



Tom Nixon

Called: 2017

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Tom has developed a practice that matches the breadth of Chambers' practice areas, including international commercial arbitration and litigation, shipping, fraud, conflicts of laws, commodities, aviation, commercial chancery and company work. He has acted on claims varying in value from hundreds of pounds to multiple billions, and a growing proportion of his practice is taken up by appellate work. He enjoys difficult cases, and prides himself on being responsive and easy to work with.

Highlights include:

- **ICC Arbitration** (2021) (junior counsel), representing an African nation at the two week hearing of a multi-billion dollar claim arising out of their treatment of a foreign telecommunications company, involving fundamental issues of public international law and expert evidence on engineering and quantification.
- **Zavarco plc v Tan Sri Nasir** [2021] EWCA Civ 1217 (junior counsel), in which the Court of Appeal determined whether a €36m claim for payment on subscriber shares could be advanced, or whether that cause of action had been extinguished by an earlier judgment pursuant to the centuries-old doctrine of res judicata by merger. The Court of Appeal radically reformulated the doctrine. An application for permission to appeal to the Supreme Court is pending.
- **The Majesty** [2020] EWHC 3462 (Comm) (sole counsel), in which Calver J set out definitive guidance as to the circumstances in which a letter of undertaking may consolidate or amend the arbitration clauses contained in the underlying bills of lading. A must read for all cargo claim practitioners.
- **Minister of Finance Incorporated v IPIC** [2019] EWHC 1151 (Comm) in the Commercial Court, concerning a multi-billion dollar dispute arising out of the alleged 1MDB fraud, in particular the activities of the former Prime Minister of Malaysia and an Abu Dhabi sovereign wealth fund.
- **Takhar v Gracefield Developments Ltd** [2019] UKSC 13 (junior counsel) in which a seven-Judge panel of the Supreme Court decided the test for setting aside a judgment on the basis that it was procured by fraud. This raised a wide variety of issues, involving the fundamental principles of res judicata, the public policies surrounding fraud, and a detailed examination of the powers that courts have to manage the conduct of litigation generally.

What the directories say

- *"Tom is an excellent lawyer, he picks up on detail and his drafting is near flawless."* (Chambers UK, 2024)
- *"He turns around a finished product with superb quality."* (Chambers UK, 2024)
- *"Persuasive written drafting."* (Legal 500, 2024)
- *"Excellent attention to detail with out-of-the-box and razor sharp thinking."* (Legal 500, 2023)
- *"Easy to work with, user-friendly and responsive. A team player who makes clever use of legal arguments."* (Legal 500, 2022)

Shipping

Tom is regularly instructed to act in claims under bills of lading and charterparties, including for damage to cargo and vessels, speed and performance claims, and demurrage. He has also gained experience in wet shipping and the Admiralty Court, including salvage claims and limitation claims, as well as claims involving damage to, and the chartering of, yachts and superyachts. He enjoys closely liaising with experts and engaging with the technical detail. Tom in particular has significant experience with LMAA arbitration, both high-value claims and modest claims under the Small Claims Procedure, and is keen to advise on how the Court's supervisory jurisdiction can be invoked to meet the parties' objectives.

Specific examples include:

- ***The Majesty*** [2020] EWHC 3462 (Comm) (sole counsel), a cargo claim concerning a consignment of bagged rice, in which Calver J set out definitive guidance as to the circumstances in which a letter of undertaking may consolidate or amend the arbitration clauses contained in the underlying bills of lading
- ***LMAA Arbitration*** (2020) (junior counsel) in which Owners claimed against Charterers for US\$4m representing resulting from an explosion of a container filled batteries and aerosols
- ***LMAA Arbitration*** (2019) (junior counsel) in which Owners claimed an indemnity from Charterers for the settlement of a cargo claim brought under a bill of lading which, in breach of the Charterparty, was issued without a London arbitration clause and therefore brought in Kenya, giving rise to arguments about causation, remoteness, and expert evidence on foreign law and procedure
- Several LMAA arbitrations concerning the correct interpretation of Worldscales clauses and the calculation of freight
- ***Aqua Marine v Nautic Avenue*** (Claim No. 2019-000307) (sole counsel) successfully resisting an application in the High Court before Phillips J to set aside an LMAA arbitration award pursuant to s68 of the Arbitration Act 1996, arising from a conspiracy to deprive a party from remuneration under a yacht brokering agreement
- ***Argentum Exploration Ltd v Government of the Republic of South Africa*** (junior counsel) a salvage claim in the Admiralty Court in respect of the deep sea recovery of 2391 bars of silver sunk aboard the SS Tilawa in 1942, in which the Republic of South Africa asserts ownership of the silver and that they are entitled to state immunity under the State Immunity Act 1978 and the Salvage Convention 1989
- ***Lombard North Central v Hutley*** (sole counsel) applying for summary judgment in a debt recovery claim in the Admiralty Court under a loan agreement secured by a mortgage over a yacht, involving a dispute as to the method used by the mortgagee to procure a sale
- Several LMAA arbitrations concerning the cancellation of superyacht charters arising out of the coronavirus pandemic
- Advising on challenges to and appeals from arbitration awards, pursuant to s67, 68 and 69 of the Arbitration Act 1996
- Applications in Court, for pre-action disclosure and specific disclosure in support of cargo claims under the Disclosure Pilot
- Advising in a claim against the seller of a yacht for damage caused by negligent navigation across the Atlantic into rough seas
- Advising in relation to the maintenance costs an aging World War I decoy vessel

Commercial Dispute Resolution

Tom has experience in a wide variety of disputes that cover all aspects of commercial law and practice, ranging from contractual disputes, fraud and the economic torts, shareholder disputes, the sale and carriage of goods, consumer contracts and insolvency. He regularly advises on jurisdictional issues and procedural strategy.

Examples include:

- ***Zavarco plc v Ranjeet Singh Sidhu*** [2021] EWHC 1526 (Ch) (junior counsel), in which the High Court held, following a five day trial, that a founding shareholder in a public company was statutorily liable to pay the company €84m in cash, representing the par value of his shares, under s593 of the Companies Act 2006 - even

though nobody involved in the company had wanted cash to be paid and alternative consideration had been provided. Permission to appeal to the Court of Appeal has been granted, to be heard in Q2 2022

- Hotel Dispute (2021) (junior counsel), in which the beneficial owner of a large hotel in London alleges that his ownership has been threatened by an associate who forged documentation in order to undermine his oversight and take control of the board of directors, who eventually sold the hotel at a multi-million pound undervalue. Involves issues of foreign law and breach of directors' duties under the Companies Act 2006. Trial timetable to be set shortly
- Giving expert evidence on English law before the Spanish Courts on the enforceability of a multi-million pound loan, including the limits of the doctrine of consideration, and allegations of duress and undue influence
- **Zavarco plc v Tan Sri Nasir** [2021] EWCA Civ 1217 (junior counsel), in which the Court of Appeal determined whether a €36m claim for payment on subscriber shares could be advanced, or whether that cause of action had been extinguished by an earlier judgment pursuant to the centuries-old doctrine of res judicata by merger. The Court of Appeal radically reformulated the doctrine. An application for permission to appeal to the Supreme Court is pending
- **Minister of Finance Incorporated v IPIC** [2019] EWHC 1151 (Comm) (junior counsel) in the Commercial Court, about the appropriate forum to determine a multi-billion dollar dispute arising out of the 1MDB fraud and the activities of the former Prime Minister of Malaysia
- **Banque Internationale de Commerce v Alaghband** (junior counsel), a claim in which it is alleged that the Defendants, employees of a commodities trading house, fraudulently misrepresented the status of transactions under letters of credit and procured third parties breach their contracts to deprive the claimant bank of their security
- Resisting a freezing injunction in a multi-million pound claim regarding an allegedly fraudulent cryptocurrency scheme
- Acting in relation to a complex dispute between shareholders of a private company, involving freezing injunctions, allegations of fraud and the principles of agency, unjust enrichment, winding up and unfair prejudice.
- Advising in relation to alleged breaches of GDPR
- Advising in relation to sale of goods contracts and web services agreements
- Advising in relation to property transactions, including allegations of fraudulent misrepresentations and the correct approach to quantification
- Advising in relation to security and warehousing contracts, including the correct approach to assessing the adequacy of security and whether theft and other third party actions can break the chain of causation
- Advising in relation to the damage caused to the stock when a warehouse was flooded by extreme weather, raising issues of act of god, force majeure and the fundamental principles of bailment
- Pleading and advising in respect of claims pertaining to carriage of goods by road, under the RHA terms, BIFA terms and the CMR

International Arbitration

A large proportion of Tom's practice is Tom has worked on numerous arbitrations under varying institutions, including the ICC, LCIA, GAFTA, and LMAA. He also routinely advises on the prospect of challenging jurisdiction and awards under ss67-69 of the Arbitration Act 1996.

Highlights include:

- ICC Arbitration (2021) (junior counsel), representing an African nation at the two week hearing of a multi-billion dollar claim arising out of their treatment of a foreign telecommunications company, involving fundamental issues of public international law and expert evidence on engineering and quantification
- **Minister of Finance Incorporated v IPIC** [2019] EWHC 1151 (Comm) (junior counsel) and its underlying LCIA arbitration, a multi-billion dollar dispute arising out of the 1MDB fraud and the activities of the former Prime Minister of Malaysia
- LMAA Arbitration (2020) (junior counsel) in which Owners claimed against Charterers for US\$4m representing resulting from an explosion of a container filled batteries and aerosols

- LMAA Arbitration (2019) (junior counsel) in which Owners claimed an indemnity from Charterers for the settlement of a cargo claim brought under a bill of lading which, in breach of the Charterparty, was issued without a London arbitration clause and therefore brought in Kenya, giving rise to arguments about causation, remoteness, and expert evidence on foreign law and procedure
- *Aqua Marine v Nautic Avenue* (sole counsel) successfully resisting an application in the High Court before Phillips J to set aside an arbitration award pursuant to s68 of the Arbitration Act 1996, arising from a conspiracy to deprive a party from remuneration under a yacht brokering agreement

Fraud

Tom is often instructed in claims involving dishonesty, fraud, conspiracy, and the other economic torts. He is keen to take a hands-on approach to engaging with the detail of the evidence at the earliest stage in order to advise candidly on the merits.

Examples include:

- *Zavarco plc v Ranjeet Singh Sidhu* [2021] EWHC 1526 (Ch) (junior counsel), in which there were hotly disputed allegations of dishonesty against a director of the claimant company, Zavarco, in respect of his ownership and control of Zavarco and its subsidiary, a Malaysian telecommunications company. The High Court held, following a five day trial, that the allegation of dishonesty was made out. Permission to appeal to the Court of Appeal has been granted on a question of construction of s593/594 of the Companies Act 2006, to be heard in Q2 2022
- *Family Division Dispute* (2020) (junior counsel), in which a wife in divorce proceedings alleged that vessels owned by a third party were in fact matrimonial assets, because the purported transfers of the vessels to the third party were shams intended to further a fraudulent tax evasion scheme and ought to be set aside. Settled shortly before trial
- Hotel Dispute (2021) (junior counsel), in which the beneficial owner of a large hotel in London alleges that his ownership has been threatened by an associate who forged documentation in order to undermine his oversight and take control of the board of directors, who eventually sold the hotel at a multi-million pound undervalue. Involves issues of foreign law and breach of directors' duties under the Companies Act 2006. Trial timetable to be set shortly
- *Takhar v Gracefield Developments Ltd* [2019] UKSC 13 (junior counsel), in which a seven-Judge panel of the Supreme Court decided the test for setting aside a judgment on the basis that it was procured by fraud. This raised a wide variety of issues, involving the fundamental principles of res judicata, the public policies surrounding fraud, and a detailed examination of the powers that courts have to manage the conduct of litigation generally
- *Minister of Finance Incorporated v IPIC* [2019] EWHC 1151 (Comm) (junior counsel) in the Commercial Court, about the appropriate forum to determine a multi-billion dollar dispute arising out of the 1MDB fraud and the activities of the former Prime Minister of Malaysia
- *Banque Internationale de Commerce v Alaghband* (junior counsel), a claim in which it is alleged that the Defendants, employees of a commodities trading house, fraudulently misrepresented the status of transactions under letters of credit and procured third parties breach their contracts to deprive the claimant bank of their security
- *Aqua Marine v Nautic Avenue* (sole counsel) successfully resisting an application in the High Court before Phillips J to set aside an arbitration award pursuant to s68 of the Arbitration Act 1996, arising from a conspiracy to deprive a party from remuneration under a yacht brokering agreement
- Resisting a freezing injunction in a multi-million pound claim regarding an allegedly fraudulent cryptocurrency scheme

Insurance

Tom has growing experience in the field of insurance, in particular marine insurance, including under the Marine Insurance Act 1906.

- *The Evanthia M* (sole counsel) claiming under a marine insurance policy for loss suffered consequent upon a main engine breakdown, worth US\$1.2m, including resisting applications for security for costs and for the claim to be struck out

- Advising the owners of a vessel as to their right to indemnification under their H&M policy in respect of the collapse of a crane onto an offshore oil rig, and the correct approach to quantification under s69(1) of the Marine Insurance Act 1906 where there are conflicting commercial pressures on both sides
- Advising shipbrokers as to their potential liability resulting from a cyberattack giving rise to and authorised push payment fraud, and whether a lack of adequate cybersecurity falls within the scope of their professional indemnity insurance

Aviation & Travel

Tom has experience in respect of a wide variety of aviation matters, including “extraordinary circumstances” under Regulation 261/04, and personal injury and baggage claims under the Montreal Convention. This includes arguing about the English court’s jurisdiction and limitation issues.

Highlights include:

- *Whitcraft v British Airways plc* in which District Judge Sparrow was persuaded that a southerly shift in the North Atlantic Jetstream, causing the flight to arrive half an hour late and the Claimant to miss his follow-on flight, was an extraordinary circumstance depriving the Claimant of a right to compensation
- An appeal before a Circuit Judge regarding the proper approach to be taken to adducing expert evidence on psychiatric harm in a claim under the Montreal Convention
- Several LMAA arbitrations concerning the cancellation of superyacht charters arising out of the coronavirus pandemic
- Advising on a claim by a tourist against a marine tourism company, on the basis that the prospects of seeing a blue whale were misrepresented by their advertising material

Commodities & International Trade

Tom has argued multiple claims for detention in FOSFA Arbitration, including issues concerning construction of the FOSFA Rules, time bars and other procedural points.

- *Banque Internationale de Commerce v Alaghband* (junior counsel), a claim in which it is alleged that the Defendants, employees of a steel commodities trading house, fraudulently misrepresented the status of transactions under letters of credit and procured third parties breach their contracts to deprive the claimant bank of their security

Insolvency

Tom has appeared in respect of various insolvency matters, including obtaining validation orders, company restoration orders, and in the winding-up court. Tom also has experience in obtaining orders for sale and charging orders.

Academic

BA Jurisprudence (University of Oxford), 1st Class (placing 5th in year out of over 200)

LLM (University College London), Distinction (placing 2nd in year out of over 400)

BPTC (BPP), Outstanding

Awards

Lord Mansfield Scholarship, Lincoln’s Inn (2016)

Hardwicke Scholarship, Lincoln’s Inn (2016)

Excellence Award, BPP Law School (2016)

Master of the Rolls Scholarship, University College London (2015)

Gibbs Book Prize, University of Oxford (2015)

FHS Prize for Comparative Private Law, University of Oxford (2015)

Demyship, Magdalen College (2012-15)

Ranking

