



Tim Marland

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Practice Overview

Tim is ranked as 'Star Individual' for Aviation in Chambers & Partners 2019 and is consistently recommended as a leading junior by the Chambers & Partners and Legal 500 legal directories where he is praised as: *"Our go-to barrister for high profile cases. I can't think of any other barristers ahead of him; he's very client-focused and knows the insurance market well."* *"Active, prominent and very good; he's very established in this field and is an excellent barrister."* *"He's good at giving strong, commercial, practical and down-to-earth advice.."* and *"is able to guide a court through complex case law in a very simplistic way and convey technical points that would otherwise take days at trial"*. Tim is currently the only practising junior listed in Who's Who Legal: Transport 2017 and recommended in the Insurance & Reinsurance Barristers Guide 2017.

Tim has particular expertise in insurance, travel regulation and aviation, including aviation-related finance. Prior to joining Chambers, Tim worked for a number of years at Lloyd's, specialising in contentious insurance and reinsurance matters, predominantly in the field of aviation. Tim's experience includes handling excess of loss problems and direct insurance coverage issues arising out of the September 11th terrorist attacks and liability issues arising in multi-jurisdictional aviation disasters. Tim's industry experience has given him invaluable knowledge of the workings of the London insurance market and the commercial aspects of case handling.

Tim's practice continues to be aviation and insurance-focused, but embraces all aspects of commercial law and he appears regularly in the High Court and Court of Appeal, as well as in arbitration and mediation.

Tim is co-editor of Margo on Aviation Insurance (4th Edition).

What the directories say

'Unbeatable depth of knowledge and experience.'

(Legal 500 2019)

'An exceptional barrister who quickly masters complex instructions and provides fantastic commercial advice.'

(Legal 500 2019)

'When it comes to industry knowledge and experience he is streets ahead of the competition.'

(Legal 500 2019)

"He has great experience in both aviation and travel. He is a good, solid pair of hands and very knowledgeable."

(Chambers UK 2019)

"Our go-to barrister for high profile cases. I can't think of any other barristers ahead of him; he's very client-focused and knows the insurance market well."

(Chambers UK 2019)

"Active, prominent and very good; he's very established in this field and is an excellent barrister."...

(Chambers UK 2019)

... "He has really got gravitas..." "He's technically very capable and he provides matter of fact advice."...

(Chambers UK, 2018 - Travel: Regulatory & Commercial, leading junior)

... "Very switched-on and user-friendly."...

(Chambers UK, 2018 - Aviation, leading junior (band 1))

... "He is very effective at intellectually intimidating his opponents."...

(Chambers UK, 2018 - Aviation, leading junior (band 1))

... "Really rated" ... "very much an airline man"...

(Who's Who Legal, 2018)

... "An extremely bright and capable barrister with a commercial mindset"...

(Legal 500, 2017)

... "Superb on paper and on his feet, and very good with clients"...

(Legal 500, 2017)

... "Tim is responsive and user-friendly, with excellent experience of aircraft lease disputes." ... "Very good technical knowledge and understanding of the aviation industry. Very easy to work with."...

Chambers and Partners, 2017 (Aviation Band 1, Travel: Regulatory and Commercial, Band 1)

... "extremely well known in the aviation and commercial field"...

Chambers and Partners, 2017 (Aviation Band 1, Travel: Regulatory and Commercial, Band 1)

... "He is bright, robust and tenacious when it comes to aviation and liability questions"...

Chambers and Partners, 2017 (Aviation Band 1, Travel: Regulatory and Commercial, Band 1)

... "Tim is unique at the aviation Bar. He has an all-round forensic understanding of the law and also of the business of aviation insurance."...

Who's Who Legal, 2017 (Aviation and Travel)

... "He speaks the language of commercial clients"...

Legal 500, 2016

... "An outstanding junior, who has an amazingly good grasp of the technical issues."...

(Legal 500, 2016)

Affectionately termed "a sophisticated bruiser," he is seen by many as being the top junior for aviation insurance cases, aircraft finance matters and disputes arising out of the Montreal and Warsaw Conventions. "A superstar who is brilliant at everything." "Personable, easy to work with, legally very astute and very commercially aware." He is noted for being a particularly impressive advocate with strong knowledge of aviation law.

(Chambers and Partners 2016. Aviation Band 1 and Travel (Regulatory) Band 1).

... "He has an easy manner, and puts difficult issues in an easy-to-understand way. He's affable, charming and great at cross-examinations." "Represents the epitome of what we look for in a modern barrister; he doesn't just sit in chambers, but gets involved in cases and sees clients with you. His presentation is just fantastic." "He's good at giving strong, commercial, practical and down-to-earth advice." "He comes into his own in advocacy, as he is able to guide a court through complex case law in a very simplistic way and convey technical points that would otherwise take days at trial."...

Chambers and Partners 2015

... "His ability to pick up and apply the required aviation technical knowledge quickly and easily is impressive."...

Legal 500 2015

... "His knowledge and experience means that he can give comprehensive, accurate advice very quickly."...

Legal 500 2014

... "Tim is extremely good to work with - very responsive and very much a team player. He will definitely roll up his sleeves and get on with it." "I think in terms of airline liability work, if you don't need a QC involved, he has built himself a reputation as the go-to person. He is user-friendly and approachable. A lot of this is due to his background in the aviation insurance industry prior to going to the Bar - he really understands what the clients want and has a unique perspective on what the aviation industry wants too."...

Chambers UK 2014

Aviation & Travel

'Star Individual' - Chambers UK 2019

Prior to joining Chambers, Tim worked for a number of years at Lloyd's, specialising in contentious insurance and reinsurance matters, predominantly in the field of aviation. Tim's experience includes handling excess of loss problems and direct insurance coverage issues arising out of the September 11th terrorist attacks and liability issues arising in multi-jurisdictional aviation disasters. Tim's industry experience has given him invaluable knowledge of the workings of the London insurance market and the commercial aspects of case handling.

Tim has a particular specialism on the Warsaw/Montreal Convention regime, together with recent EU Regulations on delay and PRMs. He regularly appears in court and arbitration on behalf of most of the world's leading airlines and products manufacturers, as well as airports, ground handlers and general aviation interests. He has extensive experience of appearing on behalf of owners, operators, manufacturers and airports at inquests into air crashes.

Tim also regularly advises and acts in disputes arising from aircraft sales, finance and leasing, representing banks, lessors and lessees, as well as other affected interests.

Illustrative cases include:

- **Bahamsair Holdings Ltd v Messier Dowty Inc** [2018] UKPC 25. Products liability claim arising out of landing gear collapse on Claimant's aircraft in 2007. Tim (with Koye Akoni) acted for Messier Dowty in the Privy Council.
- **Gahan v Emirates** [2017] EWCA 1530. Test case on liability of non-Community carriers under Regulation EC261 for missed connections outside the EU. Tim acted for the airline.
- **Peires v Bickerton's Aerodromes Limited** [2017] EWCA Civ 273. Important decision on the scope of the

statutory immunity for nuisance under s.76(1) of the Civil Aviation Act 1982. Tim acted for the successful appellant aerodrome in the Court of Appeal.

- **Coltish Aircraft v Action Aviation Limited & Others** [2013] EWHC 2439 (Comm); [2014] EWCA Civ 1328. Aircraft Sales; Directors' liabilities; fraudulent misrepresentation; buy-back guarantees. Tim acted for the Defendants and successful Respondent director in the Court of Appeal.
- **Rogers v Hoyle** [2014] EWCA Civ 257; [2014] 3 W.L.R. 148; [2014] 3 All E.R. 550; [2014] C.P. Rep. 30. Test case on admissibility of AAIB report in civil proceedings. Tim (led by Robert Lawson QC) acted for the Appellants, supported by IATA and the DfT intervening.
- **Samarasinghe v British Airways** (2013 Central London County Court) successfully defended British Airways against claim of racial discrimination in relation to 'profiling' at airport in Denmark. Court agreed that case not made out on the facts, but in any event combination of Montreal Convention and lack of territorial reach of Equality Act 2010 precluded even declaratory relief.
- **Global 5000 v Wadhawan** [2012] 1 Lloyd's Rep 239 (Court of Appeal); [2011] EWHC 853 (Comm); [2011] 2 All E.R. (Comm) 190. Allegation of personal guarantee in US\$55 million aircraft sale. Issues concerning setting aside of service out of jurisdiction and the applicable threshold in cases of collateral contract. Tim was junior counsel for the successful applicant.
- **Association of Pakistani Travel Agents v PIA** Tim is acting on a dispute between Pakistan Airlines and the Association of Pakistani Travel Agents over commission payments for fuel surcharges. The case is important because it is revisiting the commission arrangements between travel agents and airlines as they stand in 2012 when they have not been re-examined legally since 2000 and do not take into account all of the changes that have happened to the market since that date including IT and communications structures.

Commercial Dispute Resolution

Tim acts on a broad range of commercial disputes particularly within the insurance, aviation, and travel sectors as well as broader commercial disputes including issues of carriage of goods, personal guarantees, duty of care, and vicarious liability. Illustrative cases include:

- **Jabir v HA Jordan & Co Ltd** [2011] EWCA Civ 816; [2011] All ER (D) 178 Court of Appeal (Civil Division), 16 June 2011 Damages; Expert evidence; Gem industry; Measure of damages; Particulars of claim. Tim acted for the successful Claimant.
- **Brink's Global Services Inc v Igrox Ltd** [2010] EWCA Civ 1207; [2011] I.R.L.R. 34 Court of Appeal (Civil Division), 27 October 2010 Bailment; Carriage of goods; Containers; Sub-contractors; Theft; Vicarious liability. Tim acted for the successful consignors
- **Nayyar v Denton Wilde Sapte** [2009] EWHC 3218 (QB); [2010] Lloyd's Rep. P.N. 139; [2010] P.N.L.R. 15 Breach of duty of care; Bribery; Damages; Ex turpi causa; Illegality; Payments; Solicitors' powers and duties; Vicarious liability. Tim (led by Stephen Cogley QC) acted for the Claimants
- **Global 5000 v Wadhawan** [2012] 1 Lloyd's Rep 239 (Court of Appeal); [2011] EWHC 853 (Comm); [2011] 2 All E.R. (Comm) 190. Allegation of personal guarantee in US\$55 million aircraft sale. Issues concerning setting aside of service out of jurisdiction and the applicable threshold in cases of collateral contract. Tim was junior counsel for the successful applicant.
- **Sony Computer Entertainment UK Ltd v Cinram Logistics UK Ltd** [2008] EWCA Civ 955; [2009] Bus. L.R.

529; [2009] 2 All E.R. (Comm) 65; [2008] 2 C.L.C. 441; Times, September 10, 2008 Burden of proof; Loss of goods; Loss of profits; Non-delivery; Pecuniary loss; Replacement; Substitute goods. Tim acted for the successful consignors.

Banking & Financial Services

Tim has acted for a number of banks and financial institutions in actions on guarantees, aircraft lease disputes and aircraft sale agreements.

Tim acted on behalf of reinsurance interests in relation to matters arising from various class actions against investment banks alleging breaches of the 1933 US Securities Act in certain IPOs in the United States.

- **Deutsche Bank AG v Alexander Vik** [2015] EWHC 2773 (QB); [2016] C.P. Rep. 2. CPR Part 71 proceedings arising out of Deutsche Bank AG v Sebastian Holdings Inc, a complex case arising out of various unmet margin calls on FX derivative accounts in the crisis of 2008.
- **Global 5000 Ltd v Wadhawan** [2011] EWHC 853 (Comm); [2011] 2 All E.R. (Comm) 190; [2012] EWCA Civ 13 [2012] 1 Lloyd's 239 Collateral contracts; Guarantees; Jurisdiction; Service out of jurisdiction; Setting aside; Standard of proof. Tim (led by Robert Lawson QC) acted for the successful Applicant below and in the Court of Appeal

Shipping & Maritime

Predominantly an aviation specialist, Tim is regularly involved in multi-modal transport cases, and cases arising out of carriage by road both CMR and non-CMR. He also has experience of bailment, central to many cargo claims in the transport sector.

Tim has provided expert evidence to the 9th Circuit Court of Appeals on the application of the jurisdiction provisions of the CMR where CMR applied by contract rather than law.

- **Jabir v H.A. Jordan & Co. Ltd** [2010] EWHC 3465 (QB); [2011] EWCA Civ 816. Measure of damages in statutory conversion of pearl said by Claimant, himself an expert pearl dealer, to be worth US\$650,000 in case where expert evidence called by both parties placed a lower value on it. Tim acted at first instance and in the Court of Appeal for the successful Claimant.
- **Brink's Global Services Inc v Igrox Ltd** [2009] EWHC 1817 (Comm), [2010] EWCA Civ 1208. Furnigator's vicarious liability to consignors of valuable cargo for theft by their employee. Tim acted for the successful consignors below and in the Court of Appeal.
- **Sony Computer Entertainment UK Ltd v Cinram Logistics** [2008] EWCA Civ 955; [2009] Bus. L.R. 529; [2009] 2 All E.R. (Comm) 65; [2008] 2 C.L.C. 441. Claim against road carrier for loss of profits following theft by diversion during transit. Determination of where the burden of proof lies in relation to replacement/substitute sales. Tim acted below and in the Court of Appeal for the successful consignor.
- **Tavoulareas v Lau** [2007] EWCA Civ 474, [2007] All ER (D) 200: Conversion - bailment - denial of title. Claimant/Appellant was owner of works of art which were detained by Defendant lessors after lease on restaurant premises was forfeit. Entire judgment below overturned as 'seriously infected.' Tim acted for the successful Appellant.

Insurance & Reinsurance

Although his specialism is primarily aviation insurance and reinsurance, Tim has advised and acted in other areas of Marine and Non-Marine insurance and reinsurance. Tim was heavily involved in insurance and reinsurance coverage issues arising from the September 11th terrorist attacks, both as an insurer and then at the Bar.

Tim has acted as an expert witness to the Norwegian Court of Appeal and the Malaysian High Court in cases involving interpretation of the wording of the AVN1C Market Form and giving evidence as to London Market practice.

Tim acted on behalf of various reinsurance interests in relation to matters arising from various class actions against investment banks arising from IPOs in the United States, as well as on D&O coverage disputes arising from the collapse of Enron and Worldcom.

- **Ted Baker v AXA Plc & Others** [2012] EWHC 1406 (Comm); (2012) 109(28) L.S.G. 21; [2014] EWCA Civ 134; [2014] EWHC 3548 (Comm); [2017] EWCA 4097 Business interruption insurance; Clothing; Contract terms; Employees; Fidelity insurance; Insurance policies; Interpretation; Rectification; Retailers; Theft. Preliminary issues of coverage under the policy. Tim (led by Stephen Cogley QC) acted for the Claimants.
- **Clothing Management Technology Ltd v Beazley Solutions Ltd (t/a Beazley Marine UK)** [2012] EWHC 727 (QB); [2012] 1 Lloyd's Rep. 571; [2012] Lloyd's Rep. I.R. 329 Claim alleging actual or constructive total loss of consignments of garments as a result of labour dispute in Morocco. Tim acted for insurers.
- **ARB International Ltd v Baillie** [2013] EWHC 2060 (Comm). This case involved a dispute between reinsurance broker and its former MD and unresolved issues of law as to when reinsurance broker becomes entitled to commission on binder and quota share treaty business. The judge dealt with an important issue as to when a reinsurance broker becomes entitled to commission which is the first time that this point has been dealt with.
- **Seguros Universal v AXA Corporate** Reinsurance dispute following seizure of aircraft by Venezuelan anti-narcotics authorities. Issues as to interpretation of London Aviation wordings

Alternative Dispute Resolution

During his time at Lloyds Tim participated as insurance client in numerous mediations, both in this jurisdiction and overseas. This experience enables him to participate more effectively in mediation. Tim has acted as a mediator in ad hoc mediations in disputes between underwriters and brokers, as well as appearing as counsel in numerous mediations.

Product Liability

- **Ethiopian Airlines v Honeywell & Others** (commercial court). US\$65 million products liability claim arising out of battery fire in 787 Dreamliner at Heathrow. Tim was sole counsel for battery manufacturer.
- **Ad hoc arbitration between an air carrier and others concerning responsibility for a major aircraft accident** (2011) - Whether the accident was caused by negligence on the part of flight crew; whether a product manufacturer was negligent in respect the design of a piece of equipment and/or the annunciations provided in

respect of its operating status; whether any party was in breach of the memorandum of understanding made between them with regards to the seeking of relief against third parties; whether loss of business suffered by an air carrier as a result of the stigma of its aircraft being lost in an accident was pure economic loss or economic loss consequent upon the physical loss of the aircraft.

- **Ad hoc arbitration between an air carrier and brakes manufacturer** whether manufacturer negligent in design of modified aircraft braking systems.
- **Skidmore v MOD and Rolls Royce** (2008) acting for Rolls Royce in case involving allegations of inadequate engine design/inadequate failure analysis.
- **Singleton v Bombardier** (2007) whether aircraft crash was caused by defective engine design or substandard modifications.
- **British Airways v CAE** (2007) jurisdictional issues in claim relating to allegation of inadequate design of simulator.

Academic

BA(Hons)

Other Qualifications

MRAeS

In-House Experience

Lloyd's Claims Office, Xchanging Claims Services.

Publications

Tim is the Co-editor (with Kathy Posner Condon & Forsyth and Philip Crystal of Swiss Re) of the 4th Edition of Margo on Aviation Insurance.