

TOM FAIRCLOUGH

Call 2015

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Practice Overview

Tom practises across the full range of Chambers' work, with a particular focus on commercial, professional negligence, insurance, property damage, and employment litigation, especially where conflicts of laws issues arise.

Highlights of Tom's recent work include:

- *Colley v Shuker and ors* (ongoing): acting as junior counsel (led by Marie Louise Kinsler QC) in a claim pleaded at £10m+ involving disputes as to the scope and effect of European Union insurance law.
- Advising (led by Howard Palmer QC) on an insurance policy designed to cover investments made by funding litigation.
- Assisting senior counsel with an advice in relation to tortious deceit and breach of contract in a large group litigation claim.
- Drafting in a dispute concerning a death at sea involving jurisdiction and product liability issues.
- Assisting William Clerk in acting for the applicant in a successful *ex parte* worldwide freezing order application involving jurisdiction and applicable law disputes.
- Advising in a professional negligence construction claim involving indemnity issues.

Prior to joining Chambers, Tom graduated first in his year (University of Reading), achieved a distinction in a master's degree (University College London), and was awarded a PhD by the University of Cambridge after being examined by Lord Reed (President of the Supreme Court). Tom continues to teach at the University of Cambridge, where he is a Bye-Fellow in Law at Murray Edwards College. Tom's College profile, with a fuller list of publications, is available [here](#).

For the legal year 2019-20, Tom was the Judicial Assistant to Lady Arden and Lord Leggatt at the Supreme Court and Privy Council, where he was exposed to a number of high-profile cases across a range of disciplines.

Practice areas

Commercial
Employment
Insurance
Personal Injury
Private International and Travel Law
Professional Negligence
Public Law

Education

Gonville and Caius College, Cambridge (PhD)
University College London (LLM): Distinction
University of Reading (LLB (Hons)): First class, first in year

Scholarships and Awards

AHRC Scholarship (University of Cambridge)
Administrative Law Bar Association Scholarship
Exhibition Award and Duke of Edinburgh Scholarship (Inner Temple)
Sweet and Maxwell Law Prize (University of Reading)
Chancellor's Prize (University of Reading)
The Blandys' Prize (University of Reading)



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Commercial

Tom practises across the full spectrum of commercial work. Examples include:

- Assisting William Clerk with a successful *ex parte* application for a worldwide freezing order involving allegations of unlawful means conspiracy, deceit, and breach of contract.
- Acting as sole counsel in a commercial trial focusing on the correct identity of the Defendant.
- Acting in a multi-track summary judgment application relating to breach of a commercial contract.

During his time at the Supreme Court, Tom worked on, *inter alia*, *Shagang Shipping Company Ltd (in liquidation) v HNA Group Company Ltd* [2020] UKSC 34; *Halliburton Company v Chubb Bermuda Insurance Ltd* [2020] UKSC 48 (on which Tom co-authored a case note, available [here](#)); and *Enka Insaat Ve Sanayi AS v OOO Insurance Company Chubb* [2020] UKSC 38 (on which Tom co-authored a case note, available [here](#)).

Employment

Tom has worked on claims involving discrimination, whistleblowing, employment status, victimisation, and unfair dismissal. In June 2020, Tom gave a webinar on vicarious liability following new Supreme Court judgments (available [here](#)).

Whilst at the Supreme Court, Tom worked on cases including *Royal Mencap Society v Tomlinson-Blake* (sleep-in workers and the minimum wage - judgment pending); *Asda Stores Ltd v Brierly* (correct comparators for discrimination claims - judgment pending); and *Uber BV v Aslam* (determining worker status - judgment pending).

Insurance

Tom has worked on cases involving coverage and subrogation disputes in relation to commercial property, financial fraud, fees charged by financial institutions, and litigation funding agreement insurance.

Recent work has included:

- Advising (led by Howard Palmer QC) on an insurance policy designed to cover multi-million pound litigation funding investments.

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- Being led by Marie Louise Kinsler QC in *Colley v Shuker and ors* (ongoing), which concerns the scope and effect of European Union insurance law Directives.
- Assisting senior counsel in a dispute concerning a financial institution's policy coverage concerning fees wrongly charged to customers.

Personal Injury

Tom is building a practice across the range of personal injury litigation. Since returning to Chambers in August 2020, Tom has advised on and acted in matters involving injuries sustained abroad, employers' liability, complex procedural applications, and multi-defendant cases with indemnity disputes. He is currently instructed as junior counsel in long running litigation involving a multi-million pound personal injury claim and has assisted more senior counsel in relation to the Grenfell Tower disaster.

Private International and Travel Law

Tom is particularly interested in conflicts of laws issues. His recent work includes:

- Assisting with an advice on how jurisdiction works post-Implementation Period.
- Being instructed to assist William Clerk in an *ex parte* worldwide freezing order matter with jurisdiction and applicable law issues.
- Representing a foreign-domiciled insurer in a Part 11 hearing challenging jurisdiction.
- Advising on the standard and burden of proof in jurisdiction challenges.
- Drafting in a case concerning a death at sea.
- Acting for the Defendant in a hearing involving a *lis pendens* challenge.

Whilst at the Supreme Court Tom worked on cases such as *and Enka Insaat Ve Sanayi AS v OOO Insurance Company Chubb* [2020] UKSC 38 (on which Tom co-authored a [case note](#)) and *Aspen Underwriting Ltd v Credit Europe Bank NV* [2020] UKSC 11 (on which Tom co-authored a [Practical Guide](#)).

Professional Negligence

Tom is building a practice involving professional negligence. Recent work includes:

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- Representing a surveyor at trial in a matter involving disputes over breach, causation, and the correct measure of loss.
- Advising in a construction dispute that had allegedly led to substantial diminution in value to the Claimant's property.
- Drafting in relation to an allegedly negligent solicitor matter.

Public Law

Tom has extensive experience in public law. His doctorate focused on common law rights and he has published with Hart, the Cambridge Law Journal, Judicial Review, and the UK Constitutional Law Blog. Tom supervises students in administrative law at the University of Cambridge and is a member of the Attorney General's 'Junior Junior' Scheme.

Tom's recent works includes being instructed as junior counsel in a High Court matter that requested, *inter alia*, a reference to the CJEU. Tom is currently instructed in the Brook House Inquiry.

Whilst at the Supreme Court, Tom worked on cases including *R (Miller) v The Prime Minister* [2019] UKSC 41; *R (Palestine Solidarity Campaign Ltd) v Secretary of State for Communities and Local Government* [2020] UKSC 16; *AM (Zimbabwe) v Secretary of State for the Home Department* [2020] UKSC 17; and *R (Maughan) v Her Majesty's Senior Coroner for Oxfordshire* [2020] UKSC 46. At the Supreme Court Tom was part of a small team that produced materials on European Union law post-Brexit.

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