

Charlotte Thomas

YEAR OF CALL: ENGLAND AND WALES: 2013; IRELAND: 2018

"A brilliant intellect brimming with ideas."

Legal 500 2021

Clerk's Email: PaulsClerkingTeam@brickcourt.co.uk



Practice Overview

Charlotte is a versatile junior whose practice covers all aspects of commercial litigation and international arbitration together with competition, EU and public law. She has appeared in the Court of Appeal, High Court, in each case both as part of a team in heavy hearings and as sole counsel. She has also appeared before the Court of Justice and the General Court, where she retains the right to appear thanks to her Irish Bar qualification. She has undertaken substantial arbitrations under each of the ICC, UNCITRAL, LCIA, CIArb and ICSID rules.

Significant current and recent instructions include:

- Acting in follow-on collective action proceedings brought against banks concerning manipulation of the foreign exchange market arising from the European Commission's decisions finding the existence of cartels in the FX market (led by Daniel Jowell QC and Gerard Rothchild)
- Acting for the Prince Estate in a challenge to the enforcement under the Brussels regime of an Italian copyright injunction (led by James Segan QC)
- Acting for the purchaser of a copper mine in Peru in a series of claims under a tax indemnity, including two Commercial Court trials and an appeal to the Court of Appeal ([2019] EWCA Civ 972) (led by Fionn Pilbrow QC)
- Acting for Watchstone in its defence of the £637m fraud and breach of warranty claims brought against it by Slater & Gordon, a case which was widely reported in the legal press and which settled on the eve of trial in October 2019 (Commercial Court) (led by Tim Lord QC)
- Acting in a long-running US\$150m UNCITRAL arbitration concerning a joint venture for the operation of an oil plant (led by Mark Howard QC, Neil Calver QC and Stephen Midwinter QC)

- Appearing as sole counsel in the Court of Appeal in a case concerning restitution of overpaid council tax and the jurisdiction of the Valuation Tribunal ([2019] EWCA Civ 2206); Arnold LJ observed that *"The appeal was very well argued on both sides"* and Underhill LJ added, *"I wish to associate myself with Arnold LJ's tribute to the quality of counsel's submissions"*

Before commencing practice at the Bar, Charlotte spent a year as Judicial Assistant to Lord Clarke and Lord Sumption in the Supreme Court, during which she worked on a wide variety of cases across her current practice areas, covering topics such as penalty clauses, unjust enrichment, contractual damages, illegality, joint tortfeasorship, antisuit injunctions, human rights, data retention, and proportionality.

Before pupillage, she taught contract law at University College London and King's College London, and spent time as a *stagiaire* at Shearman & Sterling's International Arbitration Group in Paris, where she worked on a substantial arbitration under the ICSID rules. 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 is fluent in French and German, has a working knowledge of Spanish, and has been learning Italian during lockdown. She is called to the Irish Bar and is a member of the Irish Law Library.

Commercial

Charlotte accepts instructions in all areas of chambers' commercial work, and across a range of industry sectors. She has experience of heavy commercial litigation and arbitration in which she works as part of a team, as well as of appearing as sole counsel in the Commercial Court.

She is particularly comfortable with questions of private international law (including in light of Brexit), contract damages and unjust enrichment, owing to her academic background in these subjects. Her experience in practice covers, in particular, banking & financial services, civil fraud, energy & natural resources, data and information technology, pharmaceuticals, insurance, and auditors' negligence. (Further specialist financial services cases are found under the "Public" section.) She is a contributor to the Journal of International Banking & Financial Law.

Current and recent instructions include:

- Acting for the purchasers of a company in a prospective civil fraud claim (led by Fionn Pilbrow QC)
- Acting as sole counsel in a claim for damages concerning an alleged data breach
- Acting in a prospective representative action under CPR r 19.6 brought in respect of a mass data breach (led by Victoria Wakefield QC)
- Acting for the Prince Estate in a challenge to the enforcement under the Brussels regime of an Italian copyright injunction (led by James Segan QC)

- Acting for FDIC in its competition and tort damages claim arising out of LIBOR manipulation (led by Sue Prevezer QC and Marie Demetriou QC)
- Appearing in an arbitration under the ICC Rules concerning an offshore construction project (led by Richard Lord QC and Alec Haydon QC)
- Acting in a Chancery Division derivative action concerning breach of directors' duties in relation to an offshore engineering project (led by Anthony de Garr Robinson QC and Tony Singla QC)
- Acting for the purchaser of a copper mine in Peru in a series of hard-fought claims under a tax indemnity, including a trial in the Commercial Court ([2018] EWHC 1658 (Comm)) and appeal to the Court of Appeal ([2019] EWCA Civ 972) and ongoing proceedings which have included a hearing under the new Disclosure Pilot and a stay application (led by Fionn Pilbrow QC)
- Appearing as sole counsel in the Court of Appeal in a case concerning restitution of overpaid council tax and the jurisdiction of the Valuation Tribunal ([2019] EWCA Civ 2206); Arnold LJ observed that *"The appeal was very well argued on both sides"* and Underhill LJ added, *"I wish to associate myself with Arnold LJ's tribute to the quality of counsel's submissions"*
- Acting for Watchstone in its defence of the £637m fraud and breach of warranty claims brought against it by Slater & Gordon, a case which was widely reported in the legal press and which settled on the eve of trial in October 2019 (Commercial Court) (led by Tim Lord QC)
- Acting in a long-running US\$150m UNCITRAL arbitration concerning a joint venture for the operation of an oil plant (led by Mark Howard QC, Neil Calver QC and Stephen Midwinter QC)
- Acting in an arbitration under the CI Arb rules concerning a claim for a funder introduction fee and claims of misrepresentation (led by Alec Haydon QC)
- Acting as sole counsel in a £600k Commercial Court claim in relation to financial advice given to an energy infrastructure company
- Appearing as sole counsel for a CMC hearing in a US\$14.5m Commercial Court claim under an SPA defended by claims for misrepresentation and breach of warranty
- Acting in an LCIA arbitration concerning breach of contracts for sale of biodiesel raising issues of remoteness, causation and mitigation of loss (led by Nicholas Saunders)
- Acting in an injunction application in the Commercial Court concerning threatened release of confidential information (led by Simon Salzedo QC)
- Acting in defence of contractual claim concerning direct debit billing in the telecoms sector (led by Michael Bools QC)

Charlotte frequently advises and settles pleadings, led or as sole counsel, in relation to a range of commercial issues, including:

- Advising an auditor on damages liability arising from allegedly negligent audit (raising issues of causation, remoteness and scope of duty) (led by Simon Salzedo QC)
- Advising an auditor on professional discipline matter brought by the Financial Reporting Council (led by Simon Salzedo QC)

- Advising a retail client in relation to termination rights under a software development contract
- Advising an NHS trust in relation to its termination rights under a private finance initiative contract
- Advising a likely fraud victim of prospects of success on a freezing injunction application
- Advising in software licensing case concerning defence of iniquity to release of confidential information
- 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)
- Advising on unfair prejudice claim concerning lawfulness of shares transfer
- Advising on merits of claim under the Montreal Convention
- Advising on merits of contractual claim concerning minimum sales requirement
- Advising on merits of claim for commission payment raising issues of contract, unjust enrichment, agency and conflict of laws

Reported *pro bono* cases include:

- *Udondem v Wallace LLP* [2018] EWHC 2297 (QB), a *pro bono* case concerning *Henderson v Henderson* abuse of process; Walker J commented on her “*conspicuous care*” and “*persuasive oral submissions*”
- *Singh v Dass* [2017] EWCA Civ 382, a successful PTA application undertaken *pro bono* for the RCJ Advice Bureau, concerning the Limitation Act 1980
- *Pine v Cinven Ltd* [2016] EWCA Civ 1047, a PTA application undertaken *pro bono* for the RCJ Advice Bureau, appealing against EAT’s refusal to grant a stay; Underhill LJ commented on her “*clear and helpful*” skeleton argument and “*clear and focused*” submissions

Competition

Charlotte has acted in a range of cartel damages cases (including concerning the FX, Trucks, cables, air cargo and copper fixings cartels), as well as in abuse of dominance claims (including arising from the Commission’s Google Search decision) and cases concerning substantive breach of competition law (in particular pay-for-delay litigation). She has particular experience of acting and advising in relation to collection action proceedings on the claimant side.

Current and recent instructions include:

- Acting in follow-on collective action proceedings brought against banks concerning manipulation of the foreign exchange market arising from the European Commission’s decisions finding the existence of cartels in the FX market (led by Daniel Jowell QC and Gerard Rothschild)
- Acting in various further prospective collection action proceedings claims for claimants

- Acting for FDIC in its competition and tort damages claim arising out of LIBOR manipulation (led by Sue Prevezer QC and Marie Demetriou QC)
- Advising in relation to a prospective complaint to the CMA (as sole counsel)
- Acting for Foundem in an action for damages against Google alleging abuse of a dominant position in the online search and shopping sector (led by Helen Davies QC, Sarah Ford QC and David Bailey)
- Advising CICRA (the Channel Islands competition regulator) in two competition investigations (led by Marie Demetriou QC and Kelyn Bacon QC respectively)
- Settling the collective proceedings order application for the RHA in follow-on collective action proceedings brought against truck manufacturers arising from the European Commission's trucks cartel decision (led by James Flynn QC)
- Advising in relation to the interchange fees litigation (as sole counsel)
- *GlaxoSmithKline v CMA* [2018] CAT 4 (referred to the CJEU as Case C-307/18): Appeal against fine levied by the Competition and Markets Authority concerning alleged "pay-for-delay" competition law infringements arising from settlement of patent litigation (led by James Flynn QC and David Scannell)
- 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 (led by Mark Hoskins QC)
- Assisting claimants in the Air Cargo litigation
- *IMI plc & anor v Delta Ltd & ors* [2016] EWCA Civ 773: Appearing in the Court of Appeal and subsequent CMC in one of the only cases to consider contribution claims following settlement in a cartel damages claim (led by Helen Davies QC and subsequently by Robert O'Donoghue QC)
- Drafting competition law defence concerning dominance in the software licensing sector (led by David Bailey)

EU law

Charlotte is qualified as a barrister in Ireland, enabling her to give ongoing advice and representation on pure EU law matters. She is a member of the Law Library. Her fluent French often comes in useful in EU legal research.

Charlotte has developed a particular expertise in pharmaceutical regulatory issues (including through her involvement in the major competition law pharmaceutical case *GlaxoSmithKline v CMA* [2018] CAT 4). Significant instructions in this area include:

- Acting as sole counsel for a pharmaceutical company intervening in support of a decision by the EMA not to release marketing authorisation dossier materials under the Transparency Regulation

- A prospective representative action under CPR r 19.6 brought in respect of a mass data breach (led by Victoria Wakefield QC)
- Acting for two pharmaceutical companies in appeals against decisions by the EMA to release marketing authorisation dossier materials under the Transparency Regulation, including in successful interim applications to the General Court (upheld on appeal) (*MSD v EMA*, Cases T-729/15 R and C-512/16 P(R); *PTC v EMA*, Cases T-718/15 R and C-513/16 P(R)) and in substantive proceedings in which a decision from the CJEU is awaited (*MSD v EMA*, Cases T-729/15 and C-178/18 P; *PTC v EMA*, Cases T-718/15 and C-175/18 P) (led by Jemima Stratford QC and Marie Demetriou QC respectively)
- Acting for GE Healthcare in its appeal against the European Commission's decision to withdraw the marketing authorisations of certain gadolinium-containing contrast agents (Case T-782/17) (led by David Scannell)
- Advice to originator company on challenge to EMA's decision to validate generic marketing authorisation
- *Teva v MHRA (Biogen intervening)* [2018] EWHC 228 (Admin): Acting for Biogen, an originator, in its successful intervention in judicial review proceedings concerning the global marketing authorisation concept brought by two generic companies (Teva's application for permission to appeal to the Court of Appeal was refused, as was Mylan's application for permission to bring judicial review proceedings) (led by Jemima Stratford QC)

Other EU law instructions include:

- Advising in relation to the application of the EU Blocking Regulation (led by Maya Lester QC)
- Advising ClientEarth in relation to a possible environmental judicial review, raising issues of public and EU law (led by Martin Chamberlain QC)
- Advising Corruption Watch on issues concerning the relationship between UK and EU bribery laws (led by Martin Chamberlain QC)

Public Law

Charlotte worked on a wide range of public law cases during her time at the UK Supreme Court. Current and recent public law instructions include:

- Appearing for investors in the failed firm London City & Finance in their judicial review of the FSCS's decision to deny them compensation ([2021] EWHC 760 (Admin)) (led by James McClelland QC and Tim Johnston)
- Advising the FCA on a confidential matter (led by Victoria Wakefield QC)

- Appearing as sole counsel in the Court of Appeal in a case concerning restitution of overpaid council tax and the jurisdiction of the Valuation Tribunal ([2019] EWCA Civ 2206); Arnold LJ observed that *“The appeal was very well argued on both sides”* and Underhill LJ added, *“I wish to associate myself with Arnold LJ’s tribute to the quality of counsel’s submissions”*
- Acting in judicial review proceedings against the British Standards Institution concerning a decision to withdraw a British Standard for steel tubing (led by Maya Lester QC)
- Advising Liberty in relation to the Government’s Principles concerning torture and information-sharing (led by Martin Chamberlain QC)
- *Teva v MHRA (Biogen intervening)* [2018] EWHC 228 (Admin): Acting for Biogen, an originator, in its successful intervention in judicial review proceedings concerning the global marketing authorisation concept brought by two generic companies (Teva’s application for permission to appeal to the Court of Appeal was refused, as was Mylan’s application for permission to bring judicial review proceedings) (led by Jemima Stratford QC)
- Advising ClientEarth in relation to a possible environmental judicial review, raising issues of public and EU law (led by Martin Chamberlain QC)
- Advising the Comptroller and Auditor-General in relation to certain public law duties (led by Richard Gordon QC)
- Acting for embassy employee in state immunity case (applying *Benkharbouche v S of S for Foreign and Commonwealth Affairs* [2017] UKSC 62)
- *R (UNISON) v The Lord Chancellor* [2017] UKSC 51: Acting for the Lord Chancellor in an access to justice challenge raising issues of EU, human rights and common law (led by Victoria Wakefield)
- Advising Corruption Watch on issues concerning the relationship between UK and EU bribery laws (led by Martin Chamberlain QC)
- Advising Children’s Rights Alliance for England on lawfulness of Criminal Justice and Courts Bill under international human rights instruments (led by Martin Chamberlain QC)

Charlotte accepts pro bono instructions as appropriate, often in the fields of public, human rights and public international law, or through Advocate. Recent pro bono clients include the Human Dignity Trust, Liberty, ClientEarth, the European Human Rights Advocacy Centre, Corruption Watch, and the Children’s Rights Alliance for England.

Career & Qualifications

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

- Admissions Interviewer in Law/Jurisprudence, Balliol College, Oxford (2012), and Emmanuel College, Cambridge (2013-20 inclusive)
- Judicial Assistant to Lord Clarke and Lord Sumption, Supreme Court of the United Kingdom (2014- 15)
- Pupillage, Brick Court Chambers (2013-14)
- 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, LCLCBA

Publications

- 'Secondary obligations and disguised penalties: where does the law stand following *Makdessi?*', Butterworths Journal of International Banking and Financial Law, February 2022, pp 81-85

- UK chapter in *The Intellectual Property and Antitrust Review* (2016–2021) (co-authored with James Flynn QC)

directory quotes

"A pleasure to deal with: knowledgeable, charismatic and personable. She instils a lot of confidence."

"Very diligent, dedicated, very strong and detail-oriented." (Chambers & Partners 2022)

"Incredibly easy to work with; a team player who takes on board comments from across the team and works incredibly hard." Legal 500 2022

"Extremely thorough, yet very user-friendly, she is knowledgeable yet approachable, and always available." Legal 500 2022

"Very thorough and diligent; extremely hard-working and conscientious; thinks through problems fully." Legal 500 2022

"A brilliant intellect brimming with ideas." Legal 500 2021

"A very capable junior, her work is very useful, thorough and clear." Legal 500 2021

"Charlotte is a brilliant intellect, brimming with ideas and very hard working. She is also a pleasure to work with and great with clients." Legal 500 2021