

ESSEX COURT CHAMBERS

BARRISTERS



JERN-FEI NG QC

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PROFESSIONAL PRACTICE

Jern-Fei Ng QC was appointed Queen's Counsel in 2018 at the age of 38, making him one of the youngest QCs to be appointed.

He is described in the legal directories as *"a formidable advocate"*; with *"first-class advocacy skills"* who *"comes up with extremely clever points"* and has an ability to *"present practical legal solutions that not only win you the battles, but also the war."* *"He shows tenacity in fighting his client's corner and has the ability to swiftly produce forceful oral rebuttals."* *"An extremely persuasive advocate, who brings considerable intellectual capacity and endless energy to cases; "can eat documents for breakfast" and has a "formidable reputation in Asia Pacific as an arbitrator and counsel".*

Recommended as a leading practitioner by the most recent editions of *The Legal 500 UK* (six areas of practice), *Chambers UK* (three areas of practice), *Legal 500 Asia-Pacific* (three areas of practice), *Chambers Asia* (three areas of practice), and *Chambers Global* (three areas of practice). Nine of these recommendations are Band 1 rankings. Named by *Legal Week* as one of ten Stars at the Bar for 2012.

AREAS OF EXPERTISE

- Arbitration (especially Energy and Commodity Disputes)
- Civil fraud & asset tracing
- Commercial dispute resolution
- Commercial litigation & civil fraud
- Commodities & product liability
- Commodity disputes
- Conflict of laws & private international law
- Energy & natural resources
- International commercial arbitration
- Revenue law (including VAT, IPT, duties & excise)
- Shipping & admiralty

WHAT OTHERS SAY

- Recommended by *The Legal 500 UK* as a leading practitioner in six areas of practice: Civil Fraud, Commodities, Energy (Band 1), International Arbitration (Band 2), Shipping and VAT.
- Recommended by *Chambers UK* as a leading practitioner in three areas of practice: Civil Fraud, Energy and Natural Resources, and Indirect Tax.
- Recommended by *The Legal 500 Asia-Pacific* as a leading practitioner in three areas of practice: Commercial – International Arbitration (Band 1); Energy – International Arbitration (Band 1); Shipping – International Arbitration (Band 1).
- Recommended by *Chambers Asia-Pacific* as a leading practitioner in International Arbitration: The English Bar in the Asia-Pacific region (Band 1); the only person ranked in Band 1.
- Recommended by *Chambers Asia-Pacific* as a leading practitioner in International Arbitration: The English Bar in Singapore (Band 1); the only person ranked in Band 1.
- Recommended by *Chambers Global* as a leading practitioner in three areas of practice: International Arbitration: The English Bar (Asia-Pacific Region) (Band 1); Arbitration: The English Bar (Singapore) (Band 1); Energy and Natural Resources (UK) (Band 1).
- Named by Legal Week as one of ten Stars at the Bar for 2012, following research involving more than 200 solicitors, barristers and senior clerks.
- Featured in the Tax Journal's 40 under 40: Ones to watch in tax (2011/12 edition), a guide of the 40 leading tax practitioners under the age of 40, following research involving more than 600 interviewees.

Client comments as published in the legal directories and guides include: “*an extremely impressive and effective advocate who gets on top of things extremely fast and is quick on his feet*”; “*undoubted star junior who goes well past the extra mile in preparing his cases*”; “*intellectually very strong*”; “*ringing endorsements from the market*”; “*impressive and knows his stuff*”; “*razor sharp legal skills*”; “*comes up with extremely clever points*” with an ability “to

handle hearings with utmost self-possession and confidence and produce some first-class advocacy"; *"a thorough and thoughtful advocate who has an agreeable but tough courtroom manner*"; *"very proactive and, once instructed, takes control of a case and pushes it forward to the advantage of the client*"; *"has the ability to sift through complex legal problems, and present practical legal solutions that not only win you the battles, but also the war*"; *"very commercial and savvy*"; *"bright, approachable, and easy to work with*"; *"infectious passion for the law*"; *"his commitment to his work is outstanding*", *"unwavering dedication and meticulous eye for detail*"; *"relentless energy and precise attention to detail make him invaluable."*

Described as having a *"blue-chip practice"*; litigation experience that is *"top-class"*, *"encyclopaedic knowledge"*; *"excellent knowledge of legal principles"* and is praised for his *"exceptional presentation skills, not only in court and written opinions, but at conferences and seminars."* Highlighted for delivering *"quality advice in an engaging fashion"*; *"always well researched and well prepared"* and whose *"drafting skills are impressive."* Hailed as *"an exceptionally good lawyer, who works extremely hard"*; praised for *"establishing a great rapport with solicitors and clients"*; *"the most client-friendly barrister at the English Bar"* and who *"achieves plaudits not just for a span of work notable for both its depth and breadth, but also for a combination of personality and perspicacity that few might match."*

LANGUAGES

English, Chinese Mandarin, Chinese Cantonese, Malay, Indonesian

ARBITRATION (ESPECIALLY ENERGY AND COMMODITY DISPUTES)

Experience in a wide range of arbitrations in England, Singapore and other jurisdictions (including *ad hoc* arbitrations and those conducted pursuant to HKIAC, ICC, KLRCA, LCIA, LMAA, SIAC and UNCITRAL Rules) and also in arbitration-related applications before the English courts, including the following:

- Acting as lead counsel for a leading Chinese manufacturer of consumer products in two SIAC arbitrations worth US\$25m relating to the manufacture and sale of air-conditioners.
- Acting as sole counsel for a Central Asian state-owned enterprise in a US\$40m ICC dispute (London seat) involving the supply and installation of a telecommunications system.
- Instructed as sole counsel in a US\$ ICC arbitration involving a US\$40m ICC dispute involving the supply of a telecommunications system. Fixed for hearing in Singapore in May 2016.

- Appearing as co-counsel in a SIAC arbitration involving the proper construction of a manifest error clause in a contract for the supply of a cargo of oil. Fixed for hearing in April 2016.
- Appeared as lead counsel for an Indian claimant in a US\$7m SIAC arbitration against one of the leading cement suppliers in the world in relation to a declaration of *force majeure*. Dispute settled for substantial sums following conclusion of the hearing.
- Appeared successfully for a Chinese multi-national company in a charterparty dispute seated in Hong Kong. Award published in November 2015.
- Acted successfully as sole counsel for a Singapore-listed company in defeating a jurisdictional challenge by the Malaysian multinational respondent to a US\$47.5m claim arising out of a contract for the fabrication of an oil well and process platform for use in the Indian Ocean. The arbitration was subject to UNCITRAL Rules and is seated in Singapore.
- Appeared as lead counsel for a Chinese state-owned corporation in a SIAC arbitration brought against it by one of the world's largest commodity traders. Succeeded in defeating the claim on jurisdictional grounds with costs awarded against the other side.
- Instructed on behalf of a large Korean multinational in LCIA arbitration involving claims for US\$35 million in respect of the construction of an offshore oil and gas platform. Substantial damages awarded in favour of the Korean claimant.
- Acted successfully for a Thai corporation against a well-known FTSE 100 company in resisting claims of *force majeure* stemming from a crude oil deal. Damages and interest in the sum of US\$20.4m plus costs were awarded by the tribunal.
- Instructed as expert on English law in ongoing Singapore High Court proceedings arising out of two FOSFA arbitration awards concerning contracts for the sale of palm oil in bulk.
- Appointed as sole arbitrator/co-arbitrator/presiding arbitrator in 10 *ad hoc* and institutional arbitrations (HKIAC, LCIA, LMAA, SIAC and PCA). Six awards published to date.
- Co-authored the chapters on evidence, stays of proceedings and interim relief in David Joseph QC and David Foxton QC (gen eds), *Law & Practice of Singapore International Arbitration* (LexisNexis, 2014). Member of the Young SIAC Executive Committee; member of the SIAC Users' Council.

CIVIL FRAUD & ASSET TRACING

Instructed in some of the largest civil fraud actions heard in England in recent years, including the US\$1 billion *Fiona Trust* litigation and *CNA Insurance Company Ltd v Willis Ltd* (both of which are referred to in greater detail in the Commercial Litigation section below). Has also acted extensively in international arbitrations involving allegations of dishonesty.

Recommended by *Legal 500 UK* (2008-13) and *Chambers UK* (2012-14) for Civil Fraud and by *Legal Experts* (2009-12) for Fraud (Asset Recovery). Described by *Legal 500* (2012) as having a “wealth of experience in civil fraud, and is in the ascendancy”.

COMMERCIAL LITIGATION & CIVIL FRAUD

Acts in an broad range of commercial and civil fraud disputes, the highlights of which include the following:

- *Fiona Trust* litigation. Successfully represented Tagir Izmaylov, the former chief executive of Novoship (the second largest shipping corporation in Russia), in defending a web of complex claims for bribery and conspiracy. The trial lasted for 76 days and the claims against Mr Izmaylov were dismissed in their entirety: see [2010] EWHC 3199 (Comm). Subsequently appeared unled in securing indemnity costs in favour of Mr Izmaylov: see [2011] EWHC 664 (Comm).
- *CNA Insurance Company Ltd v Willis Ltd*. Acted for CNA in claiming damages for deceit against Willis, the third largest insurance brokers in the world. The action was set down for a 10-week hearing in the Commercial Court and was settled a month prior to the start of trial for the sum of US\$130 million, the settlement payment to CNA having been reported extensively by the financial press, including the Wall Street Journal, Bloomberg, Forbes and CNBC.
- *Ikos Litigation*. Instructed by one of the largest hedge funds in Europe in proceedings brought against a number of its former employees for breach of fiduciary duties, dishonest assistance and conspiracy.
- *PT Thiess Contractors Indonesia v PT Kaltim Prima Coal*. Retained by Thiess in a US\$146m claim relating to the operation of a large coal mine in Indonesia. Succeeded in defeating the Defendant’s challenge to the jurisdiction of the English courts: see [2011] EWHC 1842 (Comm).
- *Chambers Finance Ltd v Brent and 12 others*. Acted as sole counsel for the claimant in a A\$23m dispute involving complex conflict of laws issues, all of which are related to the manufacture and storage of casks of whisky in Scotland. Settlements entered into with four defendants and judgments entered into against the rest.
- *Sunico Litigation*. Acted for one of nine co-defendants in a massive £40m fraud claim involving claims for unlawful means conspiracy. Concurrent proceedings in Singapore, London and Hong Kong in relation to 719 transactions. Secured summary judgment and dismissal of the claim with costs six weeks before trial: see [2012] EWHC 2892 (Ch).

ENERGY & NATURAL RESOURCES

Frequently instructed in energy and commodity disputes, particularly those involving a cross-border element. Experience ranges from claims arising from the sale of coal to the construction of offshore oil platforms to disputes revolving around alternative energy sources, such as those related to the supply of PV solar modules. Recommended by *Legal 500 UK* (2013) and *Chambers UK* (2014) for Energy. For further details, please see the Arbitration section above.

REVENUE LAW (INCLUDING VAT, IPT, DUTIES & EXCISE)

Advised and acted in a number of indirect tax cases, including:

- *American Express Services Europe Ltd.* Acted for American Express in a partial exemption special method dispute. Commissioners withdrew their case during the course of the substantive hearing.
 - *BlackRock International Ltd.* Instructed on behalf of BlackRock in bringing claims for recovery of compound interest from HMRC.
 - *Birkdale School, Sheffield.* Appeared successfully for Birkdale School in the High Court in a single/multiple supplies case concerning tuition fees: see [2008] STC 2002; Times Law Reports 23 April 2008.
 - *Chubb Insurance Company of Europe SA.* Acted for Chubb in a dispute in which the Revenue withdrew their case following the service of witness statements.
 - *RBS Deutschland Holdings GmbH.* Acted successfully for RBS as sole counsel in one of the leading abuse of right cases to be heard by the European Court of Justice [2011] STC 345.
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SHIPPING & ADMIRALTY

- Advised and acted in a large number of charterparty, bill of lading, second hand ship sale and purchase, shipbuilding and shipbroking claims, including cases concerning the cancellation of charters, demurrage, employment clauses and hire (and off-hire).
- Appeared in the trial of the *Fiona Trust* action, which was described by *The Times* as “the shipping trial of the century” and by *TradeWinds* as the “trial of the decade”: see the Commercial Litigation section above.
- Appeared for a Chinese yard in two arbitrations involving allegations of renunciation and repudiatory breach of contract. Secured dismissal of buyers’ claims for US\$23.5m in damages. Succeeded in resisting s.68 challenge to the award by the buyers: see *Primera Maritime (Hellas) Ltd v Jiangsu Eastern Heavy Industry Co Ltd* [2013] EWHC 3066 (Comm).

- Acted as lead counsel for a Korean yard in a dispute involving allegations for repudiatory breach of five shipbuilding contracts worth US\$182m in total.
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CAREER

2003 Judicial Assistant to The Rt Hon Lord Justice Thomas (as he then was)

2002 Called to the Bar (Lincoln's Inn)

2004 Commenced practice at Essex Court Chambers

2018 Appointed as Queen's Counsel

EDUCATION

2005 MA, Trinity College, University of Cambridge

2002 Bar Vocational Course, Inns of Court School of Law

2001 BA (Law) Hons, Trinity College, University of Cambridge

AWARDS

2003 Levitt Scholarship, Lincolns Inn

2002 Hollond Scholarship, Trinity College (awarded but unable to accept)

2001 Whittaker Scholarship, Trinity College

2001 Sir Thomas More Award, Lincoln's Inn

2000 Hardwicke Scholarship, Lincoln's Inn

1999 Fellowship, Cambridge Commonwealth Trust