



Paul Toms KC

Called: 2003

Silk: 2024

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Paul specialises in commercial and international trade disputes. He is described in the legal directories as “very erudite and quick on his feet; he has an unparalleled eye for detail and is careful, considered and astute” (Chambers UK) and “a talented and effective advocate ... clearly respected by judges. He quickly gets to the heart of the issues and gives first-rate advice.” (Legal 500, 2023). Paul was appointed King's Counsel in 2024.

He has been recommended for many years in the Legal Directories, namely Who's Who Legal: UK Bar, the Legal 500 and Chambers UK. His depth of experience in working with clients in the Asia Pacific region is reflected by his inclusion in the Legal 500's Asia Pacific rankings.

Paul also accepts appointments as an arbitrator.

What the directories say

- *"Paul is strong technically and very responsive to queries."*(Legal 500 EMEA, 2024)
- *"Paul is extremely bright, tactically astute, and an incredibly fluent advocate who is also very pleasant to deal with."*(Legal 500, 2024)
- *"Excellent and thoughtful advocate. His mild manner belies a tenacious approach."*(Legal 500, 2024)
- *"Paul is a skilful advocate who is always on top of the detail and effective at presenting complex arguments clearly and persuasively."*(Chambers UK, 2024)
- *"Highly responsive, he works well in a team and his drafting is very good."*(Legal 500, 2023)
- *"Paul is a talented and effective advocate, and is clearly respected by judges. He quickly gets to the heart of the issues and gives first-rate advice."*(Legal 500, 2023)
- *"Paul is immensely experienced and it is very reassuring to have him as counsel. He is very responsive and a great pleasure to work with. Excellent drafting and solicitors can totally trust him to present the best possible case for the clients."* (Legal 500 Asia Pacific, 2023)
- *"He provided fantastic support marshalling technical evidence and drafting powerful skeleton arguments."* (Chambers UK, 2022)
- *"Paul is very bright, thorough and very pragmatic. He is extremely considered in his approach and style."* (Chambers UK, 2022)
- *"He is very responsive and user-friendly, providing excellent legal analysis."*(Legal 500, 2022)
- *"He has a keen, probing intellect. He is very pleasant to work with and is quick to cut to the chase."*(Legal 500, 2022)
- *"An insightful and intellectual barrister, he is easy to work with and one of the leading senior juniors at the Bar."* (Legal 500 Asia Pacific, 2021)
- *"Paul Toms is easy to work with, very thorough and responsive."*(Chambers UK, 2021)
- *"Careful, considered and astute, he has an unparalleled eye for detail."*(Chambers UK, 2021)
- *"He is accessible, measured and reassuring, a real pleasure to work with."*(Chambers UK, 2021)
- *"He has a brilliant mind and balances being completely on top of the law and procedure with an approachable and commercial slant."*(Legal 500, 2021)

- "Excellent on technical points." (Legal 500, 2021)
- "Detail-orientated with outstanding sector knowledge." (Legal 500 Asia Pacific, 2020)
- "He is very erudite and quick on his feet; he has an unparalleled eye for detail and is careful, considered and astute." (Chambers UK, 2020)
- "He's persuasive in a gentle but firm manner." (Chambers UK, 2020)
- "A barrister of intellect and mature judgement - a person befitting his profession." (Legal 500, 2020)
- "Immensely knowledgeable, commercially aware and meticulous." (Legal 500, 2020)
- "He combines strong analytical skills and legal knowledge." (Legal 500 Asia Pacific, 2019)
- "Popular with commodities law firms, he frequently handles GAFTA, FOSFA and ANEC disputes." (Legal 500 2019)
- "He has a very good written style and attention to detail." (Legal 500 2019)
- "He regularly represents Chinese shipyards." (Legal 500 2019)
- "He appears in commodities disputes." (Legal 500 2019)
- "He always has excellent attention to detail." (Chambers UK 2019)
- "Extremely experienced. He knows shipping back to front and is very approachable and easy to deal with. He is extremely good on paper, very good on his feet and very good with clients in conference too." (Chambers UK 2019)
- "...A delight to work with. He is approachable, astute and commercially minded" (Chambers UK, 2018)
- "...He has an easy manner and provides clear, detailed and thorough advice, which takes account of the commercial context" (Legal 500, 2017)
- "...He has great tactical awareness and a good sense of humour; a very sharp and thorough junior" (Legal 500, 2017)
- "...He has a sharp and keen intellect" (Legal 500 Asia Pacific: The English Bar, 2017)
- "...An intense eye for detail" (Legal 500, 2016)
- "...Very strong on international trade, he is consistently excellent in commodities disputes" (Legal 500, 2016)
- "...He has great attention to detail and great tactical awareness" (Chambers UK, 2017)
- "...A very good, smart junior" (Chambers UK, 2016)
- "...He is completely on top of his game in terms of knowing the law and being able to give commercial user-friendly advice" "...We call him 'the brain' here" (Chambers UK, 2015)
- "...a very bright junior, who is extremely responsive... able to give clear, concise and cogent advice" "...His 'polished presentation' has also been highlighted by sources" (Chambers UK, 2014)

Commercial Dispute Resolution

Paul has extensive experience across a wide range of commercial disputes including IT and telecommunications, asset finance, sale of goods, disputes relating to the activities of agents, commercial fraud and breaches of fiduciary duty, and unjust enrichment claims. He regularly appears in the Commercial Court and the London Circuit Commercial Court.

Paul advises on all aspects of private international law.

Illustrative cases include:

- **Confidential arbitration** (2020). Acting on behalf of a Buyer of a luxury motor yacht in quality dispute under sale contract raising questions of the application of the Consumer Rights Act 2015 to such contracts.
- **Novelis (UK) Limited v Sertec Auto Structures (UK) Limited**. Claim concerning the supply of aluminium products for use in the manufacture of automotive components.
- **Moran Yacht & Shipping Inc v Pisarev** [2016] EWCA Civ 317. Claim by introductory agent for commission on sale of a super-yacht.
- **Premier Hank Dyers Ltd v Airedale Chemical Co Ltd** [2014] EWHC 2160 (QB). Sale of goods claim in respect of dye-stuff. The case dealt with the issue of when a cause of action accrues for a contingent claim for economic loss.
- **BP Oil International Ltd v Target Shipping Ltd** [2013] 1 Lloyd's Rep 561; [2012] 2 Lloyd's Rep 245. Contractual construction, rectification for unilateral mistake and unjust enrichment.
- **M & J Marine Engineering Services v Shipshore Ltd** [2009] EWHC 2031 (Comm). Contractual formation, damages issues arising on contract for supply of wheel rollers to be installed in a slipway.
- **Brave Bulk Transport v Spot on Shipping** [2009] 2 Lloyd's Rep 115. Jurisdictional issues on forward freight swap agreement.

International Arbitration

Paul has extensive experience across a wide range of commercial disputes determined in International Arbitration including insurance, commodities and sale of goods, oil, gas and energy, construction and shipbuilding. He has experience in the following arbitration fora: LCIA / ICC / LMAA / FOSFA / GAFTA / RSA / SAL.

In addition, Paul has significant experience of related applications to the Courts including arbitration appeals and challenges under the Arbitration Act 1996, anti-suit injunctions and asset disclosure orders.

Illustrative cases include:

- ***Americas Bulk Transport Limited (Liberia) v Cosco Bulk Carrier Limited (China)*** [2020] 2 Lloyd's Rep 105. Challenge to the jurisdiction of an arbitral tribunal under s. 67 of the Arbitration Act 1996.
- ***LCIA arbitration***. Claim under a turnkey contract for the design, construction, commission and installation of various pieces of industrial equipment.
- ***ICC arbitration***. Claim in respect of a turnkey contract for the construction of two power terminals in African country subject to foreign law.
- ***LCIA arbitration***. Claim by an assured under a credit insurance policy.

Commodities & International Trade

Paul is recommended in the field of Commodities by the Legal 500. Recent comments include "*He has a brilliant mind and balances being completely on top of the law with an approachable and commercial slant.*" (2021), and "*Careful, considered and astute, he has an unparalleled eye for detail*" (2021).

He is also recommended by Chambers UK for Shipping and Commodities.

His experience includes disputes involving grains, feedstuff, oil and petroleum products, coal, metals and sugar.

Illustrative cases include:

- Appearing in the DIFC Courts on behalf of a Seller of petroleum products pursuant to a joint venture type agreement on an application for injunctive relief (2021).
- Appearing before the GAFTA Board of Appeal at a 2 day hearing concerning the supply of feedstuff under a contract of sale for delivery by instalments (2020).
- ***Transition Feeds LLP v Itochu Europe PLC, Transition Feeds v ICOF*** (2009-2015). Paul acted for Itochu Europe PLC in respect of various disputes relating to the seizure by pirates of the MV Chemstar Venus. Those disputes included acting as junior to Luke Parsons QC on a s. 68 challenge to the Commercial Court in respect of an award of the FOSFA Board of Appeal [2013] EWHC 3629.
- ***Soufflet Negoce SA v Unigrain Group LLP***. Obtaining an asset disclosure injunction on behalf of a French commodities house.
- A number of confidential GAFTA, FOSFA, RSA, SAL, and Minor Metal arbitrations.

Shipbuilding

Paul has been instructed in a very large number of shipbuilding and rig construction disputes typically in arbitration. Very many of these disputes raise extensive and challenging technical issues, ranging from naval architecture to marine engineering to heat transfer.

Legal issues which he has encountered include:

- Delay in the construction process and the application of the "prevention principle" to such contracts.
- The legal test to be applied to determine whether a vessel is "deliverable".
- Whether and, if so, when relief against forfeiture is available under a shipbuilding contract.
- The nature of the duty, if any, on a shipyard to continue construction of a vessel and to sell her subsequent to termination for buyer's default
- Whether Class certification is conclusive evidence of contractual compliance.
- Whether draft refund guarantees were, by reference to their temporal scope, "reasonably acceptable".
- Claims for commission by brokers.
- The availability of claims for damages alongside the remedies expressly provided for by such contracts.
- The effect of illegality on claims under a shipbuilding contract.

Paul also has experience in related disputes, including claims under refund guarantees and other financial

instruments.

Shipping

Paul is recommended by Chambers UK in the field of Shipping and Commodities where he has been described in recent years as:

... *"very erudite and quick on his feet; he has an unparalleled eye for detail and is careful, considered and astute"*... (Chambers UK, 2020)

... *"He is accessible, measured and reassuring, a real pleasure to work with"*... (Chambers UK, 2021)

He is also recommended for Shipping by Legal 500 in both their Asia Pacific and UK Bar Guides where he has been described in recent years as:

"Detail-orientated with outstanding sector knowledge" (Legal 500 Asia Pacific, 2020)

"Immensely knowledgeable, commercially aware and meticulous" (Legal 500).

Paul's practice embraces the full range of sea carriage disputes arising under bills of lading, charterparties (including on the standard forms for the offshore industry), towage contracts and the like.

Illustrative cases include:

- ***Alpha Marine Corp v Minmetals Logistics Zhejiang Co. Ltd (The M/V Smart)*** [2021] EWHC 1157 (Comm). Whether restriction on Bill of Lading carrier's right to collect freight.
- ***Scorpio LR2 Pool Ltd v Winson Oil Trading Pte Ltd*** [2021] EWHC 1305 (Comm). Defence of impossibility to mandatory injunctive relief to provide security under an LOI.
- ***Americas Bulk Transport Limited (Liberia) v Cosco Bulk Carrier Limited (China)*** [2020] 2 Lloyd's Rep 105. Identity of shipowner under a time charter recap.
- ***The Longchamp*** [2018] UKSC 68. First reported English authority on the interpretation of Rule F of the York Antwerp Rules.
- ***Virgin Media Ltd v Joseph Whelan T/A M & J Fish*** [2017] EWHC 1380 (Admlty). Jurisdictional dispute arising out of damage caused by contact between a fishing trawler and a sub-sea cable within the UK's EEZ. The case concerned the interaction between the Recast Brussels Regulation and UNCLOS.
- ***BP Oil International Ltd v Target Shipping Ltd*** [2013] 1 Lloyd's Rep 561 (Court of Appeal) and [2012] 2 Lloyd's Rep 245 (Commercial Court) as junior to John Russell QC in a claim for the return of freight paid by mistake under a voyage charter.
- ***Ease Faith Ltd v Leonis Marine Management Ltd*** [2006] Lloyd's Rep 673. Utmost despatch dispute under towage contract.
- 7 day LMAA arbitration. Quality dispute under contract for sale of luxury yacht
- 3 week LMAA arbitration. Unsafe port dispute.
- 3 week LMAA arbitration. Redelivery dispute under a bareboat charter.
- 5 day LMAA arbitration. Dangerous cargo dispute.

Banking

Paul has particular expertise in unjust enrichment, breach of mandate, and guarantee claims. In addition, by reason of his experience in shipbuilding disputes, he has particular knowledge of issues surrounding the financial instruments typically produced as part of such commercial transactions, including refund guarantees, payment guarantees and demand bonds. Paul has also acted in cases concerning swaps, especially forward freight swaps agreements, letters of credit and factoring agreements. Illustrative cases include:

- ***Kreditanstalt Fur Wiederaufbau v Azov-Don Shipping Company JSC*** [2021] EWHC 1406 (Comm). Summary judgment in respect of claim under guarantee.
- ***Banque Cantonale de Geneve v Sanomi*** [2016] EWHC 3353 and 1992 (Comm). Freezing injunction and summary judgment in respect of claim under promissory notes.
- Acting on behalf of an international bank in respect of a claim brought for breach of mandate in respect of allegedly unauthorised internet banking transactions by a corporate client.
- ***Brave Bulk Transport v Spot on Shipping*** [2009] 2 Lloyd's Rep 115. A jurisdiction dispute arising out of a

forward freight swap agreement.

- Appearing successfully at trial on behalf of an asset finance company in a claim brought by a supplier of health and beauty services alleging that hydrotherapy gym equipment was in breach of the requirements of the Sale of Goods Act 1979.
- Various claims under hire-purchase and other financing / credit agreements, including title disputes.

Energy

Illustrative cases include:

- Advising in respect of a farm-in option agreement for oil and gas exploration.
- Junior counsel on behalf of a company carrying out oil and gas drilling work in Uzbekistan in respect of a multi-million dollar insurance claim arising out of a blow out of a well.
- Disputes relating to the sale or carriage of oil, petroleum products and biofuel.
- Disputes under standard forms of agreement typically used in support of energy and natural resource projects, such as Supplytime. In late 2014, he was one of two principal speakers at a BIMCO training seminar in Rotterdam entitled Project and Heavylift Chartering, in particular focussing on Heavycon, Heavyliftvoy and Projectcon.
- Advising a solar developer in respect of its payment obligations under an EPC contract.

Insurance

Paul's experience includes:

- Business interruption disputes.
- Non-disclosure and misrepresentation defences by insurers and fraudulent claims.
- Claims under binding authorities.
- Claims against brokers.
- Advising reinsurers in respect of their entitlement to refuse cover on the basis of non-payment of premium.

Illustrative cases include

- **LCIA arbitration.** Claim by an assured under a credit insurance policy.
- *The Bacup Shoe Holding Company Ltd v Navigators Underwriting Agency Limited.* Acting on behalf of insurers under a stock throughput policy in respect of a claim for flood-damaged shoes.
- *IAP Worldwide Services Inc v Amlin and others.* Acting for an insured in respect of damage to property whilst in transit to Afghanistan.
- Commercial Court proceedings in respect of a multi-million dollar claim concerning damage to a pipe-lying barge.

International Carriage of Goods by Road

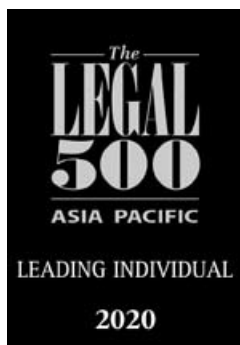
Paul has vast experience in domestic and international carriage by road cases, with a particular expertise in the CMR, including jurisdictional disputes.

- **Hatzl v XL Insurance Company Limited** [2010] 1 WLR 470. Appeared as sole Counsel on behalf of the successful Appellant before the Court of Appeal in a jurisdictional dispute under the CMR which determined that the place where the assignee of the right to claim was resident was irrelevant for the purposes of grounding jurisdiction under the CMR.
- **Rohlig (UK) Ltd v Rock Unique Ltd** [2011] 2 All E.R. (Comm) 1161. Appeared as sole Counsel on behalf of the successful Respondents before the Court of Appeal where it was held that the BIFA no set off and limitation clauses were reasonable within the meaning of the Unfair Contract Terms Act 1977.

Academic

BA (1st Class), BCL (Distinction) (Oxon)

Ranking



Other qualifications

Eldon Scholar (Oxford University) (2003)

Bedingfield Scholar (Gray's Inn) (2002)

Joint Winner of Allen & Overy Prize for Corporate Insolvency (BCL, Oxford University) (2002)

Joint Winner of Gibbs Prize (Oxford University) (1999)

Appointments

DIFC registered practitioner

Presentations

Paul is available on request to give talks on any topic within his practice areas. Recent talks include damages and force majeure issues in commodities contract,s, challenging arbitration awards under the Arbitration Act 1996, package/unit limitation under the Hague/Hague-Visby Rules, and mistaken payments in the law of unjust enrichment.

Memberships

COMBAR, LCLCBA, Supporting Member of LMAA, YIAG, ICC YAF

Interests

Plymouth Argyle FC