



# Courtenay Barklem

YEAR OF CALL: 2016; ADMITTED AS A SOLICITOR: 2000; SOLICITOR-ADVOCATE: 2007



Courtenay Barklem specialises in civil/commercial litigation and arbitration, including international and construction disputes and EU cross-border mergers. He regularly advises on employment and regulatory law, in particular in relation to money services businesses. He also has experience in human rights and personal injury law.

In September 2022, Courtenay took up the position of Chair of The Law Society's Human Rights Committee.

In July 2018, the Court of Appeal noted his "quick thinking and ingenuity" in a USD\$15.5 million claim against a sovereign wealth fund ([see para 26](#)). He was recommended in the Legal 500 for civil liberties in 2016.

He qualified as a solicitor in England and Wales in 2000, has regularly practised in the High and County Courts with higher rights of audience since 2007 and qualified as an attorney-at-law in California in 2011. He is an Adjunct Professor of Law at Pepperdine University's London campus, [currently lecturing on human rights law](#).

If you would like to get in touch with Courtenay please contact the clerking team:

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## ARBITRATION AND CONSTRUCTION

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Courtenay has worked in construction law since 2000, when he qualified into the top-ranked construction department at Pinsent Masons. He regularly represents contractors both large and small in adjudication, arbitration or court proceedings.

### NOTABLE CASES

Courtenay was lead lawyer in the reported High Court cases of *[ERDC Group Ltd v Brunel University](#)* (successfully representing a contractor claiming payment for construction of state-of-the-art athletics facilities) and *[Multiplex Constructions \(UK\) Ltd v West India Quay Development company \(Eastern\) Ltd](#)* (enforcement of an adjudicator's award for a major contractor in relation to a 5-star hotel development)

He recently advised an oil consultant on her US\$11 million arbitration claim under the LCIA rules for breach of contract for unpaid bonuses against a UK-based international oil company in relation to hydrocarbon exploration in West Africa.

## EMPLOYMENT AND DISCRIMINATION LAW

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Courtenay successfully represented the claimant in the Employment Appeal Tribunal case of *Commissioner of Police of the Metropolis v Kevin Maxwell*, where the Metropolitan Police was found to have committed 41 acts of race/sexual orientation discrimination. The case was covered in [Good Black News](#).

He also represented a former Police Community Support Officer claiming unfair dismissal on the grounds that a previous reprimand was wrongly taken into account when dismissing her. It was argued that the reprimand should have been removed from her record because the EAT had previously upheld that she was suffering from dissociative amnesia - the first case to recognise that this was capable of being a disability.

He represented a cross-border whistle-blower in relation to the alleged irregularities in debt buybacks, related party transactions and accounting anomalies of his UK-US employer. Courtenay worked on the employee's submissions to the UK's Serious Fraud Office and the US's Securities and Exchange Commission.

In June 2018, he successfully conducted a fast-track trial in relation to commission and bonus payments claimed by an estate agent after leaving employment.

## **INTERNATIONAL HUMAN RIGHTS**

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Courtenay has worked on a number of high-profile international human rights cases (see below) and has developed extensive experience in legal development and international law reform, for example:

Algeria - He has acted as an expert adviser to the UK Ministry of Justice regarding justice sector reform in Algeria, including carrying out an in-country fact-finding visit in September 2012 and organising/leading in-country mission and training programme in March 2013.

Colombia - He led a fact-finding delegation to Colombia in 2008, and met with Colombian President in November 2011 regarding human rights and law reform. He co-authored an [academic article](#) in Colombia on how investment treaty protections can interfere with governments' ability to regulate social issues, e.g. human rights

Mexico - In 2011, he authored a [report for the UN Special Rapporteur](#) on the Independence of Judges and Lawyers on attacks on lawyers and compliance with judgments of the Inter-American Court of Human Rights. As a result he was invited to Geneva to present his findings at a meeting with the UN Special Rapporteur during the XVI session of the UN Human Rights Council.

Consulted by Ministry of Justice on reform of ECtHR during UK's Chairmanship of the Committee of Ministers of the Council of Europe and attended the high level Brighton Conference 2012.

## **NOTABLE CASES**

In November 2016, Courtenay was mentioned in the international and domestic press in relation to a Communiqué which he submitted to the International Criminal Court as a legal challenge to Australia's asylum policies. See coverage in the [Sydney Morning Herald](#) and [The Brief](#).

He has been additional counsel on two US Supreme Court Amicus Curiae Briefs in relation to [life without parole sentences for juvenile offenders](#) (January 2012) (see page 2) and [the length of time on death row](#)

amounting to cruel and unusual punishment (September 2011) (see page 43).

He represented one of the joint applicants in the Inter-American Court of Human Rights (IACtHR) case challenging Trinidad's use of the mandatory death penalty. *Hilaire, Constantine and Benjamin et al. v. Trinidad and Tobago*, Merits, Reparations and Costs. Judgment of June 21, 2002. Series C No. 94

He also spent a sabbatical working in South Carolina, USA, on death penalty and freedom of speech/ assembly cases, as reported in the Foreign Office's Annual Human Rights Report (see pages 163 and 177).

## CIVIL LITIGATION

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Commercial: Courtenay regularly advises on multi-jurisdictional disputes, e.g. on the Brussels (Recast) and Rome I Regulations. For example:

**Courtenay was both advocate and litigator in the Commercial Court case of *Catalyst Managerial Services v Libya Africa Investment Portfolio*. He succeeded in obtaining a summary judgment on the first \$15 million of the claim after a 4-day hearing. In July 2018, he represented the claimant in the Court of Appeal. The case was covered in Libya Business News and Digital Journal.**

**He represented the claimant in a breach of a contract claim involving the sale of gold bonds for damages in excess of US\$7 billion, including seeking enforcement of the English judgment in Switzerland under the Lugano Convention.**

Money services businesses: Courtenay regularly represents money transfer and foreign exchange companies. For example:

**Courtenay advised on judicial review of the UK Government's regulatory stance in relation to one of the largest money transfer companies in Africa. His advice was co-ordinated to support related competition proceedings. He successfully made an application in the High Court, Chancery Division, for a third party to claim payment of €78,000 from the Respondent, an internet gaming and betting money-processing company, which were frozen under a separate ongoing dispute concerning the beneficial ownership of the Respondent.**

## ENVIRONMENTAL LAW AND CLIMATE JUSTICE

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Courtenay's interest in climate change litigation stems from two angles.

First, Courtenay takes civil action against companies. He has experience in both commercial law and human rights law. Courtenay originally practised commercial law, in particular construction disputes and arbitrations. Later, he transitioned to become the human rights advisor at the Law Society from 2007 to 2012. He is currently the Chair of the Law Society's Human Rights Committee while continuing to litigate commercial

disputes.

Second, he also has an interest in protecting environmental/land rights and human rights defenders globally through the Law Society and the Alliance for Lawyers at Risk. He was in Colombia in the summer of 2022 on a field mission to take testimony from lawyers working on human rights and environmental cases who receive threats of violence or death for their work.

## **PRO BONO WORK**

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**Lawyers' Advisory Committee of Peace Brigades International, 2008 to present.**

**Trustee of Just Fair, 2011 to present.**

**Honorary adviser to the National Catholic Safeguarding Commission, 2012 to present.**

**Member of the Law Society's Human Rights Committee, 2013 to present.**

**Member of ABA's Business and Human Rights Project Advisory Committee, 2014 to present.**

## **PUBLICATIONS**

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Co-author: ['The Concept of 'Indirect Expropriation', its Appearance in the International System and its Effects in the Regulatory Activity of Governments'](#), *Civilizar Ciencias Sociales y Humanas* - Universidad Sergio Arboleda Volumen 11 No. 21

[Report on the independence of lawyers in Mexico and compliance with the Inter-American system](#), Law Society's Human Rights Committee, 2011

[Submission to the Commission on a Bill of Rights](#), Law Society's Human Rights Committee, 2011

[Manual on international human rights interventions](#), Law Society's Human Rights Committee, 2012

[Best Practices Mining Code for First Nations](#), Fair Mining Collaborative, 2012 (reviewed and amended the California law aspects)

## **TRAINING AND SEMINARS**

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2016 and 2017: guest lecturer via Skype for the Universidad del Rosario, Colombia on the LLB Module 'International Economic Law' (sources of international human rights law, and interaction between investment treaty law and human rights).

Courtenay is an adjunct professor at Pepperdine University's London campus, teaching human rights law.

## EDUCATION

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LLM in human rights law from Birkbeck University

BA (joint hons) in Latin and French from Manchester University

## PROFESSIONAL MEMBERSHIP

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Employment Lawyers Association

## LANGUAGES

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French (fluent)

Spanish (intermediate)

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