



Julia Smith

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Julia Smith

"Prompt to respond, she provides extremely clear, pragmatic and well-reasoned advice. In conference Julia is quick to understand any background factual matrix provided, and she ensures that her advice accurately reflects that background". "A strong recommendation for banking matters."

- Chambers UK 2019 & Legal 500 2018

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Julia Smith's background is in general common law and chancery civil litigation. Her specialist practice areas are consumer credit, financial services, unfair terms, unfair commercial practices and other developing areas of consumer protection legislation. She is very experienced in the drafting and construction of contractual documentation and in the interpretation of legislation which controls contractual relationships. She is recommended as a leading junior in banking, finance and consumer credit by the Legal 500 and in consumer law by Chambers UK. Clients include banks and other creditors, leasing companies, retailers and regulators.

Finance & Consumer Credit

Julia's early years of practice in general common law have provided her with a firm grasp of the principles, issues, practices, and procedures that come into play in banking and financial disputes and litigation. She spent her formative years as a barrister mostly in court, appearing for and against banks in cases which involved allegations of professional negligence, misrepresentation and fraud, as well as cases which turned on regulation and legislation.

Julia also has the benefit of many years' experience, working with in-house legal counsel and with external solicitors in drafting documentation for regulated consumer credit agreements, unregulated lending, both secured and unsecured, and all types of asset finance. She has also assisted in the development of schemes to finance litigation, medico-legal expenses, employee car ownership, employee share ownership, and a range of investments.

She advises and represents clients in relation to compliance, licensing and enforcement issues arising under consumer credit legislation and under the Financial Services and Markets Act 2000, and in relation to the redemption and realisation of mortgages, equitable charges and other security.

She was involved as an advocate in consumer credit litigation, throughout the time order, section 75 timeshare and credit hire litigation of the 1990s, the section 75 four-party arrangement and overseas transaction litigation which followed, and the more recent test cases on issues arising from improper execution, non-compliance with the requirements to provide copy agreements, and the unfair relationship provisions.

She also has extensive experience in mortgage-related and other banking and finance litigation and dispute

resolution, including disputes arising from the sale of PPI, the sale of interest-rate hedging products, misrepresentation, undue influence, fraud, misrepresentation, solicitors' and valuers' negligence, the construction of trading agreements between financial institutions, brokers, dealers, and employers, and liability for defective goods let on hire-purchase or finance lease.

Representative Cases

- *Sternlight v Barclays Bank plc* [2010] EWHC 1865 (QB)
Test cases on whether mismatch in credit card agreement between stated APR and stated interest rate renders interest rate inaccurate and agreement unenforceable under the CCA – conducted the lead advocacy for the banks.
- *Adris v The Royal Bank of Scotland Plc* [2010] EWHC 941 (QB), [2010] 160 NLJ 767
Non-party costs orders against claimants' solicitors and a claims management company – conducted the lead advocacy for the banks.
- *Carey v HSBC Bank Plc*, [2009] EWHC 3417 (QB), [2010] Bus.L.R. 1142
Test cases on the true copy requirements, unfair relationships and the burden of proving improper execution under the CCA (junior for RBS for the trial and sole counsel on RBS' successful application for the only costs orders made in favour of the banks on the preliminary issues).
- *McGuffick v The Royal Bank of Scotland Plc* [2009] EWHC 2386 (Comm), [2010] 1 All E R 634
Test case on whether banks may report unenforceable debts to credit reference agencies (junior for RBS and sole counsel for RBS in the successful application for a non-party costs order against the claimant's solicitors).
- *Office of Fair Trading v Lloyds TSB & Others* [2004] EWHC 2600 (Comm); [2005] 1 All E R 843
Whether arrangements between card issuers, card networks, merchant acquirers and suppliers are "arrangements" for the purposes of section 12(b) of the CCA and whether section 75 applied in respect of overseas transactions (junior counsel for the OFT).
- *Thew v Cole* [2003] EWCA Civ 1828, [2004] RTR 25, CA
Whether credit hire agreement was exempt and so not a regulated credit agreement for the purposes of the CCA (sole counsel for the claimant).
- *Royal Bank of Scotland Plc v Etridge (No.2)* [2001] UKHL 44, [2002] 2 AC 773
Undue influence and extent of a solicitor's duty when advising a third party provider of security (sole counsel for the wife in the professional negligence claim).
- *Farrell v Sandwell MBC*, [2001] EWCA Civ 1107, [2002] RVR 11
Level of compensation payable to mortgagee for the compulsory purchase of property (sole counsel for the bank).

Consumer Protection & Regulatory Law

Julia advises and acts for businesses and regulators on matters arising under consumer protection and

regulatory legislation, including:

- Consumer Credit Act 1974
- Package Travel, Package Holidays and Package Tours Regulations 1992
- Data Protection Act 1998
- Unfair Terms in Consumer Contracts Regulations 1999
- Financial Services and Markets Act 2000
- Consumer Protection (Distance Selling) Regulations 2000
- Financial Services (Distance Marketing) Regulations 2004
- Consumer Protection from Unfair Trading Regulations 2008
- Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010.

In addition to the consumer credit and banking litigation referred to in the Finance and Consumer Credit section of this page, her current and recent work includes litigation and dispute resolution relating to:

- liability for accidents sustained overseas during holidays booked online
- subject access requests
- fairness of arbitration clauses
- unfair commercial practices in the context of gym membership agreements;
- litigation funding.

Julia's very wide early practice, including Landlord and Tenant, Property and Trusts as well as general Common Law work, puts her in a good position to advise on regulatory issues such as unfair terms and unfair commercial practices in a wide range of contexts. It is experience which she has brought to bear recently when advising in areas such as travel insurance and care home contracts.

Representative Cases

- *Office of Fair Trading v Ashbourne Management Services Limited* [2011] EWHC 1237 (Ch); [2011] All E R (D) 276 (May)
Action under Part 8 of the Enterprise Act 2002 to restrain unfair commercial practices and the use of unfair contract terms – sole counsel for the OFT.
- *Abbey National Bank Plc v Anthony Mario Stringer & Others* [2006] EWCA Civ 338; [2006] 2 P & CR DG15
Undue influence, constructive trusts and beneficial interests in property (sole counsel for the bank.
- *Royal Bank of Scotland Plc v Etridge (No.2)* [2001] UKHL 44, [2002] 2 AC 773
Undue influence and extent of a solicitor's duty when advising a third party provider of security (sole counsel for the wife in the professional negligence claim.
- *Farrell v Sandwell MBC*, [2001] EWCA Civ 1107, [2002] RVR 11
Level of compensation payable for the compulsory purchase of property (sole counsel for the claimant).
- *Jarrett v Barclays Bank Plc & Royal Bank of Scotland Plc* [1999] QB 1
Jurisdiction to hear claim in relation to Portuguese timeshare against creditor under section 75 of the CCA (junior counsel for the bank.

Commercial

Julia has extensive experience in commercial litigation and dispute resolution, including litigation and disputes arising from alleged financial mis-selling, from the sale and supply of defective commercial vehicles, the fraudulent introduction of business to financial institutions, and multi-party disputes arising from business equipment finance.

Current and recent work includes:

- Advising government departments on the remedies available and liabilities arising from framework contracts with suppliers.
- Advising banks on the correct approach to identifying the relevant duties and assessing consequential losses in the context of the review of past sales of interest-rate hedging products.
- Advising on the apportionment of responsibility for PPI claims.
- Litigation between a merchant acquirer and a merchant arising from allegedly fraudulent card payments.
- Advising on the remedies available and liabilities arising when bondholders put back portfolios of asset-backed securities.
- Advising on the respective rights and liabilities of the commercial parties involved in the promotion of mobile airtime and other contracts through associated offers, including the supply of electronic products.
- Litigation funding dispute between lender, solicitors and claims management entities.

Julia is familiar with the analysis and construction of complex commercial contracts and arrangements. She is experienced in reviewing as well as drafting documentation for transactions between commercial entities. She has assisted in the development of schemes to finance litigation, medico-legal expenses, employee car ownership, employee share ownership, and a range of investments.

What the directories say

"The extent and breadth of her knowledge is exceptionally good, she is especially clear-minded in her expression of views and she is very commercially aware.' 'She has extensive knowledge and very good analytical skills."

Chambers UK 2018 & Legal 500 2017

Appointments

- Junior Counsel to the Crown, Attorney General's A Panel (2012-2017)

Publications

- Atkin's Court Forms: Consumer Credit (2012)

- The Law of Consumer Credit and Hire (OUP 2009)
- Consumer Credit Act 2006 – A guide to the new law (Law Society Publishing 2006)

Education

- University of Liverpool
- Cheltenham Ladies' College

Awards & Recognitions

