

Courtney Grafton

CALL: 2020

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Overview

Courtney has developed a diverse practice in commercial, public international and human rights law.

Courtney is instructed on a broad spectrum of litigation in the English courts (**Commercial Court, King's Bench Division, Court of Appeal, Supreme Court**) and in international arbitrations under a variety of institutional rules. She also acts for and advises States on a range of public international law matters, including at **the International Court of Justice, the International Tribunal for the Law of the Sea** and the **European Court of Human Rights**.

Courtney has recently appeared in several high-profile cases, across a variety of subject matters. These include acting on behalf of the United Kingdom at the International Tribunal for the Law of the Sea (*Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*); on behalf of Ukraine at the European Court of Human Rights (*Ukraine v Russia*); on behalf of a P&I insurer seeking anti-suit relief against Venezuela in the Court of Appeal (*UK P&I Club NV and another v Republica Bolivariana de Venezuela*); on behalf of Greggs plc in its claim against Zurich for over £150 million in business interruption losses arising from the Covid-19 pandemic in the Commercial Court (*Greggs Plc v Zurich Insurance Plc*); and on behalf of an international athlete at the Court of Arbitration for Sport (*UK Anti-Doping v Boardman*).

Courtney is also an expert on **INTERPOL**. She is the co-author of the leading text on INTERPOL, *The Legal Foundations of INTERPOL* (2nd edition, 2020), advises States on INTERPOL matters, and is well-versed in challenging INTERPOL red notices.

Before joining Twenty Essex, Courtney qualified as a solicitor-

Publications

- 'Directors' Liabilities: Exemption, Indemnification and Ratification' in *Company Directors: Duties, Liabilities, and Remedies* (4th edn, Oxford University Press, 2024) (co-author)
- 'Does INTERPOL have a role to play in the conflict in Ukraine?', *EJIL: Talk!*, March 2022 (co-author)
- *The Legal Foundations of INTERPOL* (2nd edn, Hart Publishing, 2020) (co-author)
- 'Foreign act of State and Empire' (2019) *71(2) Northern Ireland Legal Quarterly* 135-155
- 'Public International Law in the Supreme Court of the United Kingdom' (London Conference on International Law, October 2019) (co-author with Lord Lloyd-Jones, Lady Arden and Ruth Keating)

Lectures / talks

- 'Countermeasures in the Persian Gulf', Twenty Essex State of Play 2022 Seminar (30 November 2022)
- 'Public international law implications of the invasion of Ukraine': British Ambassador and Deputy Head of Mission Training (18 March 2022)

advocate and worked at a leading Wall Street firm. Courtney was also a Judicial Assistant at the UK Supreme Court to Lord Hodge and Lord Lloyd-Jones. She is a graduate of Yale University and the University of Cambridge.

Education

- University of Cambridge: LLM (2018)
- London School of Economics and Political Science: MSc in History of International Relations (2013)
- Yale University: BA in History (2012)

- 'Foreign act of State and Empire': Society of Legal Scholars and the University of Glasgow School of Law (25 May 2019)

Awards / scholarships

- Pegasus Trust Scholarship Award, Inner Temple (2018)
- Becker Scholarship, University of Cambridge (2017)
- Class of 1956 Fellowship, Yale University (2011)
- American Legion Award (2010)

Example cases

- *Ukraine v Russia* – acting for Ukraine in inter-state proceedings brought by Ukraine against the Russian Federation at the European Court of Human Rights arising out of the Russian Federation's invasion of Ukraine (team led by Lord Guglielmo Verdirame KC and Tim Otty KC).
- *The M/T "Heroic Idun" (No. 2) Case (Marshall Islands/Equatorial Guinea)* – representing the Republic of the Marshall Islands in proceedings against Equatorial Guinea at the International Tribunal for the Law of the Sea in respect of its interception, diversion and detention of the "Heroic Idun" and her crew (team led by Sir Daniel Bethlehem KCMG KC).
- *Obligations of States in respect of climate change* – acting for a State in proceedings before the International Court of Justice concerning the obligations of States under international law to ensure the protection of the environment from anthropogenic emissions of greenhouse gas emissions.
- *Greggs plc v Zurich Insurance plc* [2022] EWHC 2545 (Comm) – acted for Greggs plc in its claim for over £150 million in business interruption losses arising during the COVID-19 pandemic (with Christopher Hancock KC and Simon Milnes KC).
- Acting on behalf of politically exposed persons at the Commission for the Control of INTERPOL's Files to seek the deletion of notices and diffusions.
- Acting as junior counsel (led by Toby Landau KC and Lucas Bastin KC) on behalf of two investors in proceedings under two bilateral investment treaties concerning the host State's breaches of duties in the telecommunications sector (UNCITRAL Rules).
- *RCGS "Resolute"* [2023] EWCA Civ 1497 – acting on behalf of the P&I insurer at the Court of Appeal seeking an anti-suit injunction against the Republic of Venezuela to restrain it from pursuing foreign proceedings on the basis that the infringement of Article 6(1) of the European Convention on Human Rights by the statutory prohibition on (anti-suit) injunctive relief in section 13(2)(a) of the State Immunity Act 1978 cannot be justified, by reference to customary international law or domestic public policy, as pursuing a legitimate objective by proportionate means (with David Lewis KC and Alexander Thompson).
- *UK Anti-Doping Limited v Boardman* – acting for an international athlete at the Court of Arbitration for Sport in an appeal of the decision of the National Anti-Doping Panel not to impose a period of ineligibility for the athlete's anti-doping rule violation (with Luke Pearce KC).
- Advising the UK Foreign, Commonwealth and Development Office on issues of public international law.
- Advising the UK Government on the defensibility of sanctions related to individuals in the Russian Federation, Belarus, Eritrea and Venezuela.

Public international law

International courts and tribunals

- *Obligations of States in respect of climate change* – acting for a State in proceedings before the International Court of Justice concerning the obligations of States under international law to ensure the protection of the environment from anthropogenic emissions of greenhouse gas emissions.

- *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law* – acting on behalf of the United Kingdom at the International Tribunal for the Law of the Sea in advisory proceedings concerning States Parties obligations in relation to climate change and ocean acidification (with Ben Juratowitch KC, Amy Sander and Belinda McRae).
- *The M/T “Heroic Idun” (No. 2) Case (Marshall Islands/Equatorial Guinea)* – representing the Republic of the Marshall Islands in proceedings against Equatorial Guinea at the International Tribunal for the Law of the Sea in respect of its interception, diversion and detention of the “Heroic Idun” and her crew (team led by Sir Daniel Bethlehem KCMG KC).
- *Ukraine v Russia* – acting for Ukraine in inter-state proceedings brought by Ukraine against the Russian Federation at the European Court of Human Rights arising out of the Russian Federation’s invasion of Ukraine (team led by Lord Guglielmo Verdirame KC and Tim Otty KC).
- Acting as junior counsel (led by Toby Landau KC and Lucas Bastin KC) on behalf of two investors in proceedings under two bilateral investment treaties concerning the host State’s breaches of duties in the telecommunications sector (UNCITRAL Rules).
- *The M/T “Heroic Idun” Case (Marshall Islands v. Equatorial Guinea), Prompt Release* – represented the Republic of the Marshall Islands in prompt release proceedings against Equatorial Guinea at the International Tribunal for the Law of the Sea in respect of the “Heroic Idun” (application was withdrawn when the vessel was transferred to the Republic of Nigeria).
- Acted for a flag State in Annex VII proceedings under the UN Convention on the Law of the Sea.

International law in domestic courts

- *Hedges and another v State officials of the United Arab Emirates* [2019-2024] (KBD) – case concerning the immunity of State officials in the context of allegations of torture (team led by Sir Daniel Bethlehem KCMG KC).
- *RCGS “Resolute”* [2023] EWCA Civ 1497 – acting on behalf of the P&I insurer seeking an anti-suit injunction against the Republic of Venezuela to restrain it from pursuing foreign proceedings on the basis that the infringement of Article 6(1) of the European Convention on Human Rights by the statutory prohibition on injunctive relief in section 13(2)(a) of the State Immunity Act 1978 cannot be justified, by reference to customary international law or domestic public policy, as pursuing a legitimate objective by proportionate means (with David Lewis KC and Alexander Thompson).
- Assisted on a case concerning the proper interpretation of Article 39(1)-(2) of the 1961 Vienna Convention on Diplomatic Relations (VCDR) on the commencement and termination of privileges and immunities.
- Assisted on a case concerning the appointment of members of staff of the mission under Article 7 of the VCDR, notification to the host State under Article 10 of the VCDR, a declaration that a diplomat is persona non grata under Article 9 of the VCDR, and how to obtain a certificate under s 4 of the Diplomatic Privileges Act 1964 from the Foreign, Commonwealth & Development Office.
- Assisted on a case concerning the extent to which the Consular Relations Act 1968 gives effect in domestic law to the 1963 Vienna Convention on Consular Relations (VCCR), whether Article 36 of the VCCR (communication and contact with nationals of the sending State) reflects customary international law, and the proper interpretation of Article 36 of the VCCR.
- *R v Reeves Taylor (Agnes)* [2019] UKSC 51, [2021] AC 349 – assisted on a case concerning the proper interpretation of “acting in an official capacity” in the UN Convention Against Torture and s 134 of the Criminal Justice Act 1988 (as a Judicial Assistant).

Advisory

- Advised a State whose Minister had been detained by the UK National Crime Agency on the immunity and inviolability of State property.
- Advised the UK Government on the privileges and immunities of international organisations and their officials (as a matter of domestic law and international law).
- Revised guidance on the privileges and immunities of diplomats and consuls for use by UK police forces.
- Advised the UK Government on the implications of dual nationality on the privileges and immunities of a British ambassador and his family under the VCDR and the VCCR.
- Advising on employment law issues relating to the termination of a diplomat’s functions.
- Advised the UK Government on urgent issues of diplomatic and consular protection, and the privileges and immunities of diplomats and consuls, often on an emergency basis, in the context of the COVID-19 pandemic.
- Advised the UK Government on treaty interpretation in the context of issues concerning the 2020 Agreement on the Withdrawal of the UK from the EU (team led by Lord Guglielmo Verdirame KC).

- Advised on issues relating to the Chagos Islands.
- Advised the Public International Law & Policy Group on State reparation programmes and post conflict compensation laws to provide precedents for legal reform of the 2009 National Compensation Law in Iraq for victims of terrorism.

Courtney was seconded to the UK Foreign and Commonwealth Office in 2020 where she worked as an Assistant Legal Adviser.

Human rights, sanctions and public law

- *Ukraine v Russia* – acting for Ukraine in inter-state proceedings brought by Ukraine against the Russian Federation at the European Court of Human Rights arising out of the Russian Federation’s invasion of Ukraine (team led by Lord Guglielmo Verdirame KC and Tim Otty KC).
- *Hedges and another v State officials of the United Arab Emirates* [2019-2024] (KBD) – case concerning whether the immunity of State officials in the context of allegations of torture violates Article 6 of the European Convention on Human Rights (team led by Sir Daniel Bethlehem KCMG KC).
- *RCGS “Resolute”* – acting on behalf of the P&I insurer seeking an anti-suit injunction against the Republic of Venezuela to restrain it from pursuing foreign proceedings on the basis that the infringement of Article 6(1) of the European Convention on Human Rights by the statutory prohibition on (anti-suit) injunctive relief in section 13(2)(a) of the State Immunity Act 1978 cannot be justified, by reference to customary international law or domestic public policy, as pursuing a legitimate objective by proportionate means (with David Lewis KC and Alexander Thompson).
- Advising the UK Government on the defensibility of sanctions related to individuals in the Russian Federation, Belarus, Eritrea and Venezuela.
- Advised the Public International Law & Policy Group on State reparation programmes and post conflict compensation laws to provide precedents for legal reform of the 2009 National Compensation Law in Iraq for victims of terrorism.
- *Elgizouli v Secretary of State for the Home Department* [2020] UKSC 10, [2021] AC 937 – assisted on a case concerning whether it is lawful for the Secretary of State to engage in mutual legal assistance that will facilitate the imposition of the death penalty in another State (as a Judicial Assistant).

Commercial litigation

- *Greggs plc v Zurich Insurance plc* – acted for Greggs plc in its claim for over £150 million in business interruption losses arising during the COVID-19 pandemic (with Christopher Hancock KC and Simon Milnes KC).
- *In the matter of an Impressionist Painting* –[2020-23] (Ch.D) – acted for the American owner of a high value impressionist painting by Paul Signac, which was taken from her in New York under false pretences by a fraudulent art dealer before being sold on the London art market through the second defendant art gallery to an English art collector (with Paul Lowenstein KC and Susannah Jones).
- *Durnont Enterprises v BNP Paribas Bank Polska SA and others* – acted for a foreign company in a £100 million derivative claim (team led by Philip Riches KC).
- Acting as sole counsel in numerous commercial disputes in the English courts (Commercial Court and County Court).
- Acted for Technip on the US\$13 billion court-sanctioned merger with FMC Technologies under the Companies (Cross-Border Mergers) Regulations 2007.
- Acted for a U.S. investment bank in connection with criminal investigations in relation to the hiring of family members of high-ranking foreign officials in China.
- Assisted in a hacking dispute in which persons unknown gained access to cryptocurrency accounts and conducted a series of fraudulent trades (with Josephine Davies).
- *Vedanta Resources plc v Lungowe and others* [2019] UKSC 20, [2020] AC 1045 (landmark case on jurisdiction and parent company liability) – appeal concerned claims brought by 1,826 Zambian citizens who allege that they have suffered damage as a result of toxic discharges from one of the world’s largest copper mines (as a Judicial Assistant). Court held there was an arguable case that the UK parent company owed a duty of care to third parties affected by its Nigerian subsidiary.

Arbitration

- Acting as junior counsel (led by Toby Landau KC and Lucas Bastin KC) on behalf of two investors in proceedings under two bilateral investment treaties concerning the host State’s breaches of duties in the telecommunications sector (UNCITRAL Rules).

- Acted for a flag State in Annex VII proceedings under the UN Convention on the Law of the Sea.
- *UK Anti-Doping Limited v Boardman* – acting for an international athlete at the Court of Arbitration for Sport in an appeal of the decision of the National Anti-Doping Panel not to impose a period of ineligibility for the athlete’s anti-doping rule violation (with Luke Pearce KC).
- Acted as sole counsel in an ad hoc arbitration.
- Assisted in a multi-billion dollar private equity fraud dispute (with Charles Kimmins KC).
- Assisted in defending a challenge brought under section 68 of the Arbitration Act 1996 in respect of an arbitration award (with Luke Pearce KC).
- Assisted in an arbitration conducted in accordance with the LMAA Small Claims Procedure 2017 (with Luke Pearce KC).
- Drafted pleadings in an LMAA arbitration on the frustration of a charterparty as a result of COVID-19.

INTERPOL

- Acting on behalf of politically exposed persons at the Commission for the Control of INTERPOL’s Files to seek the deletion of notices and diffusions.
- Advised on membership in INTERPOL and the suspension of members from access to the INTERPOL Information System. Advised on the privileges and immunities of INTERPOL, and the privileges and immunities of INTERPOL officials.
- Co-authored the leading text on INTERPOL, *The Legal Foundations of INTERPOL* (2nd edn, Hart Publishing, 2020).