



### Sarah Ellington

**Legal Director**

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Sarah Ellington has over ten years' experience in cross-border disputes and crisis management for governments, governmental agencies and international organisations, as well as multinational corporations. She also advises clients on risk management and governance issues associated with the developing business and human rights and sustainability agendas, including emerging regulatory and "soft" law standards.

Sarah has led teams of lawyers in complex multi-jurisdiction litigation and arbitration, including high-profile group litigation and parent company liability claims. She has obtained anti-suit injunctions against foreign proceedings and used the English court's wide-ranging civil powers to obtain third party disclosure and gagging orders and world-wide freezing injunctions. She has obtained refreshed judgments from the English court to aid in international enforcement. Sarah has experience in a number of industry sectors, with a focus on consumer goods, food and retail, technology and telecoms, and renewables, energy and natural resources. Sarah works with clients and colleagues across the globe, in particular in Africa and the Middle East.

Sarah is the UK Chair of DLA Piper's award winning Leadership Alliance for Women.

### LANGUAGES SPOKEN

- English
- Spanish

### EXPERIENCE

- Obtaining an order striking out group claims brought on the basis of parent company liability at the jurisdictional stage. The order was upheld by the Court of Appeal.
- Advising in relation to the management of a long term outsourcing contract involving IT and process transformation.
- Acting for an international Telecoms company in relation to a significant breach of warranty / fraudulent misrepresentation

### RELATED SERVICES

- Litigation, Arbitration and Investigations

### RELATED SITES

- WIN: What In-house Lawyers Need

### LANGUAGES SPOKEN

English Spanish

dispute following a £6 billion acquisition of a European telecoms company. The mandate included conducting allegations into the suspected fraud, advising on the available civil and criminal remedies on a multi-jurisdictional basis, and advising on corporate strategy.

- Acting for the holding company of a Georgian wholesale and retail internet service provider in relation to a shareholder dispute.
- Advising on the termination of a licensing agreement relating to software for the monitoring of and charging for use of mobile calling and data in Kuwait.
- Acting for a developer, owner, manufacturer, distributor and publisher of software technologies in a US\$ 220 million dollar dispute relating to the licensing and support of new technology for video and web content traffic optimisation over mobile telecommunications networks.
- Representing an Indian national accused of fraudulent misrepresentation in parallel proceedings in a Singapore seated Arbitration and litigation before the Isle of Man Courts. Including obtaining orders for the giving of evidence in support of arbitration from the English, Singaporean and Indian courts.
- Acting for a manufacturer of avionics components in an English High Court claim relating to a fire on an aircraft involving five parties. The claim involved issues of Washington, Canadian, Arizona, New York and Ethiopian law, and permission given for the parties to rely on experts in a further five disciplines. The case involved review of over 70,000 documents for the purposes of disclosure, and resulted in disclosure of over 30,000 documents by the five parties to the litigation.
- Acting for a manufacturer of solar panels in a contractual dispute, leading to the termination of the contract for repudiatory breach (including allegations of faulty goods and/or non-delivery) under English law and LCIA rules.

## CREDENTIALS

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### Recognitions

Sarah is commended for her "*experience in mediation and commercial disputes*" and describe her as "*very good at explaining and joining up the dots to help clients see the bigger picture*". Clients have noted "*so much admiration for her unflappability*". (*Chambers Global 2020*)

### Education

- University of Leeds, BA History-Spanish (First Class Hons)

### Memberships

- Arbitration ICT Club
- Society for Computers and Law
- Tech London Advocates
- Women in Technology and Telecoms
- Young International Arbitration Group
- Young ICC
- Fraud Women's Network

## INSIGHTS

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### Publications

## **Court of Appeal agrees it is arguable that a duty of care may arise in relation to end-of-life asset disposal**

12 March 2021

On 10 March 2021, the English Court of Appeal handed down its decision in Hamad Begum (on behalf of MD Khalil Mollah) v Maran (UK) Limited.

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## **Securing evidence during the COVID-19 pandemic (Koldyreva v Motylev)**

15 December 2020

The English High Court has recently handed down two separate judgments in Koldyreva v Motylev & others, spanning a number of applications aimed at tracing funds in support of a Russian bankruptcy order: a worldwide freezing order, a passport surrender order, Norwich Pharmacal orders, and search orders.

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## **WIN Wise: Top tips for making the most of your IT contracts**

20 July 2020

There can sometimes be a disconnect between lawyers who draft contracts, and those with primary responsibility for implementing them. Through smart collaboration, effective communication and shared vision, in-house lawyers and their commercial counterparts can work together to maximize value and generate extra revenue.

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## **Court of Appeal confirms mining company is not liable for human rights abuses in Sierra Leone**

17 July 2020

Earlier this year, the Court of Appeal handed down its judgment in the case of Kalma v (1) African Minerals Limited, (2) African Minerals (SL) Limited and (3) Tonkolili Iron Ore (SL) Limited. In this case review, we consider the Court's findings in relation to (i) accessory liability and (ii) companies' duty of care when operating abroad.

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## **Post-COVID-19 sustainability and ESG disputes: pinch points and practical pointers**

12 May 2020

Where businesses are putting all of their efforts into crisis mitigation and survival in response to COVID-19, it is worth considering the importance of balancing short-term mitigation measures with the preservation of long term value and sustainability and ESG commitments

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## **Post-COVID-19 Sustainability and ESG disputes: human rights commitments and key legal risk during times of crisis**

5 May 2020

Maintaining a consistent approach to sustainability and human rights is not just the right thing to do during the COVID-19 crisis, but an important consideration to mitigate medium and long-term legal risks

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## **Navigating your business through technology disputes risks**

9 April 2020

Novel coronavirus disease (COVID-19) has completely rocked the business world and changed the operations and responses of companies around the globe. Technology is business critical to every company and sector. Whether you are a supplier or a

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customer with ongoing tech contracts - our clients are already encountering numerous key issues.

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## **Issue 2: The governance of IT systems - a board level issue**

6 April 2020

Lessons learned from *Bates v Post Office* in an increasingly software dependent world: "Bugs, errors and defects"

In the latest judgment in the legal dispute *Bates v Post Office*, the judge was tasked with determining both the extent to which the 'operation' of the system employed by the Post Office across its post-master network was robust, and the effective cause of the electronic accounting shortfalls that had affected a number of Post Office branches.

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## **Update: The Singapore Mediation Convention will come into force on 12 September 2020**

6 April 2020

The Singapore Mediation Convention will come into force on 12 September 2020. This follows Qatar becoming the third country to ratify the convention on 12 March 2020, following Singapore and Fiji (both 25 February 2020).

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## **Acquisition interrupted? The potential impact of nascent class actions on mergers and acquisitions**

1 April 2020

A recent case has illustrated the potential impact which group litigation / class actions based on so called parent company liability (i.e. the liability of parent companies for the acts of their foreign subsidiaries) can have on international businesses.

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## **Issue 1: The need for "robustness" and what this means**

30 March 2020

Lessons learned from *Bates v Post Office* in an increasingly software dependent world: "Bugs, errors and defects"

As businesses process and store increasingly vast volumes of data, so the reliability and robustness of their IT infrastructure becomes increasingly critical. The recent decision in *Bates and others v Post Office Ltd* is a salutary reminder that IT the systems in place can be far from infallible.

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## **The Hague Rules on Business and Human Rights Arbitration**

18 February 2020

The recently released Hague Rules on Business and Human Rights Arbitration may assist and encourage the widening of the ambit of arbitration beyond commercial disputes to those concerning the effect of commercial activities on human rights.

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## **DLA Piper and the Centre for Effective Dispute Resolution collaborate on Business and Human Rights Mediation Initiative**

24 January 2020

DLA Piper is working with the Centre for Effective Dispute Resolution, and a core task force of collaborators, to establish a

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mediation facility to support the effective resolution of disputes relating to environmental, social and governance or business and human rights issues.

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## **Business & Human Rights: Towards a Common Agenda for EU Action – Key takeaways for businesses**

5 December 2019

Businesses and investors have been given a clear signal as to the direction of travel of the new European Parliament and Commission on business and human rights at a conference on 2 December 2019, co-organized by Shift and the Finnish Presidency of the Council of the EU.

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## **Events**

### **Upcoming**

#### **The essential legal update for consumer goods businesses**

29 September 2021

Webinar

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### **Previous**

#### **Sustainability and ESG in supply chains**

14 January 2021

Webinar

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## **OVERVIEW – BUSINESS AND HUMAN RIGHTS**

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### **Overview**

Sarah is a recognised expert on disputes relating to environmental, social and human rights issues. She has successfully defended clients against parent company liability claims in the English courts, including obtaining strike out orders at first instance and defending appeals up to the Supreme Court. Sarah is one of only a few lawyers to combine this experience on complex and high-profile group litigation with experience advising on complaints to non-judicial mechanisms, such as OECD National Contact Point Specific Instances, and private sector-based accountability mechanisms, as well as drafting and developing these mechanisms.

Sarah uses this unique experience to advise clients on managing dispute risks in the context of compliance and regulatory advice and advises clients across a number of sectors on risk management and governance issues associated with the developing business and human rights agenda. She is regularly engaged in policy discussions on this topic and contributes to domestic, international and industry policy consultations on regulation and standards.

Sarah regularly presents on these issues at national and international conferences and events. She has presented at UN conferences for a number of years on the emerging legal risk landscape relating business and human rights issues, including on

the topics of mediation and transnational human rights litigation, using mediation as a viable access to remedy, the relationship between corporate legal liability and human rights due diligence and using blockchain and emerging technologies to improve supply chain human rights risk management.

Sarah is a member of DLA Piper's Boardroom Advisory Service, which provides strategic, commercial and evidence-based advice to boards, specifically tailored for the challenges and risks they face.

## Experience

- Defending parent company liability claims in the English High Court and Court of Appeal (permission for the Claimants to appeal to the Supreme Court refused), involving submissions as to English, Australian, Canadian and Kenyan Law. This case was one of three seminal Business and Human Rights cases recently before English Courts that has clarified this area of law, in particular, relating to legal liability that can attach from public statements and commitments to international and sector-based standards.
- Advising a number of multinationals and investors on parent company liability risk, including in relation to:
  - Board-level risk appetite, alignment with purpose and values and implementation through governance structures, risk management processes and contractual mechanisms;
  - Regulatory disclosures, public statements, policies and processes;
  - Fund structuring and investment management relationships.
- Acting in relation to a complaint to the UK National Contact Point alleging breach of the OECD Guidelines for Multinational Enterprises.
- Advising on the design of novel grievance mechanisms for the purpose of dealing with environmental, social and human rights complaints.
- Advising on a complaint to a private accountability mechanism and options for effective remediation between the parties and final determination.