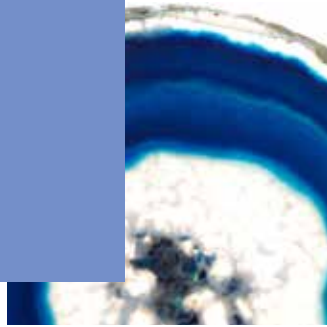


# Retail finance litigation



## Our services

We have a variety of experience in retail finance disputes including leading roles in some of the most serious litigation facing the retail finance industry. Our capabilities extend to disputes concerning retail financial products, customer disputes, Consumer Credit Act 1974 (CCA) claims, dealings with regulators, judicial review of regulators, and general commercial. We specialise in the types of retail litigation facing all major retail banks.

We are equally at home with hard-fought litigation as with more conciliatory methods of dispute resolution such as mediation or negotiation. Our ability to pick the right strategy is a strength remarked on by our clients: “they were able to synthesise and harmonise an intelligent and coherent strategy to achieve the goals we had set ourselves.” “They showed considerable tactical nous throughout”.

“one of the most flexible and innovative firms I’ve come across”.

(Head of Retail Litigation, Leading UK Bank)

### Current accounts/bank accounts

Our team has a strong record in this area, playing a significant role in the successful landmark bank charges litigation in the House of Lords on the scope and application of the Unfair Terms in Consumer Contracts Regulations 1999, as well as the continuing satellite work at County Court, Financial Ombudsman and complaints handling levels. We also have a wealth of experience dealing with other current account litigation, including claims for breach of mandate, and challenges to standard terms and conditions.

### Credit cards

Our expertise in this area includes strategic advice on managing mass complaints and claims brought by claims management companies, as well as advising our clients on the broad range of regulatory requirements and CCA obligations.

- advising a major UK bank on the OFT enquiry into credit card default charges
- actively managing and conducting litigation in defence of country-wide challenges to the level of credit card default charges on behalf of two major credit card providers

### Mortgage fraud

We are experienced in acting for retail banks in connection with complex mortgage frauds. Our experience includes litigation against valuers and borrowers.

- advising a major UK bank on proceedings against valuers, borrowers and associated parties in complex multi-million pound mortgage fraud litigation

- advising a major UK bank on a complex series of claims against solicitors, valuers and introducers arising out of a multi-million pound mortgage fraud

### Mortgage and security enforcement

We are experienced in litigation involving mortgages and other bank securities.

- advising a major UK bank on security enforcement claims against a high net worth individual.
- defending a major UK bank in a class action arising from allegations of unfairness of both mortgage terms under the Unfair Terms in Consumer Contracts Regulations 1994 and relationships with mortgage customers under the CCA

### FOS complaints

We have the experience and expertise to advise in connection with: strategies for responding to FOS where a single product is leading to a large number of referred complaints; individual complaints by customers; products where risk ratings have been challenged by FOS; and the extent of the FOS jurisdiction and how, if at all, it can be challenged.

- advising an international bank on a number of complaints to the FOS relating to various products which have exposure to Bernard L Madoff Securities LLC. The complaints relate to the due diligence undertaken and suitability of the investment.
- assisting an international bank with its detailed responses to the FOS and high level strategy where a product has led to more than 500 referrals to the FOS

The “large and talented litigation team” is lauded for its “commercial and even-handed approach” and for never “over promising or under delivering.”

Chambers 2013

### Structured products

We have extensive experience dealing with complaints from high net worth clients in connection with various structured products.

- acting for Prudential Bache in the defence of multiple Commercial Court actions involving claims brought by investors alleging mis-selling of leveraged structured products bought through an overseas affiliate of the bank seeking to recover losses sustained as a result of a particular investment strategy
- acting for a major investment bank in relation to allegations of mis-selling, breach of duty of care and misrepresentation made in relation to an ISDA governed interest rate swap
- advising a leading financial institution in connection with claims of mis-selling and misrepresentation made by an investor in respect of, amongst others, investments in accumulators

### Retail insurance products

We have been at the forefront of litigation in relation to payment protection insurance (PPI) and undeclared commission payments.

- acting for a leading international bank (PPI and ‘Hurstanger’ Secret Commission Litigation) and taking a lead strategic role within the industry, in the nation-wide PPI mis-selling / secret commission / CCA litigation

### Contentious regulatory

Our expertise in this area includes the conduct of disciplinary proceedings, internal investigations where we report on suspected irregularities and on regulatory investigations where we can advise and assist on response strategies.

- acting for a major hedge fund. Conducting an investigation into suspected unauthorised trading in the UK including liaising with the FSA and issues of customer compensation

### Crime, fraud & investigations

We advise on criminal investigations and provide representation in proceedings in all criminal courts (including trials and extradition applications), covering areas such as market abuse, insider dealing, money laundering, fraud and corruption. We can also assist in developing anti-corruption compliance policies and work with clients to deliver training to their employees.

- advising an international bank on an asset recovery of approximately \$5m against employees and third parties

### Training

We offer internal training, designed to provide cutting edge know how and insights into key market issues, to count for continuing professional education purposes, reduce external training costs and support compliance and risk management programmes. Examples of topics on offer (which can be further tailored to individual needs) include:

- The impact of the Bribery Act 2010 on financial institutions
- Privilege around complaints
- Mutual legal assistance requests
- Consumer finance regulation
- Mortgage fraud
- Abuse of dominance: antitrust exposure

“They really give us a full first-class service. They are forward-looking, responsive, comprehensive, a pleasure to work with and nothing is too much trouble.

Outstanding!”

Chambers UK 2014.

## Key contacts

Key contact biographies can be viewed at [simmons-simmons.com](http://simmons-simmons.com)

### Colin Passmore

T +44 20 7825 4196  
E [colin.passmore@simmons-simmons.com](mailto:colin.passmore@simmons-simmons.com)

### Marc Thorley

T +44 20 7825 4941  
E [marc.thorley@simmons-simmons.com](mailto:marc.thorley@simmons-simmons.com)

### Caroline Hunter-Yeats

T +44 20 7825 4571  
E [caroline.hunter-yeats@simmons-simmons.com](mailto:caroline.hunter-yeats@simmons-simmons.com)

[simmons-simmons.com](http://simmons-simmons.com)

[elexica.com](http://elexica.com)

[@SimmonsLLP](https://twitter.com/SimmonsLLP)

elexica.com is the award winning online legal resource of Simmons & Simmons

© Simmons & Simmons LLP 2015. All rights reserved, and all moral rights are asserted and reserved.

This document is for general guidance only. It does not contain definitive advice. SIMMONS & SIMMONS and S&S are registered trade marks of Simmons & Simmons LLP.

Simmons & Simmons is an international legal practice carried on by Simmons & Simmons LLP and its affiliated practices. Accordingly, references to Simmons & Simmons mean Simmons & Simmons LLP and the other partnerships and other entities or practices authorised to use the name “Simmons & Simmons” or one or more of those practices as the context requires. The word “partner” refers to a member of Simmons & Simmons LLP or an employee or consultant with equivalent standing and qualifications or to an individual with equivalent status in one of Simmons & Simmons LLP’s affiliated practices. For further information on the international entities and practices, refer to [simmons-simmons.com/legalresp](http://simmons-simmons.com/legalresp)

Simmons & Simmons LLP is a limited liability partnership registered in England & Wales with number OC352713 and with its registered office at CityPoint, One Ropemaker Street, London EC2Y 9SS.

It is authorised and regulated by the Solicitors Regulation Authority.

A list of members and other partners together with their professional qualifications is available for inspection at the above address.