



Thomas Ogden



Education

Tom graduated from Jesus College, Cambridge with a first class degree in History. He subsequently completed his legal studies at City University (CPE, Distinction) and BPP Law School (BVC, Outstanding). He was awarded the Hardwicke, Lord Brougham, Lord Denning and Megarry Scholarships as well as the Buchanan Prize by Lincoln's Inn in the process.

Tel: +44 20 7822 2032

Year of Call: 2008

Email: t.ogden@4newsquare.com

Email Clerk: l.stewart@4newsquare.com

Profile



Tom's practice encompasses a broad range of commercial litigation and arbitration with a particular focus on international arbitration, professional liability, construction and engineering, information technology and banking and financial services disputes.

Tom is ranked as a Leading Junior in Legal 500. Comments include: *'He has a calm and reassuring demeanour, which instils confidence'* (Legal 500, 2016); *'an astute and insightful junior'* (Legal 500, 2015); *'recommended for his wonderful drafting style, and superb attention to detail'* (Legal 500, 2014).

In the past year Tom's caseload has included:

- Acting (led by Roger Stewart QC and Anneliese Day QC) in a complex arbitration claim worth in excess of £100million relating to a nuclear facilities project.
- Acting (as sole counsel) for the Financial Conduct Authority in an appeal to the Upper Tribunal by an applicant which had been refused permission to carry on a range of regulated activities, *Abi Fol Consulting Ltd v The Financial Conduct Authority* [2016] UKUT 49 (TCC).
- Acting (led by Graham Chapman QC) for the defendant firm in a claim brought by a high-profile football manager in relation to various tax schemes.
- Acting (as sole counsel) for the defendant employer in a US\$11 million employee 'bonus claim' arising out of the sale of aircraft parts to the Indonesian Air Force.
- Acting (led by Anneliese Day QC) in a claim brought by Barnsley College against its professional advisors and main contractors arising out of the construction of a new campus building.
- Acting (as sole Counsel) on behalf of a network and broadband specialist arising out of the Welsh Government's public sector broadband initiative.
- Acting (led by Justin Fenwick QC) in an LCIA arbitration concerning the sale and purchase of Russian/CIS companies.

Further details of Tom's practice and experience can be found by following the links in "[Areas of Practice](#)".

Publications

Tom is an editor of the 7th and 8th Editions of Jackson & Powell on Professional Liability

Memberships

Tom is a member of COMBAR, PNBA, FSLA, SCL and TECBAR. He was a committee member of TECBAR between 2014 and 2016.

Further Information

Before joining Chambers, Tom worked in the Credit Exotics and Hybrids Operations Division at JP Morgan Chase, dealing with credit derivatives and interest rate swaps.

Professional Liability

Tom has wide experience in the field of professional liability. His experience includes claims involving, amongst others, accountants, auditors, tax advisors, valuers, financial services professionals, construction professionals and insurance brokers. He also has experience of defending wasted costs orders.

Further information can be found by following the links in respect of individuals professions.

Tom is an editor of Jackson & Powell on Professional Liability (7th and 8th Editions) and is a member of the PNBA.

Accountants, Auditors & Actuaries

Tom has wide experience of acting both for and against accountants and auditors in civil disputes. He also has experience of regulatory proceedings.

His current and past cases include:

- Acting (led by Graham Chapman QC) for the defendant firm in a claim brought by a high-profile football manager in relation to various tax schemes.
- Acting (with David Turner QC) in a claim against a firm of accountants arising out of a CGT roll-over relief scheme.
- Acting in a claim against a firm of accountants arising out of an AIM listing and EIS/VCT relief.
- Acting in a claim by a Bank against a firm of auditors in the Bahrain Chamber for Dispute Resolution (BCDR-AAA).
- Defending a claim brought by a QC against a firm of accountants arising out of the preparation and filing of the QC's income tax and VAT returns.
- Acting (with Fiona Sinclair QC) in a claim against a firm of tax advisors arising out of tax planning advice given in relation to the restructure and disposal of a family business.
- Instructed by The Accountancy and Actuarial Discipline Board in relation to its investigation into a Big Four firm arising out of the collapse of Lehman Brothers.

Construction Professionals

Tom has experience both of pure construction disputes and disputes against construction professional. His current and past cases include:

- Acting (led by Anneliese Day QC) in a claim brought by Barnsley College against its professional advisors and main contractors arising out of the construction of a new campus building. The substance of the claim related to the installation of a heating and cooling system (which was said to be defective) and the quantum of the remedial works.
- Acting in a claim against M&E engineers arising out of the refurbishment of a health and fitness centre.
- Acted (led by Roger Stewart QC) in an ongoing dispute over a £20m restoration of a Grade II listed country house. The dispute concerns defective performance and delay.
- Acted (led by Anneliese Day QC) on behalf of the main-contractor in a claim against a firm of civil and structural engineers arising out of the construction of a supermarket. The claim concerned allegations of professional negligence against a firm of engineers in relation to its consideration of ground conditions and the appropriateness of the subsequent foundations.
- Acting on behalf of a firm of architects in relation to their role as project managers of a residential redevelopment.

Financial Services Professionals

Tom has a particular interest in claims involving financial services professionals 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 also undertaken a secondment in the Enforcement Division at the FSA (as then was). During the secondment Tom worked on FSA investigations into the promotion and sale of Unregulated Collective Investment Schemes (UCIS) by IFAs.

Tom's current and past cases include:

- Acting with Graham Chapman QC in a claim arising out various tax planning schemes.
- Acting as sole counsel in a claim against an IFA in relation to self-invested personal pension schemes

Insurance Brokers & Agents

Tom's current and past cases include:

- Acting with Ben Hubble QC on behalf of a firm of insurance brokers in a claim arising out of a fire at a casino in Blackpool.
- Acting with Ben Hubble QC and Muhammed Haque QC in a claim against a firm of insurance brokers arising out of damage to a golf club caused by tree roots.
- Acting with Ben Hubble QC on behalf of a firm of insurance brokers in a claim arising out of a fire at commercial premises.

Lawyers

Tom's current and past cases include:

- Acting in relation to claim arising out of an alleged failure to serve proceedings prior to the expiry of the limitation period.
- Acting in a claim arising out of negligent advice in respect of a loan agreement.
- Acting (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 Grade II listed building.
- Acting 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.

Patent Agents

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

Surveyors & Valuers

Tom's current and past cases include:

- Acting with Ben Hubble QC in a claim arising out of the valuation of commercial land and buildings (including an aerodrome) in the north of England.
- Acting with Ben Patten QC in claims arising out of the valuation of residential and retail sites in North London.
- Acting as sole counsel in a claim arising out of the valuation of a farm and surrounding land in the south of England.
- Acting with Ben Hubble QC in a claim arising out of the purchase and development of a technology park.
- Acting with Graeme McPherson QC in a claim arising out of the valuation and mortgaging of Grade II listed country house.

International Arbitration

Tom has significant arbitration experience (domestic and international). He has acted in a wide range of commercial disputes under various different rules. His experience includes acting in large-scale and long-running arbitrations and challenging arbitral awards pursuant to the Arbitration Act 1996 (both as sole and junior counsel).

Recent examples of his work include:

- Acting (led by Justin Fenwick QC) in an LCIA arbitration concerning the sale and purchase of Russian/CIS companies.
- Acting (as sole counsel) in a challenge to an arbitral award (under the Arbitration Act 1996) made in a dispute concerning the sale and installation of wind turbines.
- Acted (between 2014 and 2016) in a claim by a joint venture in relation to a nuclear installation (led by Roger Stewart QC and Anneliese Day QC).
- Acted (between 2011 and 2014) as junior counsel (led by Roger Stewart QC and Leigh-Ann Mulcahy QC) for the UK Government in an LCIA arbitration concerning a £800 million contract for the design, development, testing and support of a complex IT system. The award was successfully set aside in the important decision of *The Secretary of State for the Home Department v Raytheon Systems Limited* ([2014] EWHC 4375; [2015] EWHC 211) on the basis of serious irregularity.
- Acting in a claim against a firm of auditors in the Bahrain Chamber for Dispute Resolution (BCDR-AAA).

Tom is a contributor to Lexis PSL on Arbitration.

Chancery

Tom 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 broad 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 has experience of disputes in offshore jurisdictions.

He has experience of acting in claims involving general contractual disputes, breaches of trust and fiduciary duty, economic torts, civil fraud, mis-selling, conflict of laws and jurisdiction, asset tracing, sale of goods and the supply of goods and services and banking/financial services disputes.

He also has experience of obtaining and resisting interlocutory relief including Norwich Pharmacal and Bankers Trust orders.

Recent examples of his work include:

- Acting (led by Justin Fenwick QC) in an LCIA arbitration concerning the sale and purchase of Russian/CIS companies.
- Acting as sole counsel for an employer in a US\$11 million employee 'bonus claim' arising out of the sale of aircraft parts to the Indonesian Air Force.
- Acting (led by Graham Chapman QC) for the defendant firm in a claim brought by a high-profile football manager in relation to various tax schemes.
- Acting (led by Ben Elkington QC) in a fraud claim brought against former employees of a company in which it is alleged that the employees wrongly
- Acting as sole counsel for a leading French luxury brand in a €5 million dispute for breach of contract (*Lalique S.A. v Electroglass Limited*)
 - Acted (between 2011 and 2014) as junior counsel (led by Roger Stewart QC and Leigh-Ann Mulcahy QC) for the UK Government in an LCIA arbitration concerning a £800 million contract for the design, development, testing and support of a complex IT system. The award was successfully set aside in the important decision of *The Secretary of State for the Home Department v Raytheon Systems Limited* ([2014] EWHC 4375; [2015] EWHC 211) on the basis of serious irregularity.
 - Advising on a dispute in the Cayman Islands involving civil fraud and economic torts arising out of a contract of insurance.
 - Acting with Graham Chapman QC in a claim brought by the Ritz Club arising out an alleged gambling debt and the provisions of the Gambling Act 2005.
 - 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 and other financial products.
 - 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.

Financial Services Regulation

Tom has a particular experience in financial services regulatory work. Before coming to the Bar Tom worked in the Credit Exotics and Hybrids Operations Division at JP Morgan Chase, dealing with credit derivatives and interest rate swap. He has also completed a secondment in the Enforcement Division of the Financial Conduct Authority.

Examples of Tom's work in this area include:

- Appeared on behalf of the Financial Conduct Authority in an appeal to the Upper Tribunal by an applicant which had been refused permission under Part 4A of the Financial Services and Markets Act 2000 to carry on a range of regulated activities. *Abi Fol Consulting Ltd v The Financial Conduct Authority* [2016] UKUT 49 (TCC).
- Instructed by a number of SMEs and individuals in relation to the mis-selling of interest rate swaps.
- Instructed by The Accountancy and Actuarial Discipline Board (AADB) in relation to its investigation into a Big Four

- firm arising out of the collapse of Lehman Brothers.
- Acting on behalf of a defendant against a 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.
 - Tom has also undertaken a secondment in the Enforcement Division at the FSA (as then was). During the secondment Tom worked on FSA investigations into the promotion and sale of Unregulated Collective Investment Schemes (UCIS) by IFAs 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 following disciplinary fora:

- The Accountancy and Actuarial Discipline Board (now the FRC);
- The Solicitors Disciplinary Tribunal;
- The FCA's Regulatory Decisions Committee.

Construction & Engineering

Tom is regularly instructed by employers, contractors and sub-contractors in a wide range of disputes (including adjudications). He is a TECBAR accredited adjudicator. Between 2014 and 2016 he was a member of the TECBAR Committee.

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

- Acting (led by Anneliese Day QC) in a claim brought by Barnsley College against its professional advisors and main contractors arising out of the construction of a new campus building. The substance of the claim related to the installation of a heating and cooling system (which was said to be defective) and the quantum of the remedial works.
- Acted (between 2014 and 2016) in a claim by a joint venture in relation to a nuclear installation (led by Roger Stewart QC and Anneliese Day QC).
- Acted (led by Roger Stewart QC) in an ongoing dispute over a £20m restoration of a Grade II listed country house. The dispute concerns defective performance and delay.
- Acted (led by Anneliese Day QC) on behalf of the main-contractor in a claim against a firm of civil and structural engineers arising out of the construction of a supermarket. The claim concerned allegations of professional negligence against a firm of engineers in relation to its consideration of ground conditions and the appropriateness of the subsequent foundations.
- Acting (led by Anneliese Day QC) in a £40m dispute concerning a cabling upgrade to London Underground.
- Acting as sole counsel for Laliqie 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. The claim concerned whether the furnace was fit for purpose and met contractual performance criteria.
- Acting on behalf of a sub-contractor specialising in drainage works in its claim against a main contractor.
- 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.

Information Technology

Tom is ranked as a Leading Junior for IT and Telecoms in Legal 500. Legal 500 notes that Tom is "*Well respected for high-value IT arbitrations*". He has also been recommended in Legal 500 for his "*wonderful drafting style and superb attention to detail*" and for being "*an astute and insightful junior*"

Tom is the editor of the chapter on Information Technology Professional in Jackson & Powell on Professional Liability

(8th Edition, forthcoming).

Examples of his recent work in this area include:

- Acting (as sole counsel) for the Claimant (a network and broadband specialist) in its claim for damages arising out of the Welsh Government's public sector broadband initiative.
- Acting (as sole counsel) for the Claimant in a £7million claim arising out of the termination for non-performance and delay of a contract to deliver a disaster recovery system to a global insurance firm.
- Acted (between 2011 and 2014) as junior counsel (led by Roger Stewart QC and Leigh-Ann Mulcahy QC) for the UK Government in its claim arising out of the termination of an £800 million contract for the design, development, testing and support of a complex IT system. The award was successfully set aside in the important decision of *The Secretary of State for the Home Department v Raytheon Systems Limited* ([2014] EWHC 4375; [2015] EWHC 211) on the basis of serious irregularity.
- 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.
-