

CHARLES SAMEK QC

Silk: 2009 | Call: 1989



General

Full name: Charles Stephen Samek

DOB: 4 July 1965, London

Nationality: British

Marital status: Married with two children

Education:

- 1) St. Paul's School, Barnes, London (1978-1982); Scholar (1981)
- 2) Oriel College, Oxford University (1983-1987) – BA and MA in Literae Humaniores (Classical Honour Mods and Greats). Class 2:1.
- 3) City University (1987-1988) – Dip. Law (Law conversion course)
- 4) Inns of Court School of Law (1988-1989) (Bar School)

Professional career / awards:

- 1) Middle Temple Astbury Law Scholar (1988).
- 2) Called to the Bar by Middle Temple (November 1989). Also member of Inner Temple ad eundem (1997)
- 3) In practice at Littleton Chambers, 3 North King's Bench Walk, Temple (formerly 2 Crown Office Row, Chambers of Michael Sherrard Q.C.) (November 1990 – present day)
- 4) Appointed to Queen's Counsel (March 2009)

Professional affiliations / memberships: Commercial Bar Association; Chancery Bar Association; Employment Bar Association; London Common Law and Commercial Bar Association; International Bar Association; British – Italian Law Society

Clubs: Athenaeum; Oriental

Interests: Opera, ballet, art and art history, foreign travel, food & wine, supporting Arsenal FC

Languages: Italian (excellent); French (good)

Introduction

Charles Samek QC has a broad and multi-faceted practice across the fields of commercial litigation, civil fraud, private international law, entertainment, intellectual property and employment law. He has appeared in every relevant court and tribunal including the House of Lords.

His expertise is in complex, high-value litigation requiring effective strategy and tactics, creativity, team leadership, commitment, dynamism, hard work and powerful and fearless advocacy.

The legal directories are full of praise for Charles. Most recently:

- "... received accolades for stellar performances in the commercial courts... Charles Samek QC has a wealth of admirers, who appreciate his combination of "cleverness, hard work and outstanding advocacy". (Chambers UK 2010)
- "At Littleton Chambers, the... 'very bright and hardworking' Charles Samek QC was also successful in the Court of Appeal in *Dadourian v Simms*.". Legal 500 2010
- "New silk, Charles Samek QC 'possesses a combination of qualities, which make him an outstanding talent: very clever, extremely hard-working and an excellent advocate'. (Legal 500 2009)
- "Commentators rate several barristers at Littleton Chambers highly, especially Charles Samek. "Intelligence and diligence" combine within this "outstanding junior," whose practice includes commercial and employment cases." (Chambers UK 2009)

As a successful commercial advocate, Charles understands the importance of being flexible in relation to fees; delivering work on time; being straight with a client.

Commercial

Charles' entries in the legal directories for Commercial Litigation and Dispute Resolution are testament to his reputation as a creative, effective and dynamic strategist and powerful advocate. His approach to any new instruction is straightforward: in conjunction with other members of the legal team and the client but leading from the front (i) determine the client's commercial objectives; (ii) develop strategies successfully to achieve those objectives; (iii) implement and pursue those strategies.

Charles' practice, advisory work and advocacy at the interlocutory and trial stages, encompasses injunction and all types of other interlocutory applications; agency including commercial agency; banking and finance; bankruptcy and insolvency; commercial torts including inducing breach of contract and unlawful interference; commodities; company disputes; distribution and supply agreements; franchising and car dealership agreements; investment agreements; joint venture disputes; minority shareholder actions; partnership; private international law (applicable law and jurisdiction); professional negligence; restitutionary claims; sale of goods (domestic and international); share sale agreements; worldwide freezing and search orders.

Charles' current instructions include acting for investors in a £67.15m claim against a subsidiary of the failed Icelandic bank, Kaupthing, arising out of the sale of various interests in the Somerfield supermarket group.

Significant practice cases (post-2000)

Civil fraud / domestic and worldwide asset freezing injunctions:

- ***Hotel Cipriani srl v Cipriani International SA*** [2010] High Court (Ch) - Worldwide freezing injunction against Luxembourg defendant. Risk of dissipation of assets. Discharge for material non-disclosure / misleading of Court. Roth J
- ***Belletti v Morici*** [2010] 1 All E.R. (Comm) 412 - Worldwide freezing injunction. Substantive Italian proceedings. Section 25 Civil Jurisdiction and Judgments Act 1982. Service out of the jurisdiction. Flaux J
- ***Dadourian Group Inc v Simms & others*** [2009] 1 Lloyd's Rep. 601 - Deceit. Damages: causation and assessment. Misrepresentation. Joint tortfeasors. Worldwide freezing injunction. Material non-disclosure. Striking out appeal notice. Court of Appeal (Arden, Hallett LJ, Blackburne J)
- ***National Grid Electricity Transmission v McKenzie, Rigout, Good and others*** [2008] High Court (Ch) - Construction industry. Breach of fiduciary duty. Third party sued as co-conspirator. Accessory liability. Dishonest assistance. Knowing receipt. Remedies
- ***Dadourian Group Inc v Simms & others*** [2008] EWHC 1784 (Ch) - Interpretation of standard from worldwide freezing order. Payments made by third parties. Patten J
- ***Primus Telecommunications Ltd v Kumar*** [2007] High Court (2 week trial) (QBD) - Multi-million pound pre-paid telecommunications and computer fraud. Alleged interference with internal security controls and master software. Deceit. Gray J
- ***Bottin International Investments Ltd v Venson Group plc*** [2006] EWHC 3112 (Ch) (4 week trial) - Share sale agreement. Deceit. Express and implied misrepresentations. Rescission. Damages. Blackburne J
- ***Dadourian Group Inc v Simms & others*** [2006] 1 WLR 2499 - Worldwide freezing injunction. Undertaking not to enforce abroad without permission of Court. When permission will be granted. Procedure and evidence for application to enforce. Court of Appeal (Ward, Arden, Moore-Bick LJ)
- ***Dadourian Group Inc v Azuri Ltd*** [2006] WTLR 239 - Worldwide freezing injunction. Application to extend scope of injunction to third party alleged to hold assets owned or controlled by defendants. Test to be applied. High Court (Bartley Jones QC)
- ***Dadourian Group Inc v Simms and others*** [2006] EWHC 2973 (Ch) (6 week trial) - Fraudulent misrepresentation. Causation. Damages for deceit. Piercing corporate veil. Warren J
- ***Dadourian Group Inc v Simms & others*** [2005] 2 AER 651 - Worldwide freezing injunction. Permission to enforce same in Switzerland. Assets alleged to be held by third parties. Test to be applied when injunction sought against non-defendant alleged to hold assets. Laddie J
- ***Paicolex Nominees Ltd (Eisenberg) v Bachar*** [2004] High Court (Ch) - Breach of fiduciary duty. Secret commissions. Blackburne J

Restitution:

- **UIB Insurance Brokers Ltd v Marsh Ltd** [2008] EWHC (QBD / Commercial Court) - Aviation insurance broking. Conspiracy. Remedies. "Wrotham Park" damages. Restitutionary damages. High Court
- **Countrywide Communications Ltd v ICL Pathway Ltd and International Computers Ltd** [2000] CLC 324 (QBD) - Consortium invited to tender by Benefits Agency and Post Office. Claimant part of original consortium. Doing work before contract awarded but not engaged once awarded. Claim for work done pre-contract. Restitutionary remedies available. High Court (Strauss QC).

Evidence / injunctions / procedure / privilege / contempt:

- **Dadourian Group Inc v Simms & others** [2009] 1 Lloyd's Rep. 601 - Interlocutory injunction. Material non-disclosure. Striking out appeal notice. Court of Appeal (Arden, Hallett LJ, Blackburne J)
- **Dadourian Group Inc v Simms & others** [2008] EWCA Civ - Security for costs of appeal. Conditions imposed for appeal. Manner of giving security. Court of Appeal (Thomas LJ)
- **Dadourian Group Inc v Simms & others** [2008] EWHC 186 (Ch) - Evidence obtained on cross-examination as to assets. Undertaking by claimant limiting use of evidence. Permission to be released from undertaking in order to use evidence on summary judgment application. Peter Smith J
- **BLP (UK) Ltd v B&Q plc** [2008] EWHC 697 (QBD) - Termination of supply contract. Injunction to restrain termination. Costs. Mackay J
- **Dadourian Group Inc v Simms & others** [2008] EWHC 1784 (Ch) - Party seeking to make use of stolen documents. Legal professional privilege: litigation privilege; legal advice privilege; joint and common interest privilege. Waiver of privilege. Patten J
- **SES Contracting Ltd v UK Coal plc & Weston** [2008] 24 Const. LJ 518 - Pre-action disclosure. CPR 31.16. High Court (HHJ Richard Seymour QC)
- **Dadourian Group Inc v Simms & others** [2007] EWHC 2634 - Party seeking to make use of stolen documents. Whether obligation to deliver up documents. Order against third party in separate proceedings to deliver up documents. Whether claimant in present proceedings in breach of order and in contempt of Court. Warren J
- **Dadourian Group Inc v Simms & others** [2007] 1 WLR 2967 - Contempt of Court. Undertakings not to use evidence obtained under compulsion. Implied undertaking. Release of undertakings. Court of Appeal (Morrit V-C, Arden, Longmore LJ)
- **Venus Wine & Spirit Merchants plc v Kejriwal** [2007] EWHC 1642 (QBD) - Interlocutory injunction. Material non-disclosure. Court misled. Re-consideration of Court order. CPR 3.1(7). Costs. Underhill J
- **Dadourian Group Inc v Simms and others** [2006] EWHC 2973 (Ch) - Admissibility of arbitration awards. Estoppel. Res judicata. Warren J
- **Reed Health Group v Jones and others** [2004] EWHC (Ch) 1269 - Allegations of conspiracy and fraud. Whether sufficiently pleaded. Application to strike out. Peter Smith J
- **Cordiant Communications Group Plc v Bamber** [2003] EWHC 2875 (QBD) - Defences. Delay. Extension of time. Parallel Employment Tribunal proceedings. Stanley Burnton J
- **Walsh Automation (Europe) Ltd v Bridgeman** [2002] EWHC 1344 (QBD) - Disclosure. Legal professional privilege. Waiver of privilege. Fraud exception to privilege. Reference in pleading to document. Whether sufficient to waive privilege. Eady J

Private international law / conflict of laws:

- **Al-Rushaid Parker Drilling LLC v Shetty** [2010] EWHC (Ch) - Ex-director alleged to have taken secret commissions in breach of duties under Saudi Arabian law. Whether duties akin to fiduciary duties owed. Applicability of law of Kingdom of Saudi Arabia. Private International Law (Miscellaneous Provisions) Act 1995
- **FKI Engineering Ltd v De Wind GmbH** [2009] 1 All E.R. (Comm) 118 - Allocation of jurisdiction. Concurrent English and German proceedings. Stay of English proceedings. Council Regulation (Judgments Regulation) 44/2001, Art. 6(1). Court of Appeal (Tuckey, Toulson LJ, Sir John Chadwick)
- **Crucial Music Corpn. v Klondyke Music Management AG** [2008] 1 All E.R. (Comm) 642 - Allocation of jurisdiction. German and Swiss defendants. Stay of English proceedings. Council Regulation (Judgments Regulation) 44/2001 & Lugano

Convention. Art. 5(1). Place of performance of contractual obligation. Art. 5(3). Place where damage suffered in tort claim. High Court (Livesey QC)

- **TA Music v Universal International Music BV** [2008-2010] High Court (Ch) - Royalties accounting claim. Application of Russian law as to limitation; obligation to negotiate in good faith; interest etc.. Foreign Limitation Periods Act 1984

Insolvency & bankruptcy:

- **Isis Investments Ltd v Kaupthing Bank hf, Adalsteinsson and others** [2010] EWHC (Ch) - Cross-Border Insolvency Regulations 2006. UNCITRAL Model Law on Cross-Border Insolvency. Automatic stay of legal proceedings. Isle of Man insolvency. Application of English law under Art. 20(2). Recoverability of legal costs of proceedings adopted by provisional liquidator. Newey J
- **Dadourian Group Inc v Simms and others** [2008] BPIR 508 - Bankrupt defendant seeking to appeal. Official Receiver. Trustee in bankruptcy. Ability of bankrupt to appeal. Stay of execution. Warren J
- **Kellar v BBR Graphics Engineering (Yorkshire) Ltd** [2002] BPIR 544 - Statutory demand. Application to set aside. Test to be applied. High Court (Kaye QC)

Entertainment / media:

- **TA Music v Universal International Music BV** [2008-2010] High Court (Ch) - Royalties. Accounting. Record / album producer agreement for pop band "tATu"
- **FG (UK) Ltd v Green & others** [2009] EWHC (Ch) - Heavy metal / all girl dance troupe. Constructions of contracts of employment. Injunctions to restrain alleged competition and passing off. Sales J

Partnership:

- **Hurst v Bryk** [2002] 1 AC 185 - Partnership between solicitors. Dissolution. Repudiatory breach by defendant partners accepted by claimant. Whether releasing claimant partner from all further obligations. Partnership Act 1889. House of Lords (Lords Nicholls, Millett, Hope, Clyde)

Contractual construction / breach of contract:

- **Re. United Agents & Peter Fraser Dunlop Ltd** [2008/9] - Advising literary agency on termination and payment provisions in contracts between agents and former agency. Rights of third party clients. Relevance to issues of construction
- **Tahmassebi v Persia International Bank plc** [2007] Pens. LR 297 - Ex-managing director suing for pension. Whether contract included payment of Iranian pension and English pension. Obligation to use best endeavours. Davis J
- **JR French Ltd v Redbus LMDS Ltd** [2006] FSR 13 - Patent licence agreement. Apparent prohibitions against assignment without consent. Repudiation. Acceptance of repudiation. Termination. Meaning of "carrying on business". Unilateral and mutual mistake. High Court (Wyand QC)
- **Bottin International Investments Ltd v Venson Group plc** [2004] EWCA Civ 1368 - Warranty claims in share sale agreement. Whether sufficient notice of claim given in notice. Provisions for service of notice of claim. Whether compliance. Service on corporate warrantor by leaving at registered office. Exclusion clause for misrepresentation. Court of Appeal (Gibson, Longmore LJJ, Lindsay J)
- **Linpac Plastics Ltd v Europlast H Mudder GmbH** [2001] EWCA Civ 1804 - Distribution agreement. Construction. Orders for goods placed by third party. Whether supplying contracting party had contractual relationship with third party. Whether orders for goods constituting separate contracts or merely instances of ordering under global distribution contract. Court of Appeal (Chadwick LJ, Harrison J)
- **Stent Foundations Ltd v MJ Gleeson Group plc** [2001] BLR 134 - Building contract. Exclusion and limitation clauses. Whether effective. Tests to be applied. Technology & Construction Court
- **Fontana (Administratrix of the Estate of Gosley) v Skandia Life Assurance Ltd** [2000] Court of Appeal 14.12.00 - Life insurance contract. Whether policy had lapsed. Construction. Formation of contract. Payment. Premiums. Effect of correspondence between parties. Court of Appeal (Ward & Brooke LJJ; Sir Christopher Slade)
- **Eurofi Ltd v Teletech UK Ltd** [2000] Court of Appeal 31.7.00 - Claimant supplying advice and representation in relation to regional development grants. Commission. Consultancy agreements. Construction. Meaning of word "grants". Entitlement to fees. Whether contingency satisfied. Court of Appeal (Peter Gibson, Chadwick, Buxton LJJ)

Employment Law

Charles deals with employment disputes of a commercial hue, namely (i) high value breach of contract claims and (ii) commercial claims which may arise out of an existing or previous employment relationship. He also acts on injunction applications regarding the enforcement of restrictive covenants, garden leave and confidential information provisions, and applications for freezing and search orders.

He has also been instructed in complex "team move" cases involving currency dealers, aviation insurance brokers and computer game designers and programmers. Most recently (2008-2009) he was instructed in a £1/4 billion pound High Court claim arising out of the employment of a Russian computer programmer by the company which owns and operates 192.com.

Significant practice cases (post-2000)

Interlocutory injunctions / enforcement of restrictive covenants / team moves:

- **Codemasters UK Ltd v Playground Games Ltd** [2010] EWHC (QBD) - Computer games software. Confidential information. Injunctions to restrain misuse; solicitation of client; competition. Speedy trial. Undertakings. Tomlinson J
- **UIB Insurance Brokers Ltd v Marsh Ltd** [2008] EWHC (QBD / Commercial Court) - Aviation insurance broking. Alleged team move raid by defendant. Conspiracy. Remedies. "Wrotham Park" damages. Restitutory damages. Exemplary damages
- **Chubb Fire Limited v Oxford** [2008] EWHC (QBD) - Restrictive covenants. Interlocutory injunctions to restrain dealing, solicitation and competition. Foskett J
- **Stat Plus Ltd v Walker and others** [2007] High Court (QBD) - Office supply company. Injunctions sought to restrain misuse of confidential information. Springboard injunction. Undertakings. Speedy trial
- **Oyez Straker Office Supplies Ltd v Richards** [2007] High Court (QBD) - Office supply company. Injunctions sought to restrain solicitation of and dealing with customers. Undertakings. Speedy trial
- **IntelliQ Ltd v Kirmani** [2006] High Court (Ch) - Fraud detection software company. Ex-employees setting up in competition. Injunctions sought to restrain use of alleged confidential information. Undertakings. Costs. Blackburne J
- **Intercontinental Energy Ltd v Jowitt** [2001] 2.11.01 High Court (QBD) - Brokers. Team move. Interlocutory injunctions. Restraint of trade. Garden leave. "American Cyanamid". Status quo. Douglas Brown J

Breach of fiduciary duty:

- **Al-Rushaid Parker Drilling LLC v Shetty** [2010] EWHC (Ch) - Ex-director alleged to have taken secret commissions in breach of duties under Saudi Arabian law. Whether duties akin to fiduciary duties owed
- **i-CD (UK) Ltd v Popkov** [2009] EWHC (Ch) - ¼ billion pound claim against Russian entrepreneur following his establishment of successful Russian social networking website. Whether fiduciary. Scope of contractual obligations owed. Relief. Lewison J / Arnold J
- **Abacus (Financial Consultants) Ltd v Bott and others** [2009] High Court (Ch) - Debt management company. Senior employee alleged to run own business using claimant's resources and time. Conspiracy. Accessory liability. Breach of fiduciary duty. Remedies. Springboard relief. Permanent injunctions
- **Newcastle International Airport v Parkin and another** [2008] EWHC (QBD) - Chief executive of airport. Contract negotiations. Multi-million pound bonus scheme agreed with remuneration committee in the event of refinancing. Refinancing later taking place. Part payment made. Balance refused on grounds of alleged breach of fiduciary duty in course of negotiations. High Court
- **Paicolex Nominees Ltd (Eisenberg) v Bachar** [2004] EWHC (Ch) - Interior designer retained by Israeli HNWI. Designer alleged to have received secret commissions. Whether fiduciary; if so, scope of duties. Blackburne J

Construction of contract of employment:

- **Tahmassebi v Persia International Bank plc** [2007] Pens. LR 297 - Ex-managing director suing for pension. Whether contract included payment of Iranian pension and English pension. Obligation to use best endeavours. Davis J
- **Montgomery v Johnson Underwood** [2001] ICR 819 - Employment agency. Worker assigned to client. Whether employee of client or agency, or self-employed. Court of Appeal (Brooke, Longmore LJJ, Buckley J)
- **Security and Facilities Division v Hayes** [2001] IRLR 81 - Contract of employment. Constructions. Whether employer government service entitled unilaterally to vary contracts. Court of Appeal (Gibson, Mance LJJ)