

Charles Samek QC

Silk: 2009 | Call: 1989

Queen's Counsel

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Shortlisted by Legal 500 for Commercial Litigation Silk of the Year 2019, Charles is a highly experienced and renowned commercial advocate and Queen's Counsel. He is described in Chambers & Partners UK Bar 2020 as "**a formidable opponent**" and as being "**decisive, his arguments are confidently put, and he has good, sound judgement**".

He has been consistently ranked in the leading directories (Chambers & Partners and Legal 500) as a leading QC in the practice areas of Commercial Dispute Resolution and Civil Fraud. He is ranked as a leading QC in Chambers Global 2020 for Dispute Resolution (Commercial: UK). He is also ranked in Who's Who Legal as a leading QC for Commercial Fraud.

As well as regularly appearing in the Business and Property Courts of the High Court, Charles is also a specialist appellate advocate, having appeared in the English Court of Appeal over twenty-five times. He has also appeared in the Eastern Caribbean Court of Appeal, UK House of Lords and the UK Supreme Court.

Charles specialises in international commercial litigation and dispute resolution. He has special expertise in (i) commercial (civil) fraud and asset tracing, (ii) Russian, Ukrainian & FSU disputes, (iii) business crime, (iv) worldwide freezing orders and other interim protective relief, (v) private international law cases on jurisdiction and registration and enforcement of foreign judgments and arbitral awards, (vi) shareholder and shareholder agreement claims, (vii) banking, financial and investment disputes, (viii) commodities disputes, (ix) committal and contempt proceedings, and (x) commercial employment claims.

Many of Charles' cases involve acting for or against **Russian, Ukrainian or FSU** parties or where the UBOs of litigants are Russian, Ukrainian or FSU persons. So, for example, in addition to having acted for Mr Sergei **Pugachev** in 2017, between 2015 and 2019 Charles was acting in the latest round of the **BTA Bank v Ablyazov** litigation in proceedings brought by the bank against Mr Ablyazov's son-in-law, Mr Ilyas **Khrapunov**, Charles' client. In January 2018, Charles appeared in the Supreme Court on Mr Khrapunov's behalf, reported at [2018] UKSC 19 / [2018] 2 WLR 1125 which is now one of the leading cases in the field of commercial fraud and private international law, Charles also appeared for Mr Khrapunov in the English Court of Appeal (reported at [2018] EWCA Civ 819), a now leading case on the Court's approach to enforcement of its worldwide freezing order, including cross-examination on asset disclosure. In 2019 Charles also acted in the **Tsareva v Ananyev** 5-day Commercial Court jurisdiction battle.

Charles also acted throughout in the seminal **Dadourian Group International v Simms** commercial fraud litigation which established the **Dadourian Guidelines** on the enforcement of English worldwide freezing orders abroad, and successfully including leading the counsel team in the third **Dadourian** 6-day Court of Appeal case, a leading case on the tort of deceit.

He has also acted in several cases involving foreign law including Russian, Ukrainian, BVI, Italian, German, New York, Icelandic, UAE, Iranian, Saudi (Hanbali School).

Charles is an international arbitration practitioner and is a member of the LCIA European Users Council. He acts as counsel and as an arbitrator.

Charles enjoys working collaboratively as part of a team of solicitors, foreign lawyers and/or other QCs or junior barristers. He believes that the client's best interests are served by the implementation of a clear and defined strategy formulated in consultation with all members of the client's legal team. He is happy to attend consultations at solicitors' or client's offices, or by video link. He is also flexible on fees charged so as to reflect relevant financial considerations and constraints. In that regard, he is happy in appropriate cases to enter into conditional fee arrangements.

Charles is listed as a leading QC for commercial dispute resolution and fraud (civil) by Chambers UK as well as for commercial litigation and fraud (civil) by Legal 500. Recent highlights in the directories include the following:

"Charles is decisive, his arguments are confidently put, and he has good, sound judgement." "Charles Samek QC is a tenacious, creative and determined fraud lawyer." "A formidable opponent." (Chambers & Partners 2020)

"A very good advocate, strong on the law and with good commercial sense." "Tells it like it is and does not sugar-coat his advice, that means clients trust him." (Legal 500 2020)

"A superb advocate and cross-examiner who fights his corner tirelessly. He's a team player and reads the tribunal well." "A real street fighter who never knowingly undersells a point." "Extremely diligent and intelligent." "A very good advocate who gets the court on his side. He is a very good team player and he is incredibly bright." (Chambers & Partners 2019)

"A redoubtable fighter with a silver tongue, he can charm or bash in equal measure." "A powerful advocate who really fights his client's corner." (Legal 500 2018)

"A superb advocate with razor-sharp recall, who fights tirelessly and reads the tribunal well." "He's fantastically hands-on, and a very user-friendly and talented advocate." "Extremely bright, hard-working and responsive." "A tenacious, creative and determined fraud lawyer." (Chambers & Partners 2018)

"Incredibly impressive: a great strategist and polished advocate." "Excellent on civil fraud and injunctions particularly." (Legal 500 2017)

"He's an outstanding advocate. He has real presence in court and you can see that the judges really listen to him. He came across really well." "He is extremely bright, hard-working and responsive." "Very clear in terms of his thinking, advice and advocacy." "A fantastically hands-on, very user-friendly and talented advocate." (Chambers & Partners 2017)

"A fearsome cross-examiner, thanks to his rigorous mind and thorough preparation." "A real fighter, who will die in a ditch before he will let his client lose." (Legal 500 2016)

"A fantastic team player and a very punchy performer who is very down to earth." "A superb tactical adviser and a first-rate advocate." "He is very diligent." "Amenable, great with clients, and very sensible." "He's a proper street-fighter." (Chambers UK 2016)

"A very punchy advocate and a great tactician." "An incredibly clear and logical thinker, exactly the silk you need." (Legal 500 2015)

"An accomplished advocate favoured by instructing solicitors for commercial cases generally and civil fraud cases in particular. Sources appreciate his hands-on, collaborative approach." "He is very, very user-friendly, very hard-working, very good at being part of a team and a very effective advocate. He's particularly strong on injunctions." "Fantastically hands-on and a talented advocate." (Chambers UK 2015)

"Shows absolute dedication to the task in hand and is a great lateral thinker." "Displays outstanding professionalism and first-class commercial acumen." (Chambers UK 2015)

"An excellent, punchy advocate, who is a real team player and excellent on injunctions." (Legal 500 2014)

"A great asset to any case; he turns uncertainty into victory." (Legal 500 2014)

"Sources are quick to point to the quality of his advice and advocacy in commercial disputes." "A real team player, who is able to get to grips with difficult applications under huge time pressures." (Chambers UK 2014)

"...noted for his experience of securing and discharging injunctive relief." "Incredibly user-friendly and very much one of the team." (Chambers UK 2014)

“An impressive litigator” with a special “talent for identifying and presenting the key issues in very complicated commercial disputes.” (Chambers UK 2013)

Associations & Memberships

- COMBAR
- British-Russian Law Association
- Russian & CIS Arbitration Network
- Russian Layer Network
- British-Kazakh Society
- Commercial Fraud Lawyers Association
- LCIA European Users Council
- International Bar Association
- Chancery Bar Association
- London Common Law and Commercial Bar Association
- British-Italian Law Association

Charles Samek QC is also a member of the Bar of the **Eastern Caribbean Supreme Court** (Territory of the British Virgin Islands) and has appeared before the BVI Commercial Court and the Eastern Caribbean Court of Appeal.

Charles is also a member of the **Astana International Financial Centre Court** with unlimited rights of audience.

Charles was educated at St. Paul's School and **Oriel College, Oxford University** where he read Literae Humaniores (Latin and Greek Literature, Greek and Roman History, Modern and Ancient Philosophy). He speaks **Italian** (excellent) and **French** (good). He is currently learning **Russian**.

RECOMMENDATIONS

"A very good advocate, strong on the law and with good commercial sense." "Tells it like it is and does not sugar-coat his advice, that means clients trust him."

(Legal 500 2020)

"Charles is decisive, his arguments are confidently put, and he has good, sound judgement." "Charles Samek QC is a tenacious, creative and determined fraud lawyer." "A formidable opponent."

(Chambers & Partners 2020)

AREAS OF LAW

Civil Fraud

Recent cases of interest include:

- **JSC BTA Bank v Khrapunov** [2018] UKSC 19 – Charles appeared for Mr Khrapunov (leading Marc Delehanty) in the UK Supreme Court what is now the leading English case on the scope of the tort of unlawful means conspiracy and on the application of the Brussels / Lugano jurisdiction scheme to such claims. See also [2018] EWCA Civ 819 on privilege against self-incrimination and cross-examination on assets in face of extradition threat.
- **Tsareva & ors. v Ananyev & ors.** [2019] EWHC 2414 (Comm) – Commercial Court case on whether English Court had jurisdiction to hear claims by depositors against oligarch Ananyev brothers arising out of collapse of Promsvyaz Bank in Russia.
- **Cyprus Popular Bank Public Co Ltd v Vgenopoulos** [2018] EWCA CIV 1 – Charles appeared for the successful appellant, Cyprus Popular Bank, in the leading English appellate case on the application of the Brussels / Lugano enforcement of judgments regime to foreign worldwide freezing order and on the meaning and interpretation of the English procedural rules and the Brussels / Lugano scheme to what matters constitute ‘enforcement’ and which are thus prohibited within the period of an appeal against registration of a foreign judgment.

- **JSC Mezhdunarodniy Promyshlenniy Bank v Pugachev** [2017] – Charles acted for Mr Sergei Pugachev in litigation with the claimants arising out of the insolvency of JSC Mezhdunarodniy Promyshlenniy Bank, a subsidiary liability Russian judgment against him and an English default judgment enforcing the former Reported judgments at [2017] EWHC (Ch) 1751; 1767; 1847; 1853.
- **JSC BTA Bank v Khrapunov** [2017] 2.5.17 (HHJ Waksman QC) – Successful application for the defendant to amend his application to set aside a freezing order for material non-disclosure so as to add further grounds of alleged non-disclosure and alleged misleading of the Court by the claimant.
- **GFH Capital Ltd v Haigh et al.** [2017] Charles was instructed by one of the defendants in Commercial Court litigation against David Haigh, formerly of Leeds United FC. The present action concerns the claimant’s attempt to register a Dubai money judgment against Mr Haigh and parasitic claims against third parties.
- **Abela v Baadarani** [2017] – Charles was instructed by defendants who are resisting fresh proceedings brought by the claimants on the back of default judgment obtained against the principal defendant, Mr Baadarani. There has been a decision (unreported) by Nugee J in relation to a Third Party Debt Order and a Norwich Pharmacal Order which is the subject of an application for permission to appeal to the Court of Appeal.
- **Louis Dreyfus Commodities MEA Trading DMCC v Concorde pour L’Industrie et L’Exploitation SPRL** [2015] EWHC (Comm) 1711. Worldwide freezing order and anti-suit injunction obtained to restrain proceedings in Democratic Republic of Congo; unsatisfactory disclosure of assets by Defendants; Charles (acting for Louis Dreyfus) successfully obtaining order for cross-examination of Fourth Defendant as to assets of all Defendants
- **PJSC Vseukrainskyi Aktsionernyi Bank v Sergey Maksimov and others** [2014] EWHC 3771 (Comm). 5-day committal hearing against first defendant for alleged breach of two worldwide freezing orders. Burden and standard of proof. Whether necessary to prove every component of each allegation of contempt. Obligation of directors of companies subject to the injunctions. And see also [2014] EWHC 1958 (QB). Applicability of Art 6 ECHR to committal proceedings. Right of defendant to be present at hearing. Public interest in contempt proceedings. Whether proper question is whether there can only be a fair trial if the defendant participates or rather whether notwithstanding an inability to participate, there can nevertheless be a fair trial. See also [2013] EWHC 3203. Further proceedings in which Charles successfully resisted an application by the Twenty-Seventh Defendant (“Carlsbad”) to discharge the worldwide freezing order granted by Field J as referred to in the case below. Carlsbad applied to discharge on various grounds including that there was no good reason to suppose on further evidence which it sought to adduce that its assets belonged to D1; that there was no jurisdiction to serve the arbitral claim form and WFO against it out of the jurisdiction and that there was insufficient connection with England. Blair J rejected the application and maintained the freezing order.
- **Sheikh Saoud Bin Abdullah Al-Thani v Affat** [2014] EWHC Ch (Barling J, Nugee J, Asplin J) (Three applications) Worldwide freezing order obtained against defendant in relation to fraud relating to obtaining title to property; court also ordered passport delivery-up orders, that the defendant should not leave the jurisdiction and arrest orders. Bench warrant also issued. Discussion of court’s powers so to do. Further case of judgment in default being entered against defendant.
- **Shetty v Al Rushaid Petroleum Investment Company** [2013] EWHC 1152 (Ch). Multi-million-dollar counterclaim, brought by a leading Saudi Arabian gas and oil drilling conglomerate, for conspiracy, bribery and breach of duty (under Saudi law) arising out of the receipt of secret commissions from suppliers under gas and oil drilling contracts (JV project for Saudi Aramco).
- **Rossetti Marketing Ltd v Diamond Sofa Co Ltd** [2012] EWHC 354 (QB). Dispute between Thai furniture manufacturer and its English commercial agent. Charles successfully obtained the discharge of a freezing order on grounds of insufficient evidence of risk of dissipation.
- **Governors of the Bank of Ireland v Bailey** [2012] EWHC QB. Claim brought by bank against defendant employee for alleged making of secret profits. Charles successfully obtained the discharge of a freezing order on grounds of insufficient evidence of risk of dissipation.
- **Shetty v Al-Rushaid Petroleum Investment Co** [2011] EWHC 1460. Claim for secret commission arising out of oil/drilling contracts. The court held that it had the power to add a party as a defendant in order for all claims to be pursued in one jurisdiction, even though no claim was made against that party.
- **Clickstream Technologies plc v Christopher Wightman** [2011]. Instructed to represent the defendant CEO in proceedings for fraud and the unlawful obtaining of secret profits arising out of his stewardship of the claimant technology company.
- **Spearmint Rhino Ventures (UK) Ltd v Warr** [2011]. Retained to act for the former business partner of the founder of the Spearmint Rhino business in a dispute relating to alleged secret commissions.

- **KBC (UK) Ltd v Total Asset Ltd (in admin) & Dartnell** [2011]. Instructed for the individual defendant in relation to an alleged £130 million 'Ponzi' scheme. (Commercial Court)
- **Hotel Cipriani Srl v Cipriani International SA and others** [2011]. Instructed for the defendants on their application to discharge a worldwide freezing on the grounds, amongst other things, of material non-disclosure relating to without prejudice discussions held between the parties following the claimant's success against the defendants for passing off.
- **Dadourian Group Int'l v Simms** [2009] 1 Lloyds Reports 601. Claim for fraudulent misrepresentation inducing entry into an option agreement for the purchase of hospital equipment in Bangladesh. Charles successfully resisted an appeal against the trial judge's findings of liability and quantum. The case is important as regards the principles for assessing and proving damages for deceit, and on when the court will discharge a freezing order where it has failed on some of the claims in court even though it has won overall. Guidance was also given by the Court in relation to applications to strike out appeals on the grounds of alleged forgery of documents and perverting the course of justice.
- **Dadourian Group Int'l v Simms** [2008] EWHC 1784. Court permitted use by claimant of allegedly unlawfully obtained evidence on the grounds that the documents were not subject to legal professional privilege or, if they were, the so-called 'fraud exception' applied. See also related decision at [2007] EWHC 2634 dismissing application against claimant for delivery-up of such evidence on grounds that claimant was not party to original order.
- **Primus Telecommunications v Kumar** [2007]. Acted for the defendant in a £3m commercial fraud claim relating to pre-paid telephone cards. Allegations involved dishonest manipulation of computer security systems and the forgery of documents.
- **Dadourian Group Int'l v Simms** [2007] 2 AER 329. Permission to use evidence obtained under compulsion from a defendant under a freezing order, for purposes other than for policing the freezing order.
- **Dadourian Group Int'l v Simms** [2006] 1 WLR Establishment of Court of Appeal guidelines on the enforcement of worldwide freezing orders abroad: "the Dadourian Guidelines".

Commercial / Banking Litigation

Recent cases of interest include:

- **Agate Assets SA et al. v Banque Privée Edmond de Rothschild Europe SA et al.** [2020] – Commercial Court – Charles (since 2017) is acting for the liquidator of an Italian investment fund and for an Italian pension fund in litigation arising out of the sale by Commerzbank of a structured product alleged inter alia to contravene Luxembourg / EU legislation relating to UCITS 5-week trial to take place in November 2021.
- **Horlick and others v Cavaco and others** [2020] – Charles is acting for a number of defendants in a case brought by various claimants to inter alia recover sums alleged to be due arising out of sundry agreements allegedly entered into in relation to a mining opportunities in Mozambique.
- **Allergy Therapeutics (UK) Ltd v Inflamax Research Inc** [2017-2018] – breach of contract case concerning provision of services in relation to testing of anti-pollen allergy product produced by claimant; Charles (leading Marc Delehanty) acted for the defendant research organisation 5 weeks trial settled days before hearing.
- **Alexandroff v Credit Suisse International** [2017-2018] – Commercial Court – Charles acted for the claimant suing for introduction fees in relation to two lucrative banking transactions.
- **Financière Mademoiselle Desserts v French et al** [2017] Chancery Division – Charles acted for the claimant in a claim in fraudulent misrepresentation and breach of warranty arising out of a share sale agreement in relation to a dessert and cake production business.
- **ICICI Bank (Singapore Branch) Ltd v Essar Global Fund Ltd** [2017] – Commercial Court – Charles acted for claimant bank in successful application to enforce \$580 million New York judgment.
- **Emmott v Michael Wilson & Partners, Ltd** [2017] EWCA Civ 367 – appellate case concerning construction and application of CPR72 10 to monies in court – consideration of interests of secured creditor – effect of prior judgment ordering payment out of sums.
- **Michael Wilson & Partners Ltd v Sinclair** [2017] EWCA Civ 3 – Charles (leading Adam Solomon) was successful before the Court of Appeal in overturning a decision of Teare J ([2012] EWHC 2560 (Comm)) striking out the claimant's claim for abuse of process on the grounds that the fundamental basis of the claim had been determined against it in a prior related arbitration between it and a third party. The case will now proceed to trial in the Commercial Court. See also the linked case below ([2015] C P Rep 45).
- **Michael Wilson & Partners Ltd v Sinclair** [2017] EWCA Civ 55 – Charles (leading Adam Solomon) was again

successful before the Court of Appeal in overturning a decision of Whipple J. The Court of Appeal held that the correct CPR rule for (in general) applying for stays of execution of money judgments, including of registered foreign judgments, was CPR 83.7 rather than under CPR 3.1(2)(f). It also held that the judge's alternative exercise of discretion based on the correct rule was flawed and that there was no basis for disturbing the usual 'pay-as-you-go' rule.

- **AmTrust Europe Ltd v Trust Risk Group SpA** [2016] – in a suite of Commercial Court hearings before Blair J, Charles (leading Alexander Robson) successfully acted for the defendant Italian brokerage house in resisting claims for further injunctive relief and amendments to allege corruption of a Milanese arbitral tribunal trying claims between the same parties and to allege attempted extortion of one of the claimant's directors.
- **Dexia Crediop SpA v Provincia Brescia** [2016] EWHC 3261 (Comm) – Charles (leading Craig Ulyatt of Fountain Court Chambers) acted for the Italian public authority defendant in Swaps litigation against Dexia and Deutsche banks. This case concerned a jurisdiction battle in relation to competing English and Italian exclusive jurisdiction clauses. Reported at [2016] EWHC 3261 (Comm.).
- **St Vincent European General Partner Ltd v Robinson** [2016] EWHC 2920 (Comm) – Charles (leading Rupert D'Cruz) successfully resisted a jurisdiction challenge to English proceedings in relation to a Cypriot-law shares pledge. The Court accepted Charles' arguments that the English court was bound to take jurisdiction even though the shares pledge contained a Cypriot exclusive jurisdiction clause because it was bound to recognise a prior Cypriot High Court ruling that the English Court had jurisdiction.
- **Hertel v Saunders** [2015] 5 Costs L R 825. Charles (who had not acted below) successfully persuaded Morgan J to overturn a Master's decision that an offer letter in an alleged partnership / joint venture dispute was a Part 36 offer letter. Interpretation of CPR Part 36 and consideration of necessary conditions for an offer to be a Part 36 offer; Morgan J ruling that an offer made after proceedings had commenced and relating to an intended claim was not a Part 36 offer.
- **Michael Wilson & Partners, Ltd v Sinclair** [2015] C P Rep 45. Charles (leading Adam Solomon) successfully persuaded a full Court of Appeal to set aside an order of Lewison LJ refusing to lift a stay on an appeal (against a 2012 order of Teare J) and thereafter striking out the appeal; relief from sanctions; CPR3 1(7); change of circumstances. The consequence is that the appeal will now proceed to be heard in 2016. (The appeal raises important questions about the interplay between litigation and arbitration, and specifically it raises the issue as to whether an arbitral decision as between A and B should bind A in subsequent litigation between A and C.)
- **AmTrust Europe Ltd v Trust Risk Group SpA** [2015] EWCA Civ 437. Dispute between insurer and broker regarding priority of jurisdiction and applicable law clauses in framework agreement and Lloyds standard form terms of business agreement. Issues concerned the role of the court of appeal in hearing appeals against judge's orders on allocation of jurisdiction and the applicability of the "one-stop shop" Fiona Trust presumption in two-contract cases.
- **Isis Investments Ltd v Kaupthing Bank h.f. & Elfar Adalsteinsson** [2013] EWCA Civ 1493. Acted for the successful respondent, Mr Adalsteinsson, in this case which clarified the meaning and scope of 'lawsuits pending' in Article 32 of the EC Directive on the Reorganisation and Winding Up of Credit Institutions (Directive 2001/24/EC).
- **Dexia Crediop SpA v Provincia Di Crotona**, Commercial Court. Charles acted for the defendant, an Italian municipal authority, which successfully resisted a summary judgment application brought by Dexia Crediop to dispose of major parts of the Defence and Counterclaim in this swaps claim (2013)
- **Isis Investments Ltd v Oscatello Investments Ltd, Kaupthing h.f. & Adalsteinsson** [2013] EWHC 7 (Ch). Instructed on behalf of Icelandic investors seeking to make recovery following investments into corporate structures relating to the acquisition and sale of the Somerfield supermarket chain by entities and trusts controlled by Vincent and Robert Tchenguiz.
- **Rossetti Marketing Ltd v Diamond Sofa Inc** [2012] C P Rep 45 re Commercial Agents Regulations. Dispute between Thai furniture manufacturer and its English commercial agent. Charles successfully persuaded the Court of Appeal to hold that the agent had acted in breach of fiduciary duty and duties under the Commercial Agents (Council Directive) Regulations 1993 by failing fully to disclose its acting for other manufacturers producing competing products. The Court also, contrary to the decision of the lower court, expressly left open the question of whether termination of a commercial agency on the grounds of after-discovered reasons could disentitle the agent from compensation under Regulations 15 and 17.
- **Isis Investments Ltd v Oscatello Investments Ltd & others** [2012] EWHC 645 (Ch). Permission granted to claimant Manx liquidator to add new claims seeking to set aside a framework agreement purportedly creating a trust of up streamed profits consequent on sale of underlying corporations and order that representative party for investors remain a party to the proceedings on grounds that they had sufficient interest in proceedings.
- Advising Kuwaiti investor in relation to possible claims under the Financial Services and Markets Act 2000 following investments made on the Kuwaiti stock exchange by telephone from England (2012).

- **Mainline Private Hire Ltd v Nolan** [2011] EWCA Civ 189. In this case of alleged conversion of a motor vehicle, the Court of Appeal held that a contractual bailee was not to be regarded as having possession because of an absence of exclusivity of possession and intention to possess, and even though the contract of bailment provided otherwise and was not sham.
- **Newcastle International Airport v Parkin** [2011-2012] Civil Liability (Contribution) Act 1978 re Part 20 third party proceedings. Retained to advise and represent the interests of the former CEO of a major regional airport following the settlement of proceedings brought against him for conspiracy and fraud, the subsequent commencement of proceedings by the airports against their former solicitors for professional negligence and the solicitors' bringing contribution proceedings against the former CEO.
- Breach of development agreement. Advised a development company in relation to possible claims for breach of a development agreement for Alexandra Palace (2010).
- **Isis Investments Ltd v Adalsteinsson** [2010] EWHC 724 (Ch). Successfully obtained summary judgment for the defendant for breach of an investment sub-participation agreement. The judge stayed a costs order in favour of the defendant purportedly pursuant to the provisions of the Cross-Border Insolvency Regulations. Permission to appeal was granted by the Court of Appeal and the matter settled shortly thereafter.
- Advising ex-England footballer in relation to possible claims against bank in relation to management of portfolio of investments before and after the collapse of Lehmann Brothers in September (2008).
- **Tahmassebi v Persia International Bank plc** [2007] Pens LR 297. Charles successfully acted for the State-owned defendant Iranian bank in its defence of a seven-figure pension claim brought by its ex-general Manager.

Jurisdiction Disputes & Anti-suit Injunctions

- **Horlick and others v Cavaco and others** [2020] - Charles is acting for a corporate defendant challenging the jurisdiction of the English Court in a case brought by various claimants to inter alia recover sums alleged to be due arising out of sundry agreements allegedly entered into in relation to a mining opportunities in Mozambique.
- **JSC BTA Bank v Khrapunov** [2018] UKSC 19 - Charles appeared for Mr Khrapunov (leading Marc Delehanty) in what is now the leading English case on the application of the Brussels / Lugano jurisdiction scheme to tortious conspiracy See above.
- **BNP Paribas SA v Trattamento Rifiuti Metropolitani SPA** [2019 + 2017-2018] - Court of Appeal and Commercial Court - jurisdiction dispute arising out of ISDA swap transaction for defendant corporation - 3 days hearing in June [2019] EWCA Civ 768
- **St Vincent European General Partner Ltd v Robinson** [2016] EWHC 2920 (Comm) - Charles (leading Rupert D'Cruz) successfully resisted a jurisdiction challenge to English proceedings in relation to a Cypriot-law shares pledge. The Court accepted Charles' arguments that the English court was bound to take jurisdiction even though the shares pledge contained a Cypriot exclusive jurisdiction clause because it was bound to recognise a prior Cypriot High Court ruling that the English Court had jurisdiction.
- **Cyprus Popular Bank Co Ltd v Vgenopoulos** - see above.
- **Dexia Crediop SpA v Provincia Brescia** [2016] EWHC 3261 (Comm) - Charles acted for the Italian public authority defendant in Swaps litigation against Dexia and Deutsche banks. This case concerned a jurisdiction battle in relation to competing English and Italian exclusive jurisdiction clauses.
- **Emmott v Michael Wilson and Partners** [2016] EWHC 3010 (Comm) - Charles acted for the defendant in anti-suit injunction proceedings brought by the claimant to restrain proceedings in New South Wales, Australia.
- **AmTrust Europe Limited v Trust Risk Group SpA** [2015] EWHC 1927 (Comm) successfully resisting (with Alexander Robson) on behalf of Italian med/mal insurance broker application for anti-arbitration injunction brought by insurer in order to restrain Milan arbitration proceedings.
- **Trust Risk Group SpA v AmTrust Europe Ltd** [2015] EWCA Civ 437 Dispute over jurisdiction between arbitration in Milan under Italian law and litigation in England under English law. Consideration of applicability of Fiona Trust "one-stop" shop presumption.
- **Louis Dreyfus Commodities MEA Trading DMCC v Concorde pour L'Industrie et L'Exploitation SPRL** [2014] EWHC (Comm). Worldwide freezing order and anti-suit injunction obtained to restrain proceedings in Democratic Republic of Congo
- **Polymer Vision R&D Ltd v Van Dooren** [2012] ILPr 14. Claim for misrepresentation and breach of contract against a

Dutch liquidator in relation to a settlement. The court held that the so-called 'bankruptcy exception' in Art 1.2(b) of Council Regulation 44/2001 (the Judgments Regulation) applied so that jurisdiction could not be founded in England. Permission to appeal to the Court of Appeal was given; case settled thereafter.

- Advising Kuwaiti investor in relation to possible claims in English law and under English court jurisdiction following investments made on the Kuwaiti stock exchange by telephone from England (2012).
- **Belletti v Morici** [2010] 1 All E.R. (Comm) 412. Leading case on grant of worldwide freezing order relief pursuant to s.25 Civil Jurisdiction and Judgments Act 1982. Injunction granted in support of substantive Italian proceedings discharged on grounds that defendant not within jurisdiction and having no assets here. Applicability of para. 3.1(3) of PD6B.
- **FKI Engineering Ltd v De Wind Holdings Ltd** [2009] 1 All E.R. (Comm) 118. Appeal by German company against negative jurisdiction declaration based on inapplicability of Art 6(1) of Council Regulation 44/2001 (the Judgments Regulation) to contingent claims.
- **Crucial Music Corporation v Klondyke Management AG** [2008] 1 All E.R. (Comm) 642. Claim for damages for breach of contract to acquire catalogue of musical sound recordings. Successfully resisted an appeal against the lower court's finding that jurisdiction could be founded under Arts 5(1) and 5(3) of the Judgments Regulation 44/2001.

Eastern Caribbean (including British Virgin Islands) Instructions

Charles is a member of the Bar of the Eastern Caribbean Supreme Court, Territory of the (British) Virgin Islands.

Since being called in July 2015, Charles has been instructed in the following cases in which he has been able to develop knowledge of and familiarity with the BVI Arbitration Act 2013, the BVI Business Companies Act 2004 (as amended), BVI Insolvency Act 2003 and BVI Insolvency Rules 2005, as well as the CPR of the Commercial Division.

- **Capital WW Investment Ltd v Tall Trade Ltd** [2020]. Charles successfully resisted an application by a loan debtor to set aside a statutory demand issued by the creditor. Jack J sitting in the BVI Commercial Court applied the *Sparkasse* principles in a comprehensive judgment rejecting the application.
- **Emmott v Michael Wilson & Partners, Limited** [2016]. Application to wind up BVI registered company; BVI Arbitration Act 2013, Insolvency Act 2003 & Insolvency Rules 2005; Charles successfully obtained dismissal of petition on behalf of the company - 1/2 day hearing before Justice Barry Leon, Commercial Judge. Charles also successfully obtained the dismissal of a further petition presented by Mr Emmott in late November 2016 at a 1-day hearing before Wallbank J ruling that there was no evidence that the defendant was insolvent.
- **SFC Swiss Forfeiting Company Limited v Swiss Forfeiting Limited** [2016]. Allocation of jurisdiction; investment trusts; Charles successfully obtained the setting aside of service of proceedings in the BVI on behalf of the defendant - 1/2 day hearing before Justice Barry Leon, Commercial Judge. Charles also was successful in the landmark Eastern Caribbean Court of Appeal (Blenman, Michel and Webster JJA) in resisting the claimant's appeal against that ruling. This decision is now a leading case in this legal area and is reported online at

<https://www.eccourts.org/sfc-swiss-forfeiting-company-ltd-v-swiss-forfeiting-limited/>

- **Sakraney v Portillo Holdings & Primate Target Developments Inc.** [2015]. Shareholder dispute; construction of memorandum and articles of association; right of transferee to be registered as member; rectification of share register; BVI Business Companies Act 2004 (as amended) - 3 day trial before Justice Barry Leon, Commercial Judge.

Charles is happy to act for parties litigating in the Eastern Caribbean jurisdiction and (by virtue of the above) has substantial experience of acting in, and familiarity with, the BVI Commercial Court and ECCA.

Please contact Charles' clerks if you are interested in instructing Charles in a Caribbean case. The clerks are well versed in the practicalities of engagements in that jurisdiction and formalities at the London end can be effected speedily.

Arbitration

Charles has acted as advocate in arbitrations: eg. for a group of shareholders in an LCIA arbitration concerning a shareholders' dispute in an alcohol producing company; he has also acted in another LCIA arbitration in a dispute concerning Ukrainian grain infrastructure.

Charles was one of three arbitrators in an LCI arbitration last year (5 days) concerning the international supply and importation of cold rolled steel. Charles is current acting as 1 of 3 arbitrators in an LCIA arbitration regarding a commodities dispute and on

an UNCITRAL arbitration.

Charles is a member of the European users' council of the LCIA. Recent litigation concerning arbitration:

- **Veon Ltd v Orascom Tmt Investments SARL** [2017] Commercial Court – enforcement of part of LCIA arbitral award in context of s. 68 Arbitration Act 1996 challenge
 - **AmTrust Europe Ltd v Trust Risk Group SpA Queen's Bench Division** (Commercial Court), 08 June 2016 (Blair J) – successful resistance of amendments to allege corruption of Milan arbitration
 - **AmTrust Europe Ltd v Trust Risk Group SpA** [2015] 2 Lloyd's 231 – successful resistance of anti-arbitration injunction in respect of Milan arbitration
 - **Trust Risk Group SpA v AmTrust Europe Ltd** [2016] 1 AER (Comm) 325 – **dispute over jurisdiction between** arbitration in Milan under Italian law and litigation in England under English law
 - **PJSC Vseukrainskyi Aktsionernyi Bank v Sergey Maksimov and others** [2013] EWHC 3203 – successful resistance of application to discharge 44 Arbitration Act 1996 WFO
 - **Michael Wilson & Partners, Ltd v Sinclair** [2015] C P Rep 45 – strike out application based on alleged abuse of arbitral process, raising the question of whether in legal proceedings between A and B, B can rely on findings adverse to A made in an arbitration between A and C
 - **Shetty v Al Rushaid Petroleum Investment Co** (2013) Acted for former MD of Saudi oil and gas drilling company in claim against him in conspiracy and breach of fiduciary duty regarding alleged making of secret profits on oil and gas drilling contracts (12 day Chancery Division trial).
 - **Newcastle International Airport Limited v Parkin** (2008 – 2012) Acted for first defendant ex-CEO in Chancery Division action brought against him by ex-employer regional airport in relation to alleged wrongful procurement of contractual benefits and breach of fiduciary duty (Action settled on eve of trial). Then acted for same ex-employee in subsequent contribution proceedings brought by defendant solicitors.
 - **Bank of Ireland v Bailey** (2011) Acted for successful defendant ex-employee in fraud acting in obtaining discharge of freezing injunction in Queen's Bench Division.
 - **Clickstream Technologies plc v Christopher Wightman** (2011) Acted for first defendant director in freezing order proceedings related to his alleged misappropriation of company funds.
 - **Arjent Limited v Perdon** (2011) Acted for defendants on injunctive application by claimant ex-employer for enforcement of post termination restrictive covenants.
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