



## Paul Toms

Called: 2003  
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### Practice Overview

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Paul is an experienced junior barrister practising across a wide range of commercial disputes. He is described as "A delight to work with. He is approachable, astute and commercially minded" (Chambers UK 2018).

He appears regularly in the High Court (mainly the Commercial and Circuit Commercial Courts) and in domestic and international arbitrations. He also has twice appeared in the Court of Appeal as sole counsel in addition to several other appearances alongside Queen's Counsel. In 2017, he appeared in the Supreme Court in *The Longchamp*, which considered the meaning of Rule F of the York Antwerp Rules.

Paul has particular expertise in commercial dispute resolution across a number of commercial sectors including information technology, insurance, energy, international trade, sale of goods, shipping and shipbuilding. As to commodities, he handles a significant number of GAFTA, FOSFA and ANEC disputes. His experience also extends to oil, petroleum products, biofuel and coal. More recently, he has been involved in a number of sugar disputes, including under RSA Contract Rules and ICE Rules. He also has experience of related applications to the Commercial Court under ss. 68 and 69 of the Arbitration Act 1996. He also has significant experience of procedural issues commonly arising in commercial litigation, including seeking and resisting injunctive relief (e.g. freezing, anti-suit and asset disclosure orders) and jurisdictional challenges (both in Court and arbitration).

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 significant experience of working in the Asian Pacific market is reflected by his recommendation for both commercial and shipping work by the Legal 500 in its Asia Pacific rankings.

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### What the directories say

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**"He combines strong analytical skills and legal knowledge."**  
(Legal 500 Asia Pacific, 2019)

**... "He combines strong analytical skills and legal knowledge" ...**  
(Legal 500 Asia Pacific: The English Bar, 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)

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## International Trade & Commodities

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Paul is recommended in the field of Commodities by the Legal 500. Recent comments include "*He has great tactical awareness and a good sense of humour; a very sharp and thorough junior*" (2017) and "*Very strong on international trade, he is consistently excellent in commodities disputes*" (2016).

He is also recommended by Chambers UK for Shipping and Commodities who note his "*excellent attention to detail.*" (2019).

In addition, he is recommended for International Trade and Commodities by Who's Who Legal: UK Bar where he said to be a "*formidable opponent*" and "*great person to work with*" (2015).

Paul has a busy practice in commodities work and related international trade disputes. He handles a significant number of GAFTA, FOSFA and ANEC disputes and related applications to the Commercial Court under ss. 68 and 69 of the Arbitration Act 1996. In particular, he was involved in a series of FOSFA and related disputes that arose out of one of the earliest cases of piracy off the coast of Somalia, namely the MV Chemstar Venus.

His experience extends to other commodities including oil, petroleum products, biofuel and coal. He also has recent significant involvement in sugar trades and sugar futures on RSA Contract Rules and ICE Rules including seeking urgent injunctive relief under s. 44 of the Arbitration Act 1996.

Illustrative cases include:

- **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 and RSA arbitrations.

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## Shipping & Maritime

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### Dry Shipping

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

..."**A delight to work with. He is approachable, astute and commercially minded**" ... (Chambers UK, 2018)

..."**A highly regarded junior with marked capability in shipping and commodities**"... (Chambers UK, 2018)

..."**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).

He is also recommended for Shipping by Legal 500 in both their Asia Pacific and UK Bar Guides.

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:

- 3 week LMAA arbitration concerning redelivery dispute under a bareboat charter.
- 5 day LMAA arbitration relating to shipment of scrap cargo which inadvertently contained a number of batteries and was alleged to be dangerous.
- **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](#) 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.

## **Wet Shipping**

Illustrative cases included:

- **The Longchamp** [2018] UKSC 68. Paul appeared as sole counsel at first instance and was then led by [Simon Croall QC](#) in the Court of Appeal and the Supreme Court. The case is the first reported English authority on the interpretation of Rule F of the York Antwerp Rules, arising in the context of ransom piracy payments.
- **Virgin Media Ltd v Joseph Whelan T/A M & J Fish**. Jurisdictional dispute before the Admiralty Registrar 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.
- Allision of a vessel with a container terminal.
- Various limitation disputes.
- Various general average disputes.

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## **International Arbitration**

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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 / UNCITRAL Arbitration

Rules, as contained in the Singapore International Arbitration Act.

In addition, Paul has significant experience of applications to the Courts which may arise out of such arbitrations including, arbitration appeals under the Arbitration Act 1996, anti-suit injunctions and asset disclosure orders.

Illustrative cases include:

- **ICC arbitration.** 3 day hearing in respect of claim by an assignee 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.
- **UNCITRAL arbitration.** Shipping claim.
- Multiple LMAA / FOSFA / GAFTA arbitrations.

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## Commercial Dispute Resolution

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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 London Mercantile Court, as well as being instructed in a variety of commercial arbitral proceedings (LCIA / ICC / LMAA / FOSFA / GAFTA).

Paul advises on all aspects of private international law, in particular the Recast Brussels Regulation and its interaction with other international conventions.

Illustrative cases include:

- **ICC arbitration.** 3 day hearing in respect of claim by an assignee in respect of a turnkey contract for the construction of two power terminals in African country subject to foreign law.
- **Virgin Media Ltd v Joseph Whelan T/A M & J Fish.** Jurisdictional dispute relating to application of Recast Brussels Regulation to damage to a undersea cable within the UK's EEZ.
- **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 difficult 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.

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## Energy & Natural Resources

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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.

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## Shipbuilding

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Paul has been instructed in a very large number of shipbuilding disputes typically in arbitration, many of which have proceeded to substantive hearings. 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 in practice recently 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 or not 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.

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

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## Insurance & Reinsurance

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Paul has been described by Chambers UK as, “*an emerging talent of the Shipping Bar, who handles a raft of marine insurance matters*” (2013).

In addition to handling a wide array of marine insurance disputes, Paul has significant experience of general insurance claims on behalf of assureds and insurers. Cases include business interruption disputes, disputes raising non-disclosure and misrepresentation defences and the fraudulent presentation of claims, claims for sums due under binding authorities, claims under goods in transit policies for damage to or loss of goods, claims against brokers, and 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.
- **The Spider T.** Acting on behalf of insurers in respect of a claim under a marine policy relating to a vessel of national historic significance.
- Commercial Court proceedings in respect of a multi-million dollar claim concerning damage to a pipe-lying barge.

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## Banking & Financial Services

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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:

- **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.

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## Sports Law

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Paul acted for Iain Dowie, the football manager, at trial in a claim brought against him by Crystal Palace Football Club (**Crystal Palace (2000) Ltd v Iain Dowie** (2007) IRLR 682). He was instructed on behalf of the Amateur Boxing Association of England in respect of a medal incentive scheme for the Olympic Games.

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## Aviation & Travel

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Paul has been instructed by several airlines in respect of claims under the Montreal Convention and its predecessors and the Denied Boarding Regulations. In the travel arena, Paul has acted on behalf of package holiday operators and travel agents, including claims under the Package Travel, Package Holidays and Package Tours Regulations 1992. Illustrative cases include:

- **Foster v Action Aviation**. Sole counsel in urgent application in the Commercial Court for delivery up of aircraft documents in a dispute under sale contract for a private jet.
- **Grecoair Inc v Tilling** [2009] EWHC 115 (QB). Acting as junior counsel on behalf of the Respondent to a Commercial Court application for costs against a non-party following unsuccessful litigation brought against hull and liability all risk reinsurers of a commercial aircraft.
- **Lonrho Africa (Holdings) Limited v Norse Air Limited** [2008] All ER (D) 190 (Mar). Junior to [Michael McParland](#) on a heavy Commercial Court application for mandatory interim injunctive relief arising out of a share purchase agreement in respect of an African based aviation company. Subsequently acting in a multi-million dollar claim for breach of warranty arising out of the same agreement.

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## Alternative Dispute Resolution

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Paul has experience at appearing as Counsel at Mediations and preparing Mediation statements.

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## International Carriage of Goods by Road

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Paul also 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.

- o **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)

## 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)

## Presentations

Paul is available on request to give talks on any topic falling within his practice areas. Recent talks include force majeure in commodities contracts, package/unit limitation under the Hague/Hague-Visby Rules, mistaken payments in the law of unjust enrichment, Incoterms, standard forms in the offshore industry, and an analysis of The New Flamenco.

## Memberships

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

## Interests

Plymouth Argyle FC