



Deborah Horowitz

Call 2010

"Deborah combines deep intellect with commercial savviness which is very valuable."

Chambers & Partners

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Deborah Horowitz is a "brilliant and highly intelligent junior", a "great team player and hugely popular with clients", and "combines deep intellect with commercial savviness which is very valuable" (Chambers & Partners, The Legal 500). She is frequently instructed in high-value cases, often with an international dimension.

She has been recognised in Chambers & Partners and The Legal 500 for her expertise in aviation and insurance law, and she also specialises in banking, commercial, trade finance, corporate crime (including cyber-fraud) and regulatory disputes. In addition, she has an interest in IT and space law.

Deborah has been instructed in a variety of high-profile court proceedings, arbitrations and regulatory matters, including representing the FCA in the leading authority on business interruption insurance, acting in the equivalent Australian test case, working on large-scale group banking litigation, acting in cross-border trade matters, and appearing in numerous aircraft leasing and finance cases.

Prior to commencing work as a barrister in 2010, Deborah was a litigation and regulatory investigations solicitor at Freshfields in London and Mallesons in Melbourne, and she has over 20 years' experience in practice. She holds a doctorate in law from the University of Oxford, published as a book: Letters of Credit and Demand Guarantees: Defences to Payment (OUP). She is a contributing author to Brindle & Cox (eds), Law of Bank Payments, as well as the author of journal articles on banking, commercial and international law.

Recent Highlights

FCA v Arch Insurance (UK) Limited & Others

Appearing (with Colin Edelman KC, Leigh-Ann Mulcahy KC and others) on behalf of the FCA in the leading authority on business interruption insurance, affecting some 370,000 policyholders.

The RBS Rights Issue Litigation

Acting for RBS (with David Railton KC and others) in large-scale litigation pertaining to representations made in RBS's Prospectus for its Rights Issue. The £4bn claim was referred to in The Lawyer as "perhaps the biggest banking

case of the decade”.

Olympic Council of Asia v Novans Jets LLP and Novans Investments Ltd

Acting (with Michael McLaren KC) for OCA at trial in its successful multi-million pound claim for breach of contract and unjust enrichment in respect of funds paid under an aircraft lease agreement, and then procuring worldwide freezing and asset disclosure orders.

BMW v HSBC & Barclays

Acting (with Patricia Robertson KC) for HSBC in proceedings relating to alleged cyber-fraud, fiduciary duties, employee liability, money laundering, unconscionable receipt and unjust enrichment.

A v B

Acting (with Ben Lynch KC) for a global insurance company in an arbitration involving solicitors’ professional indemnity insurance, with the case pertaining to high-value year of attachment issues.

Expertise

Aviation & Travel

Deborah is recognised in *Chambers & Partners* for her expertise in this area, with comments that she “*combines deep intellect with commercial savviness which is very valuable*”.

Her aviation practice covers aircraft finance and leasing (including termination rights and outstanding lease payments), airport and airline rights, airline slot allocation, other finance issues including the intersection with letters of credit (on which Deborah has written an internationally distributed book), the Cape Town Convention, and worldwide freezing orders and injunctions.

Deborah also has linked expertise in space law, in particular in relation to finance and security over interests in space assets (such as satellites), and she regularly attends conferences in this field.

Notable Aviation & Travel cases

Alpstream AG v PK Airfinance & GE Capital Aviation Services

Acting (with Akhil Shah KC) for GE Capital in trial proceedings and then in its successful defence in the Court of Appeal of a \$30 million claim brought following the collapse of the Blue Wings airline in Germany and arising from the financing of seven Airbus A380 aircraft.

Olympic Council of Asia v Novans Jets LLP and Novans Investments Ltd

Appearing (with Michael McLaren KC) for OCA at trial in its successful claim involving a \$14.4 million aircraft lease agreement, addressing issues of termination rights, breach of contract and unjust enrichment, and then procuring worldwide freezing and asset disclosure orders.

ACG Aircraft Leasing Ireland Limited v Vietnam Airlines JSC

Acting in relation to proceedings involving the calculation of monies owing under an aircraft lease agreement.

FW Aviation (Holdings) 1 Limited v Vietjet Aviation Joint Stock Company

Acting in relation to proceedings pertaining to delivery up of planes and rental under aircraft leases, with issues linked to events of default, termination rights, restructuring and deregistration.

Advising (with Akhil Shah KC) a large-scale Middle Eastern airline in relation to the allocation and transfer of airport slots around the world, with particular reference to Council Regulation No 95/93.

Advising (with Akhil Shah KC) on a cross-jurisdictional dispute between an airline and a global aircraft leasing company, involving analysis of contractual termination rights, conspiracy and inducing a breach of contract, as well as urgent injunctive relief abroad.

Advising (with James Cutress KC) a major UK airport group as to its obligations under its lease agreement with several commercial airlines, including in relation to the requirement for a minimum number of passengers; Covid-19 and force majeure issues were also involved (see also a paper she co-authored [here](#)).

Advising a major aircraft finance company in successfully claiming substantial funds under a letter of credit, with issues of fraud, mistake and the UCP 600 involved (drawing on my doctorate and book, *Letters of Credit and Demand Guarantees: Defences to Payment*).

Representing a major aviation entity in its \$10 million claim against a company for failing to arrange a standby letter of credit on the required terms, leading to the loss by the claimant of a major contract for the provision of aircraft to an overseas military operation.

Advising as to English law issues raised in Indian proceedings, relating to a \$5.4 million loan agreement, aircraft mortgage, guarantee and lease agreement.

Representing numerous airlines in their response to claims brought by passengers in relation to delays and cancellations of flights – dealing with issues such as industrial strikes, etc.

Banking & Finance

Deborah has a substantial banking and finance practice, which has covered the RBS Rights Issue Litigation, and also spans cybercrime, cases involving trade finance, letters of credit, guarantees, bonds and bills of exchange (drawing on her Oxford doctorate and book, *Letters of Credit and Demand Guarantees: Defences to Payment*), aircraft and space finance, and disputes on derivatives.

Notable Banking & Finance cases

The RBS Rights Issue Litigation

Acting for RBS (in a team led by David Railton KC) in large-scale litigation relating to representations made in RBS's Prospectus for its 2008 Rights Issue.

BMW v HSBC & Barclays

Acting (with Patricia Robertson KC) for HSBC in high-value proceedings relating to alleged cyber-fraud, fiduciary duties, employee liability, money laundering, unconscionable receipt and unjust enrichment.

Hampshire Trust Bank plc v Mairdonald

Acting for the bank in its pursuit of a multi-million pound claim under a guarantee supporting large-scale property developments, and in its defence of allegations of lawful means conspiracy, collateral contract and estoppel.

Thai World v Metro Bank

Acting for Metro Bank in its defence of a claim brought by Thai World in relation to the international sale of goods and liability under bills of exchange, raising issues linked to the Uniform Rules for Collections (URC 522), estoppel and bailment.

Alpstream AG v PK Airfinance & GE Capital Aviation Services

Acting (with Akhil Shah KC) for GE Capital in trial proceedings and then in its successful defence in the Court of Appeal of a \$30 million claim brought following the collapse of the Blue Wings airline in Germany and arising out of the financing of seven Airbus A380 aircraft.

HSBC Management (Guernsey) and HSBC Bank Russia LLC (HBR) v Mr Nogotkov of Dalnyaya Step LLC

Providing formal English law advice on behalf of HSBC for use during Russian banking/insolvency proceedings, on the subject of a judgment regarding a recognition order under the Cross-Border Insolvency Regulations 2006.

Seymour Direct v Worldpay (UK) Limited

Acting for Worldpay in respect of a claim regarding the payment of commission.

Nomihold Securities Inc v Mobile Telesystems Finance SA

Acting (with Richard Handyside KC) in relation to an application for a declaration that an investment bank could assist in a transaction involving the purchase of \$400 million notes.

The Argo Fund Limited v Merrill Lynch International

Acting (with Richard Handyside KC) in a dispute in relation to a credit default swap governed by the ISDA Master Agreement, in which the reference obligation was a \$175 million loan from the bank. The case involved consideration of the principles from BNY Corporate Trustee Services Ltd v Eurosail-UK 2007-3BL Plc [2011] 1 WLR 2524.

RBS v Axis Bank Ltd

Acting (with Akhil Shah KC) on behalf of RBS in its claim for reimbursement of \$15.5 million from an Indian issuing bank under a standby letter of credit.

Advising a major aircraft finance company in successfully claiming substantial funds under a letter of credit, with issues of fraud and mistake involved.

Advising a large global bank in relation to a threatened action under a letter of credit, raising the issue of whether discrepant documents (for the purposes of the Uniform Customs and Practice for Documentary Credits (UCP 600)) could justify non-payment.

Advising in relation to proceedings in France dealing with the enforceability of an English-law governed \$9 million guarantee. Issues raised covered fraud, novation and alleged abusive calling under the guarantee.

Acting for a large international bank in relation to a trade finance claim, connected with the fraudulent procurement of funds from the bank.

Advising in relation to proceedings in Singapore as regards the enforceability of a S\$3.9 million performance bond.

Advising as to English law issues raised in Indian proceedings, relating to a \$5.4 million loan agreement, aircraft mortgage, guarantee and lease agreement.

Representing (with Michael Blair KC) Deutsche Bank in its defence of Italian proceedings involving alleged mis-selling of bonds issued by Parmalat pursuant to an EMTN programme.

Acting for a large international investment bank in its defence of allegations, including those made by the FCA and the SEC, that it mis-sold mortgage-backed CDOs.

Acting on behalf of banks in swaps-related cases, including: a large commercial bank in its defence of a claim for £18 million in relation to an interest rate swap; and an investment bank in a dispute emerging from the Icelandic financial crisis, in which the bank had entered into a total return swap, pursuant to an ISDA Master Agreement, with an Icelandic bank.

Representing investment banks in disputes involving jurisdiction issues in the context of derivatives, including: acting for a bank in relation to claims brought against its Spanish branch in the Madrid courts, relating to swaps, forwards and puts; and acting for a bank in its defence of claims by Turkish entities in connection with swaps and puts.

Acting for a large bank in its defence of claims brought by Korean banks in the Seoul District Court for payment under letters of credit and bills of exchange; participated in an associated mediation.

Acting for a large airport in proceedings involving the enforcement of a guarantee given by the Italian parent company of an insolvent subsidiary.

Commercial Crime

Deborah has considerable expertise and interest in the law relating to commercial crime, in particular cyber-fraud, data breaches and issues pertaining to artificial intelligence (especially regulatory matters).

Notable Commercial Crime cases

Advising (with Richard Lissack KC) a leading international law firm in relation to issues concerning financial transactions, POCA notifications and money laundering.

Acting (with Patricia Robertson KC) for a large international bank in proceedings relating to alleged fraud, fiduciary duties, employee liability, money laundering, unconscionable receipt and unjust enrichment.

Representing a large international reinsurance broker in its response to claims and regulatory investigations (brought by the FCA, the SEC and the DOJ) in relation to alleged third party payments and bribery in the UK, US and Asia.

Commercial Disputes

Deborah's commercial disputes practice covers a multitude of issues, including cases relating to SPAs, breach of warranties, the international sale of goods, directors' duties, breach of fiduciary duty in the context of management of assets, hostile takeover litigation, technology disputes, commodities, pharmaceuticals and large-scale property matters.

Notable Commercial Disputes cases

Lay v Independent Vetcare Limited

Representing IVL, a global veterinary company, in its defence of a multi-million pound claim for earn-out payments under an SPA, and in its counterclaim for (and reliance on set-off in connection with) breach of warranties involving authorisation to carry out regulated activities under the Payment Services Regulations 2017.

Thai World v Metro Bank

Acting for Metro Bank in its defence of a claim brought by Thai World in relation to the international sale of goods and liability under bills of exchange, raising issues linked to the Uniform Rules for Collections (URC 522), estoppel and bailment.

Gasfin & Abberfield v Fisher

Acting for Russian clients as regards an Isle of Man-related claim dealing with unjust enrichment, directors' duties and other company law issues, and misrepresentation in respect of investments and a loan agreement.

SPL Private Finance (PF1) IC Limited & 17 Others v Arch Financial Products LLP

Acting (in a team led by Richard Coleman KC) for a Guernsey incorporated cell in pursuing a claim for negligence and breach of fiduciary duty against an investment management company which was entrusted with the management of assets in excess of \$150 million.

Cluff Gold Plc v IAF Capital Limited

Advising and appearing on behalf of a mining company in an appeal in relation to costs issues.

Validus Holdings Ltd v IPC Holdings Ltd, IPC Limited and Max Capital Group Ltd

Acting for a Bermudian reinsurer, which was the target of a hostile takeover bid, in two sets of court proceedings in the Supreme Court of Bermuda: first, involving the enforceability of a break fee clause in a merger agreement; and secondly, in relation to a proposed scheme of arrangement.

TTI Team Telecom v Hutchison 3G

Representing the telecommunications company in its defence of proceedings brought by the supplier of technology for a 3G network.

Acting (with Richard Lissack KC) for a private equity investment firm, in relation to the scope and enforceability of its contractual rights in respect of certain investment funds based in Guernsey and Luxembourg.

Acting for an organisation which provides medical facilities, in a dispute involving the faulty installation by a supplier of equipment at a medical site, leading to a large-scale claim for damages.

Acting (with Nik Yeo) for a large football organisation in a dispute with an entity in Hong Kong regarding a contract covering rights to televise matches and an associated standby letter of credit.

Acting for an Egyptian entity in a claim against an English company regarding the defective supply of agricultural equipment.

Acting for an Egyptian entity in a dispute with a consultancy firm regarding commission payments.

Acting in relation to a claim against a consultancy firm and also a firm of solicitors as regards potential fraud and negligence.

Representing a large international investment bank in its defence of allegations, including those made by overseas regulators, that certain bank employees engaged in misconduct in relation to precious metals trading.

Advising on actions against the manager of feeder funds affected by the Madoff Ponzi scheme.

Defending a large accounting firm in a claim brought against it by a commodities broker.

Representing an international pharmaceuticals company in its defence of claims brought in relation to allegedly defective hair-dye products.

Advising the purchaser of a property business on claims for breach of warranty.

Company, Restructuring & Insolvency

Deborah's company, restructuring and insolvency law expertise covers complex, high-value claims involving breach

of directors' duties (especially breach of fiduciary duty), hostile takeover litigation, management of investment funds, transactions at an undervalue (s 238 of the Insolvency Act 1986), transactions to defraud creditors (s 423 of the Insolvency Act 1986) and asset stripping (Marex principles).

Notable Company, Restructuring & Insolvency cases

Olympic Council of Asia v Novans Jets LLP and Novans Investments Ltd

Representing OCA in its successful pursuit of claims against Novans for breach of contract and unjust enrichment, and advising in the context of Novans' subsequent insolvency, including in relation to the potential invalidity of an asset sale to an entity in Belize, and whether it involved a transaction at an undervalue pursuant to s 238 of the Insolvency Act 1986, a transaction to defraud creditors pursuant to s 423 of the Insolvency Act 1986, or a tool to facilitate asset stripping, providing an actionable claim under the principles elucidated in *Marex Financial Ltd v Sevilleja Garcia* [2020] UKSC 31.

Lay v Independent Vetcare Limited

Representing IVL, a global veterinary company, in its defence of a multi-million pound claim for earn-out payments under an SPA, and in its counterclaim for (and reliance on set-off in connection with) breach of warranties involving authorisation to carry out regulated activities under the Payment Services Regulations 2017 and breach of directors' duties.

Gasfin and Abberfield v Fisher

Acting for Russian clients as regards an Isle of Man-related claim dealing with unjust enrichment, directors' duties and other company law issues, and misrepresentation in respect of investments and a loan agreement.

SPL Private Finance (PF1) IC Limited and 17 others v Arch Financial Products LLP

Instructed (in a team led by Richard Coleman KC) for a Guernsey incorporated cell in pursuing a claim for negligence and breach of fiduciary duty against an investment management company which was entrusted with the management of assets in excess of \$150 million.

Validus Holdings Ltd v IPC Holdings Ltd, IPC Limited and Max Capital Group Ltd

Acting for a Bermudian reinsurer, which was the target of a hostile takeover bid, in two sets of court proceedings in the Supreme Court of Bermuda: first, involving the enforceability of a break fee clause in a merger agreement; and secondly, in relation to a proposed scheme of arrangement.

Acting (with Richard Lissack KC) for a private equity investment firm, in relation to the scope and enforceability of its contractual rights in respect of certain investment funds based in Guernsey and Luxembourg.

Advising on actions against the manager of feeder funds affected by the Madoff Ponzi scheme.

Financial Services

Deborah's financial services practice covers issues in the regulatory sphere, including addressing rules administered by, and engaging with, the UK Financial Conduct Authority, the UK Financial Reporting Council, the UK Serious Fraud Office, the US Department of Justice, the US Securities and Exchange Commission, the Australian Financial Complaints Authority and the Australian Securities and Investments Commission.

She represented the UK FCA in the leading authority on business interruption insurance, has advised the FCA on that and other issues, and completed a secondment there. She has also acted for large financial entities in their response to regulatory investigations, and has particular expertise in cases relating to the Payment Services Regulations 2017.

Notable Financial Services cases

FCA v Arch Insurance (UK) Limited & Others

Appearing (with Colin Edelman KC, Leigh-Ann Mulcahy KC and others) successfully on behalf of the FCA against eight insurance companies – with the outcome affecting some 370,000 policyholders – in the leading authority on business interruption insurance.

Lay v Independent Vetcare Limited

Representing IVL, a global veterinary company, in its claim for breach of warranties involving authorisation to carry out regulated activities under the Payment Services Regulations 2017.

Completing a secondment at the FCA, during part of 2018, and assisting with its review of overdraft charges, including considering industry views on proposals and drafting rules relating to repeat use.

Completing a secondment at Linklaters LLP (in its Financial Regulation Group) during part of 2014, where she was acting on behalf of a large bank in its response to an investigation by the FCA into the Bank's handling of PPI complaints.

Advising the Australian Financial Complaints Authority in respect of issues relating to business interruption insurance.

Acting on behalf of a large investment bank in its response to allegations by an overseas regulator that certain of the bank's employees engaged in misconduct when conducting precious metals trading.

Representing a large international reinsurance broker in its response to claims and regulatory investigations (brought by the FCA, the SEC and the DOJ) in relation to alleged third party payments and bribery in the UK, US and Asia.

Representing a large investment bank in its response to regulatory investigations by the FCA and the SEC in respect of alleged mis-selling of CDOs – involving consideration of the FCA’s Principles, SYSC, COBs, etc.

Representing a bank in relation to an SEC investigation associated with Sarbanes-Oxley issues.

Representing banks and other institutions in relation to FCA and FOS-related matters – eg data theft, mis-selling, etc – involving frequent consideration of the FCA Handbook.

Insurance

Deborah has been recognised in The Legal 500 for her insurance practice, with comments that she is “a brilliant and highly intelligent junior. Great team player and hugely popular with clients”.

Her insurance expertise includes business interruption insurance (having appeared for the FCA in the leading authority in that sector), year of attachment issues, complex high-value reinsurance matters, and regulatory issues and investigations.

Notable Insurance cases

FCA v Arch Insurance (UK) Limited & Others

Appearing (with Colin Edelman KC, Leigh-Ann Mulcahy KC and others) successfully on behalf of the FCA against eight insurance companies – with the outcome affecting some 370,000 policyholders – in the leading authority on business interruption insurance.

A v B

Acting (with Ben Lynch KC) for a global insurance company in an arbitration involving solicitors’ professional indemnity insurance (with liability stemming from a property development venture), with the case pertaining to high-value year of attachment issues.

Validus Holdings Ltd v IPC Holdings Ltd, IPC Limited and Max Capital Group Ltd

Acting for a Bermudian reinsurer in two sets of court proceedings in the Supreme Court of Bermuda.

Advising the FCA generally in relation to business interruption insurance matters, including guidance in respect of the legal consequences flowing from the prevalence of COVID-19 across different sectors of the UK.

Advising the Australian Financial Complaints Authority in respect of issues relating to business interruption insurance.

Acting on behalf of eight businesses in the Australian test case proceedings (analogous to those in the UK) against insurers in relation to business interruption insurance, addressing issues of coverage, causation and adjustment.

Representing a large international reinsurance broker in its response to claims and regulatory investigations (brought by the FCA, the SEC and the DOJ) in relation to alleged third party payments and bribery in the UK, US and Asia.

Directory Quotes

"A brilliant and highly intelligent junior. Great team player and hugely popular with clients."

The Legal 500

Directory Rankings

Chambers & Partners

- Aviation

Education

- D.Phil in Law, Merton College, University of Oxford (2009)
- M.Phil in Law (Distinction), Merton College, University of Oxford (2007)
- BCL (Distinction), Merton College, University of Oxford (2006)
- LLB (Hons), University of Melbourne (2003)
- BA (Hons) (English & French), University of Melbourne (2003)

International Bar / Court Appointments

- Admitted to practise in the High Court of Australia and the Supreme Court of Victoria (2004 to present)

Appointments, Memberships and Prizes

- Trustee, Research Institute for Disabled Consumers, London (2019-2023)
- Solicitor, Freshfields Bruckhaus Deringer LLP, London (2007-2010)
- Solicitor, King & Wood Mallesons, Melbourne (2004-2005)
- Former Lecturer and Tutor in Contract Law, University of Melbourne and Trinity College, Melbourne (2000, 2002)
- Volunteer Legal Adviser at the Bethnal Green Legal Advice Centre (2011-2012)
- UK Foundation for International Uniform Law Scholarship for Doctoral Studies (UKFIUL)
- Rae & Edith Bennett Travelling Scholarship for Doctorate, University of Melbourne
- Exhibition for the BCL, Merton College, University of Oxford
- British Chevening Scholarship & Rotary Scholarship for the BCL, British Council and Rotary
- David Wells Law Scholarship, Trinity College, University of Melbourne
- Faculty Prize for Restitution Law, University of Melbourne
- Faculty Prize for Property Law, University of Melbourne
- Melbourne National Scholarship (inaugural), University of Melbourne

Publications

- Horowitz, *Letters of Credit & Demand Guarantees: Defences to Payment* (Oxford University Press, 2010; publication of doctoral thesis)
- Horowitz, Brindle, Coleman & McClelland, “Documentary Credits and Related Transactions” in Brindle and Cox (eds), *Law of Bank Payments* (Sweet & Maxwell, 5th edn, 2018)
- Horowitz, Robertson and Lynch, “COVID-19, Force Majeure and Frustration: Key Legal Principles & Industry Implications” (2020) *New Law Journal* 13 (8 May 2020)
- Horowitz, “Banco Santander and the UCP 600” (2008) *6 Journal of Business Law* 508
- Horowitz, “The Fate of High Seas Fisheries in the Southern Bluefin Tuna Case” (2001) *25 Melbourne University Law Review* 810
- Deborah also regularly gives lectures to law firms, banks and other clients on a variety of subjects, both in London and internationally – for example, she was invited to lecture at the National University of Singapore, as well as the AIFC Academy

Languages

- French (fluent)

Awards

