



Thomas Ogden

Education

M.A. (Cantab), Dip. Law (City)

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Profile

Tom Ogden has a broad commercial practice (court and arbitral) with a particular emphasis on commercial litigation and arbitration, professional liability, construction and engineering, information technology and insurance disputes. He has appeared as sole counsel before the Court of Appeal, the High Court and numerous county courts and he regularly appears in a wide range of trials, appeals and interim applications.

Tom is ranked as a Leading Junior in Legal 500 (IT and Telecoms). He was described as a barrister with a "wonderful drafting style, and superb attention to detail."

Further details of Tom's practice and experience can be found by following the links in "Areas of Practice" above.

Before joining Chambers, Tom read History at Jesus College, Cambridge where he gained a First. After graduating he worked in the Credit Exotics and Hybrids Operations Division at JP Morgan Chase, dealing with credit derivatives and interest rate swaps. He subsequently completed the CPE (Distinction) at City University and the BVC (Outstanding) at BPP Law School, winning the Hardwicke, Lord Brougham, Lord Denning and Megarry Scholarships from Lincoln's Inn in the process. He was awarded the Buchanan Prize by Lincoln's Inn for Outstanding Performance on the BVC.

Tom is a member of COMBAR, PNBA, FSLA, SCL and TECBAR. He is an editor of Jackson & Powell on Professional Liability (7th Edition) and contributes to Sweet & Maxwell's Civil Procedure Reports.

Professional Liability

Tom has wide experience in the field of professional liability. His experience includes claims involving lawyers, accountants, auditors, construction professionals, insurance brokers, estate agents, surveyors and financial services professionals. He acts for both claimants and defendants.

Examples of his recent work in this area include:

- Acted (with Ben Hubble QC) on behalf of a firm of insurance brokers in a claim after insurers declined cover on the basis of alleged non-disclosure and misrepresentation.
- Instructed (with Fiona Sinclair QC) in a claim against a firm of tax advisors arising out of tax planning advice.
- Acting (with David Turner QC) in a claim against a firm of accountants arising out of the settlement of a dispute with HMRC over roll-over relief.
- Instructed (with Graeme McPherson QC) for the defendant firm of solicitors in a claim brought by a lender against valuers and solicitors arising out of the valuation and mortgage of a country house.
- Instructed as sole counsel in a claim against an IFA in relation to self-invested personal pension schemes.
- Instructed as sole counsel on behalf of a firm of solicitors in a lost litigation claim concerning the limitation period applicable to a claim for breach of a banking mandate.
- Acted (with Ben Hubble QC) in a claim against a firm of insurance brokers in respect of claim arising out of the insurance of Housing Trust properties.
- Acting as part of UK team of lawyers in relation to high value claim against an auditing firm in the Bahrain Chamber for Dispute Resolution (BCDR-AAA).
- Instructed (with Alex Hall-Taylor) in a claim against a firm of solicitors by a lender in relation to the sale of properties via a property investment club.
- Acting on behalf of a firm of architects in relation to their role as project manager.

Tom edited the chapter on Patent Attorneys and Trade Mark Attorneys in Jackson & Powell on Professional Liability (7th Edition) and is a member of the PNBA.

International Arbitration

Tom has experience of both domestic and international arbitration. Recent examples of his work include:

- Acting as junior counsel (led by Roger Stewart QC and Leigh-Ann Mulcahy QC) for a European Government in an LCIA arbitration concerning a £800 million contract for the design, development, testing and support of a complex IT system.
- A claim against a firm of auditors in the Bahrain Chamber for Dispute Resolution (BCDR-AAA).

He is a contributor to Lexis PSL Arbitration.

Chancery

Tom is regularly instructed on behalf of retail banks and lenders in mortgage related litigation. He has experience of advising and drafting in cases involving subrogated claims, mortgage fraud, overriding interests and proprietary estoppel. He also has experience of both commercial and residential landlord and tenant disputes.

Commercial Dispute Resolution

Tom has a wide commercial practice (court and arbitral). He is regularly instructed to advise and represent a wide range of clients involved in commercial disputes both as sole and junior counsel. His clients include private companies, wholesale and retail banks, retailers, private individuals and government bodies. A number of his cases have an international dimension and he often works with overseas lawyers.

He has experience of advising in relation to general contractual disputes, breaches of trust and fiduciary duty, economic torts, civil fraud, conflict of laws and jurisdiction, asset tracing, sale of goods and the supply of goods and services and banking/financial services disputes.

Recent examples of his work include:

- Acting as junior counsel (led by Roger Stewart QC and Leigh-Ann Mulcahy QC) for a European Government in an LCIA arbitration concerning a £800 million contract for the design, development, testing and support of a complex IT system.
 - Instructed with Graham Chapman QC in a claim arising out an alleged gambling debt and the provisions of the Gambling Act 2005.
 - Acted as sole Counsel for Lalique S.A. in a €5 million dispute over the design, installation and commissioning of an electric furnace for the production of crystal.
 - Advising a UK company on its rights and remedies in relation to a share sale and purchase agreement for shares in an Eastern European Shipyard, including advising on jurisdiction and conflict of laws.
 - Acting as sole counsel in relation to a dispute between a German publishing company and a U.S developer in relation to a license agreement for the development and sale of an online game.
 - Advising SMEs and private individuals in relation to the mis-selling of interest rate swaps.
 - Advising Icelandic lawyers in relation to the service of proceedings under English law.
 - Acting as sole counsel for a Swiss healthcare information provider in an US\$4 million claim arising out of the repudiation of a sale of goods contract.
 - Instructed with Nicholas Davidson QC in a claim by a private company against a major retail bank in respect of the withdrawal of its business funding facility.
 - Advising a Saudi Arabian wholesale bank on its rights and remedies under a Revolving Short Term Loan Agreement and related securities.
 - Involved in Mercantile Court proceedings on behalf of a UK software developer and supplier in respect of claims made by a European IT integration company arising out of onward sales of software to a North African Government pursuant to a reseller agreement.
 - Advising a leading producer of Asian confectionary in relation to a finance lease agreement.
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Financial Services Regulation

Tom has a particular interest in financial services regulatory work and has first-hand experience of the financial sector having worked in the Credit Exotics and Hybrids Operations Division at JP Morgan Chase, dealing with credit derivatives and interest rate swaps, before coming to the Bar.

Tom has recently advised a number of SMEs and individuals in relation to the mi-selling of interest rate swaps.

Other examples of Tom's work in this area include:

- Instructed by The Accountancy and Actuarial Discipline Board (AADB) in relation to its investigation into Ernst & Young LLP arising out of its role as auditors to Lehman Brothers International Europe. The investigation focused on the use and accounting treatment of transactions known as "Repo 105s" and "Repo 108s" by Lehman Brothers International Europe.
- Preparing written submissions on behalf of a defendant in response to the Provisional Decision of the Financial Ombudsman.
- Advising a Saudi Arabian wholesale bank on its rights and remedies under a Revolving Short Term Loan Agreement and related securities.
- Instructed with Nicholas Davidson QC in a claim by a private company against a major retail bank in respect of the withdrawal of its business funding facility.
- Between February and May 2010 Tom was on secondment to the FSA, working in the Enforcement Division. During the secondment Tom was involved in FSA investigations into the promotion and sale of Unregulated Collective Investment Schemes (UCIS) by Independent Financial Advisors and the conduct of mortgage lenders. He advised on various aspects of the Financial Services and Markets Act 2000 and the FSA Handbook, conducted interviews of witnesses, drafted warning notices and helped prepare cases for the Regulatory Decisions Committee.

Tom is a member of the FSLA.

Insurance & Reinsurance

Tom has experience of acting in matters involving material non-disclosure, inducement, incorporation of terms, waiver and notification under the terms of a professional indemnity policy. He acts for both Claimants and Defendants.

Disciplinary

Tom has experience of:

- The Accountancy and Actuarial Discipline Board (AADB);
- The FSA's Regulatory Decisions Committee (gained during his time on secondment to the FSA);
- The Solicitors Disciplinary Tribunal.

Construction & Engineering

Tom has experience of acting for employers, contractors and sub-contractors in construction and engineering disputes. He also acts for both claimants and defendants in construction related professional liability work.

Recent examples of Tom's work in this area include:

- Instructed (with Anneliese Day QC) in a £40m ongoing dispute concerning a cabling upgrade to London Underground.
- Acting (with Roger Stewart QC and Anneliese Day QC) in relation to a dispute over the construction of nuclear installations.
- Instructed (with Roger Stewart QC) in an ongoing dispute over a £20m restoration of a Grade II listed country house.
- Instructed as sole Counsel for Lalique S.A. in its claim for €5 million arising out of the design, installation and commissioning of an electric furnace for the production of crystal glass products.
- Acting on behalf of a sub-contractor specialising in drainage works in its claim against a main contractor.
- Acting on behalf of a defendant firm of architects in a claim arising out of their role as project manager.
- Acting on behalf of a concrete supplier in a claim against a sub-contractor arising out of the sale and use of ready mixed concrete.

Tom is a member of TECBAR and SCL.

Sports Law

Tom recently assisted Rick Liddell in advising the International Rugby Board in relation to the proposed introduction of a new policy and the accompanying amendment of its regulations.

Information Technology

Tom has experience of IT-related disputes as both sole and junior counsel. He is ranked as a Leading Junior for IT and Telecoms in Legal 500 and recommended for his *"wonderful drafting style and superb attention to detail"*.

Examples of his recent work in this area include:

- Acting as junior counsel (led by Roger Stewart QC and Leigh-Ann Mulcahy QC) for a European Government in an LCIA arbitration concerning a £800 million contract for the design, development, testing and support of a complex IT system.
- Advising a leading UK retailer on its rights under a contract for the design, supply and support of an IT system.
- Acting as sole counsel in relation to a dispute between a German publishing company and a U.S developer in relation to a license agreement for the development and sale of an online game.
- Involved in Mercantile Court proceedings on behalf of a UK software developer and supplier in respect of claims made by a European IT integration company arising out of onward sales of software to a North African Government pursuant to a reseller agreement.

Tom is a member of the Society for Computers and Law and TECBAR.

Property Damage

Tom has acted for and against private individuals, companies and local authorities in claims in which property damage has been caused by fire, flooding, explosions, subsidence, tree roots and construction and repair work. Many of these claims are subrogated claims. Tom's work in this area overlaps with his insurance, construction and professional liability work. Examples of his work include:

- Acting in a claim against a highway authority and a sewerage authority following flood damage said to have been caused by a failure to maintain a local sewer system adequately;
 - Acting for a firm of insurance brokers (led by Ben Hubble QC) in a claim arising out of property damage alleged to have been caused by tree roots. A central issue in the case was when damage occurred for the purpose of various insurance policies in light of the recent case law on tree root subsidence.
 - Acting for a private individual whose house suffered severe damage as a result of a fire caused by his neighbour's stove.
 - Acting in a claim against a repair company after a fire which started in an appliance repaired by the company caused damage to the claimant's house.
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