

# Charles Kimmins KC

SILK: 2010 | CALL: 1994

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## Overview

Charles is co-Head of Chambers. Charles specialises in commercial law, and represents clients in both court and arbitration proceedings. His cases tend to be high value and complex, and often involve multiple sets of proceedings in several jurisdictions.

He is recommended in a wide array of disciplines in *Chambers & Partners* and *The Legal 500*, including international arbitration, commercial dispute resolution, banking and financial, energy, insurance and reinsurance, shipping and commodities.

Charles has represented clients in a wide variety of disputes before the Supreme Court, Privy Council, Court of Appeal and High Court.

Recent cases include:

- acting for the appellant in the Privy Council (sitting in Cayman) in the leading case on the arbitrability of winding up petitions (*FamilyMart v Ting Chuan* [2023] UKPC 33),
- acting for Citibank in the Supreme Court in the PPI mis-selling litigation in *Potter v Canada Square* [2023] UKSC 41,
- acting for the successful defendants in *Kyla Shipping v FTL* [2022] EWHC 1625 (following a 3-week fraud trial relating to derivatives trading) and
- acting for issuers of convertible bonds in a dispute with the bondholders in *Prakash Industries v Peter Beck* [2022] EWHC 754,
- acting for the LCIA in the Supreme Court in the leading case on arbitrator bias (*Halliburton v Chubb* [2021] AC 1093).

He has also appeared in many arbitrations under many different rules, including ICC, LCIA, SIAC, HKIAC, ARIAS, LMAA, GAFTA,

## Professional memberships

- COMBAR
- LCACBA
- Fraud Lawyers Association

## Lectures/talks

- Section 68 Arbitration Act.
- Recent developments in arbitration law.
- Chabra freezing injunctions.
- Force majeure clauses.
- Illegality and refund guarantees.

## Education

- University of Cambridge, Trinity College: Law, First Class

FOSFA, IPE, RSA, LME and the City Disputes Panel. He has particular experience of appeals from awards under s.67, 68 and 69 of the Arbitration Act 1996 (a subject on which he regularly lectures). He also accepts appointments as an arbitrator in commercial disputes. Recent cases relating to arbitration include *Tenke Fungurume Mining v Katanga* [2021] EWHC 3301 (successfully resisting a s.68 application), *STA v OFY* [2021] EWHC 1574 (successfully resisting an application for an extension to time to challenge an award). Charles acted for the LCIA in the Supreme Court case *Halliburton v Chubb* [2021] AC 1093, dealing with issues of arbitrator bias.

Charles was nominated for 'International Arbitration Silk of the Year' by the Legal 500 or Chambers UK Bar Awards in 2023, 2020 and 2019.

He has been involved in numerous cases involving banking and investment disputes, company law and financial services. He has particular experience in derivatives. He also has significant experience in disputes arising in the private equity sector. Between 2018 - 2020, much of his time was spent on a very substantial multi-billion dollar multi-jurisdictional private equity dispute, in which he appeared in numerous hearings in London, Hong Kong, Cayman and Nevis.

He has appeared in numerous cases involving energy and natural resources, and has particular experience in the petroleum and natural gas industries. Likewise, he has acted in many insurance/reinsurance disputes, for both insured/reinsured and insurers/reinsurers, as well brokers. He has been involved in many leading cases in the fields of commodities and shipping, including shipbuilding disputes and disputes under MOAs.

Charles also has extensive experience in civil fraud cases, including cases involving fraud in the banking and shipping sectors. He is instructed in applications for urgent relief arising out of fraud claims.

## Recent cases

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- *FamilyMart v Ting Chuan* [2023] UKPC 33: acting for the appellant in a high profile appeal raising the issue of the extent to which winding up petitions are arbitrable.
- Acting for various different entities in disputes relating to Russian sanctions, including disputes arising in the context of derivatives (ISDA) and commodities.
- Acting for reinsurers in the multi-billion dollar claims by airline operators arising from the alleged loss of numerous aircraft in Russia.
- *Potter v Canada Square* [2023] UKSC 41: acting for a Citibank entity in this test case relating to PPI mis-selling. The case raised key issues arising under s.32 of the Limitation Act 1980, including the meaning of a 'deliberate commission of a breach of duty' and 'deliberate concealment'.
- *Kyla Shipping v Freight Trading Ltd* [2022] EWHC 1625; acting for the successful defendants in a heavy fraud dispute relating to derivatives trading. The defendants knocked out the claim on time-bar, on the basis that the claimants could not rely on s.32 of the Limitation Act 1980 to extend time.
- *Prakash Industries v Peter Beck* [2022] EWHC 754; acting for issuers of convertible bonds in a claim brought by bond holders. The case raised issues of the beneficial ownership of the bonds, and waiver issues.
- *Tenke Fungurume v Katanga Contracting* [2021] EWHC 3301; acting for successful respondent in a challenge to an arbitration award under s.68 of the Arbitration Act 1996. The judgment considers the extent to which awards of funding costs and success fees can be challenged under s.68 of the Arbitration Act 1996.
- *STA v OFY* [2021] EWHC 1574; acting for successful respondents in an application for an extension of time for challenging

an arbitration award.

- *Dynasty v Kurdistan Regional Government and another* [2022] QB 246: acting for the claimant in a jurisdictional dispute arising out of a claim for over US\$1.5 billion relating to product sharing agreements and oil concessions in Kurdistan. The case featured in The Lawyer's Top 20 cases for 2021, and raised interesting issues relating to sovereign immunity, Act of State, and forum non conveniens.
- *Halliburton v Chubb* [2021] AC 1083: acting for LCIA as interveners in the Supreme Court in a landmark case relating to apparent bias on the part of an arbitrator.
- Private equity dispute (2018-2020): acting for claimant in a multi-billion dollar, multi-jurisdictional private equity dispute, in which he has represented the clients in hearings in London, Hong Kong, Cayman and Nevis, and involving numerous arbitrations under ICC, HKIAC and LCIA rules.
- ICC arbitration (2019-2021): acting for claimant in a c.US\$50 m arbitration relating to copper mining in Congo.
- *Alpha v Minmetals Logistics* [2021] EWHC 1157: acting for the appellants in an appeal under s 69 of the Arbitration Act, raising important issues as to owners' rights under bills of lading.
- *Rj v HB* [2018] EWHC 2958 (Comm): acted for respondents to application under s 68 of the Arbitration Act, alongside application to remove arbitrator, based on breach of natural justice.
- *Orascom Tmt Investments SARL v Veon Ltd* [2018] EWHC 985 (Comm): acted for respondents to application under s 68 Arbitration Act, based on failure to deal with all the issues.
- ICC arbitration (2016-2018): acting for claimants in high value, complex commodities and shipping arbitration proceedings seated variously in London, Zurich and Paris.
- Ad hoc arbitration (2016-2018): acting for claimants in a high value claim for claims leakage in relation to a book of liability insurance.
- ICC arbitration (2017): acted for claimants in high value claim arising out of private equity investment in Nigeria, raising numerous regulatory and currency conversion issues.
- *Axa Versicherung v Arab Insurance Group* [2017] EWCA Civ 96: acted for appellants in appeal raising issues as to the correct test for inducement in a case involving allegations of non-disclosure.
- *Pan Oceanic v UNIPEC* [2016] EWHC 2774 (Comm): acted for claimants in high value claim for brokerage involving allegations of tortious interference and conspiracy.

## International arbitration

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He regularly appears in high value international commercial arbitrations, involving a great range of issues, and before a great variety of arbitral tribunals under many different rules (in particular LCIA, ICC, SIAC, HKIAC, ARIAS and LMAA).

He also accepts appointments as arbitrator. He has been appointed in references under a variety of rules, including LCIA, ICC, LMAA and DIAC.

He was nominated for 'International Arbitration Silk of the Year' by the Legal 500 or Chambers UK Bar Awards in 2023, 2020 and 2019.

Recent arbitrations and related proceedings include:

- *FamilyMart v Ting Chuan* [2023] UKPC 33: acting for the appellant in a high-profile appeal raising the issue of the extent to which winding up petitions are arbitrable.
- *Tenke Fungurume v Katanga Contracting* [2021] EWHC 3301; acting for successful respondent in a challenge to an arbitration award under s.68 of the Arbitration Act 1996. The judgment considers the extent to which awards of funding costs and success fees can be challenged under s.68 of the Arbitration Act 1996.
- *STA v OFY* [2021] EWHC 1574; acting for successful respondents in an application for an extension of time for challenging an arbitration award.
- *Halliburton v Chubb* [2021] AC 1083: acting for LCIA as interveners in the Supreme Court in a landmark case relating to apparent bias on the part of an arbitrator.
- ICC arbitration (2019-2021): acting for claimant in a c.US\$50 m arbitration relating to copper mining in Congo.
- *Alpha v Minmetals Logistics* [2021] EWHC 1157: acting for the appellants in an appeal under s 69 of the Arbitration Act, raising important issues as to owners' rights under bills of lading.
- *Rj v HB* [2018] EWHC 2958 (Comm): acted for respondents to application under s 68 of the Arbitration Act, alongside application to remove arbitrator, based on breach of natural justice.

- *Orascom Tmt Investments SARL v Veon Ltd* [2018] EWHC 985 (Comm): acted for respondents to application under s 68 of the Arbitration Act, based on failure to deal with all the issues.
- ICC arbitration (2018): acting for private equity investor in billion dollar, complex and multi-jurisdictional dispute.
- ICC arbitration (2016–2018): acting for claimants in US\$250 million, complex commodities and shipping arbitration proceedings seated variously in London, Zurich and Paris.
- Ad hoc arbitration (2016-2018): acting for claimants in a high value (over US\$50 million) claim for claims leakage in relation to a book of liability insurance.
- ICC arbitration (2017): acted for claimants in high value (over US\$50 million) claim arising out of private equity investment in Nigeria, raising numerous regulatory and currency conversion issues.
- Enforcement case (2017): acted for party resisting enforcement of US\$1.2 billion award on grounds of illegality and public policy.
- He has lectured on the Arbitration Act 1996, in particular on arbitration appeals under s.68 and s.69. He has extensive experience of settling applications for permission to appeal, and has acted in numerous appeals under s.67, s.68 and s.69.

## Civil fraud

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He has extensive experience in civil fraud cases. He has particular experience of cases involving fraud in the banking and shipping sectors. He also has extensive experience of applications for urgent relief arising out of fraud claims. He has lectured on Chabra freezing injunctions.

He is a member of the Fraud Lawyers Association (FLA). Recent cases (2013-2022) include the following:

- *Kyla Shipping v Freight Trading Ltd* [2022] EWHC 1625; acting for the successful defendants in a heavy fraud dispute relating to derivatives trading. The defendants knocked out the claim on time-bar, on the basis that the claimants could not rely on s.32 of the Limitation Act 1980 to extend time.
- Acting for claimants in a US\$50 m African mining dispute involving allegations of bribery and corruption.
- Acting for claimants in a multi-jurisdiction, multi-billion dollar private equity dispute involving numerous allegations of fraud.
- Acting for a defendant in a Commercial Court claim by a sovereign wealth fund for the misappropriation/loss of US\$80 million by a hedge fund (*FM Capital v Marino and Bessot*)
- Acting for the defendant in a Commercial Court claim for the misappropriation of US\$400 million under a forex trading platform (*Ikon Finance Ltd*).
- Advising a defendant to bribery allegations in relation to production orders and other disclosure issues. Advising a defendant in relation to claims for US\$245 million by regulators for market misconduct.
- Acting for the liquidators of a hedge fund in a High Court claim for the fraudulent misappropriation of US\$50 million under a Ponzi scheme.
- Acting for the defendant in a Commercial Court claim for US\$15 million for conspiracy arising out of the conduct of arbitration proceedings.
- Acting for the claimant in a Commercial Court claim for conspiracy relating to the payment of charter commission to brokers.
- Acting for a defendant in an arbitration involving allegations that bills of lading were fraudulently issued.

## Banking, company law and financial services

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He has been involved in numerous cases involving banking and investment disputes, company law and financial services (including regulatory issues).

### Recent cases

Recent cases (2013-2022) include the following:

- *Canada Square v Potter* [2023] UKSC 41: acting for a bank in an appeal to the Supreme Court in a dispute arising in relation to the provision of PPI to consumers.
- Acting for entities in proceedings relating to the effect of Russian sanctions on ISDA swaps contracts.

- *Kyla Shipping v Freight Trading Ltd* [2022] EWHC 1625; acting for the successful defendants in a dispute relating to derivatives trading.
- *Prakash Industries v Peter Beck* [2022] EWHC 754; acting for issuers of convertible bonds in a claim brought by bond holders. The case raised issues of the beneficial ownership of the bonds, and waiver issues.
- Acting for a private equity investor in a multi-billion dollar dispute involving proceedings in numerous jurisdictions.
- Acting for a private equity investor in a dispute under an SHA (and associated documents) relating to substantial investments in a pensions business in Africa.
- Acting for the claimant in a claim under an SHA relating to oil concessions in Africa (involving allegations of unfair prejudice).
- Advising a bank in relation to the liability of sponsors to creditors under a bible of documents including a sponsor support deed.
- Acting for various major banks in claims against Italian local authorities for declarations relating to the validity of interest rate swaps, currency swaps and credit default swaps.
- Advising a defendant in relation to substantial claims by regulators in Hong Kong for market misconduct.
- Acting for claimants in a claim for various remedies under a bible of documents centred around a defeased tax lease.
- Acting for a bank in successfully seeking declarations that a refund guarantee was void for illegality.
- Acting for a hedge fund in an investment dispute relating to a portfolio of sub-prime Polish debt.
- Advising liquidators of a hedge fund in relation to the misappropriation of funds under a Ponzi scheme.
- Advising liquidators of a hedge fund as to remedies against directors for disposing of assets at an undervalue.
- Advising a bank as to the applicable law of claims under various financial instruments.
- Advising various entities on the construction of put, call, tag and drag and other options in various joint venture agreements.
- Advising a venture capital entity on debt subordination and associated issues.
- Acting for the OPEC Fund for International Development in an arbitration claim under a put option for the sale of shares.

## **Derivatives**

He has particular experience in derivatives on which he has lectured. He has been involved in many of the leading cases raising questions as to the construction of ISDA 92. He represented the successful claimants in *Pioneer Freight Futures v TMT (No.1)* [2011] 2 Lloyd's Rep. 96 (Gloster J), and in *Pioneer Freight Futures v TMT (No.2)* [2011] 2 Lloyd's Rep 565 (Gloster J). These cases involved the construction of the Loss and netting provisions under ISDA 92.

He also represented the successful appellants in the Court of Appeal in the leading case on ISDA 92 involving Lehmans and numerous other parties: *Lomas v Firth Rixson* [2012] 2 Lloyd's Rep 548. The case concerned the construction of s.2(a)(iii), and various other provisions under ISDA 92.

Recently he has advised on numerous issues arising under ISDA 92 relating to FFAs in the OW Bunkers litigation. He also recently acted in a dispute relating to the trading of FFA derivatives (*Kyla Shipping v Freight Trading Ltd* [2022] EWHC 1625), and acts for entities in proceedings relating to the effect of Russian sanctions on ISDA swaps contracts.

Other experience in derivatives includes representing traders in an important dispute involving when a derivatives contract is concluded when parties are screen trading, and a dispute as to what constitutes a netting agreement, and the application of the anti-deprivation principle (*Armada v FMG, Steel J*). He has also acted for several major banks in claims for declarations against Italian local authorities as to the validity of various swaps.

## **Other banking experience**

He has experience in regulatory disputes. By way of example, he has advised a defendant in relation to claims by regulators for market misconduct (including issues relating to the "fraud on the market" principle). He has appeared before the City Disputes Panel in a case involving allegations of breach of duty by a company in the provision of investment services, and has acted for a large financial institution in defending allegations of market manipulation on the IPE. He acted for a bank in the Supreme Court in litigation arising out of the provision of PPI.

Other examples include advising in cases involving the liability of directors for knowing assistance in a breach of trust, and cases involving tracing remedies available to a company following breaches of trust. He has advised a global banking institution following the misappropriation of funds by a rogue trader, and has advised a major multi-national following the fraudulent misappropriation of share certificates.

He has acted in numerous cases involving futures and options, in particular arising out of the assessment of damages in commodities transactions, and has also represented a major city institution in a dispute as to the terms of a contract on a futures exchange.

He has also been involved in numerous cases involving guarantees, including *Golden Ocean v Salgaocar* [2012] 1 Lloyd's Rep 542.

## Commodities

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He has acted in many arbitrations and court disputes involving commodities.

He has acted in numerous disputes arising out of the collapse of the markets in late 2008, and many of the cases have involved issues relating to damages and hedging.

He has been involved in cases involving most commodities (including, e.g. crude oil, VGO, LPG, zinc, copper, aluminium, sulphuric acid, phosphoric acid, cotton, sugar, soybeans, grains etc), and he has particular experience in cases involving petroleum products.

Cases include:

- *Cottonex v Patriot* [2014] 1 Lloyd's Rep. 615, Hamblen J.
- *Great Elephant v Trafigura* [2012] 2 Lloyd's Rep 503, (Teare J.), [2014] 1 Lloyd's Rep. 1 (C/A)
- *Continental Enterprises v Shandong Zhucheng* [2005] EWHC 92, Steel J.
- *Louis Dreyfus v Reliance Trading* [2004] 2 Lloyd's Rep.243, Andrew Smith J.
- *North Sea Energy Holdings v Petroleum Authority of Thailand* [1997] 2 Lloyd's Rep.418, [1999] 1 Lloyd's Rep. 483 (C/A).

## Conflicts of laws

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He regularly advises on issues of jurisdiction arising in all areas of commercial law (including banking, reinsurance, shipping, commodities etc). He has particular experience in advising on the effects of jurisdiction and arbitration clauses, and has obtained and advised upon the availability of anti-suit injunctions in the Commercial Court on the basis of such clauses.

A recent example is *Dynasty v Kurdistan Regional Government & another* [2022] QB 246: acting for the claimant in this jurisdictional dispute arising out of a claim for over US\$1.5 billion relating to product sharing agreements and oil concessions in Kurdistan. The case featured in The Lawyer's Top 20 cases for 2021, and raised interesting issues relating to sovereign immunity, Act of State, and forum non conveniens.

Other examples include *Pan Oceanic v UNIPEC* [2016] EWHC 2774 on the applicable law for tortious interference claims under Rome II, and *CH Offshore v PDVM* [2015] EWHC 1939, which considered the conflict between jurisdiction clauses and the "necessary and proper party" regime.

Cases involving anti-suit injunctions include *Star Reefers v JFC No1* [2010] EWHC 3003, [2012] EWCA Civ 14. He has also obtained anti-anti-suit injunctions. In addition he successfully resisted a jurisdiction challenge in *Star Reefers v JFC No2* [2011] 2 Lloyd's Rep.215 (Andrew Smith J). He also appeared in *Golden Ocean v SMI* [2011] EWHC 56, [2012] EWCA Civ 265, involving jurisdiction issues relating to a contract of guarantee.

Other reported cases include *Import Export Metro v CSAV* [2001] 1 Lloyd's Rep.11 on forum non conveniens and non-exclusive jurisdiction clauses in bills of lading.

## Insurance and reinsurance

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He has acted for the insured or insurers in many insurance and reinsurance disputes.

### Recent cases

He appeared for reinsurers in the Court of Appeal in *Axa v ARIG* [2017] EWCA Civ 96 (and [2015] EWHC 1939), involving non-disclosure to treaty reinsurers of historic loss statistics, and the effect of delay on the right to avoid.

Other recent cases between 2013 and 2022 include the following:

- Advising insurers/reinsurers in the Russian aircraft sanctions litigation.
- Advising reinsurers in relation to aggregation issues arising out of cancellations following Covid-19.
- Advising in relation to business interruption claims arising out of Covid-19.
- Acting for the insured in a substantial claim (c.E75 m) under a buy-side warranty insurance policy.
- Advising reinsureds in relation to a claim against reinsurers arising out of a landslide in South America.
- Acting for claimants in a US\$65 million claim for claims leakage in relation to a book of liability insurance.
- Acting for insurers in a dispute relating to what constitutes a partial or temporary repair with the meaning of the Marine Insurance Act.
- Acting for reinsurers in relation to claims under a QS treaty, and whether the reinsured was in breach of a net retention warranty.
- Acting for the insured in relation to a claim under credit default insurance for charter hire, and whether the policy could be avoided for non-disclosure.
- Acting for insurers relating to a claim for the total loss of a rig in Russian waters.
- Acting for liquidators in relation to a claim against insurers under the Third Party (Rights Against Insurers) Act.

He acted for reinsurers in the film finance litigation. He has extensive experience of cases arising out of facultative obligatory cover, and in particular cases involving allegations of non-disclosure (of claims history/moral hazard etc), affirmation/waiver and breaches of warranty. He has also acted in cases involving the practice of net underwriting, double insurance, and cases involving follow the leader and follow the settlements clauses. He has also been involved in a number of disputes involving brokers. Commercial Court trials include *Brockbank v Reliance* (Steel J.) raising questions of the legal nature of lineslips, and *NIGC v Russell Tudor Price* [1999] Lloyd's Rep. IR 249 involving allegations of negligent broking.

Other commercial court trials include *American International Marine v Dandridge* [2005] EWHC 829 (Comm) [2005] Lloyd's Rep I.R 643, and see *Insurance Law Monthly*, January 2006, Volume 18, involving the incorporation of terms into a reinsurance contract, and a six week trial between *Axa v New Hampshire* (Morison J.) involving numerous issues including the effect under a reinsurance contract of a foreign judgment on the liability of the original assured. He appeared in *Talbot v NHM* [2006] 2 Lloyd's Rep. 195, in which the Court of Appeal considered the question of who was covered under a BAR policy, and considered the question of whether an undisclosed principal could intervene in the contract.

He also appeared at 1st instance and in the Court of Appeal in *Limit No.2 Limited v Axa Versicherung AG* [2008] Lloyd's Rep IR 330, which involved allegations that the re-assured had misrepresented its intentions and current underwriting practice, and raised issues as to how risks were ceded to a fac/oblig treaty.

## Energy and natural resources

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He has appeared in numerous cases involving energy and natural resources, and has particular experience in the petroleum and natural gas industries.

Recent cases between 2013 and 2022 include the following:

- *Dynasty v Kurdistan Regional Government & another* [2022] QB 246: acting for the claimant in a claim for over US\$1.5 billion relating to product sharing agreements and oil concessions in Kurdistan. The case featured in *The Lawyer's Top 20 cases for 2021*.
- Acting for claimants in an ICC arbitration relating to a mining contract in D R Congo.
- Acting for a JV partner in a billion dollar shareholder dispute relating to the operation of a Nigerian OML.
- Acting for drill rig owners in a US\$80 million claim for stand-by costs.
- Acting for BP in a case involving a JV agreement relating to the import of LNG into the UK.
- Acting for the claimant in a US\$120 million claim for an agency fee relating to the sale of a Nigerian offshore oil concession.
- Acting for a South African claimant in a US\$20 million dispute under a JV relating to a Nigerian oil operating licence, and the effect of governmental interference.
- Acting for a Nigerian claimant in a high value dispute under a JV relating to the development of an oil terminal in Nigeria.
- Acting for various entities in various multi-million dollar disputes relating to the charter of various offshore platforms/rigs (e.g., *CH Offshore v PDVM* [2015] EWHC 1939).

- Acting for buyers in a US\$20 million dispute relating to the contamination of zinc, lead and bulk concentrates, causing production problems at an Indian smelter.
- Acting for sellers in a dispute relating to the alleged contamination of sulphuric acid produced by an Indian smelter.

## Shipping

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He has extensive experience in all kinds of shipping disputes, including numerous disputes under charterparties, bills of lading and MOA's.

Reported cases include *Alpha Marine v Minmetals* [2021] EWHC 1157 on owners' rights under bills of lading, *Pan Oceanic v UNIPPEC* [2016] EWHC 2774 on brokers' rights to commission under a long term COA which was repudiated, *FSL-9 PTE Ltd v Norwegian Hull Club* [2016] EWHC 1091 on the meaning of a liberty to apply provision in an LOI, *Glencore International v PT Tera Logistics* [2016] EWHC 82 on time bars under floating crane contracts, *CH Offshore v PDVM* [2015] EWHC 1939 on long term COAs, *Geden v Dry Bulk* [2014] 2 Lloyd's Rep. 66 on the effects of refusing to follow charterers' orders (and piracy issues), and *Great Elephant v Trafigura* [2014] 1 Lloyd's Rep. 1 (C/A) on force majeure clauses.

Other cases include *Waterfront Shipping v Trafigura* [2008] 1 Lloyd's Rep 286 on demurrage time bars, and he represented charterers in "*The Silver Constellation*" arbitration, which subsequently went to appeal and is reported at [2008] 2 Lloyd's Rep 440. He acted for charterers in *Cobelfret v Swissmarine* [2010] 1 Lloyd's Rep 317 (Beatson J.) relating to the incorporation of terms into a charterparty recap, and in *Golden Ocean v SMI* [2011] EWHC 56, Christopher Clarke J., involving the liability of guarantors to a charterparty. He successfully represented charterers in an appeal relating to a strike clause in an AMWELSH charter: *Louis Dreyfus v Carboex* [2011] 2 Lloyd's Rep.177. He also represented the claimants in the Star Reefers litigation, involving substantial claims under two contracts of guarantees. Judgments in that litigation include *Star Reefers v JFC No1* [2010] EWHC 3003 (Teare J), *Star Reefers v JFC No2* [2011] 2 Lloyd's Rep.215 (Andrew Smith J), *Star Reefers v JFC No3* [2011] EWHC 1166 (Burton J), and *Star Reefers v JFC No4* [2011] EWHC 2204 (HH Judge Chambers QC).

Earlier cases include *The Berge Sisar* (2002) All ER (D) 138 on the carriage of LPG, *Stocznia Gdanska v Latvian Shipping Co* [2001] 1 Lloyd's Rep.537 arising out of a contract for the construction of six ships and involving allegations of conspiracy and inducing a breach of contract, *Southampton Container Terminals v Hansa* [1999] 2 Lloyd's Rep.491 involving the assessment of damages following damage to a crane, *Fyffes Group v Reefer Express Lines* [1996] 2 Lloyd's Rep.171 raising issues of seaworthiness and damages, *Swissmarine Corp. v Frontier Shipping* [2004] 1 Lloyd's Rep. 390 on strike clauses, and *Miranos International Trading v VOC Steel* (Cooke J.) on damages for early redelivery.

## General commercial litigation

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In addition to advising upon the specialised areas of commercial law identified above, he has acted in many disputes involving general principles of commercial law. He is regularly recommended in directories as a leading barrister in this category; comments include that he is "deeply analytical", "highly polished" and a silk who "can be parachuted into a difficult case to argue attractively and skilfully".

Examples include:

- Representing various entities in numerous JV disputes, including several cases involving put, tag and drag options. Other JV disputes include a dispute arising out of a JV for the supply of goods and services in Afghanistan, a JV for the development of a port in Nigeria, a JV relating to pension management in Africa, and various JVs relating to various OMLs in Nigeria.
- Successfully defending a US\$2.7 billion claim for breach of an alleged agreement to develop an innovative oil spill recovery technique, and acting for a major international airline in a case arising out of a substantial contract alleged to have been procured by bribery. Other examples include a claim for an indemnity under a "knock for knock" clause in an agreement for the supply of personnel for offshore platform work.
- Advising on a large pollution claim in the Ivory Coast and on issues arising out of the Stone + Rolls litigation. He has also advised on an accountant's negligence claim worth several billion pounds.
- Representing the claimants in the Factortame litigation over the course of 2-3 years, appearing in *R v Secretary of State for Transport ex parte Factortame* [2001] 1 WLR 942 in which the Court considered the nature of a breach of EC law for the purposes of limitation, and in *R v Secretary of State for Transport ex parte Factortame* [2000] All ER (D) 1174 on the practice of making Part 36 offers.

He also has extensive experience of obtaining interim relief, including freezing injunctions, interim injunctions, anti-suit injunctions, and anti-anti-suit injunctions.



## Recommendations

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Charles provides an excellent client service - he is always able to explain complex matters in a succinct and understandable way. [Chambers UK Bar 2024](#)

A razor-sharp legal mind who cuts to the heart of the most complex of disputes. [The Legal 500 UK Bar 2024](#)

Charles has a really great way of distilling complex matters so that they are readily understandable. [The Legal 500 UK Bar 2024](#)

For international arbitration, Charles Kimmins KC must be at the top of the ladder. [Chambers UK Bar 2024](#)

Charles Kimmins is an excellent advocate and legal brain. Clients go back to him time and time again for difficult cases. [Chambers UK Bar 2024](#)

Charles' advocacy is persuasive, commanding and brutally effective. He zeroes in on the core issues, has sharp attention to detail, and is exceptionally user friendly and personable. [The Legal 500 UK Bar 2024](#)

Excellent attention to detail with an ability to make very difficult and complex issues seem quite straightforward. Tenacious and a good advocate. [The Legal 500 UK Bar 2024](#)

Charles is a top-drawer shipping silk. [Chambers UK Bar 2024](#)

A really excellent leader, who is an excellent choice for complex cases. He is practical, gets involved in the detail and does the work himself. [Chambers UK Bar 2023](#)

. Understands the inner-workings of arbitral tribunals. Very modest despite his intellectual prowess. An indispensable asset in high-value arbitration. [The Legal 500 UK Bar 2023](#)

Charles is a first-rate silk - very impressive, good with clients and sharp. [Chambers UK Bar 2023](#)

Charles is a go-to leader for complex cases, and is a brilliant advocate and practitioner. One of the hardest working silks in the business, he never fails to impress the client with his ability and attitude. Universally well liked amongst the solicitors and clients he works with, which is firms go to him time after time. [The Legal 500 UK Bar 2023](#)

He is a stellar advocate. [Chambers UK Bar 2023](#)

Brilliant advocate in a league of his own. Sharp intellect. Incredibly user-friendly and approachable. An absolute pleasure to work with. [The Legal 500 UK Bar 2023](#)

Very good on his feet, and quick. Excellent on cross-examination, and a superb advocate. [The Legal 500 UK Bar 2023](#)

He is one of the clearest and most incisive minds I have come across. [Chambers UK Bar 2023](#)

He provides clear thinking and careful examination of the issues and of the merits of arguments and counterarguments. [The Legal 500 UK Bar 2023](#)

Absolute class act - nobody better at the London bar for international arbitration. [The Legal 500 UK Bar 2023](#)

Charles is a first-rate silk - very impressive, good with clients and sharp. [Chambers UK Bar 2022](#)

A really excellent leader, who is an excellent choice for complex cases. He is practical, gets involved in the detail and does the work himself. [Chambers UK Bar 2022](#)

He is one of the clearest and most incisive minds I have come across. [Chambers UK Bar 2022](#)

Thorough and meticulous in reviewing documents, creative and imaginative in approaching the law and the formulation of legal arguments, and a pleasure to work with. [The Legal 500 UK Bar 2022](#)

He is a stellar advocate. [Chambers UK Bar 2022](#)

He is great to work with and applies his mind tremendously to think through issues. His analytical and thinking skills are first rate. [Chambers UK Bar 2022](#)

An absolute pleasure to work with, which has lead to repeat instructions from firms. His strongest attribute is the ability to distill complex legal principles and provide concise and targeted advice to clients in the financial services sector. [The Legal 500 UK Bar 2022](#)

He has a great ability to put across difficult legal concepts in simple terms and is very good in arguing tight corners. [The Legal 500 UK Bar 2022](#)

He is a true star and an absolute joy to work with. He gives clear, concise advice that cuts to the heart of the matter, and

knows instinctively what works with judges and tribunals. [Chambers UK Bar 2021](#)

He is analytically and strategically brilliant, down to earth and has a high academic and emotional intelligence - he's extraordinary. [Chambers UK Bar 2021](#)

His advice is clear and digestible, and his advocacy excellent. [Chambers UK Bar 2021](#)

A first-class commodities specialist - one of the few counsel who properly understands that area of law. [The Legal 500 UK Bar 2021](#)

Very knowledgeable and sharp, he can pick up on issues very quickly, knows the law and has the cases/authorities at his fingertips. [The Legal 500 UK Bar 2021](#)

Wonderfully user-friendly and a brilliant advocate. [The Legal 500 UK Bar 2020](#)

He has serious intellectual firepower and can navigate complex situations with ease. [The Legal 500 Asia Pacific 2020: The English Bar](#)

He is fabulous as he's really user-friendly, practical, all over the detail and a very effective advocate. [Chambers UK Bar 2020](#)

One of the best - a ninja in cross-examination. [The Legal 500 UK Bar 2020](#)

Very modern, dynamic, articulate and has excellent strategic thinking. [Chambers Global 2020](#)

Excellent attention to detail and always utterly on top of the cases. [The Legal 500 UK Bar 2020](#)

An exceptionally good advocate. [Chambers UK Bar 2020](#)

First-class; very attentive and a great advocate. [The Legal 500 UK Bar 2020](#)

His expertise lies in handling large, complex issues on a range of subjects. [Chambers Global 2020](#)

A joy to work with, his ability to anticipate issues is most impressive; he has a tactical mind and a lovely style. [The Legal 500 UK Bar 2020](#)

He gives clear, concise advice that cuts to the heart of the matter. He knows instinctively what works. [Chambers UK Bar 2020](#)

A "go-to" silk for high-value energy matters; he is very good at grasping complex and difficult matters. [The Legal 500 UK Bar 2020](#)

He has a lovely light touch with tribunals, so when he emphasises something it really stays in their minds. [Chambers UK Bar 2020](#)

Absolutely top notch, one of the leading silks in the field. [The Legal 500 UK Bar 2020](#)

Fantastic to work with. A team player. He is very client-friendly. He has a real way of getting to the heart of the problem. [Chambers UK Bar 2019](#)

A top trial lawyer with a brilliant mind. [Chambers UK Bar 2019](#)

For a silk of his outstanding ability, he is refreshingly normal - clients love him. [The Legal 500 UK Bar 2019](#)

An excellent silk who is very good at cross-examination and quick on his feet. [Chambers UK Bar 2019](#)