

## Charlotte Thomas

YEAR OF CALL: 2013

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## Practice Overview

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Charlotte has a busy practice covering all aspects of commercial litigation and arbitration together with competition, EU and public law.

Recent work includes acting for the claimants in an UNCITRAL arbitration concerning claims of over US\$150m relating to a joint venture for the production and marketing of base oil products, and defending GlaxoSmithKline in the Competition Appeal Tribunal against a £37m fine in the UK's first case concerning so-called 'pay-for-delay' settlements of patent disputes. Charlotte has appeared in the Court of Appeal, High Court and County Court and in arbitration, including in a range of interlocutory applications.

Before commencing practice at the Bar, Charlotte worked as the Judicial Assistant to Lord Clarke and Lord Sumption in the Supreme Court, taught contract law at University College London and King's College London, and worked as a *stagiaire* at Shearman & Sterling's International Arbitration Group in Paris. She read law at Cambridge University, then completed the LLM at Harvard Law School and the BCL at Oxford University, where her studies focused in particular on private international law, contract law and restitution. She was the 2013 Eldon Law Scholar (awarded annually to the most promising Oxford graduate going to the Bar).

Charlotte speaks French and German.

## Commercial

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- *Pine v Cinven Ltd* [2016] EWCA Civ 1047 (PTA application appealing against EAT's refusal to grant stay; Underhill LJ commented on "*clear and helpful*" skeleton argument and "*clear and focused*" submissions)
- Drafting defence to share purchase claim
- Drafting contractual particulars of claim in a case with international and intellectual property elements
- Advising on jurisdiction issues in claim concerning terms of access to a website (with Tony Singla)
- Acting in an UNCITRAL arbitration concerning a joint venture for operation of an oil plant (with Stephen Midwinter and Mark Howard QC)
- Advising on potential unfair prejudice claim concerning lawfulness of shares transfer
- Acting in an LCIA arbitration concerning breach of contracts for sale of biodiesel raising issues of remoteness, causation and mitigation of loss (with Nicholas Saunders)
- Advising on merits of claim under the Montreal Convention
- Advising on merits of contractual claim concerning minimum sales requirement

- Acting in a injunction application in the Commercial Court concerning threatened release of confidential information (with Simon Salzedo QC)
- Advising on merits of claim for commission payment raising issues of contract, unjust enrichment, agency and conflict of laws
- Appearing in appeal against refusal to set aside default judgment
- Acting in defence of contractual claim concerning direct debit billing in the telecoms sector (with Michael Bools QC)
- *Cavendish Square Holding v Talal El Makdessi; ParkingEye Ltd v Beavis* [2015] UKSC 67: the scope of the penalty clause jurisdiction; application of the Unfair Terms in Consumer Contracts Regulations 1999 (as a judicial assistant)
- *JSC Bank v Ablyazov* [2015] UKSC 64: definition of “assets” in freezing order (as a judicial assistant)
- *Bank of Cyprus v Menelaou* [2015] UKSC 66: subrogation to unpaid vendor’s lien and the law of restitution of unjust enrichment (as a judicial assistant)
- *Glengary Overseas Ltd and Eclairs Group Ltd v Jkx Oil & Gas plc* [2015] UKSC 71: exercise of a power in a company’s articles of association (as a judicial assistant)
- *Bunge SA v Nidera BV* [2015] UKSC 43: contractual damages, application of the *Golden Victory*, and interpretation of the GAFTA damages clause (as a judicial assistant)
- *Zurich Insurance PLC v International Energy Group Ltd* [2015] UKSC 33: insurance consequences of mesothelioma compensation claims where multiple employers are involved (as a judicial assistant)
- *James Rhodes v OPO* [2015] UKSC 32: the tort of intentional infliction of emotional harm (as a judicial assistant)
- *Jetivia SA v Biltta (UK) Ltd (in liquidation)* [2015] UKSC 23: the illegality defence and the rules of attribution following *Stone & Rolls* (as a judicial assistant)
- *Sea Shepherd Ltd v Fish & Fish Ltd* [2015] UKSC 10: joint tortfeasorship (as a judicial assistant)
- *HRH Prince Abdulaziz v Apex Global Management Ltd* [2014] UKSC 64: application for relief from sanction following breach of unless order (as a judicial assistant)
- *Plevin v Paragon Personal Finance Ltd* [2014] UKSC 61: application of Consumer Credit Act 1974 to mis-selling of payment protection insurance (as a judicial assistant)
- *Les Laboratoires Servier v Apotex Inc* [2014] UKSC 55: the illegality defence and the meaning of “turpitude” (as a judicial assistant)
- *Maharaj v Johnson* (Trinidad & Tobago) [2015] UKPC 28: ongoing duties and concurrent claims in contract and tort (as a judicial assistant)
- *Crédit Agricole Corpn and Investment Bank v Papadimitriou* (Gibraltar) [2015] UKPC 13: test for when a bank is on constructive notice of impropriety in relation to money received (as a judicial assistant)
- *Stichting Shell Pensioenfonds v Krys* (BVI) [2014] UKPC 41: the antisuit injunction jurisdiction in the insolvency context (as a judicial assistant)
- *Alhamrani v Alhamrani* (BVI) [2014] UKPC 37: interpretation of a contract governed by foreign law (as a judicial assistant)

## EU/Competition

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- Advising on lawfulness under competition law of vertical restraints in online sales distribution contract
- Advising on potential resale price maintenance breaches of the new Hong Kong Competition Ordinance (with Mark Hoskins QC)
- Assisting claimants in the Air Cargo litigation
- *IMI plc & anor v Delta Ltd & ors* [2016] EWCA Civ 773 (contribution claims following settlement in cartel damages case) (with Helen Davies QC)
- Acting in claims against banks concerning manipulation of the foreign exchange market (with Daniel Jowell QC and Gerard Rothschild)
- *GlaxoSmithKline v CMA*: Appeal against fine levied by the Competition and Markets Authority concerning alleged competition law infringements arising from settlement of patent litigation (with James Flynn QC and David Scannell)

- Acting for two pharmaceutical companies in applications to the General Court concerning release of materials under the Transparency Regulation by the European Medicines Agency (with Marie Demetriou QC and Jemima Stratford QC respectively)
- Drafting competition law defence concerning dominance in the software licensing sector (with David Bailey)
- *HMRC v Pendragon plc* [2015] UKSC 37: VAT and the European abuse of law principle (as a judicial assistant)
- *R (Hemming) v Westminster City Council* [2015] UKSC 25: application of Directive 2006/123/EC on services in the internal market to licence fees (as a judicial assistant)
- *R (Rotherham Metropolitan BC) v S of S for BIS* [2015] UKSC 6: challenge to the distribution of European Structural Funds (as a judicial assistant)

## Public Law

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- Acting for embassy employee in state immunity case
- Acting for the Lord Chancellor in the Supreme Court appeal from *R (UNISON) v Lord Chancellor* [2015] EWCA Civ 935
- Advising Corruption Watch on issues concerning the relationship between UK and EU bribery laws (with Martin Chamberlain QC)
- Advising a Cypriot trade union concerning judicial review of decision to impose a pay reduction on Cyprus-based employees in the Sovereign Base Areas (with Paul Bowen QC)
- *R (Bancourt) v S of S for Foreign and Commonwealth Affairs (No 2)* [2016] UKSC 35: whether the decision of the House of Lords in *Bancourt (No 1)* should be set aside (as a judicial assistant)
- *R (Tigere) v S of S for Education* [2015] UKSC 57: justification and proportionality under Article 2 Protocol 1 ECHR (as a judicial assistant)
- *Coventry v Lawrence* [2015] UKSC 50: Article 6(1) ECHR and the conditional fee agreement regime (as a judicial assistant)
- *Gaughran v Chief Constable of the Police Service of Northern Ireland* [2015] UKSC 29: Article 8 ECHR and DNA retention (as a judicial assistant)
- *R (Trail Riders) v Dorset County Council* [2015] UKSC 18: statutory interpretation and consequences of non-compliance with statutory requirements (as a judicial assistant)
- *R (Catt and T) v Comr of the Police of the Metropolis* [2015] UKSC 9: Article 8 and retention of data by the police (as a judicial assistant)
- *R (Lord Carlile of Berriew QC) v S of S for the Home Department* [2014] UKSC 60: justification and proportionality under Article 10 ECHR (as a judicial assistant)
- Advice on Criminal Justice and Courts Bill for the Children's Rights Alliance for England (assisting Martin Chamberlain QC)

## Career & Qualifications

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### Qualifications

- BPTC, Kaplan Law School (2012-13) – Outstanding
- Bachelor of Civil Law, University of Oxford (2011-12) – Distinction – conflict of laws; unjust enrichment; philosophical foundations of the common law; dissertation in contract law
- Master of Laws, Harvard Law School (2010-11) – Dean's Scholar – private law; international arbitration; constitutional law; global antitrust law; negotiation; conflict of laws
- BA (Hons), Law, University of Cambridge (2007-10) – First class in all three years

### Scholarships and Prizes

- **Pupillage:** Bar European Group Phoenicia Scholar (2014); ALBA Summer Conference Scholar (2014)

- **BPTC:** Certificate of Honour, Middle Temple (2013); Advocacy Scholar, Kaplan Law School (2012); Queen Mother Scholarship and Harmsworth Entrance Exhibition, Middle Temple (2010)
- **Oxford:** Eldon Law Scholar (awarded annually to the most promising Oxford graduate going to the Bar) (2013); Peter Birks Prize for Restitution of Unjust Enrichment (2012); Essex Court Chambers Scholarship (2011)
- **Harvard:** Dean's Prize for Conflict of Laws (2011); Joseph H Beale Writing Prize for Conflict of Laws (2011); Fellow of the Project on the Foundations of Private Law (2010-11)
- **Cambridge, University Prizes:** Clifford Chance CJ Hamson Prize for Contract Law (2009); ECS Wade Prize for Constitutional Law (2008); Glanville Williams Prize for Criminal Law (2008); Squire Law Scholarship (2009, 2008)
- **Cambridge, Emmanuel College:** Herchel Smith Scholar (full funding to study at Harvard) (2010); Honorary Bachelor Scholarship (2010); Porter Scholarship for Law (2009, 2008); Odgers Prize for Law (2010, 2009); David Williams Award (2008); Rowley Mainhood Award (2007)
- **Mooting and debating:** Winner of John Smith Memorial Mace (England) (English national debating championships) (2012); Winner of Gray's Inn Varsity moot (2012); Winner of Crown Office Row moot (2011); Top 10 speaker, European Universities Debating Championships (2010)

## Experience

- Judicial Assistant to Lord Clarke and Lord Sumption, Supreme Court of the United Kingdom (2014-15)
- Pupillage, Brick Court Chambers (2013-14)
- Admissions Interviewer in Law/Jurisprudence, Balliol College, Oxford (2012), and Emmanuel College, Cambridge (2013-15)
- Teaching Fellow in Contract Law, University College London (2012-13)
- Visiting Tutor and Examiner in Contract Law, King's College London (2012-13)
- *Stagiaire*, Shearman & Sterling LLP, International Arbitration Group, Paris (2011)
- Legal Intern, European Roma Rights Centre, Budapest (2011)

## Professional Memberships

COMBAR, BEG, ALBA

## Publications

- UK chapter in *The Intellectual Property and Antitrust Review* (2016) (co-authored with James Flynn QC)

## Languages

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Charlotte is fluent in French and German, and has a working knowledge of Spanish.