

T. 020 7404 3447 (Practice Manager, Paul Venables)
E. claremontgomery@matrixlaw.co.uk

Year of call 1980 Silk 1996



Main Areas of Practice

- Crime and criminal due process
- Regulatory and health and safety
- Commercial fraud
- Administrative law
- Extradition and mutual assistance

Clare is a highly respected specialist in criminal, regulatory and fraud law, perhaps best known for her work on legally and factually complex cases. Formerly junior Treasury Counsel, Clare has also been concerned in a wide range of public law and due process cases. For the past decade Clare has specialised in dealing with the most demanding and complex legal cases. In December 2009 Clare was appointed to the inaugural Serious Fraud Office QC list.

Clare is widely valued as a pre litigation adviser, providing strategic advice and guidance to companies and individuals caught up in regulatory and criminal investigations, particularly those with an international dimension and those where both civil and criminal law problems are present. For example she acted successfully for Glaxo Smith Kline in dealing with an investigation by the MHRA into its clinical trials procedures involving questions of EC and domestic regulation. She is presently instructed on behalf of BAE and was involved in negotiating the ground breaking settlement with the SFO.

She is able to take a case through from investigation to trial as with the high profile investigation and prosecution of the Metropolitan Police Commissioner for health and safety offences arising out of the death of Jean Charles de Menezes and the defence of Martin George, the former British Airways director, cleared of the cartel offence after the collapse of the OFT's prosecution case. She represents both prosecuting authorities, such as the FSA as well as acting for private clients and corporation.

She has worked on some of the most significant and complex criminal trials in the past decade. She was the lead advocate for the former chief executive of Railtrack charged with health and safety offences in relation to the deaths in the Hatfield rail crash. She has appeared in many of the leading SFO trials of the last 20 years. Clare is currently acting for a former director of British Airways in connection with the first contested cartel prosecution. She is joint editor (with Professor David Ormerod) of *Fraud (Criminal Law and Procedure)* (OUP, 2008).

Since taking silk in 1996, Clare has also come to be valued as trial advocate in complex civil disputes. She appeared as trial counsel in the Bermuda Fire & Marine litigation and in the BCCI misfeasance action against the Bank of England. She is valued for her ability to work in a team, her attention to detail and her skill as a cross examiner.

She has had extensive experience in extradition and international mutual legal assistance, representing both governments and individuals. She represented Augusto Pinochet in the House of Lords, and led the challenge to the mutual assistance requests made in connection with Silvio Berlusconi's business activities and advised the former Prime Minister of Thailand after he was ousted in a military coup. She led the prosecution team in the recent Rwandan genocide request and acts for the former President of Bosnia in relation to allegations of war crimes made by Serbia. She represented the Government of the United States of America in the House of Lords in the challenge brought by Gary McKinnon in relation to the use of plea bargaining in the context of extradition proceedings. She is a co-author of *The Law of Extradition and Mutual Assistance* (2nd Ed published by OUP, 2007).

Clare has also developed a substantial and varied appellate practice. She represented the Bar when the issue of barrister's immunity arose in the House of Lords, she appeared for Sally Clark when Clark was finally cleared of murdering her two sons by the Court of Appeal in 2003 and appeared for Sion Jenkins when his conviction was quashed in 2004. She has appeared in courts of appeal in Brunei and in Bermuda. In the Hong Kong Court of Final Appeal she acted for Mo Yuk Ping, in the leading case on conspiracy to defraud, and in *HKSAR v Andrew Lam* she secured the acquittal of a solicitor charged with perverting the course of justice.

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Notable Cases

Selected criminal cases

[R v Parnes \(the Guinness trial\)](#)

Clare Montgomery represented Anthony Parnes at trial and on appeal. She advised on the successful application to the European Court of Human Rights

[Seaboard Offshore v Secretary of State \[1994\] 1 Lloyds Rep 589](#)

Leading case on the corporate liability for the operation of an unsafe ship

[R v Gray \[1995\] 2 Cr App R 100](#)

Clare Montgomery appeared at trial for the broker alleged to be at the heart of the so called Morgan Grenfell insider dealing ring. The charges were either dismissed at the close of the prosecution case or quashed on appeal

[R v Kevin Maxwell](#)

Clare Montgomery appeared at trial for Kevin Maxwell

[Attorney General's Reference No 2 of 1988 \[2000\] QB 412](#)

Acting for the DTI, this decision established the width of the powers of Companies Act inspectors

[R v Smith and another \[2005\] UKHL 12, \[2005\] 2 All ER 29](#)

Acting for Smith in the Court of Appeal and House of Lords. The case explored the sanctity of jury deliberations and led to the guilty verdicts being quashed

[Gilbert v The Queen \[2006\] UKPC 15](#)

Representing a former government officer in the Privy Council

[HKSAR v. Mo Yuk Ping \(2007\) 10 HKCFAR 386](#)

Case in the Court of Final Appeal in relation to the constitutionality of the offence of conspiracy to defraud

Extradition cases

[R v Governor of Pentonville Prison ex parte Osman \[1987-1992\]](#)

Clare Montgomery appeared on behalf of the Home Secretary throughout this litigation which resulted in Osman's extradition to Hong Kong

[Government of the United States of America v Bowe \[1990\] AC 500](#)

A case that was prepared for extradition and successfully prosecuted in the Bahamas and the United States on behalf of the US Government

[R v Secretary of State for the Home Department ex parte Gilmore \[1999\] QB 611](#)

Clare Montgomery represented Gilmore in his successful challenge to extradition to the United States

[Rey v Government of Switzerland \[1999\] AC 54](#)

An extradition case that was prepared and successfully prosecuted in the Bahamas on behalf of the Government of Switzerland

[R v Bow Street Magistrate ex parte Pinochet \(Nos 1-3\) \[2000\] AC 61](#)

Clare Montgomery led the presentation of the case before the House of Lords on all three appeal hearings

[R \(on the application of Rottman\) v Commissioner of Police of the Metropolis \[2002\] 2 AC 545](#)

Represented Rottman on his challenge to the legality of search and seizure powers

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Notable Cases

[R \(on the application of Kashamu\) v Governor of Brixton Prison \(No 2\) \[2002\] QB 887](#)
The leading case on the duty in extradition to apply Article 5.4

[Dabas v High Court of Justice, Madrid \[2007\] 2 AC 31](#)
The leading case on the European Arrest Warrant

[McKinnon v The Government of the United States of America \[2008\] UKHL 59](#)
A case concerned with the propriety of plea bargaining in the context of extradition

Administrative / Public law cases

[R v Hendon Justices ex parte DPP \[1994\] QB 167](#)
The power of the Administrative Court to quash an acquittal

[Holden & Co v The Crown Prosecution Service \(No 2\) \[1994\] 1 AC 22](#)
Represented the Lord Chancellor in this challenge to the width of third party costs orders

[R v Commissioner of Police ex parte Bennett \[1995\] QB 313](#)
Represented the Lord Advocate in determining the effect of the Act of Union

[R v Southwark Crown Court ex parte Bowles \[1998\] AC 641](#)
Instructed as amicus in the House of Lords in relation to the powers in support of confiscation

[Bright v Central Criminal Court \[2001\] 1 WLR 662](#)
Appeared for the police in this challenge to the use of special procedure powers against newspapers

[R \(on the application of Abacha\) v Secretary of State for the Home Department \[2001\] EWHC Admin 787](#)
Challenge to the mutual assistance request made by the Government of Nigeria

[Yukos Oil Co v Financial Services Authority London Stock Exchange \[2006\] EWHC Admin 2044](#)
The challenge to the floatation of Russian oil group Rosneft on the London Stock Exchange incorporated elements of public law, commercial law and criminal law

[R v Asfaw \[2008\] AC 1061](#)
The leading case on the meaning of article 31 of the Refugee Convention

Civil cases

[Bermuda Fire & Marine litigation \[1999-2000\]](#)
Led for the Claimants in this trial in the Bermuda Supreme Court that dealt with the circumstances of the liquidation of a leading insurance company

[Hall v Simons \[2002\] AC 615](#)
Represented the Bar in relation to Barristers immunity

[Three Rivers DC v Governor and Company of the Bank of England \[2003-2005\]](#)
Acted for the liquidators of Bank of Credit and Commerce International in its misfeasance action against the Bank of England

[Kostic v The Conservative Party Association](#)
Probate action concerned with testamentary capacity involving cross examination of expert witnesses

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What others say:

Chambers and Partners 2010 describes Clare as "an absolute star of the profession." One of Matrix's biggest names, "she has the complete rainbow of skills and can seemingly do anything."

Named as one of the contenders for the Lawyer's barrister of the year 2008, Clare was named Crime Silk of the Year in the 2005 Chambers & Partners Bar Awards and has been a top ranking Crime Silk in both the Legal 500 and Chambers & Partners directories for many years. 'Set against other rising criminal talent...one barrister steals the superlatives. "She is outstandingly clever," says her former pupil master, Stephen Batten, QC. "The brightest of them all," confirms Ed Lawson, QC. "She has a beautiful mind," adds Alex Cameron, QC. (See the Times 28 February 2006)

The Legal 500 2009/10 recommends Clare Montgomery QC as a leading Silk in Crime; Fraud Crime, "one of the most outstanding advocates at the Bar"; and Human Rights and Civil Liberties.

Chambers and Partners 2009 recommends Clare Montgomery QC as a starred Silk in Crime "eclipses her rivals...the very epitome of a modern silk" and Fraud: Crime "achieve miraculous results for her clients". Clare is recommended as a leading Silk in Fraud: Civil "one of the best" and in Civil Liberties "one of the greats of her generation".

The Legal 500 2008/9 recommends Clare Montgomery QC as a leading Silk in Banking and finance 'clearly has the trust and confidence of the bench', Crime 'quite brilliant ...phenomenal advocate' Fraud Crime 'In a league of her own' and Human Rights and Civil Liberties.

Chambers and Partners 2008 gives Clare Montgomery QC a star ranking as a Leading silk in both Crime where she is described as "a real jewel in the crown", and in Fraud: Criminal law where she is said to be "outstanding in every way". Clare Montgomery QC is also recommended as Leading silk in Civil Liberties, Crime: Extradition (1st) and Fraud: Civil.

Legal 500 2008 - Clare Montgomery QC is ranked as a Leading silk in Banking and Finance, Crime and Fraud: Crime where she is ranked joint 1st and is "considered one of the leading criminal fraud minds at the Bar."

Publications

Editor with Professor David Ormerod of Fraud: Criminal Law and Procedure (OUP 2008)

Practitioner editor of chapter on commerce, financial markets and insolvency in Archbold Criminal Pleading Evidence & Practice (since 1993)

Co-authored The Law of Extradition and Mutual Assistance 2nd Ed (OUP 2007)

'Forensic science in the trial of Sally Clark' (2004) article in Med Sci LJ

Other information

Senior Award from Gray's Inn (1980)

Assistant Recorder (1999)

Recorder (2000)

Master of the Bench (Gray's Inn) 2002

Deputy High Court Judge (2003)

Court of Appeal Jersey and Guernsey (2007)