



Leah Gardner

Call 2022

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Leah Gardner transferred to the Bar in 2022, having been a senior associate in the litigation and arbitration team at an international law firm in London. She commenced practice in Australia in 2014.

Leah practises across chambers' core areas. She is particularly interested in commercial disputes, civil fraud, company/shareholder/funds disputes, competition law, insurance and professional discipline. She regularly works with offshore counsel and has experience of doing so in Cyprus, the Cayman Islands, the BVI and Bermuda.

Leah also has experience in disputes and advisory work involving technology, including contractual (eg, licensing, outsourcing, sale/acquisitions) matters, competition claims and procurement. She is a contributing author to *The Law of Artificial Intelligence* (Sweet & Maxwell, 2nd edn, forthcoming).

Leah had the privilege of serving for 12 months as a judicial assistant to the Hon Justice Bell AC in Australia's highest court. She was also a lecturer in public law and teaching assistant in contract law in undergraduate and graduate law programmes in Australia.

Recent Highlights

Motorola Solutions Inc v Hytera Communications Corp

Acting (with Stephen Rubin KC and Alexander Milner KC) for a Chinese radio manufacturer in defending enforcement proceedings in the Commercial Court in respect of a foreign judgment, and assisting (during pupillage) with obtaining a stay of those proceedings for non-payment of costs orders: [2023] EWHC 1393 (Comm).

Onecom Group v Palmer

Acting (with Adam Sher) for the buyer in proceedings in the Commercial Court against the seller arising from alleged breaches of warranty under a sale purchase agreement in relation to an IT and telecommunications business.

Shareholder / JV dispute

Acting (with Stephen Rubin KC) for shareholders in a high-stakes dispute with their JV partner in respect of a publicly listed electricity supplier, in proceedings in the Cayman Islands and London.

Loreley Financing (Jersey) No 30 Ltd v Credit Suisse

Assisting with preparation for a 9-week trial of a case arising from the sale of a CDO linked to RMBS in 2007 in which the claimant, Loreley 30, made wide-ranging allegations of fraud based on a large number of alleged implied representations (during pupillage). The case is one of *The Lawyer's* Top 20 for 2023.

Onecom Group & Anor v Palmer & Ors

Acting (with Adam Sher) for one of the UK's largest independent business telecomms and cloud communications providers in proceedings involving claims for breach of contract, unlawful means conspiracy and inducing breach of contract and counterclaims of rectification, breach of confidence and unlawful means conspiracy.

Expertise

AI, Crypto & Technology

Notable AI, Crypto & Technology cases

Onecom Group & Anor v Palmer & Ors

Acting (with Adam Sher) for one of the UK's largest independent business telecomms and cloud communications providers in proceedings involving claims for breach of contract, unlawful means conspiracy and inducing breach of contract and counterclaims of rectification, breach of confidence and unlawful means conspiracy.

Onecom Group v Palmer

Acting (with Adam Sher) for the buyer in proceedings in the Commercial Court against the seller arising from alleged breaches of warranty under a sale purchase agreement in relation to an IT and telecommunications business.

Assisting with an application for a collective proceedings order (CPO) alleging abuse of dominance by a global technology company (during pupillage).

Acting for a global technology company defending a claim for damages for alleged abuse of dominance and anti-competitive agreements, including assisting counsel to prepare grounds of appeal for permission to appeal to the Court of Appeal which raised a novel point as to the relevance of post-Brexit CJEU authority (at CMS).

Acting for a global digital transformation business in a large-scale IT dispute arising under a contract procured via competitive tender by a government department, and on a separate contractual dispute arising out of COVID-19 emergency measures and amendments (at CMS).

Advising a broadcaster on a multi-million pound contractual dispute with a software and services supplier regarding a nation-wide roll-out of new software (at CMS).

Acting for a global technology business to obtain a worldwide freezing order and document preservation and disclosure order in conjunction with an IP dispute (at CMS).

Advising on multiple software licensing disputes, including upon renewal and termination, for clients in the technology, retail and life sciences sectors (at CMS).

Banking & Finance

Notable Banking & Finance cases

Loreley Financing (Jersey) No 30 Ltd v Credit Suisse

Assisting with preparation for a 9-week trial of a case arising from the sale of a CDO linked to RMBS in 2007 in which the claimant, Loreley 30, made wide-ranging allegations of fraud based on a large number of alleged implied representations (during pupillage). The case is one of *The Lawyer's* Top 20 for 2023.

Assisting with advising on potential claims in tort, contract and restitution against banks and gaming companies in respect of misappropriation of a company's funds by an employee (during pupillage).

Civil Fraud

Notable Civil Fraud cases

Loreley Financing (Jersey) No 30 Ltd v Credit Suisse

Assisting with preparation for a 9-week trial of a case arising from the sale of a CDO linked to RMBS in 2007 in which the claimant, Loreley 30, made wide-ranging allegations of fraud based on a large number of alleged implied representations (during pupillage). The case is one of *The Lawyer's* Top 20 for 2023.

Assisting with defending a challenge to an arbitral award worth over US\$10 billion on grounds of serious irregularity and enforcement being contrary to public policy (the contract containing the arbitration agreement was allegedly procured by fraud and bribery). The case is one of *The Lawyer's* Top 20 for 2023 (during pupillage).

Assisting with a claim for fraudulent misrepresentation and unlawful means conspiracy relating to a property development partnership (during pupillage).

Assisting with advising on potential claims in tort, contract and restitution against banks and gaming companies in respect of misappropriation of a company's funds by an employee (during pupillage).

Assisting in defending proceedings in the District Court of Paphos, Cyprus in respect of claims of unlawful and lawful means conspiracy and breach of contract (during pupillage).

Acting for the claimant in a USD2.8 billion fraud claim in the Commercial Court. The claim involved allegations of fraudulent breach of trust, breach of fiduciary duty and breach of contract. Assisting with preparation of the claimant's statements of case, requests for information, disclosure, witness evidence of fact and various interim applications (at CMS).

Commercial Disputes

Notable Commercial Disputes cases

Onecom Group & Anor v Palmer & Ors

Acting (with Adam Sher) for one of the UK's largest independent business telecomms and cloud communications providers in proceedings involving claims for breach of contract, unlawful means conspiracy and inducing breach of contract and counterclaims of rectification, breach of confidence and unlawful means conspiracy.

Motorola Solutions Inc v Hytera Communications Corp

Acting (with Stephen Rubin KC and Alexander Milner KC) for a Chinese radio manufacturer in defending enforcement proceedings in the Commercial Court in respect of a foreign judgment, and assisting (during pupillage) with obtaining a stay of those proceedings for non-payment of costs orders: [2023] EWHC 1393 (Comm).

Onecom Group v Palmer

Acting (with Adam Sher) for the buyer in proceedings against the seller in the Commercial Court arising from alleged breaches of warranty under a sale purchase agreement in relation to an IT and telecommunications business.

Appearing (as sole counsel) for the applicant at a hearing in the Chancery Division in relation to an application for a third party debt order (formerly known as a garnishee order).

Assisting in the defence of claims in the Circuit Commercial Court for wrongful dismissal and payment of a debt, involving questions of enforceability under the Companies Act 2006 (during pupillage).

Acting for a global digital transformation business in a large-scale IT dispute arising under a contract procured via competitive tender by a government department, and on a separate contractual dispute arising out of COVID-19 emergency measures and amendments (at CMS).

Advising a broadcaster on a multi-million pound contractual dispute with a software and services supplier regarding a nation-wide roll-out of new software (at CMS).

Acting for a global technology business to obtain a worldwide freezing order and document preservation and disclosure order in conjunction with an IP dispute (at CMS).

Advising on multiple software licensing disputes, including upon renewal and termination, for clients in the technology, retail and life sciences sectors (at CMS).

Company, Restructuring & Insolvency

Notable Company, Restructuring & Insolvency cases

Acting (with Stephen Rubin KC) for shareholders in a high-stakes dispute with their JV partner in respect of a publicly listed electricity supplier, in proceedings in the Cayman Islands and London.

Appearing (as sole counsel) for the applicant at a hearing in the Chancery Division in relation to an application for a third party debt order (formerly known as a garnishee order).

Assisting in the defence of claims in the Circuit Commercial Court for wrongful dismissal and payment of a debt, involving questions of enforceability under the Companies Act 2006 (during pupillage).

Assisting with advising the General Partner of a limited partnership in the Cayman Islands on the extent of its contractual and fiduciary duties in winding up the fund operated by the partnership (during pupillage).

Competition

Notable Competition cases

Assisting with an application for a collective proceedings order (CPO) alleging abuse of dominance by a global technology company (during pupillage).

Assisting with an immunity / leniency application to the Competition and Markets Authority (during pupillage).

Acting for the defendant in a claim for damages for alleged abuse of dominance in the Competition Appeal Tribunal. The claim was struck out in its entirety and costs awarded to the defendant on the indemnity basis (at CMS).

Acting for a global technology company defending a claim for damages for alleged abuse of dominance and anti-competitive agreements, including assisting counsel to prepare grounds of appeal for permission to appeal to the Court of Appeal which raised a novel point as to the relevance of post-Brexit CJEU authority (at CMS).

Insurance

Notable Insurance cases

Assisting with advising insurers in respect of a complex, multi-million pound coverage dispute under a civil liability and crime cover policy, which involved considering foreign law expert evidence and arose out of a claim in the Commercial Court for many billions of pounds (during pupillage).

Assisting with a claim of professional negligence and breach of contract against a firm of solicitors relating to advice on reinsurance of a repayment guarantee bond (during pupillage).

Offshore

Notable Offshore cases

Acting (with Stephen Rubin KC) for shareholders in a high-stakes dispute with their JV partner in respect of a publicly listed electricity supplier, in proceedings in the Cayman Islands and London.

Assisting with advising the General Partner of a limited partnership in the Cayman Islands on the extent of its contractual and fiduciary duties in winding up the fund operated by the partnership (during pupillage).

Assisting in defending proceedings in the District Court of Paphos, Cyprus in respect of claims of fraud and breach of contract (during pupillage).

Assisting counsel in Cyprus in a contested application for a worldwide freezing injunction (at CMS).

Assisting counsel in Cyprus in a contested application for removal and replacement of trustees of two Cyprus-based trusts (at CMS).

Assisting counsel in Cyprus in a contested application for an order releasing the claimant from the undertaking as to collateral use of documents received in disclosure in proceedings before the District Court of Limassol (at CMS).

Privilege, Confidentiality & Conflicts of Interest

Notable Privilege, Confidentiality & Conflicts of Interest cases

Onecom Group & Anor v Palmer & Ors

Acting (with Adam Sher) for one of the UK's largest independent business telecomms and cloud communications providers in proceedings involving claims for breach of contract, unlawful means conspiracy and inducing breach of contract and counterclaims of rectification, breach of confidence and unlawful means conspiracy.

Loreley Financing (Jersey) No 30 Ltd v Credit Suisse [2023] 1 WLR 1425

Assisting in preparation for, and attending, the hearing of Credit Suisse's challenge to Loreley 30's claims of privilege in the Court of Appeal. The challenge, in which Credit Suisse succeeded, concerned the novel question of whether litigation privilege protects the identity of persons authorised by a party to communicate with its solicitors in relation to litigation (during pupillage).

Assisting in advising on collateral waiver of privilege in circumstances involving voluntary disclosure of legal advice expressed to have been on a limited waiver basis (during pupillage).

Acting for the claimant in a successful application for non-party disclosure to be served out of the jurisdiction on two trustees in Cyprus who were advised by a firm of solicitors in England which held documents of relevance to ongoing proceedings in the Commercial Court: [2022] EWHC 1907 (Comm), upheld on appeal: [2022] EWCA Civ 1270 and permission to appeal to the Supreme Court refused (at CMS).

Procurement

Notable Procurement cases

Acting for a producer and promoter of live entertainment in a judicial review and private law procurement claim in relation to the tender of a five-year music festival contract (at CMS).

Advising various public bodies, including in the health and education sectors, as to the application of the Public Contracts Regulations and Concession Contracts Regulations (at CMS).

Acting for a global digital transformation business in a large-scale IT dispute arising under a contract procured via competitive tender by a government department (at CMS).

Professional Discipline

Notable Professional Discipline cases

Assisting with a three-day trial in the Solicitors Disciplinary Tribunal of an application by the SRA for an order under section 43 of the Solicitors Act 1974 against a non-solicitor including an allegation of dishonesty (during pupillage).

Assisting with a trial in the Solicitors Disciplinary Tribunal involving an alleged failure to act with integrity and to uphold public trust and confidence in the profession contrary to the SRA Principles, and alleged breaches of the Code of Conduct by abuse of position and misleading a third party (during pupillage).

Professional Negligence

Notable Professional Negligence cases

Assisting with a claim of professional negligence and breach of contract against a firm of solicitors relating to advice on reinsurance of a repayment guarantee bond (during pupillage).

Education

- MPhil in Law (Distinction), Keble College, University of Oxford (2019)
- Bachelor of Laws, University of New South Wales (First Class Honours and the University Medal) (2014)
- Bachelor of Arts (History), University of New South Wales (2014)

International Bar / Court Appointments

- Admitted in the High Court of Australia and the Supreme Court of New South Wales (2014)

Appointments, Memberships and Prizes

Appointments

- Senior Associate (and, prior, Associate), CMS Cameron McKenna Nabarro Olswang LLP, London (2019-2022)
- Legal Research Assistant, UNSW Allens Hub for Technology, Law & Innovation (2018-2019)
- Associate Editor, Oxford Business Law Blog (2018-2019)
- Teaching Fellow in Public Law, University of New South Wales (2018)

- Tutor in Contract Law, The Australian National University (2015) and University of Sydney (2017-2018)
- Lawyer, Corrs Chambers Westgarth, Sydney (2016-2017)
- Judicial Assistant to the Hon Justice Bell AC, High Court of Australia (2015-2016)
- Lawyer, King & Wood Mallesons, Sydney (2014-2015)

Memberships

- COMBAR
- LCLCBA
- Society for Computers and Law

Prizes

- Graduate Assistance Fund Scholarship, University of Oxford, Faculty of Law (2018)
- The University Medal in Law for the first ranked student in the LLB (2014)
- Minter Ellison Prize for the best performing student in Stage 5 of LLB (2013)
- Dean's List for first place in Advanced Administrative Law (2013)
- Sir Anthony Mason Internship and Scholarship in Constitutional Law (2013)
- Dean's List for Academic Performance, Faculty of Arts and Social Sciences (2013)
- Baker & McKenzie Prize for the best performing student in Stage 4 of LLB (2012)
- Dean's List for first place in Legal Theory (2012)
- Harry Manson Scholarship for International Exchange Program (2012)
- Dean's Student Leadership Award, Faculty of Arts and Social Sciences (2012)
- Freehills Prize for the best performing student in Stage 3 of LLB (2011)
- Dean's List for first place in Administrative Law (2011)
- Winner of the Governor-General's Undergraduate Essay Competition (2011)
- Blake Dawson Prize for the best performing student in Stage 2 of LLB (2010)
- Dean's List for first place in Criminal Law 1 (2010)
- Law Society of NSW Prize for the best performing student in Stage 1 of LLB (2009)
- Dean's List for first place in Torts (2009)
- Dorothy Allison-Furhagen Prize for first in Women's and Gender Studies (2009)
- Graham Pringle Prize for first in Level 1 Politics and International Relations (2009)

Publications

- Turner and Gardner, 'International Regulation of Artificial Intelligence' in *The Law of Artificial Intelligence* (Sweet & Maxwell, 2nd ed, forthcoming).
- Johns, Gardner and Gorur, '**Big Data and International Law**', *Oxford Bibliographies*, October 2022
- Gardner, 'Software Licensing Agreements: Five things to look out for on review' *Computers and Law*, 4 June 2021
- Taplin and Grolman, 'Beating the Bots: What are the options for retailers?' *Computers and Law*, 5 February



2021

- Grolman, 'Digital Accessibility Class Actions: Coming Soon to England and Wales?' *Computers and Law*, 27 November 2020

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