). He

has wide experience in disputes concerning the supply of services, including services in relation to goods sold, as well as M&A disputes.

He has been standing Counsel to UK Government in export insurance matters, and has acted both for and against the UK, in litigation involving international treaty obligations.

His tax practice relates principally to transactional taxes and duties (VAT/GST, customs duties, excises, etc.) mostly in the context of the treaty work (including EU treaties, as well as bilaterals). His domestic tax law scope extends outside Europe (principally Australia (where he is also qualified) and to South East Asia – Singapore, Malaysia). His practice has followed the global spread of goods & services taxes, with their associated domestic and cross-border issues. This practice has expanded to include gambling taxes (especially in cross-border contexts), insurance-related taxes (IPT), and environmental taxes.

Although acting principally for taxpayers, he has advised and represented both the UK and Australian Governments in fiscal matters. He has appeared frequently in leading tax cases in the UK, EU, and Australian Courts, up to the highest levels. He is very widely experienced in tax litigation involving international treaty interpretation and application, including issues of unfair taxpayer treatment, abuse, and market distortion. He has dealt with tax issues from every conceivable industry from energy, mining, banking, hospitality, ship sale, newspapers, to health care, education, retail, car manufacture, on line gaming, etc..

He has specialised for many years in restitutionary claims, both in commercial and tax contexts.

He has written concerning the interface between domestic taxation and investor-state treaty protections.

His particular focus is on cases involving technical factual questions and where cross-examination may be critical. He acts as arbitrator. He has also been instructed to give expert evidence of UK & Australian law. He is heavily involved in creating arbitral institutions in the Horn of Africa (the IGAD and Somali projects respectively).

Well-known clients for whom he has acted in Court include:

Governments: UK Government, Australian Federal Government, (also State of New South Wales, Australian Capital Territory, State of Victoria)

Corporate and private clients: Abbey National, Agrimpex Trading, Allseas Shipping Company, Allied Domecq, American Express, AP Fonden (Sweden), A P Motors Pte Ltd, ASDA Stores, Axa Insurance, Bank of Baroda, Bank of Ireland, Boucheron SA, British Airports Authority, Bophutatswana National Commercial Corporation, British Shipbuilders Ltd, British Telecom,

BUPA Insurance, Carlsberg UK Ltd. Capital One Bank Plc, Caterpillar Plc, Castle Insurance CO. Ltd, Central Reinsurance Corporation, C E Heath, Chase Manhattan Bank, Chinese Channel (HK) Limited, Citibank Inc., Cleobulos Shipping, Commissioner of Taxation, Commonwealth Bank of Australia, Corporation of the City of London, DFS Furniture Plc., Electronic Data Services, EMI Group Plc, Export Credit Guarantee Dept (UK Govt.), Ferrovial, Films Rover International Ltd., Ford Motor Company, First Data Resources, General Motors Acceptance Corporation, Glaxo Smith Klein, Help the Aged, Hong Kong & Shanghai Banking Corporation, IBM, Innocent Ltd., InsuraneWide.com Ltd., Leros Shipping, Lloyds of London, Leros Shipping Co., Lloyds Bank Plc, Liverpool Institute of Performing, Marks & Spencer Plc, MBNA Europe Bank Ltd., MG Rover Ltd., Midland Bank Plc, Natwest Bank PLC, National Provident Institution, The National Health Service Trusts, Oceanus Mutual Underwriting, Orion Insurance Limited, Pendragon Plc. The Post Office, Peugeot Motor Company, Procter & Gamble UK Ltd., Prudential Assurance Co. Ltd, Procter & Gamble, Qantas, Royal Bank of Scotland GmbH, Seawind Maritime UK, SOC Private Capital, Standard Chartered Bank Plc., Swan Hunters Limited, Tesco Plc, Tradax International SA, Transcontinental Underwriting, Travelex, Tropicana UK Ltd.

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## AREAS OF EXPERTISE

- Arbitration & related court applications
- Banking & financial services
- Civil fraud & asset recovery
- Energy & natural resources
- European law & competition
- Insurance & reinsurance
- International commercial arbitration
- Investment treaty disputes
- Media, art, entertainment
- Offshore litigation
- Public & administrative law
- Revenue law (including VAT, IPT, duties & excise)
- Ship sale & ship construction disputes
- Taxation
- Unjust enrichment & restitution claims

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## WHAT OTHERS SAY

### Legal 500 UK Bar 2022, Shipping:

*'A pleasure to work with and a persuasive advocate.'*

### Legal 500 UK Bar 2021, Shipping:

*'A brilliant and fiercely-competitive performer.'*

**Legal 500 UK Bar 2021, Tax: VAT:**

*'He has a really impressive and in depth knowledge of VAT from his years at the Bar. He is a brilliant advocate, always extremely professional and a pleasure to appear against.'*

**Chambers & Partners UK Bar 2021, Tax:**

*"He is excellent when it comes to the strategy of the case, and is always responsive and flexible in his dealings."*

*"A brilliant and very charming advocate."*

**Legal 500 Asia Pacific 2015:**

*'His strengths are his flair, judgement and tactical acumen.'*

**Legal 500 2015:**

*"His experience is beyond compare"*

**Legal 500 2014, International Arbitration: Counsel:**

*"A great team player with considerable energy and drive."*

**Legal 500 2014, Insurance:**

*"Provides great strategic direction"*

**Chambers and Partners UK Bar 2014:**

*"Clients love him and so do the specialist advisers."*

**Chambers and Partners UK Bar 2013:**

*A hugely knowledgeable barrister who is an "incisive thinker, great advocate and inclusive team leader."*

**Chambers and Partners UK Bar 2012:**

*His courtroom presence remains one of his key strengths, with commentators observing that "he is absolutely second to none in front of the tribunal."*

**Legal 500 2012:**

*The 'superb' Roderick Cordara QC has an excellent reputation in the market.*

**Legal 500 2011:**

*An 'enviable' reputation and is 'well liked' by clients for his strong abilities.*

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**EXAMPLES OF NOTABLE CASES**

Reported cases in various jurisdictions:

*Abbey National v UK Comms* (C-408/98:European Court of Justice)

*AP Motors v ATO* (Full Federal Ct, Sydney)

*All Seas Shipping v Sembawang Shipyards* (International Arbitration, Commercial Ct, London ['Comm Ct.'])

*Astro Exito v Chase Manhattan Bank* (Comm Ct.)

*ATO v HP Mercantile* (Full Federal Ct, Sydney)

*AXA Insurance v Commissioner* (Federal Ct, Sydney)

*Bank of Baroda v Vysya Bank* (Comm Ct.)

*Building Societies Ombudsman v HMRC* (Court of Appeal, London)

*British Telecommunications v HMRC* (Ct of Appeal, London)

*Card Protection Plan v Commissioners* (C-349/96: European Crt & House of Lords)

*Caterpillar v HMRC* (C-430/08)

*Ceval Alimentos v Agrimpex Trading* (Comm Ct.)

*Dowans Holdings SA v Tanzanian Electric Supply Co* (ICC Arb Dar Es Salam/(Com Ct.))

*EMI Group v Comms*.(C-581/08: European Court of Justice)

*General Motors v HMRC* (C-589/12: European Court of Justice)

*Halvanon v Central Reinsurance* (Comm Ct)

*Midland Bank v HMRC* (C-98/98: European Court of Justice)

*HP Mercantile v ATO* (Australian Fed Ct)

*HM Commissioners v Nell Gwynn House* (House of Lords)

*HM Commissioners v Plantiflor* (House of Lords)

*Lee Hiok Woon and Lee Hiok Tng (sued as the Executors and*

*Trustees of the Estate of Lee Wee Nam, deceased) et al. v. Lee Hiok Ping & Ors Co* (Singapore High Ct (later Privy Council, UK))

*Lonrho Exports v Export Credit Guarantee Department* (Chancery Division)

*Oceanica Catelana Armadora v Mineralimportexport Ataka Navigation* (Comm Ct.) *Orion Insurance v Sphere Drake Insurance* (Comm Ct.)

*Overland Footwear v UK – No. 1 & No 2* (C-379/00 & C-430-08: European Court)

*Pendragon Plc v Commissioners* (Supreme Court, UK)

*Qantas v Commissioner of Taxation* (High Ct of Australia)

*Pertamina v Thahir* (Singapore, High Court)

*Films Rover International v Cannon Films* (Court of Appeal, UK)

*R v Commissioners ex p Kay* (Administrative Ct, UK)

*Sumitomo Heavy Industries v Oil & Natural Gas Commission* (Int Arb (later Supreme Ct of India))

*Stocznia Gdanska SA v Latvian Shipping Co, Latreefers Inc* (House of Lords)

*Transcontinental Underwriting Agency v Grand Union Insurance* (Comm Ct.) *Travelex v Commissioner* (High Ct of Australia)

*WHA, Oriel Reinsurance v HMRC* (UK Supreme Court)

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## CAREER

Before joining Essex Court Chambers, Roderick Cordara practiced for 5 years as a general common lawyer, in both civil and criminal matters, thereby learning a wide range of court room skills. From that early stage, he became engaged with family trust litigation in the Far East, as well as 'dry' shipping disputes, and with indirect tax litigation. When he joined Essex Court Chambers (then 4 Essex Court) he developed his litigation and arbitration practice in the context of international commercial disputes.

He began his practice in Australia in 1999, when he was called to the Bar of New South Wales, becoming a member of 7 Wentworth Chambers, Sydney. He was given Australian Silk in 2002 by Chief Justice Spiegelman, and is now a member of New Chambers, Sydney – a leading commercial chambers doing similar work to Essex Court Chambers.

He has been standing counsel to the UK Government for export credit guarantee insurance matters, and has sat on the Australian Government Rulings Panel for Goods & Services Tax.

He is a supporting member of the London Maritime Arbitrators Association, and a member of

- SCMA (Singapore Chamber of Maritime Arbitration)
- ICCA (International Council for Commercial Arbitration)
- ICMA (International Congress of Maritime Arbitrators)
- IPBA (Inter Pacific Bar Association)
- Bar European Group
- Revenue Bar Association
- Administrative Law Bar Association, and;
- British Nigeria Law Forum

He sits as arbitrator.

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## LECTURE & TRAINING



He is invited to lecture widely. In the last 18 months, he has lectured on the following topics, in the locations given:

- Investment Treaty Arbitration (Nairobi & London)
- Contract termination, rescission and affirmation (Hong Kong)
- Third parties and arbitration: implications of *Astro Lippo* (Hong Kong)
- Forthcoming UK Insurance Bill (now an Act) (Singapore & London)
- Bills of Lading – jurisdiction issues & third party liability (London)
- Goods & Services Taxes – global issues (Singapore)
- Enforcement of arbitration awards (Nairobi)
- Tax avoidance recent developments – (London)
- Partial Exemption issues (London)
- Indirect Tax Grouping issues (York June 2015)

He also frequently takes part in Essex Court Chambers various programmes giving experience to young or aspiring practitioners by shadowing practitioners.

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## **EDUCATION**

Roderick Cordara grew up next to Grays Inn. He went to the City of London school, which is next to the Middle & Inner Temples. From there, he won a history scholarship to Trinity Hall, Cambridge. He graduated with a double first class degree in law (MA). He won the Lloyd-Jacob scholarship at the Middle Temple.

He took silk in the UK in 1994 and in Australia in 2002.

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## **ARBITRATION & RELATED COURT APPLICATIONS**

His arbitration practice has focussed in particular on disputes in the shipping & ship construction sectors, and oil & gas exploration and energy production (including related insurance disputes). In this context, he has acted for and against majors in oil & gas disputes in relation to fields in

Central Asia, India, the Far East, and the North Sea. He has recently begun to act in power generation disputes in Africa, including an increasing number of renewables-based disputes. He completed the first ICC arbitration to be held in sub-Saharan Africa (Tanzania) which related to a power generation dispute, which led to milestone litigation in the Commercial Court involving enforcement of foreign arbitration (*Dowans v Tanesco*). He is also instructed in connection with disputes in the arms trade and insurance coverage.

He acts as arbitrator in disputes involving oil & gas exploration. Although Roderick acts as Senior Counsel ('Silk') in both the UK and Australia, he is a UK Citizen (sole Citizenship).

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## **BANKING & FINANCIAL SERVICES**

Either in the context of general commercial work or tax litigation, he has acted for almost every major bank.

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## **CIVIL FRAUD & ASSET RECOVERY**

Restitution has been a major part of his practice. This has arisen from the purely commercial disputes, which led to two ground breaking decisions: (*Films Rover v Cannon, Stocznia Gdanska v Latvian Shipping (House of Lords stage)*). It has also been raised in a private law context, through asset recovery cases such as the Far Eastern family trust case of *Lee Hiok Woon, Lee Hiok Tng (executors of estate of Lee Wee Nam) v Lee Hiok Ping* (a case that has been running for 30 years), and *Pertamina v Mrs Thahir* (Sing. H Ct.). He also does work in the field of civil fraud and asset tracing, usually on a cross-border basis.

The largest and most intense aspect of this work has been restitutionary claims against governments in the context of overpaid tax (*General Motors v UK Commissioner, R v Commissioner Ex p Kay, Building Societies Ombudsman v CEC, Qantas v Australian Tax Office, British Telecom v HMRC, MG Rover v HMRC, BMW intervening, Standard Chartered Bank v HMRC, Lloyds Bank intervening*).

Given his experience in restitution, he has also been instructed to give expert evidence of UK & Australian law of restitution for the purposes of US arbitration.

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## **EUROPEAN LAW & COMPETITION**

A very strong specialisation has been developed in indirect taxes and customs duty, with their related under-pinning in European law, including EU competition law. This work has a close affinity to commercial litigation, turning as it does on the analysis of commercial transactions. Both in the UK (for VAT) and in Australia (for GST), he is regarded as one of the foremost leaders in the field. This extends to Insurance Premium Tax, Landfill Tax, and will include the new UK Diverted Profits Tax (designed to counter profit shifting cross-border). In this field, he has taken part in a large number of leading cases in the ECJ (*Card Protection Plan C-349/96*, *EMI C-581/08*, *GMAC C-589/12*, , *Midland Bank C-98/98* , *Abbey National C-408/98*), and in the UK House of Lords & Supreme Court (*Plantiflor*, *Nell Gwynn House*, *CR Smith (Glaziers)*, *WHA & Oriel Reinsurance*, *Pendragon Plc.* ) A number of other members of Essex Court Chambers have a similar specialisation.

This part of his practice has exposed him in great depth to the entirety of the insurance and banking sectors, as well as the motor industry (manufacturing & retail), and the gambling industry – both in the UK, Europe, Japan, and Australia.

He also is a leading practitioner in the field of customs duty (*Overland Shoes no 1 C-468/03*, *Overland shoes no 2 C-379/00*, *Caterpillar C-430/08*, *FG Wilson C430/08*). This work compliments the international trade work that is done in Essex Court Chambers. It also involves public law issues (as does investor v state litigation), and administrative law issues at every stage.

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## **INSURANCE & REINSURANCE**

Both in the context of general commercial and tax litigation, and in disciplinary tribunals he has acted extensively for and against the insurance industry (see *Orion v Sphere Drake*, *AXA Insurance v Commissioner*, *Card Protection Plan v Commissioners*, *Halvanon v Central Reinsurance*, *Lonrho Exports v Export Credit Guarantee Department*, *SOC Private Capital v HMRC*, *Bank of Ireland v CEC*, *National Provident Institution v Commrs*, *WHA & Oriel Reinsurance*.) He has prosecuted, in Tribunal, in connection with alleged breaches of duty by both underwriters and brokers (in the Lloyds market).

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## **INTERNATIONAL COMMERCIAL ARBITRATION**

Being admitted in Australia, he has appeared in a number of leading cases there, including two in the highest court: *Axa v ATO* (Federal Court), *Commissioner v HP Mercantile* (acting for the Government) (Court of Appeal/Full Court), *Travelex v Cmmr Taxation* (High Court), *ATO v*

*Qantas* (High Court), *AP Motors, et al v ATO* (Court of Appeal/Full Court), *Luxottica v Cmmr* (Court of Appeal/Full Court).

He has also appeared extensively in the European Court of Justice: (*Card Protection Plan C-349/96*, *EMI C-581/08*, *GMAC C-589/12*, , *Midland Bank C-98/98* , *Abbey National C-408/98*), (*Overland Shoes no 1 C-468/03*, *Overland shoes no 2 C-379/00*, *Caterpillar C-430/08*, *FG Wilson C430/08*).

He is admitted to appear in the Singapore International Commercial Court.

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## **INVESTMENT TREATY DISPUTES**

He has many years' experience of representing corporate clients seeking to enforce their international law/treaty rights against governments, including the Government of India (*Sumitomo v ONGC*), the UK Government (*Lonrho v ECGD*, *EMI v UK*, *GMAC V UK*), and African governments (*Wallam v Kenya*).

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## **REVENUE LAW (INCLUDING VAT, IPT, DUTIES & EXCISE)**

Roderick Cordara QC is a leading tax practitioner. He has acted in the UK, EU, Australian and South East Asian jurisdictions over many years. His revenue practice relates principally to transactional taxes (VAT/GST-style taxes) and duties, mostly in the context of the EU (VAT, Customs duty, Excises), but also outside Europe (principally Australia and South East Asia) in the context of the global spread of goods & services taxes, with their associated domestic and cross-border issues. As such, he is familiar with issues of discrimination, legitimate expectation, and equal treatment, as well as abuse of right. His revenue work involves public law, both domestic and international (treaty interpretation), and administrative law challenges. His practice has expanded to include gambling taxes (especially in cross-border contexts), insurance-related taxes (IPT), and environmental taxes (Landfill Tax). He is particular active in connection with input tax recovery in the financial and health care sectors in the UK/EU. His many well-known cases in the ECJ include *Card Protection Plan*, *Talacre Beach*, *WHA*, *Sussex University*, *General Motors*, *Pendragon*, *Nell Gwyn*, *EMI*, *Overland Shoes*, *Caterpillar*. In the Australian High Court: *Qantas*, and *Travellex*, and in the Federal Appeal Court: *HP Mercantile*, and *AP Motors*. He also advises on tax aspects of investor state and commercial arbitration,

including stability clause and anti-discrimination/expropriation issues. He teaches and writes on tax issues.

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## **SHIP SALE & SHIP CONSTRUCTION DISPUTES**

Apart from general 'dry' shipping work, he has specialised in shipbuilding disputes, both in arbitration and the Courts. He has acted for and against European and Far Eastern Yards, principally in cases involving purported rejection of vessels. The most celebrated of his shipbuilding cases is *Stocznia Gdanska*, in which he acted successfully for Polish builders, in a case that went to the House of Lords. His most substantial and well-known case acting for buyers was the *Solitaire* arbitration, a highly technical case, involving all aspects of the conversion of a state of the art vessel, which ran for 10 years, generating 15 awards along the way. His clients, All Seas, succeeded against the *Sembawang* yard in Singapore. He has also advised on the drafting of shipbuilding contracts.

He has acted in several ship design-related matters, either in terms of safety or copyright, including warships. For example, he acted for Builders in the *Derbyshire* wreck enquiry, in connection with a technical assessment of the safety of construction of the class of bulk carriers of whom she was one, and other possible causes of her loss. This enquiry was probably the most substantial UK wreck enquiry in recent memory, involving every structural aspect of the vessel's construction. His clients successfully established their case as to the likely cause of the loss of the vessel. He is currently instructed in connection with various disputes relating to vessels under construction totaling nearly \$500m in all.

He sits as arbitrator in shipping & shipbuilding matters.

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## **ADMISSIONS**

- 1994 Silk (Queen's Counsel): UK
- 2002 Silk (Senior Counsel): Australia