



Fountain Court

A photograph of a fountain with a large, foamy water spray rising from a brass basin. The water is white and bubbly, creating a tall, vertical column. The basin is ornate and made of brass. The background is a solid grey color.

2022: Year in Review

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As 2022 draws to a close, we reflect on another busy and positive year.

We were lucky enough to again receive many prestigious awards, rankings and appointments and to have acted in a number of high-profile, interesting and precedent-setting cases such as *Byers v Saudi National Bank*, now the leading case on knowing receipt; the highly anticipated *HP/Autonomy* dispute; and the \$1.5 billion *Quincecare* claim in *Federal Republic of Nigeria v JPMorgan Chase Bank NA*, as well as many others.

In October, we welcomed three new tenants following the successful completion of their pupillages and, throughout the year, we were joined by door tenant and leading senior advocate in India, Arvind Datar SA, as well as “one of the brightest legal minds at the Bar”, Clare Sibson KC, who further bolstered our commercial crime offering.

Sadly, we also said goodbye to two former members, Anthony Boswood QC and Sir Tom Morison.

This review looks at the commentary and thought leadership we produced in 2022, together with some of our news stories and significant cases.

We wish all of our colleagues and clients a very happy and healthy festive period and all the best for the New Year. We look forward to working together once again in 2023.



Fountain Court Chambers



WINNER
UK BAR AWARDS 2022



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Accolades, a long-awaited outcome and a new door tenant

Two 'Stars at the Bar' for Fountain Court

Bankim Thanki KC and Richard Lissack KC are named Stars at the Bar by *Chambers & Partners*. See [here](#).

17 Fountain Court members appear in The Lawyer's 'Top 20 Cases' of 2022

17 members appear in the feature, across seven of the top 20 cases listed. See [here](#).

Seven Fountain Court members appear in The Lawyer's 'Top 10 Appeals' of 2022

Seven members appear in the feature, across three of the top 10 appeals listed. See [here](#).

Ten Fountain Court barristers recognised in The Legal 500 2022: Asia Pacific

Eight members and two door tenants are recognised in the guide. See [here](#).

Louise Merrett elected as Vice-Master of Trinity College, Cambridge

See [here](#).

Fountain Court welcomes Arvind Datar SA as door tenant

Eminent senior advocate joins Fountain Court, strengthening our connections to the Indian legal market. See [here](#).

Fountain Court excels in Chambers Global 2022 rankings

Chambers is recognised in the guide, with a total of 56 individual rankings across 11 practice area categories. See [here](#).

Major judgments and outcomes

- *Ovsyankin v Angophora Holdings Ltd & Ors*: The High Court dismisses a challenge to a \$43.2 million arbitration award. See [here](#).
- *Solicitors Regulation Authority Ltd v Khan & Ors*: The High Court commits solicitor, Sophie Khan, to prison for contempt. See [here](#).
- *Byers v Saudi National Bank*: The Court of Appeal upholds decision that a proprietary interest is required for a knowing receipt claim to be possible. See [here](#).
- *Autonomy and others v Michael Richard Lynch and another*: HP “substantially succeeds” in fraud claims arising out of its acquisition of Autonomy, in Court’s summary of conclusions. See [here](#).
- *FCA v Coleman & Others*: Jury acquits former CEO in criminal charges pursuant to s89 Financial Services Act 2012. See [here](#).



Three Court of Appeal decisions and some bias-breaking perspectives

International Women's Day 2022

To mark International Women's Day 2022, we asked a number of our members and staff to answer three questions around this year's theme of 'breaking the bias':

1. What actions have you taken, or have you seen taken, during your career that have helped to break the bias?
2. What actions do you wish you had taken during your career which may have helped to break the bias?
3. What steps do you intend to take in future, to help to break the bias?

Read more [here](#).

The responses show that the legal profession has come a long way in recent years, with previously taboo subjects becoming more commonplace, females feeling more empowered to be their authentic selves in the workplace and male advocates stepping up to support female colleagues. There is clearly more work to do but we are heading in the right direction.

For more information about Fountain Court's equality and diversity efforts, please see [here](#).

Major judgments and outcomes

- *CIS General Insurance Limited v IBM United Kingdom Limited*: The Court of Appeal overturns High Court judgment in a substantial IT project-related contract dispute. See [here](#).
- *SRA v Claire Matthews*: SRA proceedings against a junior solicitor are concluded, in connection with the loss of client information. See [here](#).
- *PJSC National Bank Trust & Others v Boris Mints & Others*: The High Court decides in case involving issue estoppel and abuse of process. See [here](#).
- *HMRC v Atholl House Productions Ltd*: The Court of Appeal decides on the application of the IR35 legislation. See [here](#).
- *Abu Dhabi Commercial Bank Pjsc v Shetty & Ors*: The Court of Appeal rejects appeal against Commercial Court forum decision in NMC fraud case. See [here](#).



LCIA appointment, *Quincecare* judgment and COMBAR-backed mentoring

Matthew Gearing KC appointed Vice President of the LCIA Court

The LCIA announces that Matthew Gearing KC has been promoted to one of two new Vice Presidents of the LCIA Court. See [here](#).

Entries open for Christopher Bathurst Prize 2022

Fountain Court announces details of the 13th annual competition, again supported by the Singapore Academy of Law. See [here](#).

Commercial Bar Mentoring Scheme for Under-Represented Groups Receives Support from COMBAR

The Mentoring Scheme for Under-Represented Groups, originally founded by six commercial sets of Chambers including Fountain Court, is taken forward by COMBAR. See [here](#).

Major judgments and outcomes

- *RBS v JP SPC 4 and another*: Appeal to Privy Council resisted. See [here](#).
- *Loreley v Credit Suisse Securities & Others*: Commercial Court clarifies scope of litigation privilege. See [here](#).
- *FRC v KPMG & Others*: Tribunal finds KPMG misled regulator. See [here](#).
- *Autonomy and others v Michael Richard Lynch and another*: Full judgment handed down. See [here](#).
- *Ivy Technology v Martin & Bell*: Court decides liability of non-contracting party for pre-contractual representations. See [here](#).
- *Federal Republic of Nigeria v JPMorgan Chase Bank NA*: High Court decides on \$1.5 billion *Quincecare* claim. See [here](#).
- *Swiss Cottage Properties Limited (in liquidation)*: Deloitte successfully defends negligence claim. See [here](#).
- *Bank of America Europe DAC v Citta Metropolitana di Milano*: Court gives guidance on 'automatic stays' and relief from sanctions. See [here](#).

Awards and powerlists, greener litigation and the “*trial of the century*” to go ahead

Fountain Court shortlisted for 16 awards at The Legal 500 Bar Awards 2022

Nominations include six at set level and ten at individual barrister or clerk level. See [here](#).

Timothy Dutton CBE KC advises on launch of Resolution Together

Working with a community of family justice professionals, Timothy’s advice supports the launch of a scheme enabling solicitors to jointly advise separating couples. See [here](#).

Tamara Oppenheimer KC features in The Legal 500’s ‘Global Green Guide: Can lawyers make dispute resolution greener?’

A piece on the legal profession’s pledges to greener litigation and arbitration, and the path to greener dispute resolution, features commentary from Tamara Oppenheimer KC. See [here](#).

Fountain Court recognised in The Legal 500’s Southeast Asia Arbitration Powerlist 2022

Four members and door tenants are recognised. See [here](#).

Major judgments and outcomes

- *Athena Capital v Holy See*: Stay lifted to enable the “*trial of the century*” against the Vatican. See [here](#).
- *Union of India v Reliance Industries Ltd & Anor*: Commercial Court gives important guidance on the applicability of the *Henderson v Henderson* principle to arbitration proceedings. See [here](#).



Directory results, antibody testing and three new tenants

Fountain Court shortlisted for eight awards at the 2022 Chambers UK Bar Awards

Nominations including three at set level and five at individual member level. See [here](#).

Fountain Court announces winner of the Christopher Bathurst Prize 2022

Magdalene Ong, an associate at Wong Partnership, wins the Christopher Bathurst Prize 2022. See [here](#).

Fountain Court welcomes three new tenants

Following pupillage, Christopher Monaghan, Kit Holliday and Ian Simester join as tenants. See [here](#).

Fountain Court excels in The Legal 500 2023 results

Chambers achieves 229 individual rankings across 77 members as well as set rankings in 12 areas. See [here](#).

Fountain Court wins three awards at The Legal 500 Bar Awards 2022

Awards include one at set level and two at individual member level. See [here](#).

Fountain Court raises over £3,600 for charity

The sum is raised via participation in the London Legal Walk. See [here](#).

Four from Fountain Court feature in The Legal 500's UK Arbitration Powerlist

See [here](#).

Fountain Court excels in Chambers & Partners' 2023 results

Chambers achieves 188 individual rankings across 69 members as well as set rankings in 12 areas. See [here](#).

Major judgments and outcomes

- *R (Good Law Project) v Secretary of State for Health and Social Care ("Abingdon")*: The High Court dismisses a challenge to decisions to enter into contracts for antibody testing during the height of the COVID-19 pandemic. See [here](#).
- *Banca Intesa Sanpaolo SpA v Comune di Venezia*: The Municipality of Venice wins swap dispute with Italian banks. See [here](#).
- *Deutsche Bank AG (London Branch) v Central Bank of Venezuela*: Permission to appeal granted and relief denied in Venezuela gold dispute. See [here](#).



A new member, an appointment by the Prime Minister and a key privilege decision

Three 'Stars at the Bar' for Fountain Court

Bankim Thanki KC and Richard Lissack KC remain Stars at the Bar in *Chambers & Partners*, with Anneliese Day KC appearing for the first time. See [here](#).

Clare Sibson KC joins Fountain Court

A specialist in the intersection between commercial crime, civil fraud and regulatory law, Clare joins from Cloth Fair. See [here](#).

Fountain Court wins three awards at Chambers Bar Awards 2022

Awards include one at set level and two at individual member level. See [here](#).

Adam Tolley KC appointed to investigate complaints against the Deputy Prime Minister, The Rt Hon Dominic Raab MP

Adam is appointed by the Prime Minister to investigate complaints made by civil servants. See [here](#).

Eight Fountain Court barristers recognised in Chambers & Partners 2023: Asia Pacific

Four members and four door tenants are recognised. See [here](#).

Major judgments and outcomes

- *FCA v Papadimitrakopoulos and Gryparis*: Chancery Division rules on FCA powers over evidence gathered through mutual legal assistance channels. See [here](#).
- *Loreley v Credit Suisse Securities & Others*: Court of Appeal rejects claims that litigation privilege provides blanket protection as to the identity of those instructing solicitors in litigation. See [here](#).
- *Bitar v Bank of Beirut and Bitar v Banque Libano-Française*: High Court decides two cases in favour of UK depositor seeking to recover money from Lebanese banks. See [here](#).
- *Stanford International Bank v HSBC*: Supreme Court rejects "cakeism" Quincecare claim. See [here](#).

2022 Insights

Commercial Crime



[Recent Case Analysis – March 2022](#)

Tamara Oppenheimer KC and Simon Paul look at recent decisions in the commercial crime space, as at March 2022.



[Navigating the Uncertain Boundary](#)

Tamara Oppenheimer KC and Simon Paul explore the impact of two decisions on the interaction between commercial and civil proceedings.



[Internal Investigations – Overview of Principal Considerations](#)

Robin Lööf considers aspects of internal investigations which present particular challenges in English proceedings.



[Recent Case Analysis – August 2022](#)

Nicholas Medcroft KC and Leonora Sagan look at recent decisions in the commercial crime space, as at August 2022.



[The Law Commission's Options Paper on Corporate Criminal Liability](#)

Nicholas Medcroft KC and Leonora Sagan set out ten options for reform, following the launch of the Commission's discussion paper.



[FAQs on the application of UK Financial Sanctions to legal practice](#)

Robin Lööf writes for *Practical Law* on FAQs from law firms about the sanctions regime and how it applies to SRA regulated entities.



[Clare Sibson KC takes part in Latham & Watkins' video series on UK Financial Crime](#)

Clare Sibson KC discusses current trends in UK financial crime enforcement and liabilities with Stuart Alford KC of Latham & Watkins.



[Navigating the UK Licensing Regime to Access Justice](#)

Robin Barclay KC, Robin Lööf and Jacob Turner consider how lawyers engage with sanctions legislation, following Russia's invasion of Ukraine.



[Recent Case Analysis – December 2022](#)

Robin Barclay KC, Robin Lööf and Jacob Turner look at recent decisions in the commercial crime space, as at December 2022.

Other areas



Service out in the Supreme Court (again)

An article by Ian Bergson on the Supreme Court judgment in *FS Cairo (Nile Plaza) LLC v Lady Brownlie* [2021] UKSC 45; [2021] 3 WLR 1011 is published in the *Law Quarterly Review* for April. The appeal was a significant decision on the conflict of laws and the English Court's jurisdiction in respect of tort claims against foreign parties.



Solicitors' Undertakings: Philip Ahlquist writes series of articles for Practical Law

Philip Ahlquist writes a series of articles for *Practical Law's* online resources, following his involvement in the Supreme Court's decision in *Harcus Sinclair LLP v Your Lawyers Ltd* [2021] UKSC 32. The precedent setting case confirmed that solicitors' undertakings provided by LLPs or limited companies are not summarily enforceable by the court. Philip acted on the matter with Richard Coleman KC.



Proof of Foreign Law after Brownlie

Giles Wheeler KC considers the options now available to parties, when it comes to proof of foreign law in light of the Commercial Court Guide published in 2022, and how parties (and the Court) can determine which option is the most appropriate. The Guide presented a variety of alternatives to the traditional approach of oral expert evidence, which Giles discusses in this piece.



THE



Fountain Court

PODCAST

This year we released the final seven episodes of series 2. Please click the links on the following page to listen to our episodes and make sure you look out for series 3 next year.

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WITH AARON TAYLOR, ELEANOR DAVISON, SUSAN MUMFORD, AND TIM MAXWELL

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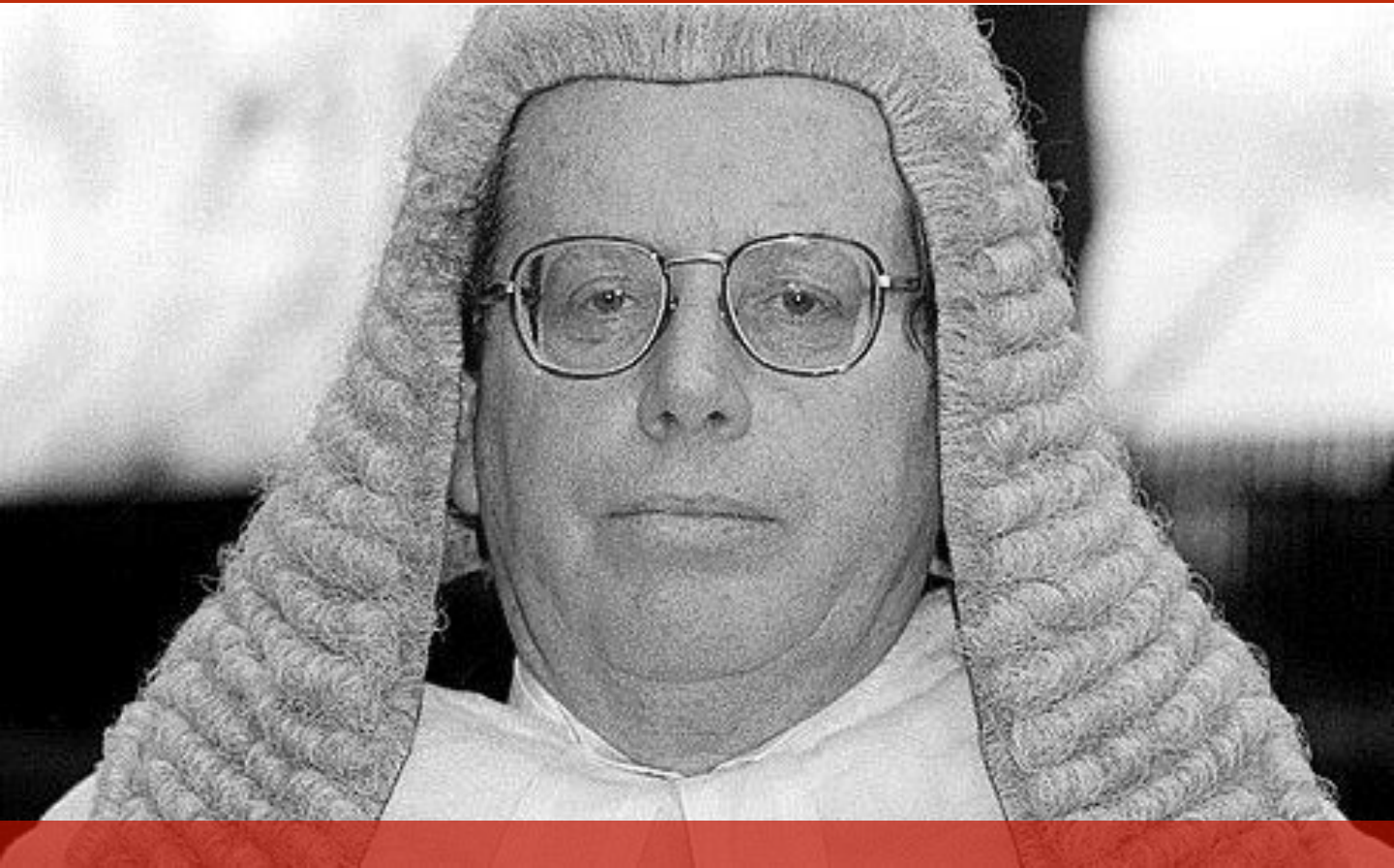
EPISODE 10

DUTY OF CARE AND PROFESSIONAL LIABILITY - AN INTERNATIONAL PERSPECTIVE

WITH KANAGA DHARMANANDA SC, LEIGH-ANN MULCAHY KC, SIRAJ OMAR SC, STEPHEN MORIARTY KC, AND ZAL ANDHYARUJINA SA

LISTEN NOW





Sir Thomas Morison, 1939-2022

Fountain Court was saddened to learn of the death of Sir Thomas Morison on 19th March 2022.

Tom was educated at Winchester College and Worcester College, Oxford, joining Chambers in 1963 and establishing a highly successful commercial and employment law practice. He was called to the Bar by Gray's Inn (Bencher 1987) in 1960 and he took Silk in 1979. Tom was appointed to the High Court, Queen's Bench Division, in 1993 and sat in the Commercial Court with great distinction (very rarely being overturned on appeal and with a nose for the true merits of any dispute) until his retirement in 2007.

Tom was a hugely popular member of Chambers and judge, with a mischievous sense of humour and abhorring any form of pretentiousness or pomposity. His death notice in The Times on 1 April gives a sense of his personality:

Morison Thomas Richard Atkin "snuffed it on 19th March, aged 83. No funeral; no memorial; no mourning; no flowers; no worries. Grateful thanks to the cancer team at the neurological-oncology centre, Southampton. With huge thanks to my wonderful wife for caring for me so well; to my wonderful children: thank you especially for giving me four beautiful and talented granddaughters. And thanks to my furry four-footed friend, Dave: sorry I was not a better walker for you at the end. Just perhaps, see you all later..."



Anthony Boswood QC, 1947-2022

It was with great sadness that Fountain Court learned of the death of Anthony Boswood QC, our Head of Chambers between 1998 and 2003 and one of the commanding commercial silks of his generation at the Bar.

Anthony led in much of the Lloyd's litigation which dominated the work of the Commercial Court in the 1990s and he appeared in many landmark cases including, of course, *Caparo v Dickman*, *Henderson v Merrett* and *Napier v Hunter*. Anthony was educated at St Paul's School and New College, Oxford. He was called to the Bar in 1970 by Middle Temple (Bencher 1995) and joined Fountain Court as a pupil in the same year, taking Silk in 1986, and remaining a member until 2013 – after which, as a door tenant, he was a highly sought-after international arbitrator specialising in insurance and other complex commercial disputes.

It was often said of Anthony that he didn't suffer fools gladly, but it improved his life immeasurably that this meant that fools were glad to avoid him. Anthony accordingly enjoyed many genuine friendships inside and especially outside the legal world. Indeed, Anthony prided himself in having a huge body of interests beyond the law, including Italy (with a beautiful home near Siena), theology (studying for a degree in Divinity after ceasing full time practice), riding, opera and choral music, racing (being latterly the Deputy Chairman of the Board of Appeal of the British Horseracing Authority), literature (having finally – and genuinely – completed the vast task of reading Proust's *À la recherche du temps perdu*) and, above all else, his lovely family: Anthony is survived by his wife Sarah and their three daughters, Eleanor, Louise and Grace.

As an advocate Anthony mastered the style of highly effective brevity: once Anthony had succinctly set out the correct answer to the issue at hand, what else could usefully be said by either side? In a well-known scuttling case he famously heckled his own junior, my illustrious predecessor as Head of Chambers, Stephen Moriarty QC, for taking (what Anthony perceived as) too long over the cross-examination of an expert!

Anthony was always enormous fun to work with and his clients loved the fact that he didn't hedge his advice with cowardly caveats. I well remember his emphatic advice to Linklaters in consultation that if he were to lose a particular case he was about to lead us on in the Commercial Court he would retire from the Bar and open a tobacconist in Runcorn. Unfortunately, Andrew Smith J must obviously have concluded that there were not enough tobacconists in Runcorn, but Anthony's career (at least at the Bar) was rescued by the Court of Appeal. Anthony had no truck with my and Henry King's argument that his advice had been confined to the first instance outcome (tickled as we were by the thought of our grand leader shifting Marlboro Lights in Cheshire)! He will be much missed.

Bankim Thanki QC
5 July 2022



Fountain Court



We wish our
colleagues and
clients a happy
and healthy
festive period and
all the best for the
New Year.



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